Local Government Council

Wednesday, April 5, 2006
1:00 p.m.
404 House Office Building

REVISED

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, April 05, 2006 01:00 pm
End Date and Time:	Wednesday, April 05, 2006 03:00 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 431 CS Electric Transmission and Distribution by Littlefield
HB 495 Baker County by Bean
HB 917 CS Property Taxes by Needelman
HB 959 CS Motor Vehicle Safety Pilot Program by Roberson
HB 1161 Okeechobee County by Machek
HB 1165 CS Florida Retirement System by Barreiro
HB 1245 North Broward Hospital District, Broward County by Sobel
HB 1251 CS Firefighter and Municipal Police Pensions by Davis, D.
HB 1413 Argyle Fire District, Walton County by Brown
HB 1443 CS Construction Lien Law by Russell
HB 1483 Grove Community District, Okeechobee County by Attkisson
HB 1497 Sunshine Water Control District, Broward County by Sobel
HB 1531 West Palm Beach Water Catchment Area, Palm Beach County by Brandenburg
HB 1559 Brevard County by Poppell
HB 1585 Broward County by Sobel
HB 1629 Gainesville-Alachua County Regional Airport Authority by Jennings
HB 1631 Village of North Palm Beach, Palm Beach County by Domino
HB 1633 Alachua County Housing Authority by Cretul

NOTICE FINALIZED on 04/03/2006 16:12 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 431 CS Local Government Land Development Regulation
SPONSOR(S): Littlefield
TIED BILLS: **IDEN./SIM. BILLS:** SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee	14 Y, 1 N, w/CS	Cater	Holt
2) Growth Management Committee	7 Y, 3 N, w/CS	Strickland	Grayson
3) Local Government Council		Camechis	Hamby
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The zoning districts for electrical substation siting are determined by individual local governments. As a result, varying regulations for substation siting have been established. Currently, electrical substations for distribution lines are sited as a special use or a conditional use through the local government planning and zoning processes. Likewise, land development regulations and ordinances for vegetation maintenance vary among local governments.

HB 431 w/CS creates ss. 163.3208, 163.3209, and 186.0201, F.S., to provide a statewide process governing the siting of electric substations and maintenance of right-of-ways for electrical transmission or distribution lines. The bill provides a definition of "distribution electric substations," to which this bill applies. The bill also provides consistency among the regulations for substation siting and in the vegetation management within electric power line rights-of-way. The bill additionally establishes a role for utilities to submit their five-year plans for siting substations and to have that advisory information included in the regional planning councils' annual reports.

Generally, the bill establishes new substations as a permittable use in all land use categories and zoning districts within a utility's service territory. If a local government does not adopt reasonable standards for setback, landscaping, buffering, or screening substations, provisions are provided in the bill for default standards. The bill also provides a timeframe for a local government to grant or deny an application for an electrical substation, or the application is deemed approved. The bill further provides for a waiver of timeframes under certain circumstances.

The bill prohibits local governments from requiring permits or other approvals for vegetation maintenance in an established electrical transmission or distribution line right-of-way, but requires the utility to provide the local government with five days advance notice before conducting vegetation management activities. These activities must conform to standards established by the American National Standards Institute (ANSI) and must be supervised by qualified utility personnel, licensed contractors under the utility's control, or certified arborists. Further, the bill specifies vegetation height limits within an established right-of-way.

The bill clarifies a reference to "department" to expressly provide that Regional Planning Councils are to submit annual reports to the state land planning agency, the Department of Community Affairs.

The bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill creates statewide procedures governing the siting of electric substations and maintenance of right-of-ways for electrical transmission or distribution lines to replace individual local government procedures. The bill limits the authority of local governments to enact regulations governing the siting of electric substations and right-of-way maintenance. The bill provides default requirements in case the local government does not adopt "reasonable" standards for substation siting. The bill provides that a local government may not require permits or other approval for vegetation management and tree trimming within an electric utility's established right-of-way, and provides minimum standards for vegetation maintenance by electric utilities.

Maintain Public Security: The bill may increase reliability of electric services by making electrical substations permittable in all land use categories and zoning districts, thereby placing them closer to the loads they serve, and by making it easier for electric utilities to manage intrusive vegetation within their rights-of-way.

B. EFFECT OF PROPOSED CHANGES:

Background

Comprehensive Planning and Zoning
The Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161 – 163.3217, F.S., requires each local government to plan for future development and growth through the adoption and amendment of comprehensive plans. Local governments have broad constitutional and statutory powers to plan for and regulate land use. A local government's comprehensive plan and land use classifications dictate the allowable land uses for each parcel.

Each local government is required to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.[1] Section 163.3164(23), F.S., defines the term "land development regulations" as "ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, . . ." A substantially affected person, as defined in ch. 120, F.S., may challenge a land development regulation on the basis that it is inconsistent with the local government's comprehensive plan.[2] Citizens have standing to enforce a local comprehensive plan through challenging the consistency of a development order with that plan.[3]

Electrical Power Plant and Transmission Line Siting
Part II of ch. 403, F.S., governs electrical power plant and transmission line siting, and establishes a process for applying for electrical power plant site certification with the Department of Environmental Protection (DEP). Within 90 days after DEP receives a complete application, a designated administrative law judge holds a land use hearing in the county of the proposed site.[4] The sole issue for determination at the hearing is whether the proposed site is consistent, and in compliance, with the jurisdiction's existing land use plan and zoning ordinances.[5] For purposes of this application process,

[1] s. 163.3202(1), Fla. Stat. (2005).
[2] s. 163.3213, Fla. Stat. (2005).
[3] s. 163.3215, Fla. Stat. (2005).
[4] s. 403.508(1), Fla. Stat. (2005).
[5] s. 403.508(2), Fla. Stat. (2005).

an associated transmission line may include any proposed terminal or intermediate substations or substation expansions at the applicant's option.[6]

Electrical substations for distribution lines are typically sited as a special use or conditional use through the local government planning and zoning process. The terms "special use" or "conditional use" refer to those land uses that are not permitted outright under a local government's zoning code, but may be approved by the zoning board.

Vegetation Management and Tree Trimming in a Utility Right-of-Way
Based on a compilation of the 2004 Electric Reliability Reports[7] submitted by the investor-owned electric utilities, 17 percent of all electrical outages are vegetation related, making it second only to equipment failures. Moreover, this statistic excludes events such as hurricanes and tornados since, pursuant to Rule 25-6.0455(2), F.A.C., outages related to these events may be excluded from the report.

In order to avoid tree-related outages, the electric utilities have established vegetation management plans. Depending on the species of tree, the management plan will establish a schedule and an allowable distance for trimming. Vegetation management may also include the removal of nuisance trees, the use of growth retardants, and selective directional trimming to maintain a balanced canopy. There are national standards for tree trimming that have been developed by the International Society of Arboriculture and the National Arborist Association. A primary vegetation management concern is that fast-growing invasive species can make contact with facilities in rights-of-way and contribute to power outages.

Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Electric utility providers may be subject to these tree ordinances or permit requirements.

Regional Planning Councils' Annual Report
Florida has 11 regional planning councils that serve as a link between the state and local governments that share mutual resources, characteristics, and issues within an area. Each regional planning council includes members from counties and municipalities located in the region's planning district and gubernatorial appointees. Section 186.513, F.S., requires each regional planning council to provide an annual report on its activities to the department[8] and the local general-purpose governments within its jurisdiction. Interested persons may also obtain a copy of the report for a fee.

EFFECT OF PROPOSED CHANGES

Section 1. Creates s. 163. 3208, F.S., relating to Electric Substation Siting
The bill creates s. 163.3208, F.S., to provide a uniform, statewide process applicable to siting distribution electric substations[9] and maintenance of vegetation surrounding electric substations. Local government regulations and processes that are inconsistent with the procedures provided for in this bill may not be applicable. The term "distribution electric substation" is defined as an "electrical substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid though one or more distribution lines less than 69 kilovolts in size."

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[6] s. 403.503(12), Fla. Stat. (2005).
[7] The 2005 reports are due to be filed early March 2006.
[8] Existing law does not identify to which "department" the regional planning councils are directed to provide their annual report. Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."
[9] Electric utilities use substations to "step-down" voltage so it is usable by end users.

This new section states that it is the Legislature's intent to maintain, encourage, and ensure adequate and reliable electric infrastructure in the state, and that it is essential for electric infrastructure to be constructed and maintained in various locations to ensure efficient and reliable delivery of electric service. The bill further finds that electric infrastructure should be constructed, to the maximum extent practicable, to achieve compatibility with adjacent and surrounding land uses and that the criteria included in this section are intended to balance the need for electricity with land use compatibility.

The section limits local governments' authority to enact regulations regarding substation siting by authorizing the adoption and enforcement of "reasonable land development regulations for new distribution electric substations addressing only setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards." Local governments may not require vegetated buffers or screening beneath aerial access points to the substation equipment to have a mature height in excess of 14 feet.

The section provides that, within a utility service territory, new substation siting is a permittable use in all land use categories in the applicable comprehensive plan and zoning districts. An exception is provided for new substation siting in areas designated as preservation, conservation, or historic preservation on future a land use map or by ordinance. If a local government has not adopted "reasonable" standards for new substation siting in accordance with this section, default standards are provided as follows:

- *Nonresidential Areas* – The new substation must comply with the same setback and buffer criteria for similar uses in that district.
- *Residential Areas* -- Unless the local government adopts a lesser setback or landscape requirement, a setback of up to 100 feet between the property boundary of the substation and permanent equipment structures must be maintained as follows:
    - *Setbacks between 50 and 100 feet* – A green-space must be formed by installing native landscaping material with a security fence around the equipment.
    - *Setbacks of less than 50 feet* – An eight foot buffer wall or eight foot fence with native landscaping must be installed around the substation.

The section provides that if a proposed electric substation is consistent with the local government's applicable setback, landscaping, buffering, screening, and other aesthetic compatibility–based standards, an application for siting the substation must be approved. Standards for substation siting adopted after the effective date of this bill are not applicable to applications that were submitted prior to the local government's notice of adoption hearing.

If a local government has adopted substation siting standards within any land use category or zoning district, the local government must grant or deny a properly completed application within 90 days after the application is declared complete.[10] The application review process does not, however, address the situation whereby an applicant is not compliant with applicable federal or state laws or regulations, or applicable local land development regulations or building codes. If the local government fails to grant or deny a properly completed application within 90 days, the application is deemed automatically approved, and without penalty or interference, construction may proceed consistent with the application.

The section establishes time frames for determining whether an application for siting a substation is complete as follows:

- The local government must notify the permit applicant within 30 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and submitted.

[10] Currently, there are varying timeframes for this process.

- Further determination of completeness must be provided to the applicant within 15 days after the local government receives additional information; however, such determination is not considered approval of the application.

This section also provides that the timeframes may be waived if voluntarily agreed to by the utility applicant and the local government; however, a one-time waiver may be required by the local government in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government. A local government may establish a reasonable timeframe by which the required information to cure an application deficiency must be provided or the application will be considered withdrawn or closed.

Section 2. Creates s. 163.3209, F.S., relating to Right-of-Way Maintenance
Currently, ss. 337.401-337.404, F.S., provide that the Department of Transportation and local governmental entities with jurisdiction and control of public roads or publicly owned rail corridors may prescribe and enforce reasonable rules or regulations regarding the placing and maintaining along, across, or on any road or publicly owned rail corridors, under their respective jurisdictions, any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to as the "utility." Currently, the majority of local governments require utilities to obtain a permit each time routine vegetation maintenance is conducted in any established electric utility right-of-way.

This bill creates s. 163.3209, F.S., providing that after a right-of-way for an electrical transmission or distribution line has been established, a local government may not require any permits or other approvals for vegetation maintenance, tree pruning, or trimming within that right-of-way. This section defines the term "vegetation maintenance and tree pruning or trimming" as the "mowing of vegetation within the right-of-way, and selective removal of tree branches that extend within the right-of-way." This section requires a utility to provide five business days advance notice to the local government prior to conducting vegetation maintenance activities within a right-of-way. An exception applies for emergencies, service restoration, avoidance of imminent vegetation caused outage, or when performed at the request of the property owner adjacent to the right-of-way, provided the owner has approval of the local government if required.

Local governments are authorized to request a meeting with a utility provider to discuss the utility's vegetation-maintenance plan, including the utility's trimming specifications and maintenance practices. In addition, vegetation maintenance performed by utilities must conform to ANSI[11] standards, and vegetation management activities must be supervised by qualified utility personnel, licensed contractors under the utility's control, or certified arborists. Consistent with the height provision in Section 1 of the bill, a local government may not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation in an established right-or-way that achieves a height greater than 14 feet or intrudes from the side closer than the clearance distance specified in referenced standards.

The section explicitly notes that it does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and must not be construed to limit a local government's franchising authority. In addition, this section does not supersede local government ordinances or regulations governing pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within canopy road protection areas. This section does not apply if a local government has adopted a written plan, with concurrence from the applicable utility provider, specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming within established rights-of-way.

Section 3. Creates s. 186.0201, F.S., relating to Electrical Substation Planning

[11] American National Standards Institute

This new section requires each electric utility to annually notify the local regional planning council, each June 1 beginning the year after the effective date of this bill, of the utility's current plans to site electrical substations, over a five year period, within the local government jurisdictions contained in each region. The notification must identify whether each electric substation planned within a general area is a distribution or transmission electric substation, include a listing of the proposed substations' site acreage needs and anticipated capacity, and include maps showing general locations of the planned electric substations. The information is advisory only, must be included in the regional planning council's annual report prepared pursuant to s. 186.513, F.S., and must be supplied directly to local governments requesting the information.

Section 4. Amends s. 186.513, F.S., relating to Reports of Regional Planning Councils
Currently, s. 186.513, F.S., requires the regional planning councils to submit an annual report to "the department" and the local general purpose governments within its boundaries; however, current law does not identify the specific "department" to which the regional planning councils must provide the annual report. [12]

The bill amends s. 186.513, F.S., to replace the word "department" with "state land planning agency as defined in s. 163.3164(20), F.S." The state land planning agency is defined as the Department of Community Affairs, which is the agency to which the reports have historically been submitted.

Section 5. Provides that nothing in this part is intended to supersede the provisions of ch. 403, pt. II, F.S., The Electrical Power Plant Siting Act, which is administered by the Department of Environmental Protection.

C. SECTION DIRECTORY:

Section 1. Creates s. 163.3208, F.S., relating to electrical substation approval process.

Section 2. Creates s. 163.3209, F.S., relating to electrical transmission and distribution line right-of-way maintenance.

Section 3. Creates s. 186.0201, F.S., relating to electrical substation planning.

Section 4. Amends s. 186.513, F.S., relating to regional planning council annual reports.

Section 5. Provides that nothing in this part is intended to supersede the provisions of ch. 403, pt. II, F.S.

Section 6. Provides 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:

[12] Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."

1. Revenues: The bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides that an electric utility is no longer required to obtain a permit or other approval from local government for vegetation management and tree trimming within an established right-of-way for an electric power line. There may also be some costs to the electric utilities for providing the regional planning councils with their substation siting plans.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: While some municipalities and counties may lose tree trimming permit fees paid by electric utilities, the amount of the permit fees paid to an individual municipality or county is expected to be negligible. Therefore, it appears that this bill likely qualifies for the "laws having an insignificant fiscal impact" exemption in Article VII, Section 18(d) of the Florida Constitution.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 21, 2006, the Utilities & Telecommunications Committee adopted a strike-all amendment. The strike-all did the following:

- Provides a siting exception for historic preservation and conservation lands;
- Sets minimum setback requirements, if such requirements are not adopted by the local government;
- Provides that siting standards are on a going forward basis;
- Provides a deadline for approving a siting application;
- Provides that the bill does not affect the applicability and enforceability of any existing local regulatory land use procedures for conditional use or special exceptions which provide for public input if such procedures are in effect as of the act's effective date. However, in land use, conditional use, or special-exception review, the local government is limited to the standards and conditions adopted under s. 163.3208(2), F.S.
- Requires five days notice to local government before an electric utility does vegetation management activities within a right-of-way;
- Provides standards for vegetation maintenance practices;
- Provides that local governments may not adopt ordinances to require planting vegetation on rights-of-way or below aerial access points to substations that will grow in excess of 14 feet;

- Provides side clearance standards;
- Provides that s. 163.3209, F.S., does not supersede current franchise agreements or limit franchise authority;
- Provides that s. 163.3209, F.S., does not supersede ordinances governing the removal of certain trees;
- Requires the electric utilities to file their current plans to site substations with regional planning councils, and that information is to be included in the regional planning council's annual report.

On March 14, 2006, the Growth Management Committee adopted a strike-all amendment. The strike-all does the following:

- Provides a definition of "distribution electric substation."
- Adds historical preservation land use classifications to the area excluded from the application of this bill.
- Provides new timeframes to be set by local governments with respect to the provision of additional information on the substation siting application.
- Provides a definition for "vegetation maintenance and tree pruning or trimming."
- Clarifies the notification requirements for vegetation maintenance.
- Limits the maintenance activities that can impact specimens or historical tress or trees located in a canopy road protection area.
- Authorizes local governments to adopt a written maintenance plan for vegetation located within its rights-of-way with the concurrence from the applicable utility provider.
- Authorizes local governments to request a copy of electrical utilities' annual substation siting plans, which were previously forwarded only to regional planning councils.
- Corrects a reference to the state land planning agency.

CHAMBER ACTION

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1 The Growth Management 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 electric transmission and distribution;
7 creating s. 163.3208, F.S.; providing legislative intent;
8 defining the term "distribution electric substation";
9 providing criteria for adoption and enforcement by a local
10 government of land development regulations for new
11 electric substations; providing that new substations are a
12 permitted use in all land use categories and zoning
13 districts within a utility's service territory; providing
14 for exceptions; providing standards which apply if a local
15 government does not adopt reasonable standards for
16 substation siting; providing for approval of an
17 application for development of a proposed distribution
18 electric substation when the application demonstrates that
19 the design is consistent with the local government's
20 applicable standards; providing for application of certain
21 local siting standards to applications received after
22 public notice of the adoption hearing on those standards;
23 providing a timeframe and procedures for a local

24 government to approve or deny an application for an
25 electric substation; providing that the application is
26 deemed approved if not acted on within the timeframe;
27 providing for waiver of timeframes; authorizing the local
28 government to establish timeframes for certain required
29 information to be furnished; creating s. 163.3209, F.S.;
30 prohibiting local governments from requiring any permits
31 or approvals for certain vegetation maintenance in an
32 established electric transmission or distribution line
33 right-of-way; defining the term "vegetation maintenance
34 and tree pruning or trimming"; providing for a utility to
35 give notice to the local government before conducting such
36 vegetation-maintenance activities; providing for
37 exceptions; requiring the utility to provide its
38 vegetation-maintenance plan to the local government and
39 discuss it with the local government; specifying standards
40 for vegetation maintenance and tree pruning or trimming
41 conducted by utilities; providing for supervision of
42 vegetation maintenance and tree pruning or trimming
43 activities; limiting the height and clearance distance of
44 vegetation that may be required by a local government in
45 an established right-of-way of certain lines; providing
46 for application and construction with respect to local
47 franchise authority and ordinances or regulations
48 governing pruning, trimming, or removal of certain trees;
49 providing for application when a local government has
50 adopted a described plan for vegetation maintenance, tree
51 pruning, tree removal, and tree trimming within

52 established rights-of-way; creating s. 186.0201, F.S.;
53 requiring electric utilities to notify the regional
54 planning council of plans to site electric substations;
55 providing for content of the notification; requiring that
56 the information be included in the regional planning
57 council's annual report and supplied to local governments
58 under certain conditions; amending s. 186.513, F.S.;
59 correcting a reference to a specified agency; providing
60 for application to the Florida Electrical Power Plant
61 Siting Act; providing an effective date.
62
63 Be It Enacted by the Legislature of the State of Florida:
64
65 Section 1. Section 163.3208, Florida Statutes, is created
66 to read:
67 163.3208 Substation approval process.--
68 (1) It is the intent of the Legislature to maintain,
69 encourage, and ensure adequate and reliable electric
70 infrastructure in the state. It is essential that electric
71 infrastructure be constructed and maintained in various
72 locations in order to ensure the efficient and reliable delivery
73 of electric service. Electric infrastructure should be
74 constructed, to the maximum extent practicable, to achieve
75 compatibility with adjacent and surrounding land uses and the
76 criteria included in this section are intended to balance the
77 need for electricity with land use compatibility.
78 (2) The term "distribution electric substation" means an
79 electric substation which takes electricity from the

80 transmission grid and converts it to a lower voltage so it can
81 be distributed to customers in the local area on the local
82 distribution grid through one or more distribution lines less
83 than 69 kilovolts in size.
84 (3) Electric substations are a critical component of
85 electric transmission and distribution. Local governments may
86 adopt and enforce reasonable land development regulations for
87 new distribution electric substations addressing only setback,
88 landscaping, buffering, screening, lighting, and other aesthetic
89 compatibility-based standards. Vegetated buffers or screening
90 beneath aerial access points to the substation equipment shall
91 not be required to have a mature height in excess of 14 feet.
92 (4) New distribution electric substations shall be a
93 permitted use in all land use categories in the applicable local
94 government comprehensive plan and zoning districts within a
95 utility's service territory except those designated as
96 preservation, conservation, or historic preservation on the
97 future land use map or duly adopted ordinance. If a local
98 government has not adopted reasonable standards for substation
99 siting in accordance with subsection (3), the following
100 standards shall apply to new distribution electric substations:
101 (a) In nonresidential areas, the substation must comply
102 with the setback and landscaped buffer area criteria applicable
103 to other similar uses in that district, if any.
104 (b) Unless the local government approves a lesser setback
105 or landscape requirement, in residential areas, a setback of up
106 to 100 feet between the substation property boundary and
107 permanent equipment structures shall be maintained as follows:

108 1. For setbacks between 100 feet and 50 feet, an open
109 green space shall be formed by installing native landscaping,
110 including trees and shrub material, consistent with the relevant
111 local government's land development regulations. Substation
112 equipment shall be protected by a security fence consistent with
113 the relevant local government's land development regulations.
114 2. For setbacks of less than 50 feet, a buffer wall 8 feet
115 high or a fence 8 feet high with native landscaping consistent
116 with the relevant local government's regulations shall be
117 installed around the substation.
118 (5) If the application for a proposed distribution
119 electric substation demonstrates that the substation design is
120 consistent with the local government's applicable setback,
121 landscaping, buffering, screening, and other aesthetic
122 compatibility-based standards, the application for development
123 approval for the substation shall be approved.
124 (6) Substation siting standards adopted after the
125 effective date of this act shall not apply to electric utility
126 substation applications that were submitted prior to the notice
127 of the local government's adoption hearing.
128 (7)(a) If a local government has adopted standards for the
129 siting of electric substations within any of the local
130 government's land use categories or zoning districts, the local
131 government shall grant or deny a properly completed application
132 for a permit to locate an electric substation within the land
133 use category or zoning district within 90 days after the date
134 the properly completed application is declared complete in
135 accordance with the applicable local government application

136 procedures. If the local government fails to approve or deny a
137 properly completed application for an electric substation within
138 the timeframes set forth, the application shall be deemed
139 automatically approved and the applicant may proceed with
140 construction consistent with its application without
141 interference or penalty. Issuance of such local permit does not
142 relieve the applicant from complying with applicable federal or
143 state laws or regulations and other applicable local land
144 development or building regulations, if any.
145 (b) The local government shall notify the permit applicant
146 within 30 days after the date the application is submitted as to
147 whether the application is, for administrative purposes only,
148 properly completed and has been properly submitted. Further
149 completeness determinations shall be provided within 15 days
150 after the receipt of additional information. However, such
151 determination shall not be not deemed an approval of the
152 application.
153 (c) To be effective, a waiver of the timeframes set forth
154 in this subsection must be voluntarily agreed to by the utility
155 applicant and the local government. A local government may
156 request, but not require, a waiver of the timeframes by the
157 applicant, except that, with respect to a specific application,
158 a one-time waiver may be required in the case of a declared
159 local, state, or federal emergency that directly affects the
160 administration of all permitting activities of the local
161 government.
162 (d) The local government may establish reasonable
163 timeframes within which the required information to cure the

164 application deficiency is to be provided or the application will
165 be considered withdrawn or closed.
166 Section 2. Section 163.3209, Florida Statutes, is created
167 to read:
168 163.3209 Electric transmission and distribution line
169 right-of-way maintenance.--After a right-of-way for any electric
170 transmission or distribution line has been established and
171 constructed, no local government shall require or apply any
172 permits or other approvals or code provisions for or related to
173 vegetation maintenance and tree pruning or trimming within the
174 established right-of-way. The term "vegetation maintenance and
175 tree pruning or trimming" means the mowing of vegetation within
176 the right-of-way, removal of trees or brush within the right-of-
177 way, and selective removal of tree branches that extend within
178 the right-of-way. The provisions of this section do not include
179 the removal of trees outside the right-of-way, which may be
180 allowed in compliance with applicable local ordinances. Prior to
181 conducting scheduled routine vegetation maintenance and tree
182 pruning or trimming activities within an established right-of-
183 way, the utility shall provide the local government with a
184 minimum of 5 business days' advance notice. Such advance notice
185 is not required for vegetation maintenance and tree pruning or
186 trimming required to restore electric service or to avoid an
187 imminent vegetation-caused outage or when performed at the
188 request of the property owner adjacent to the right-of-way,
189 provided that the owner has approval of the local government, if
190 needed. Upon the request of the local government, the electric
191 utility shall meet with the local government to discuss and

192 submit the utility's vegetation maintenance plan, including the
193 utility's trimming specifications and maintenance practices.
194 Vegetation maintenance and tree pruning or trimming conducted by
195 utilities shall conform to ANSI A300 (Part I)--2001 pruning
196 standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining,
197 and Removing Trees, and Cutting Brush--Safety Requirements.
198 Vegetation maintenance and tree pruning or trimming conducted by
199 utilities must be supervised by qualified electric utility
200 personnel or licensed contractors trained to conduct vegetation
201 maintenance and tree trimming or pruning consistent with this
202 section or by Certified Arborists certified by the Certification
203 Program of the International Society of Arboriculture. A local
204 government shall not adopt an ordinance or land development
205 regulation that requires the planting of a tree or other
206 vegetation that will achieve a height greater than 14 feet in an
207 established electric utility right-of-way or intrude from the
208 side closer than the clearance distance specified in Table 2 of
209 ANSI Z133.1-2000 for lines affected by the North American
210 Electric Reliability Council Standard, FAC 003.1 requirement
211 R1.2. This section does not supersede or nullify the terms of
212 specific franchise agreements between an electric utility and a
213 local government and shall not be construed to limit a local
214 government's franchising authority. This section does not
215 supersede local government ordinances or regulations governing
216 pruning, trimming, or removal of specimen trees or historical
217 trees, as defined in a local government's ordinances or
218 regulations, or trees within canopy road protection areas. This
219 section shall not apply if a local government has adopted a

220 written plan, with concurrence from the applicable utility
221 provider, specifically for vegetation maintenance, tree pruning,
222 tree removal, and tree trimming within established rights-of-
223 way.
224 Section 3. Section 186.0201, Florida Statutes, is created
225 to read:
226 186.0201 Electric substation planning.--Electric utility
227 substations respond to development and, consequently, siting
228 locations cannot be precisely planned years in advance.
229 Nevertheless, on or before June 1 of every year after the
230 effective date of this act, the electric utilities with service
231 areas within each regional planning council shall notify the
232 regional planning council of the utilities' current plans over a
233 5-year period to site electric substations within the local
234 governments contained within each region, including an
235 identification of whether each electric substation planned
236 within a general area is a distribution or transmission electric
237 substation, a listing of the proposed substations' site acreage
238 needs and anticipated capacity, and maps showing general
239 locations of the planned electric substations. This information
240 is advisory, shall be included in the regional planning
241 council's annual report prepared pursuant to s. 186.513, and
242 shall be supplied directly to local governments requesting the
243 information.
244 Section 4. Section 186.513, Florida Statutes, is amended
245 to read:
246 186.513 Reports.--Each regional planning council shall
247 prepare and furnish an annual report on its activities to the

248 state land planning agency as defined in s. 163.3164(20)
249 ~~department~~ and the local general-purpose governments within its
250 boundaries and, upon payment as may be established by the
251 council, to any interested person. The regional planning
252 councils shall make a joint report and recommendations to
253 appropriate legislative committees.
254 Section 5. Nothing in this act is intended to supersede
255 the provisions of part II of chapter 403, Florida Statutes.
256 Section 6. This act shall take effect upon becoming a law.

HB 0495

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 495 Baker County
SPONSOR(S): Bean
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 495 specifies the rights of certain employees and appointees of the Baker County Sheriff. The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Probationary period" is defined to mean six months of conditional employment or appointment commencing on the date of actual work in a position. If a person is reemployed at a later date, he or she is required to complete the probationary period. A person also is required to repeat probationary service if promoted to a higher rank or position having a greater pay rate.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status appointees and employees will remain employees of the new administration. The new sheriff may reduce appointees one rank below the rank held on the day before he or she assumes office if such rank was held continuously for the prior six months of employment. The salary of any displaced person may not be reduced more than five percent. The bill also provides that a new sheriff may assign civilian appointees and the former sheriff's secretary to the next highest position classification.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of the act, and that nothing in the act is to be construed as affecting the budget-making powers of the Baker County Board of County Commissioners of Baker County.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, the bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

> By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to "restrict the establishment or operation of any civil service system" or board created pursuant to s. 14, Art. III of the State Constitution. See, also, City of Casselberry v. Orange County Police Benevolent Association, 482 So. 2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua (chs. 84-388 and 86-342, L.O.F.), Bay (ch. 84-390, L.O.F.), Brevard (ch. 83-373, L.O.F.), Broward (ch. 93-370, L.O.F), Charlotte (chs. 79-436, 86-349 and 89-508, L.O.F.), Citrus (ch. 2001-296, L.O.F.), Clay (chs. 89-522 and 93-379, L.O.F.), Columbia (ch. 2004-413, L.O.F.), Escambia (ch. 89-492, L.O.F.), Flagler (chs. 90-450 and 2000-482, L.O.F.), Glades (ch. 2003-311, L.O.F.), Hernando (ch. 2000-414, L.O.F.), Indian River (ch. 2002-355, L.O.F.), Lake (chs. 90-386, 93-358 and 2005-349, L.O.F.), Lee (chs. 74-522, 87-547 and 95-514, L.O.F.), Leon (ch. 83-456, L.O.F.), Madison (95-470), Manatee (89-472), Marion (87-457), Martin (93-388), Monroe (78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.), Okaloosa (chs. 81-442, 85-472 and 90-492, L.O.F.), Orange (ch. 89-507, L.O.F.), Osceola (chs. 89-516 and 2000-388, L.O.F.), Palm Beach (chs. 93-367, 99-437 and 2004-404, L.O.F.), Pasco (ch. 90-491, L.O.F.), Pinellas (chs. 89-404 and 90-395, L.O.F.), Polk (chs. 88-443 and 98-516, L.O.F.), St. Lucie (ch. 89-475, L.O.F.), Santa Rosa (ch. 2002-385, L.O.F.), Sarasota (ch. 86-344, L.O.F.), and Seminole (ch. 77-653, 80-612, 88-451 and 97-376, L.O.F.) counties.

The Baker County Sheriff's Office currently does not have a civil service system.[1]

[1] The terms "civil service system" and "career service system" are used interchangeably.

Proposed Changes

HB 495 specifies the rights of certain employees and appointees of the Baker County Sheriff. The act applies to all certified and noncertified persons appointed or employed by the Baker County Sheriff, with the following exceptions:

- special deputy sheriffs appointed under s. 30.09(4), F.S.[2];
- members of a sheriff's posse or reserve unit;
- part-time appointees and employees, whether compensated or not, who are scheduled to work less than 40 hours per week;
- independent contractors, temporary employees or contract employees; and
- persons who are appointed or employed pursuant to a grant whose continued existence or funding is subject to the expiration or withdrawal of the grant provider.

The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Probationary period" is defined to mean six months of conditional employment or appointment commencing on the date of actual work in a position. If a person is reemployed at a later date, he or she is required to complete the probationary period before becoming eligible for any rights under the act. A person also is required to repeat probationary service if promoted to a higher rank or position having a greater pay rate.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status appointees and employees will remain employees of the new administration. The new sheriff may reduce appointees one rank below the rank held on the day before he or she assumes office if such rank was held continuously for the prior six months of employment. The salary of any displaced person may not be reduced more than five percent. The bill also provides that a new sheriff may assign civilian appointees and the former sheriff's secretary to the next highest position classification.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of this act, and that nothing in the act is to be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

The bill has an effective date of upon becoming law.

SECTION DIRECTORY:

Section 1: Provides certain Baker County Sheriff employees and appointees with career service status; provides transition provisions; and provides for implementation and administration of the act.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

[2] This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

IF YES, WHEN? January 18 and 19, 2006

WHERE? *The Baker County Press* and *The Baker County Standard*; weekly newspapers published in Baker 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:

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

This bill does not, in effect, provide a "career service system" for Baker County Sheriff employees. While it provides for the applicability of the act, and career service status, it does not provide an employee with any rights other than with regard to when a new sheriff takes office.

The fact that the bill unequivocally provides that "all career service status appointees and employees shall remain employees of the new administration" could provide problems for any new sheriff faced with disciplinary matters.

Also, it would seem that the drafters of the bill meant to provide for assigning employees of a former sheriff to a lower rather than higher classification re: Line 67.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

THE BAKER COUNTY PRESS

Published Weekly, Macclenny, Baker County, Florida

AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
COUNTY OF BAKER:

Before me the undersigned authority personally appeared Barbara Blackshear, who on oath says that he/she is an employee of ***The Baker County Press,*** a weekly newspaper published at Macclenny in Baker County, Florida; that the attached copy of the advertisement, being a Notice of Intention in the matter of Apply for local legislation in the Baker Court, was published in said newspaper in the issues of January 19, 2006.

Affiant further says that said ***The Baker County Press*** is a newspaper published at Macclenny, in said Baker County, Florida, and that the said newspaper has heretofore been continuously published in said Baker County, Florida, each week and has been entered as second-class mail matter at the post office in Macclenny, in said Baker 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.

Barbara Blackshear
(Signature of Affiant)

Sworn and subscribed before me this 19 day of January, 20 06.

Karin G. Thomas
(Signature of Notary Public)

Karin G. Thomas
(Name of notary typed, printed or stamped)

Personally Known XX or Produced Identification

Karin G. Thomas
MY COMMISSION EXPIRES
January 13, 2007
#DD183306
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

Notice is hereby given that the undersigned will apply to the 2006 Legislature of the State of Florida for the introduction of a local bill affecting Baker County, Florida, the substance of said bill being substantially as follows:

A BILL TO BE ENTITLED

An act relating to Baker County; specifying rights of certain employees and appointees of the Baker County Sheriff; providing applicability; providing definitions; providing for career service status; providing proceedings and provisions with respect to transition between administrations; providing rulemaking authority for purposes of implementation and administrative; providing for an effective date.

Baker County Sheriff's Office
56 North 2nd Street
Macclenny, Florida 32063
1/19c

495

THE BAKER COUNTY STANDARD
PUBLISHED WEEKLY
IN THE CITY OF MACCLENNY,
BAKER COUNTY, FLORIDA.
STATE OF FLORIDA
COUNTY OF BAKER

AFFIDAVIT OF PUBLICATION

Before me, this undersigned authority personally appeared ***BRYANA STAFFORD*** *who on oath says that she is one of the firm of THE BAKER COUNTY STANDARD, a weekly newspaper published in Macclenny, Baker County, Florida; that the attached copy of advertisement, being a notice to appear in re:* ***PUBLIC NOTICE: BAKER COUNTY SERIFF'S OFFICE EMPLOYEES CAREER SERVICE*** *was published in said newspaper in the issue of:* ***SEPTEMBER 28 & OCTOBER 5, 2005.*** *Affiant says further that the said BAKER COUNTY STANDARD is a newspaper published at Macclenny, in said Baker County, Florida, and that the said newspaper has heretofore been continuously published in said Baker County, Florida each week; has been entered as second class mail matter at the post office in Macclenny, in said Baker County, Florida, for a period of 1 year next preceding the first publication of the attached copy of notice; and affiant further states 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 said newspaper.*

Bryana Stafford
Signature of Affiant

Sworn to and subscribed before me this 18th *day of NOVEMBER, 2005.*

Sondra D. Miller
Signature of Notary Public

Sondra D. Miller
Commission # DD429317
Expires June 17, 2009
Bonded Troy Fain - Insurance, Inc. 800-385-7019

Name of Notary Public typed, printed or stamped

Personally Known ✓ *or Produced Identification*_____

*Type of Identification Produced*_____

Public Hearing Notice

For Immediate Relase From the Baker County Sheriff's Office

The Baker County Sheriff's Office intends to file a local legislation bill related to an act entitled:

BAKER COUNTY SHERIFF'S OFFICE EMPLOYEES CAREER SERVICE

A public hearing will be held on October 6, 2005 at 3:30 p.m. at the Baker County Board of Commissioners.

Dates of Publication September 28, & October 5, 2005.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 495

SPONSOR(S): Bean

RELATING TO: Baker County Sheriff Office Career Service
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Baker County

CONTACT PERSON: Sandy Matthews

PHONE # and E-Mail: (904) 491-3664 sandy.matthews@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 [✓] NO [ ]

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

Date hearing held: Oct 6, 2005

Location: Baker County Administration Building

(3) Was this bill formally approved by a majority of the delegation members?
YES [✓] 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 [✓] NO [ ] DATE [Sept 29, 2005 **]**

Where? Baker County Press **County** Baker

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 LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2004 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 Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee 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 House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: 14264

SPONSOR(S): _____

RELATING TO: _____

[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 04-05	FY 05-06
Expenditures:	No cost predicted	

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 04-05	FY 05-06
Federal:	N/A	
State:		
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 04-05	FY 05-06
Revenues:	N/A	

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

Advantages: None

Disadvantages:

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]:

PREPARED BY: _____ 11-17-05
[Must be signed by Preparer] Date

TITLE: Chief

REPRESENTING: Joey B. Dobson, Sheriff

PHONE: 904-259-2231

E-Mail Address: ggonzalez@sheriffsoffice.co.baker.fl.us.

1 A bill to be entitled
2 An act relating to Baker County; specifying rights of
3 certain employees and appointees of the Baker County
4 Sheriff; providing applicability; providing definitions;
5 providing for career service status; providing proceedings
6 and provisions with respect to transition between
7 administrations; providing rulemaking authority for
8 purposes of implementation and administration; providing
9 an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Employees and appointees of the Baker County
14 Sheriff; applicability; definitions; career service status;
15 transition; implementation and administration.--
16 (1) APPLICABILITY.--This act applies to all certified and
17 noncertified persons appointed or employed by the Baker County
18 Sheriff, with the following exceptions:
19 (a) Special deputy sheriffs appointed under section
20 30.09(4), Florida Statutes.
21 (b) Members of a sheriff's posse or reserve unit.
22 (c) Part-time appointees and employees, whether
23 compensated or not, who are scheduled to work less than 40 hours
24 per week.
25 (d) Independent contractors, temporary employees, or
26 contract employees.

27 (e) Persons who are appointed or employed pursuant to a
28 grant whose continued existence or funding is subject to the
29 expiration or withdrawal of the grant provider.
30 (2) DEFINITIONS.--
31 (a) "Appointee" means that person selected by the sheriff
32 to serve in the position of deputy sheriff or correctional
33 officer who is a certified officer within the meaning of chapter
34 943, Florida Statutes. For the purposes of this act, "appointee"
35 and "employee" are synonymous and any derivative of "employee"
36 refers to the persons to whom this act applies.
37 (b) "Employee" means any person employed by the sheriff
38 for a position that does not require certification under chapter
39 943, Florida Statutes.
40 (c) "Probationary period" means 6 months of conditional
41 employment or appointment commencing on the date of actual work
42 in the position to which promoted.
43 (d) "Reemployment" means reappointment or the reemployment
44 of a person who was previously an appointee or employee of the
45 Office of the Sheriff.
46 (3) CAREER SERVICE STATUS.--
47 (a) After an employee or appointee of the sheriff to whom
48 this act applies has completed the initial or extended
49 probationary period, such person shall be considered to have
50 attained career service status in the Office of the Sheriff. If
51 such person is reemployed at a later date, the person shall be
52 required to complete the probationary period again before
53 becoming eligible for any rights under this act.

54 (b) After an employee or appointee is promoted to a higher
55 rank or position having a greater pay rate, such person shall be
56 considered to have attained career service status in the
57 position to which promoted after completing 6 months of
58 continuous service in that position.
59 (4) TRANSITION.--When a newly elected or appointed sheriff
60 assumes office, all career service status appointees and
61 employees shall remain employees of the new administration.
62 (a) The new sheriff may only reduce appointees one rank
63 below the rank held on the day before the new sheriff assumes
64 office if such rank was held continuously for the prior 6 months
65 of employment.
66 (b) The new sheriff may assign the civilian appointees and
67 sheriff's secretary to the next highest position classification.
68 (c) The salary of any displaced officer or person may not
69 be reduced more than 5 percent.
70 (5) IMPLEMENTATION AND ADMINISTRATION.--The sheriff may
71 adopt such rules as are necessary for the implementation and
72 administration of this act; however, nothing in this act shall
73 be construed as affecting the budget-making powers of the Board
74 of County Commissioners of Baker County.
75 Section 2. This act shall take effect upon becoming a law.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Local Government Council
2 Representative Bean offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6
7 Section 1. Employees and appointees of Baker County
8 Sheriff's Office; applicability of act; definitions; career
9 service status; transitions; administration.—
10 (1) APPLICABILITY.—The provisions of this act apply to all
11 certified and noncertified persons appointed or employed by the
12 Baker County Sheriff's Office, with the following exceptions:
13 (a) Chiefs or, in the event of a title change, the highest
14 ranked certified law enforcement officers reporting directly to
15 the Sheriff.
16 (b) Special deputy sheriffs appointed under section
17 30.09(4), Florida Statutes.
18 (c) Members of a sheriff's posse or reserve unit.
19 (d) Part-time appointees and employees.
20 (e) Independent contractors, temporary employees, or
21 contract employees.

22 (f) Appointees and employees employed pursuant to a grant
23 whose continued existence or funding is subject to the
24 expiration or withdrawal of the grant provider.
25 (3) APPLICATION TO COLLECTIVE BARGAINING.—This act does
26 not grant the right of collective bargaining to employee's of
27 the Baker County Sheriff's Office who do not otherwise have that
28 right pursuant to law.
29 (4) NONDISCIPLINARY DISMISSALS.—This act does not cover
30 the nondisciplinary dismissal of employees or appointees. Such
31 nondisciplinary dismissals include those arising from a
32 reduction in force, layoff, or partial or total abolition or
33 cessation of a program, service, operation, department,
34 subdivision, or grant-funded position.
35 (6) DEFINITIONS.—
36 (a) "Appointee" means a person selected by the Sheriff to
37 serve in the position of deputy sheriff or correctional officer
38 who is certified within the meaning of chapter 943, Florida
39 Statutes.
40 (b) "Employee" means any person employed by the Sheriff
41 for a position which does not require certification under
42 chapter 943, Florida Statutes.
43 (c) "Dismissal" means the discharge or withdrawal of
44 appointment by the Sheriff or his or her designee of a person
45 employed or appointed to a position with the Office of Sheriff.
46 (d) "Initial probationary period" means 1 year of
47 conditional employment or appointment commencing on the initial
48 date of actual work and continuing for 12 months in a regularly
49 established position. This probationary period may be extended
50 at the discretion of the Sheriff for a period equal to any work
51 absences during the 12-month period. For the purpose of
52 determining career service status as defined in this act, all

53 time in the employment of the Office of the Sheriff while in a
54 Criminal Justice Standards and Training Commission-approved
55 academy or other comparable training for certification as a
56 sworn officer or deputy sheriff shall not be considered in any
57 manner in determining whether the employee has attained 1
58 calendar year of minimum service.
59 (e) "Career Appeals Board" means the ad hoc board
60 authorized under this Act to hear disciplinary appeals.
61 (f) "Reemployment" means the reappointment or reemployment
62 of a person who was previously an appointee or employee of the
63 Office of Sheriff.
64 For the purposes of this Act, "appointee" and "employee" are
65 synonymous and any derivative of "employ" refers to the persons
66 to whom this Act applies.
67 (7) CAREER SERVICE STATUS.—
68 (a) After any employee or appointee of the Sheriff to whom
69 the provisions of this act apply has completed the initial or
70 extended probationary period, such person shall have attained
71 career service status in the Office of Sheriff. If such person
72 is reemployed at a later date, said person shall be required to
73 again complete the probationary period before being granted the
74 right of appeal provided in section 2.
75 (b) The Sheriff may dismiss an appointee or employee who
76 has not completed the initial or extended probationary period at
77 any time without granting the right of appeal provided in
78 section 2.
79 (c) Any person who has attained career service status with
80 the Baker County Sheriff's Office may only be suspended or
81 dismissed for cause, provided that, prior to such action, the
82 employee must be provided with written notice of the proposed
83 action and offered an opportunity to respond to the reasons for

84 the suspension or dismissal. If, however, the Sheriff perceives
85 a significant hazard in keeping the employee on the job, or
86 where delay could result in damage or injury, the employee may
87 be immediately suspended or dismissed without notice, provided,
88 however, that the employee is later provided with such notice
89 and reasons within 24 hours. "Cause for suspension or dismissal"
90 includes, but is not limited to, negligence, inefficiency or
91 inability to perform assigned duties, insubordination, violation
92 of provisions of law or office rules, conduct unbecoming a
93 public employee, misconduct, alcohol abuse, prescription drug
94 abuse, or illegal drug use. "Cause for suspension or dismissal"
95 also includes, but is not limited to, adjudication of guilt by a
96 court of competent jurisdiction, a plea of guilty or of nolo
97 contendere, or a verdict of guilty when adjudication of guilt is
98 withheld and the accused is placed on probation with respect to
99 any felony, misdemeanor, or major traffic infraction charges.
100 (d) An employee or appointee who has achieved career
101 service status is entitled to appeal a disciplinary suspension
102 or dismissal to a Career Service Appeals Board.
103 (8) TRANSITION.—When a newly elected or appointed Sheriff
104 assumes office, all career service status appointees and
105 employees shall remain employees of the new administration,
106 unless cause for dismissal, as provided herein, exists.
107 (a) The new Sheriff may reduce employees holding the rank
108 of Chief and Lieutenant one rank below that held on the day
109 before the new Sheriff assumes office. The regular base salaries
110 of these employees may be adjusted accordingly.
111 (b) The new Sheriff may assign the Personnel/Budget
112 Director and the Sheriff's Secretary to the next lowest position
113 classification within the pay and classification system, and
114 adjust their regular base salaries accordingly.

115 (9) ADMINISTRATION.—The Sheriff shall have the authority
116 to adopt such rules and regulations as are necessary for the
117 implementation and administration of this act; however, nothing
118 in this act shall be construed as affecting the budget-making
119 powers of the Board of County Commissioners of Baker County.
120 Section 2. Career Service Appeals Boards; creation;
121 membership; duties.—
122 (1) FUNCTION OF BOARDS.—Ad Hoc Career Service Appeals
123 Boards shall be appointed for the purpose of hearing appeals of
124 employees having career service status arising from their
125 disciplinary suspension or dismissal. A Career Service Appeals
126 Board shall be utilized to make a nonbinding recommendation to
127 the Sheriff as to whether the suspension or dismissal was for a
128 violation of Sheriff's Office policy, rule, regulation,
129 procedure, or practice. Any such Board may also provide
130 assistance and advice to the Sheriff in matters concerning
131 disciplinary suspension or dismissal and may take any other
132 actions authorized by the Sheriff.
133 (2) MEMBERSHIP OF BOARD.—Upon the call of the Sheriff or
134 upon the filing of an appeal, an Ad Hoc Career Service Appeals
135 Board shall be appointed. The membership of each Board shall
136 consist of five appointees or employees of the Office of
137 Sheriff. Two members shall be selected by the employee or
138 appointee filing the appeal, two members shall be selected by
139 the Sheriff, and the fifth member, who shall serve as the Chair
140 of the Board, shall be selected by the other four members. Any
141 employee may decline to serve as a member of the Board.
142 (a) The hearing shall be conducted during the Sheriff's
143 Office administrative office hours; therefore, employees
144 selected to serve on the Board shall serve without additional
145 compensation. Once selected, the members of the Board shall

146 serve until the Board issues its recommendations to the
147 Sheriff's Office, and, unless reconvened, the Board shall be
148 dissolved.
149 (b) The Personnel/Budget Director or his or her designee
150 shall serve as an ex officio member of the Board for the purpose
151 of providing procedural guidance to the Board concerning the
152 application of this act and any rules or regulations adopted by
153 the Sheriff relating thereto, but such ex officio member shall
154 have no vote.
155 (3) PROCEDURE WITH RESPECT TO APPEALS.—An employee or
156 appointee who has achieved career service status may submit a
157 written request for a hearing to the Sheriff or his or her
158 designee within 7 calendar days after receiving a Notice of
159 Suspension or Dismissal which shall be hand-delivered or sent
160 certified mail, return receipt requested. The appeal must
161 contain a brief statement of the matters to be considered by the
162 Career Service Appeals Board and the names of the employees
163 selected to serve on the Board.
164 (a) A Career Appeals Board shall be selected and shall
165 meet for the purpose of hearing the appeal within 30 calendar
166 days after receipt of the Notice of Appeal. However, an
167 extension of time may be granted by the Chair for good cause or
168 upon agreement of the parties.
169 (b) The person filing the appeal has the right to a public
170 hearing, to be represented by a person of his or her choice, to
171 present relevant evidence, and to cross examine witnesses.
172 (c) The rules of evidence and civil procedure are not
173 applicable to hearings conducted under this act.
174 (d) The Board, in conducting such hearings, shall have the
175 power to issue subpoenas, upon the request of any party or upon
176 its own motion.

177 (e) The Board shall, by majority vote, dispose of the
178 appeal for which it was appointed by making findings of fact and
179 issuing its written recommendations to the Sheriff for
180 consideration. The Sheriff shall retain the right of final
181 determination and no person may be reinstated with or without
182 back pay or benefits without the concurrence of the Sheriff.
183 Section 3. Severability.—The provisions of this act shall
184 be severable, and if any provision is held invalid by a court of
185 competent jurisdiction, the decision of the court shall not
186 affect the validity of the remaining provisions except to the
187 extent that an entire section or part of a section may be
188 inseparably connected in meaning and effect with the section or
189 part of a section to which such holding directly applies.
190 Section 4. This act shall take effect upon becoming a law.
191
192 ========== T I T L E A M E N D M E N T ==========
193 Remove the entire title and insert:
194 An act relating to Baker County; providing career service status
195 for certain employees of the Baker County Sheriff; providing
196 definitions; providing for transition between administrations;
197 providing for appeals procedures; providing for career service
198 appeals boards; providing proceedings and provisions with
199 respect to disciplinary suspension and dismissal; providing
200 severability; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 917 CS Property Taxes
SPONSOR(S): Needelman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	6 Y, 2 N, w/CS	Monroe	Diez-Arguelles
2) Local Government Council		Camechis	Hamby
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill allows a charter county to restrict the annual growth in ad valorem tax revenues, but not below the lesser of 3 percent or the change in the Consumer Price Index. In computing the millage rate to conform to the revenue restriction, new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes are excluded. Also, the cap may be exceeded if the county commission, by a super-majority vote, makes a finding of necessity due to emergency or critical need.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate specified in the ordinance that established such unit.

This bill has no effect upon state revenues and a negative indeterminate effect on local revenues in counties that choose to restrict annual growth in ad valorem tax revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – By allowing charter counties to limit increases in millage rates, this bill will provide for lower taxes in counties that adopt such limitations.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation - Ad valorem taxation is a tax on the fair market value of locally assessed real estate and tangible personal property, less certain exclusions, differentials, exemptions, and credits. The ability of local governments to raise revenue for their operations is narrowly constrained by the state constitution. Article VII, s. 1(a), of the Florida Constitution provides:

> No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

The State Constitution caps the millage rates assessed against the value of the property.[1] For counties, municipalities, and school districts, the cap is 10 mills.

Section 200.071, F.S., in part, implements the constitutional millage cap for counties. Except as otherwise provided in that section, counties may not levy more than 10 mills, except for voted levies, against real property and tangible personal property in their jurisdictions. Furthermore, counties may not levy more than 10 mills through a municipal service taxing unit against real property and tangible personal property within each such municipal service taxing unit.

Municipal Service Taxing Units (MSTUs) - Section 125.01(1)(q), F.S., authorizes counties to establish municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which the following may be provided:

> fire protection; law enforcement; beach erosion control; recreation service and facilities; water; alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems; streets; sidewalks; street lighting; garbage and trash collection and disposal; waste and sewage collection and disposal; drainage; transportation; indigent health care services; mental health care services; and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

If ad valorem taxes are levied, the millage levied on any parcel of property for municipal purposes by all municipal service taxing units may not exceed 10 mills.

Charter Counties - The Florida Constitution provides that the state must be divided by law into political subdivisions called counties.[2] There are two general types of counties in Florida: charter and non-charter. *Non-charter counties* have home-rule powers as provided by general or special law, and may enact ordinances that are not inconsistent with general or special law.[3] *Charter counties* have all powers of local government not inconsistent with general law or with special law approved by vote of

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[1] See Article VII, Section 9 of the State Constitution. A mill is defined as 1/1000 of a dollar, or $1 per $1000 of table value.
[2] Article VIII, s. 1(a) of the State Constitution. Ch. 7, F.S., specifies the physical boundaries of the 67 counties in Florida.
[3] Article VIII, s. 1(f) of the State Constitution.

the electors.[4] The county charter defines the structure, powers and functions of county government, and may only be approved, amended, or repealed by the county electorate. Approximately 80 percent of all Floridians live in one of the state's 19 charter counties.[5]

Recent Efforts to Cap Local Budgets - Numerous past local efforts to establish some type of millage rate or budget cap in county charters have been struck down by the courts as unconstitutional. Notable cases include the following:

- In *Board of County Commissioners of Dade County v. Wilson*, [6] the Florida Supreme Court found that ch. 200, F.S., set forth the exclusive manner by which to set countywide millage rates. The court held that a proposed voter initiative to set a county millage rate at four mills for Dade County for 1980-1981 was unconstitutional.

- In *Board of County Commissioners of Marion County v. McKeever*,[7] the Fifth District Court of Appeals found that chs. 129 and 200, F.S., contemplated the annual preparation and adoption of the budget and the setting of millage rates by a county commission. This court struck down a Marion County ordinance that purported to establish a cap of .25 mills of ad valorem tax for the county transportation fund for a period of ten years.

- In *Charlotte County Board of County Commissioners v. Taylor*,[8] the Second District Court of Appeals found unconstitutional a voter approved amendment to the county's charter to limit the Commission's authority to adopt any millage rate which would result in more than a 3 percent increase in the total revenue generated over the total ad valorem taxes for the previous year. In so finding, the court noted the charter amendment was inconsistent with the provisions of chs. 129 and 200, F.S. The court struck down the charter amendment noting that Art. VIII, s. 1(g) of the State Constitution provides that the counties operating under county charters have all the powers of local self-government not inconsistent with general law.

- Attorney General Opinion 2001-04 opined to the Hillsborough County Board of County Commissioners that a county could not amend its charter to place a cap on the annual increase in the county's operating budget with a provision that the cap could be waived by an affirmative vote of at least six of the seven members of the board of county commissioners.

- Recently, in *Ellis v. Burk*, [9] the Fifth District Court of Appeals struck down a tax cap provision of the Brevard County Home Rule Charter. The provision prohibited the county from increasing its ad valorem tax revenue in any one year by more than the lesser of 3 percent or the percentage change of the Consumer Price Index for the previous year, over the previous year's ad valorem revenues without the approval of a majority of the voters at a general or special election. In the decision, the court stated that "[u]nder our state constitution and statutory scheme, the power to limit a county commission's ability to raise revenue for the county's operating needs by way of ad valorem taxation is effectively and exclusively lodged in the [L]egislature."

Proposed Changes

The bill amends s. 200.71, F.S., to allow a charter county to cap the growth of its ad valorem tax revenue at a rate specified in its charter, even if this results in a millage cap that is less than the 10 mills allowed under s. 9, Art. VII of the State Constitution. However, the cap may not restrict the annual growth rate at a rate below the lesser of 3 percent or the change in the Consumer Price Index. Also, a

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[4] Article VIII, ss. 1(c) and (g) of the State Constitution.
[5] The 19 charter counties include: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Volusia.
[6] 386 So. 2d 556 (Fla. 1980).
[7] 436 So. 2d 299 (Fla. 5th DCA 1983).
[8] 650 So. 2d 146 (Fla. 2d DCA 1995).
[9] 866 So. 2d 1236 (Fla. 5th DCA 2004), *cert. denied*, 879 So.2d 621 (Fla. 2004).

county charter with an ad valorem cap must allow for the cap to be exceeded with a finding of necessity due to emergency or critical need by a super-majority vote of the county commission.

In applying the cap in the charter, the county must compute a millage rate that provides the same ad valorem revenue for each taxing authority as was levied in the prior year. However, this millage rate is "exclusive of any new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes." This millage rate is subject to the ad valorem cap in the county charter.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate set in the ordinance establishing the municipal service taxing unit.

C. SECTION DIRECTORY:

Section 1. Amends s. 200.071, F.S., to allow charter counties to place a limitation on the growth of ad valorem millage rates in their charters.

Section 2. Provides an effective date of January 1, 2007.

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: The fiscal impact of this bill on county revenues cannot be determined, since it depends on future actions by the voters in each charter county.

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: If the electorate of a county chooses to cap growth in ad valorem revenues, taxes paid by the private sector may not increase as rapidly in the future.

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 cities or counties to spend funds or take actions 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 Finance and Tax Committee adopted an amendment to the bill to replace the term "Consumer Price Index" with "percentage change in the Consumer Price Index" which is technically the correct term for the measure of inflation the sponsor intended to use.

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to property taxes; amending s. 200.071, F.S.; authorizing counties to cap annual growth in ad valorem tax revenues by charter; providing requirements and limitations; providing an exception; prohibiting ad valorem tax levies by counties in excess of amounts specified in the county charter; prohibiting ad valorem tax levies by counties through municipal service taxing units in excess of amounts specified in the ordinance establishing the unit; providing an effective date.

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

Section 1. Subsections (1) and (3) of section 200.071, Florida Statutes, are amended to read:

200.071 Limitation of millage; counties.--

(1)(a) Except as otherwise provided herein, no ad valorem tax millage shall be levied against real property and tangible personal property by counties in excess of 10 mills or the

24 amount specified in the county charter, whichever is less, as
25 provided in paragraph (b), except for voted levies.
26 (b) A county may cap, through a provision in its charter,
27 the annual growth in ad valorem tax revenues. Any such cap may
28 not restrict the annual growth at a rate below the lesser of 3
29 percent or the percentage change in the Consumer Price Index as
30 provided in s. 193.155(1)(b). Any such cap specified in a county
31 charter must allow for the cap to be overcome by a finding of
32 necessity due to emergency or critical need by a super-majority
33 vote of the county commission. In applying the increase or
34 growth cap, the county shall compute a millage rate which,
35 exclusive of new construction, additions to structures,
36 deletions, increases in the value of improvements that have
37 undergone a substantial rehabilitation which increased the
38 assessed value of such improvements by at least 100 percent, and
39 property added due to geographic boundary changes, will provide
40 the same ad valorem tax revenue for each taxing authority as was
41 levied during the prior year. It is the rate that shall be
42 subject to any cap in growth or increase in ad valorem revenues
43 established by county charter.
44 (3) Any county which, through a municipal service taxing
45 unit, provides services or facilities of the kind or type
46 commonly provided by municipalities, may levy, in addition to
47 the millages otherwise provided in this section, against real
48 property and tangible personal property within each such
49 municipal service taxing unit an ad valorem tax millage not in
50 excess of 10 mills, or an amount specified in the ordinance
51 establishing the municipal service taxing unit, if any,

52 whichever is less, to pay for such services or facilities
53 provided with the funds obtained through such levy within such
54 municipal service taxing unit.
55 Section 2. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 959 CS Motor Vehicle Safety
SPONSOR(S): Roberson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1022 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N, w/CS	Pugh	Miller
2) Local Government Council		DiVagno	Hamby
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Public and private research on guard rails, cable barriers, clay berms, and other types of structural highway barriers indicates that, if properly placed and maintained, these systems improve the safety of public roads. The Federal Highway Administration, with assistance from the American Association of State Highway and Transportation Officials (AASHTO), other engineering associations, and state transportation agencies, continues to research and modify existing requirements for barrier systems.

The need for well-engineered guardrail and other highway barrier structures varies from state-to-state, as well as by the road's type, speed limit, and surrounding topographical features. One such feature common to Florida roadways is the location of natural water bodies, canals, or drainage ditches adjacent to highways.

National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, the Florida Department of Transportation (FDOT) was able to collect specific data on traffic fatalities on the State Highway System involving vehicles submerged in water. In 2004, 28 fatal crashes occurred where the vehicles ran off the road and into an adjacent body of water in which 36 people died, including 20 whose deaths may have been caused by being submerged in water.

HB 959 CS requires that guardrails, retention cables, or other types of roadway barriers be installed, as part of a pilot project, along limited-access facilities in Miami-Dade County that are adjacent to canals or other water bodies. FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. Roadways in existence on July 1, 2006, which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill.

This bill would take effect July 1, 2006, and be repealed on December 31, 2011, unless reenacted by the Legislature.

HB 959 CS has an estimated $5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and already is included in the agency's Five-Year Work Program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 959 CS does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Highway Administration research reports dating back to 1987 indicate the value of guardrail and other barrier systems in preventing traffic accidents and fatalities. These barrier systems can take many forms – metal guardrails, thick metal cables, concrete barricades, and earthen berms – and to be effective must be engineered to address a highway's particular features and the type of traffic that comprises the majority of use. The American Association of State Highway and Transportation Officials (AASHTO) has developed a number of nationally accepted standards for barrier systems for federal and state transportation agencies. These standards are continually being tested and updated.

The Florida Department of Transportation (FDOT) has an active highway-barrier installation program, installing more than 2,645.5 miles of guardrails along state highways and the Florida Turnpike and 552 miles of barrier walls. The Turnpike has committed that by 2007, guardrails will run the Turnpike's entire length, from Wildwood to Homestead. Typically the guardrails or cable systems are installed as part of a construction or maintenance project.

Florida has more highway accidents involving out-of-control vehicles veering off a highway into an adjacent canal, drainage ditch, or natural water body than any other state. National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, FDOT was able to compile statistics on 2003 and 2004 traffic accident data involving vehicles running off state roads and into water bodies. FDOT staff verified the data by pulling the written reports and reading the narrative description of the accident. FDOT's review indicated that:

- In 2004, there were 28 fatal crashes on the State Highway System where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 36 fatalities, of which 20 were possibly caused or influenced by the vehicle being submerged.
- In 2003, there were 34 crashes where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 49 fatalities, 28 of which were possibly caused or influenced by the vehicle being submerged.

According to the accident reports, some of these accidents were caused by drunken, medicated, speeding, or careless drivers. The reports also show that in some accidents the vehicle went over, under, or through guardrails or fences before going into the water.

Effect of Proposed Changes

HB 959 CS requires, as a pilot project, each limited-access facility in Miami-Dade County that is adjacent to a canal or other water body to have a system of guard rails, barrier cables, or other barrier installed between the highway and the water body. The guardrail or barrier system must be installed and maintained pursuant to FDOT standards, which must be designed to protect against loss of life from out-of-control vehicles running off highways and into water. The standards should take into account such factors as the width, depth, or proximity of the water body to the highway. Limited-access facilities in existence on July 1, 2006, which are adjacent to water bodies, must have a barrier system installed by December 31, 2008, according to the bill.

Section 334.03(13), F.S., defines a "limited access facility" as:

"a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are excluded; or they may be facilities open to use by all customary forms of street and highway traffic."

FDOT considers limited-access facilities to be part of the Florida Intrastate Highway System, which includes interstate highways and the Florida Turnpike. With this bill affecting only limited-access facilities, no county or municipal roads in Miami-Dade County would be subject to the pilot project's requirements.

FDOT is directed to adopt rules to implement the provisions of HB 959 CS, although it appears to have sufficient existing standards on guardrails and barrier systems based in part on national engineering standards.

HB 959 CS provides an effective date of July 1, 2006. The pilot project is repealed December 31, 2011, unless the Legislature reenacts it.

According to FDOT staff, the cost of implementing HB 959 CS is an estimated $5.3 million, which already is included in the FY 2006-2011 Five-Year Work Program.

C. SECTION DIRECTORY:

Section 1: Creates pilot project to install guardrail and other barriers on certain limited-access facilities in Miami-Dade County. Specifies requirements that must be met. Specifies deadline for completing installation. Provides for rule-making. Provides for future repeal.

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:

   HB 959 CS has an estimated $5.3 million fiscal impact on the State Transportation Trust Fund, according to FDOT, and is already incorporated in the current Five-Year Work Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None, according to FDOT.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 959 CS does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

HB 959 CS directs FDOT to adopt rules to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Transportation Committee

At its March 27, 2006, meeting, the Transportation Committee adopted without objection a strike-everything-after-the-enacting clause amendment from the bill's sponsor that limited the barrier-system requirement to limited-access highways (or certain state highways) adjacent to water bodies located only in Miami-Dade County as a pilot project.

This amendment eliminated the local unfunded mandate issues raised by the bill as originally filed, and reduced its fiscal impact on FDOT from $268 million to $5.3 million – which FDOT representatives said is already budgeted in the work program.

After adopting the main amendment, the committee voted 15-0 to report the bill as favorable with a committee substitute.

CHAMBER ACTION

The Transportation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to a motor vehicle safety pilot program; requiring certain limited access facilities that are adjacent to a canal or other water body to have a system of guardrails, retention cables, or other barriers between the highway and the canal or water body; providing for the Department of Transportation to establish certain standards governing the installation and maintenance of the barriers; requiring that barriers be installed for existing highways by a specified date; providing for future review and repeal; providing an effective date.

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

Section 1. Barrier required between a highway and a canal or a water body.--

(1) Each limited access facility in Miami-Dade County that is adjacent to a canal or other water body must have a system of guardrails, retention cables, or other barriers between the

24 highway and the canal or water body which are installed and
25 maintained in conformance with standards established by the
26 Florida Department of Transportation. The standards should
27 consider loss of life by safely preventing out-of-control motor
28 vehicles from entering the canal or water body, as well as the
29 width or depth of the canal or water body or its proximity to
30 the traveled way of the highway.
31 (2) For a limited access facility in existence on July 1,
32 2006, the barriers required under this section must be installed
33 on or before December 31, 2009.
34 (3) This pilot program shall stand repealed December 31,
35 2011, unless reviewed and saved from repeal through enactment by
36 the Legislature.
37 Section 2. This act shall take effect July 1, 2006.

HB 1161

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1161 Okeechobee County
SPONSOR(S): Machek
TIED BILLS: **IDEN./SIM. BILLS:** SB 2220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	6 Y, 0 N	Brown	Williamson
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

HB 1161 provides a career service system for employees of the Okeechobee County Sheriff's Office. The bill provides for the application of the act to all full-time sworn and civilian persons employed by the sheriff with specified exemptions. The bill also provides for probationary periods, a process for suspension or dismissal, the creation and duties of ad hoc career service appeal boards, and the transition of employees during a new administration.

According to the Economic Impact Statement, this bill will not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill creates career service boards to hear employee disciplinary cases. These boards have subpoena power as part of the disciplinary hearing process. The sheriff is granted rulemaking authority to implement the legislation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

> By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to "restrict the establishment or operation of any civil service system" or board created pursuant to s. 14, Art. III of the State Constitution. See, also, City of Casselberry v. Orange County Police Benevolent Association, 482 So. 2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua (chs. 84-388 and 86-342, L.O.F.), Bay (ch. 84-390, L.O.F.), Brevard (ch. 83-373, L.O.F.), Broward (ch. 93-370, L.O.F), Charlotte (chs. 79-436, 86-349 and 89-508, L.O.F.), Citrus (ch. 2001-296, L.O.F.), Clay (chs. 89-522 and 93-379, L.O.F.), Columbia (ch. 2004-413, L.O.F.), Escambia (ch. 89-492, L.O.F.), Flagler (chs. 90-450 and 2000-482, L.O.F.), Glades (ch. 2003-311, L.O.F.), Hernando (ch. 2000-414, L.O.F.), Indian River (ch. 2002-355, L.O.F.), Lake (chs. 90-386, 93-358 and 2005-349, L.O.F.), Lee (chs. 74-522, 87-547 and 95-514, L.O.F.), Leon (ch. 83-456, L.O.F.), Madison (95-470), Manatee (89-472), Marion (87-457), Martin (93-388), Monroe (78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.), Okaloosa (chs. 81-442, 85-472 and 90-492, L.O.F.), Orange (ch. 89-507, L.O.F.), Osceola (chs. 89-516 and 2000-388, L.O.F.), Palm Beach (chs. 93-367, 99-437 and 2004-404, L.O.F.), Pasco (ch. 90-491, L.O.F.), Pinellas (chs. 89-404 and 90-395, L.O.F.), Polk (chs. 88-443 and 98-516, L.O.F.), St. Lucie (ch. 89-475, L.O.F.), Santa Rosa (ch. 2002-385, L.O.F.), Sarasota (ch. 86-344, L.O.F.), and Seminole (ch. 77-653, 80-612, 88-451 and 97-376, L.O.F.) counties.

The Okeechobee County Sheriff's Office currently does not have a civil service system.[1]

[1] The terms "civil service system" and "career service system" are used interchangeably.

Effect of Proposed Changes

HB 1161 creates a career service system for employees of the Okeechobee County Sheriff's Office. The bill provides for the application of the act to all full-time sworn and civilian persons employed by the sheriff. Specifically excluded from the provisions of the act are:

- the sheriff;
- the undersheriff;
- special deputies appointed pursuant to s. 30.09(4), F. S.;[2]
- members of the sheriff's reserve/auxiliary units; or
- persons appointed as part-time deputy sheriffs as defined by the Criminal Justice Standards and Training Commission, unless any such person also is employed full time by the sheriff.

The bill states that it is not the intent of the act to grant collective bargaining rights to persons in the employ of the Okeechobee County Sheriff's Office who do not otherwise have that right pursuant to law.[3]

When a covered employee has completed one calendar year of service,[4] the employee attains permanent status in the Sheriff's Office;[5] however, if an employee is placed on disciplinary probation for a period of six months or more, or is terminated and rehired at a later date, the employee is required to repeat this probationary period. Any employee who is required to serve a probationary period attendant to a promotion retains his or her permanent status, but may be returned to his or her prior rank during such probationary period without the right of appeal.

Once an employee has achieved career service status within the Sheriff's Office, he or she may only be suspended or dismissed for cause. Prior to any such action, the employee must be furnished with written notice and offered an opportunity to respond. In extraordinary situations, an employee may be suspended or dismissed immediately with notice provided within 24 hours or as soon as is practicable.

"Cause for suspension or dismissal" includes, but is not limited to:

- negligence;
- inefficiency or inability to perform assigned duties;
- insubordination;
- violation of provisions of law or office rules;
- conduct unbecoming a public employee;
- misconduct;
- alcohol abuse;
- prescription drug abuse, or illegal drug use;

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[2] This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

[3] Section 6, Art. I of the State Constitution grants public employees the right to collectively bargain. In 2003, the Florida Supreme Court held that deputy sheriffs were "employees" for purposes of this constitutional right. See, Coastal Florida Police Benevolent Association, Inc, v. Williams, 838 So.2d 543 (Fla. 2003).

[4] All time of employment while in a Criminal Justice Standards and Training Commission-approved academy or other comparable training for certification as a sworn officer or deputy sheriff is not counted in determining whether an employee has attained one calendar year of minimum service.

[5] All sworn and civilian persons in the employ of the sheriff on the effective date of the act who have served for a period of one calendar year or more are considered career service employees. All other employees achieve this status subject to the provisions of the act upon reaching their one-calendar-year service anniversary.

- adjudication of guilt by a court of competent jurisdiction;
- a plea of guilty or of nolo contendere; or
- a verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation with respect to any felony, misdemeanor or major traffic infraction charges.

When a newly elected or appointed sheriff assumes office, he or she is required to continue the employment of all career service personnel unless cause for dismissal exists. The sheriff has the right to replace persons serving in the rank of captain or above, including the executive secretary, with personnel of his or her choosing. The sheriff may offer these persons any position that the sheriff chooses, or to cease their employment with the department. Career service employees holding the rank of lieutenant may be reduced to the next lowest rank at the current maximum pay step.[6] These actions are not appealable, nor are dismissals or demotions pursuant to across-the-board actions directed by the Okeechobee County Board of Commissioners, resulting from county fiscal impacts.

Ad hoc career service appeal boards are appointed for the purpose of hearing appeals arising from personnel actions which result in dismissal, suspension, demotion or reduction in pay. Lateral transfers, shift changes, oral or written reprimands, and suspensions of three working days or less (unless it is a subsequent such suspension within one calendar year) are not appealable. The scope of a career service appeal board is limited to disciplinary proceedings and termination actions. A career service appeal board has the authority to conduct hearings, and make findings of fact and recommendations to the sheriff. The board has no investigative powers.

A career service appeal board consists of three members of the Office of the Sheriff. The sheriff selects one member; the employee requesting the hearing selects another member; and these two individuals select a third member, who must hold the rank of lieutenant or above, to serve as chairperson. Each selected member is uncompensated, has the right to decline to serve, and must have no involvement with the issues under consideration.

A request for a hearing must be made in writing to the employee's immediate supervisor within 10 working days after notice of an appealable disciplinary action. The request must contain a brief statement of the matters to be considered by the board, and the name of the employee selected to be a board member. The supervisor is required to immediately forward the hearing request to the sheriff and the appropriate division commander. A career service appeal board must be impaneled and a hearing date scheduled by the sheriff within 10 working days after receipt of the request, unless this deadline is waived in writing by the employee. When summary discipline is imposed by any supervisor, the sheriff may order a career service appeal board to convene and review the action.

The employee and his or her representative has the right to be present during the hearing, and to offer any relevant evidence on the employee's behalf. During such hearings, the rules of evidence and civil or criminal rules of procedure are not applied. All witnesses must be notified in writing by the chairperson of the board, through the appropriate chain of command, of the date and time of the convening of the board. The board has the power to issue subpoenas upon request of any party or upon its own motion. Employees and their representatives have the opportunity to present evidence, conduct cross-examination, and submit rebuttal evidence.

The board must submit its written findings and recommendations to the sheriff within five days after the hearing. It may make any recommended disposition, including, but not limited to, oral or verbal reprimand, suspension, reduction of rank, termination of employment, sustention or reversal of the original decision, or recommendation of a more severe disposition. The sheriff is required to notify the employee of the decision of the career service appeal board. However, the sheriff has the right to make a final determination in the matter. In the event an employee is exonerated, he or she must be reinstated without prejudice or penalty.

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[6] While this action would constitute a "demotion," it would not be "disciplinary," and thus not appealable, as specified by the act.

No sworn or civilian employee of the Sheriff's Office may be discharged, disciplined, demoted, denied promotion or reassignment, or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, in retaliation for exercising the rights granted by the act.

The Sheriff is authorized to adopt such rules, regulations and procedures necessary for the administration and implementation of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Okeechobee County Board of Commissioners.

The bill provides an effective date of upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for applicability of the act; permanent status of employees; cause for suspension or dismissal; transition of career service employees; and administration.

Section 2: Provides for career service appeal boards; creation; membership; and duties.

Section 3: Provides for status as permanent employees; and prohibits actions to circumvent act.

Section 4: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 18, 2006

WHERE? *The Okeechobee News*, a daily newspaper published in Okeechobee 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 []

According to the Economic Impact Statement, the bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Sheriff is authorized to adopt such rules, regulations and procedures necessary for the administration and implementation of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Okeechobee County Board of Commissioners.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor may want to amend the bill to clarify that a promoted employee is required to serve a probationary period for his or her new position; and that those serving in the rank of captain or above, and the executive secretary, are not employed in career service positions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1161

The Okeechobee News

P.O. Box 639, Okeechobee, Florida 34973

(863) 763-3134

Published Daily

STATE OF FLORIDA
COUNTY OF OKEECHOBEE

Before the undersigned authority personally appeared Judy Kasten, who on oath says she is Publisher of the Okeechobee News, a DAILY Newspaper published at Okeechobee, in Okeechobee County, Florida; that the attached copy of advertisement, being a

Public Notice
ad # 109845

in the matter of

Notice of Local Legislation

in the 19th Judicial District of the Circuit Court of Okeechobee County, Florida, was published in said newspaper in the issues

January 18, 2006

NOTICE OF LOCAL LEGISLATION
TO WHOM IT MAY CONCERN:

Notice is hereby given of the Okeechobee County Sheriff's Office intent to apply to the 2006 Legislature for passage of an act relating to Okeechobee County providing for Career Service for the employees of the Okeechobee County Sheriff's Office: providing for application of the act, permanent status for employees, administration, providing for career service appeals board, providing severability, prohibiting certain actions to circumvent the and providing an effective date.

Okeechobee County Sheriff's Office
504 NW 4th Street
Okeechobee, FL 34972
January 18, 2006

109845 ON 1/18/06

Affiant further says that the said Okeechobee News is a newspaper published at Okeechobee, in said Okeechobee County, Florida, and that said newspaper has heretofore been published continuously in said Okeechobee County, Florida each week and has been entered as second class mail matter at the post office in Okeechobee, in said Okeechobee 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.

Judy Kasten

Sworn to and subscribed before me this 18th

day of January A.D. 20 06

Karmen R. Brown

Notary Public, State of Florida at Large

Karmen R. Brown
Commission #DD272118
Expires: Jan 17, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

Client:	760470	OKEECHOBEE COUNTY SHERIFF	Phone:	(863) 763-3117 Ext: 0000	
Ad #	109845	Requested By:	Fax:		
Sales Rep.:		JANET LEVY - CLASSIFIED CTR.	Phone:		
		jlevy@newszap.com	Fax:		
Class.:	5005	Public Notice			
Start Date:	01/18/2006	End Date: 01/18/2006		Nb. of Inserts:	1
Publications:	Okeechobee News				
Total Price:		$44.88			

NOTICE OF LOCAL LEGISLATION
TO WHOM IT MAY CONCERN:

Notice is hereby given of the Okeechobee County Sheriff's Office intent to apply to the 2006 Legislature for passage of an act relating to Okeechobee County providing for Career Service for the employees of the Okeechobee County Sheriff's Office: providing for application of the act, permanent status for employees, administration, providing for career service appeals board, providing severability, prohibiting certain actions to circumvent the and providing an effective date.

Okeechobee County Sheriff's Office
504 NW 4th Street
Okeechobee, FL 34972
January 18, 2006

109845 ON 1/18/06

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Machek
RELATING TO: Okeechobee County Sheriff's Office
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Okeechobee
CONTACT PERSON: Victoria Nowlan, Legislative Assistant to Rep. Machek

PHONE # and E-MAIL 561-279-1633 victoria.nowlan@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: 31 January, 2006
Location: Okeechobee County Commision Chambers, Okeechobee, FL

Was this bill formally approved by a majority of the delegation members?
YES [ ] 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 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:** _____

Where? _____ **County:** Okeechobee

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 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.

Frank Attkisson 1/31/06
Delegation Chair (Original Signature) Date

BILL #: _____

SPONSOR(S): Representative Richard Machek

RELATING TO: Okeechobee County

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

	FY 06-07	FY 07-08
Expenditures:	No Cost	No Cost

II, ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	No Cost	No Cost
State:	No Cost	No Cost
Local:	No Cost	No Cost

III. ANTICIPATED NEW, INCREASED, OR DECREASE REVENUES

	FY 06-07	FY 07-08
Revenues:	None	None

IV. ESTIMATED ECONIMIC IMPACT ON INDIVIDUALS, BUSINESS OR GOVERMENTS:

Advantages: Will provide no impact

Disadvantages: Will provide no impact

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT.

Will provide no impact

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

After speaking with the Okeechobee County Administrator there is no foreseen impact on the County.

PREPARDED BY: _____ 01/31/06
Date

TITLE: LIEUTENANT

REPRESENTING: OKEECHOBEE COUNTY SHERIFF'S OFFICE

1 A bill to be entitled
2 An act relating to Okeechobee County; providing for career
3 service for employees of the Okeechobee County Sheriff's
4 Office; providing for application of the act, permanent
5 status of employees, suspension or dismissal, transition
6 of career service employees, and administration; providing
7 for a procedure with respect to complaints against
8 employees; providing for ad hoc career service appeal
9 boards and membership and responsibilities thereof;
10 providing for a disciplinary procedure and for appeals;
11 providing for status as permanent employees; prohibiting
12 certain actions to circumvent the act; providing an
13 effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Employees of the Okeechobee County Sheriff's
18 Office; applicability of the act; permanent status of employees;
19 administration.--
20 (1) APPLICABILITY.--The provisions of this act shall apply
21 to all full-time sworn and civilian persons in the employ of the
22 Okeechobee County Sheriff's Office. The provisions of this act
23 do not apply to the sheriff, undersheriff, special deputies
24 appointed pursuant to section 30.09(4), Florida Statutes,
25 members of the sheriff's reserve/auxiliary units, or persons
26 appointed as part-time deputy sheriffs as defined by the
27 Criminal Justice Standards and Training Commission, unless any
28 such person is also employed full time by the Okeechobee County

29 Sheriff's Office. As used in this act, the terms "employee,"
30 "employ," and "employment" refer to all persons, whether
31 employed or appointed, to whom the act applies. It is not,
32 however, the intent of this act to grant the right of collective
33 bargaining to persons in the employ of the Okeechobee County
34 Sheriff's Office who do not otherwise have that right pursuant
35 to law.
36 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--
37 (a)1. When an employee of the sheriff to whom the
38 provisions of this act apply has served in such employment for a
39 period of 1 calendar year, the employee shall have attained
40 permanent status in the Okeechobee County Sheriff's Office;
41 however, if an employee is placed on disciplinary probation for
42 a period of 6 months or more or is terminated and rehired at a
43 later date, the employee shall be required to complete 1
44 calendar year of service from the date of the disciplinary
45 action or rehire before being granted permanent status. The term
46 "career service employee" as used in this act means an employee
47 who has successfully completed his or her probationary period.
48 2. Any employee who is required to serve a probationary
49 period attendant to a promotion shall retain permanent status in
50 the Office of the Sheriff but may be returned to his or her
51 prior rank during such probationary period without the right of
52 appeal as provided in section 2. For the purpose of determining
53 career service status as defined in this act, all time in the
54 employment of the Office of the Sheriff while in a Criminal
55 Justice Standards and Training Commission-approved academy or
56 other comparable training for certification as a sworn officer

57 or deputy sheriff shall not be counted or considered in any
58 manner in determining whether the employee has attained 1
59 calendar year of minimum service.
60 (b) Any employee who has achieved career service status
61 with the Okeechobee County Sheriff's Office may only be
62 suspended or dismissed for cause, provided that, prior to such
63 action, the employee has been furnished written notice of the
64 proposed action and has been offered an opportunity to respond
65 to the reasons for the suspension or dismissal. In extraordinary
66 situations, however, such as when delay could result in damage
67 or injury to property or persons, an employee may be suspended
68 or dismissed immediately and then be provided notice thereof and
69 reasons therefor within 24 hours or as soon as is practicable if
70 circumstances surrounding such extraordinary situation make
71 notice within 24 hours impracticable. "Cause for suspension or
72 dismissal" includes, but is not limited to, negligence,
73 inefficiency or inability to perform assigned duties,
74 insubordination, violation of provisions of law or office rules,
75 conduct unbecoming a public employee, misconduct, alcohol abuse,
76 prescription drug abuse, or illegal drug use. "Cause for
77 suspension or dismissal" also includes, but is not limited to,
78 adjudication of guilt by a court of competent jurisdiction, a
79 plea of guilty or of nolo contendere, or a verdict of guilty
80 when adjudication of guilt is withheld and the accused is placed
81 on probation with respect to any felony, misdemeanor, or major
82 traffic infraction charges.
83 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--When a newly
84 elected or appointed sheriff assumes office, the new sheriff

85 shall continue the employment of all currently employed career
86 service personnel unless cause for dismissal, as provided in
87 this section, exists. The sheriff shall have the right to
88 replace persons serving in the rank of captain or above,
89 including the executive secretary, with new personnel of the
90 sheriff's choosing. The sheriff shall have the right to offer
91 these persons any position that the sheriff chooses or to cease
92 their employment with the department. The current employees
93 holding the rank of lieutenant who are career service employees
94 may be reduced to the next lowest rank at the current maximum
95 pay step, which rank shall be permanent unless later reduced by
96 disciplinary demotion or increased through subsequent promotion.
97 Their regular base salaries may be reduced or increased
98 accordingly. Actions taken pursuant to this subsection affecting
99 the undersheriff, colonels, majors, directors, or their
100 executive staff equivalents shall not be appealable under this
101 act. Dismissals or demotions pursuant to across-the-board
102 actions directed by the Okeechobee County Board of
103 Commissioners, resulting from county fiscal impacts, shall not
104 be appealable under the provisions of section 2.
105 (4) ADMINISTRATION.--The sheriff shall have full authority
106 to adopt such rules, regulations, and procedures necessary for
107 the administration and implementation of this act. However,
108 nothing in this act shall be construed as affecting the budget-
109 making powers of the Okeechobee County Board of Commissioners.
110 Section 2. Career service appeal boards; creation;
111 membership; duties.--

112 (1) FUNCTION OF BOARDS.--Ad hoc career service appeal
113 boards shall be appointed as provided in this section for the
114 purpose of hearing appeals of career service employees arising
115 from personnel actions brought under the rules, regulations, or
116 policies of the Office of the Sheriff which result in dismissal,
117 suspension, demotion, or reduction in pay. Lateral transfers,
118 shift changes, oral or written reprimands, and suspensions of 3
119 working days or fewer shall not be appealable to a career
120 service appeal board. However, no more than one such suspension
121 may occur within 1 calendar year without the right to appeal.
122 The scope of a career service appeal board is limited to
123 disciplinary proceedings and termination actions. A career
124 service appeal board shall have the authority to conduct
125 hearings and make findings of fact and recommendations to the
126 sheriff. The sheriff shall not be bound by the findings or
127 recommendations of such boards but shall consider them in making
128 his or her final decision.
129 (2) MEMBERSHIP AND RESPONSIBILITY OF CAREER SERVICE APPEAL
130 BOARD.--
131 (a) A career service appeal board shall consist of three
132 members of the Office of the Sheriff. The sheriff shall select
133 one member; the employee requesting the hearing shall select one
134 member; and these two members shall select the third member, who
135 must hold the rank of lieutenant or above, to serve as
136 chairperson. Each selected member shall have the right to
137 decline to serve.
138 (b) All members of the career service appeal board shall
139 be selected on the basis of fairness, objectivity, and

140 impartiality. The board shall have no investigative powers and
141 shall function in the capacity of a fact finder in an effort to
142 arrive at a fair and equitable recommendation in all matters
143 brought before it. Selected members shall have no involvement
144 with the issues under consideration. Membership of the board is
145 voluntary and is without remuneration. Members may not discuss
146 matters to be heard before the board until the board convenes
147 and then they may only discuss such matters during the
148 officially convened sessions of the board.
149 (c) The career service appeal board chairperson shall have
150 the responsibility to:
151 1. Chair all meetings using parliamentary rules of order.
152 2. Request that the employee provide the names of any
153 witnesses.
154 3. Schedule and provide written notification of all
155 meetings to the witnesses, board members, and the employee.
156 4. Provide copies of all charges to board members.
157 5. Ensure compliance with hearing procedures.
158 (3) PROCEDURE WITH RESPECT TO HEARINGS.--
159 (a) Any career service employee may request a hearing
160 before a career service appeal board for any appealable
161 disciplinary action of his or her superiors that adversely
162 affects his or her employment.
163 (b) A request for a hearing shall be made in writing to
164 the employee's immediate supervisor within 10 working days after
165 notice of appealable disciplinary action. The request shall
166 contain a brief statement of the matters to be considered by the
167 board and the name of the employee selected to be a member of

168 the board.
169 (c) The immediate supervisor shall forward the hearing
170 request to the sheriff and the appropriate division commander
171 without delay. A career service appeal board shall be impaneled
172 and a hearing date scheduled by the sheriff within 10 working
173 days after receipt of the request for a hearing unless waived in
174 writing by the employee.
175 (d) The employee and his or her representative have the
176 right to be present and to present any relevant evidence on the
177 employee's behalf. During such hearings, the technical rules of
178 evidence shall not apply. Neither the employee nor his or her
179 representative may disrupt the proceedings. The qualification of
180 disruptive conduct shall be at the exclusive determination of
181 the chairperson of the career service appeal board.
182 (e) The employee shall not discuss the circumstances of
183 the matter being brought before the board except through the
184 chairperson.
185 (f) All witnesses shall be notified in writing by the
186 chairperson of the board, through the appropriate chain of
187 command, of the date and time of the convening of the career
188 service appeal board. Nonemployee witnesses may be called to
189 appear before the board only at the request of the board.
190 (g) The board shall have the power to issue subpoenas upon
191 request of any party or upon its own motion.
192 (4) CONDUCT OF HEARING.--
193 (a) Career service appeal boards are designed to determine
194 the truth while maintaining an atmosphere of fundamental
195 fairness and shall not be controlled by civil or criminal rules

196 of procedure.
197 (b) Board members may receive verbal or written testimony
198 concerning any matter considered relevant by the board. The
199 board may review any record, including, but not limited to,
200 performance evaluations and disciplinary files.
201 (c) Employees and their representatives shall have
202 opportunity to present evidence, conduct cross-examination, and
203 submit rebuttal evidence.
204 (5) FINDINGS AND RECOMMENDATIONS OF THE CAREER SERVICE
205 APPEAL BOARD.--
206 (a) Each complaint shall receive a separate finding and
207 recommendation by a majority of the board. Each finding shall
208 consider the seriousness of the complaint, any extenuating
209 circumstances, the tenure of the employee, and the employee's
210 past conduct record. The board shall submit to the sheriff its
211 written findings of fact and recommendations within 5 days after
212 the hearing.
213 (b) The board may place before the sheriff any recommended
214 disposition that the board believes may be of benefit to the
215 Office of the Sheriff, including, but not limited to, oral or
216 verbal reprimand, suspension, reduction of rank, termination of
217 employment, sustention or reversal of the original decision, or
218 recommendation of a more severe disposition.
219 (c) The sheriff shall review the findings and
220 recommendations of the career service appeal board and may
221 either approve or disapprove them. The sheriff has the sole
222 discretion to overrule the findings of the board.
223 (d) The sheriff shall notify the employee of the final

224 results of the career service appeal board and the reasons
225 therefor.
226 (e) In the event the employee is exonerated, the employee
227 shall be reinstated without prejudice or penalty.
228 (f) When summary discipline is imposed by any supervisor,
229 the sheriff may order a career service appeal board to convene
230 and review the action of the supervisor.
231 (g) All proceedings of the board shall be retained by the
232 Human Resources Department of the Office of the Sheriff.
233 (h) All associated reports, paperwork, and personnel
234 action taken as a result of the appeal shall be retained by the
235 Human Resources Department of the Office of the Sheriff.
236 Section 3. (1) All sworn and civilian persons in the
237 employ of the Okeechobee County Sheriff's Office on the
238 effective date of this act who have served for a period of 1
239 calendar year or more as of such date shall be permanent
240 employees subject to the provisions of this act. All other
241 employees shall become permanent employees subject to the
242 provisions of this act upon reaching their 1-calendar-year
243 service anniversary date.
244 (2) No sworn or civilian employee of the Okeechobee County
245 Sheriff's Office shall be discharged; disciplined; demoted;
246 denied promotion, transfer, or reassignment; or otherwise
247 discriminated against in regard to his or her employment or
248 appointment, or be threatened with any such treatment, by reason
249 of his or her exercise of the rights granted by this act.
250 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1165 CS Florida Retirement System
SPONSOR(S): Barreiro
TIED BILLS: **IDEN./SIM. BILLS:** SB 2182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	6 Y, 0 N, w/CS	Mitchell	Williamson
2) Local Government Council		DiVagno	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

Medical examiners and certain forensic employees were added to the Special Risk Class in 2005. This bill permits these medical examiners and forensic employees to purchase additional retirement credit to upgrade their previous service in the Florida Retirement System to Special Risk Class service. The bill requires the contributions for upgrading pervious service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

This bill would take effect upon becoming law.

This bill does not appear to have a fiscal impact on the revenues of the state or local governments. Yet, this bill does appear to have a fiscal impact on the expenditures of the state and local governments. The additional costs from this bill, as a result of the unfunded liability to the Florida Retirement System, are estimated at $87,000 for the state and $222,000 for local governments in Fiscal Year 2007.

The bill appears to raise a constitutional issue because it is expected to create an unfunded liability for the Florida Retirement System which may violate the provisions of section 14, Article X of the Florida Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill increases the members of the Special Risk Class who may upgrade previous service to Special Risk Class service.

B. EFFECT OF PROPOSED CHANGES:

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it 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]

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.[2] The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.[3]

The FRS offers a defined benefit plan that provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.[4] Members of the FRS defined benefit plan belong to one of five membership classes:

Regular Class[5]	570,888 members	88.00%
Special Risk Class[6]	68,466 members	10.59%
Special Risk Administrative Support Class[7]	80 members	0.01%
Senior Management Service Class[8]	6,823 members	1.10%
Elected Officers Class[9]	2,122 members	0.30%

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.[10]

Expansion of the Special Risk Class and Upgraded Service

The Special Risk Class of the FRS was created to recognize that certain employees, because of the nature of the work they perform,[11] may need to retire at an earlier age with less service than other types of employees.[12] The only employees originally in the Special Risk Class were law enforcement

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[1] Fla. Stat. § 121.025 (2005).
[2] Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at http://www.frs.state.fl.us/ (last visited Jan. 11, 2006).
[3] Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at http://www.frs.state.fl.us/ (last visited Jan. 11, 2006).
[4] Fla. Dep't of Mgmt. Serv., Fla. Div. of Ret. at http://www.frs.state.fl.us/ (last visited Jan. 11, 2006).
[5] Fla. Stat. § 121.021(12) (2005).
[6] Fla. Stat. § 121.0515 (2005).
[7] Fla. Stat. § 121.0515(7) (2005).
[8] Fla. Stat. § 121.055 (2005).
[9] Fla. Stat. § 121.052 (2005).
[10] *See, e.g.,* Fla. Stat. 121.055(3)(a)1. (2005).
[11] Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).
[12] Fla. Stat. § 121.0515(1) (2005) (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).

officers, correctional officers, and firefighters.[13] Starting in 1999, however, the Legislature started dramatically expanding the Special Risk Class:

1999	Emergency Medical Technicians and Paramedics[14]
2000	Community-Based Correctional Probation Officers[15]
	Twenty-four types of employees of correctional or forensic facilities or institutions[16]
2001	Youth Custody Officers[17]
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline[18]

Another legislative trend has followed the dramatic expansion of the Special Risk Class: allowing members who have previous service in another class of the Florida Retirement System, usually the Regular Class, to purchase additional retirement credit to upgrade the previous service to Special Risk Class service. In 2001, the Legislature permitted emergency medical technicians and paramedics to purchase credit for upgraded service.[19] In 2002, the Legislature allowed members whose responsibilities included fire prevention or fire fighting training to purchase credit for upgraded service.[20]

Effect of Bill on Upgraded Service for Medical Examiners and Certain Forensic Employees

This bill permits medical examiners and certain forensic employees who were added to the Special Risk Class in 2005 to purchase additional retirement credit to upgrade previous service in the Florida Retirement System to Special Risk Class service.[21] The bill requires the contributions for upgrading pervious service to Special Risk Class service to be equal to the difference in the contributions paid and the contribution rate in effect for the period being claimed, plus interest at a rate of 6.5 percent a year, compounded annually until the date of payment. The bill permits an employer to purchase upgraded credit on behalf of a member. The bill provides legislative findings and declares that it fulfills an important state interest.

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent

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[13] Ch. 78-308, Laws of Fla.
[14] Ch. 99-392, Laws of Fla., § 23.
[15] Ch. 2000-169, Laws of Fla. § 29.
[16] Ch. 2000-169, Laws of Fla. § 29. (The following employees must spend at least 75 percent of their time performing duties which involve contact with patients or inmates to qualify for the Special Risk Class: dietitian; public health nutrition consultant; psychological specialist; psychologist; senior psychologist; regional mental health consultant; psychological services director-DCF; pharmacist; senior pharmacist (class codes 5248 and 5249); dentist; senior dentist; registered nurse; senior registered nurse; registered nurse specialist; clinical associate; advanced registered nurse practitioner; advanced registered nurse practitioner specialist; registered nurse supervisor; senior registered nurse supervisor; registered nursing consultant; quality management program supervisor; executive nursing director; speech and hearing therapist; and pharmacy manager.).
[17] Ch. 2001-125, Laws of Fla., § 43.
[18] Ch. 2005-167, Laws of Fla. § 1; codified as Fla. Stat. § 121.0515(2)(h) (2005) (The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility; the forensic discipline must be recognized by the International Association for Identification and the member must qualify for active membership in the International Association for Identification). *See also* Int'l Ass'n for Identification at http://www.theiai.org/ (last visited Mar. 27, 2006).
[19] Ch. 2001-235, Laws of Fla., § 6.
[20] Ch. 2002-273, Laws of Fla., § 16.
[21] Fla. HB 1165 (2006) (to the extent of the percentages of the member's average final compensation provided in section 121.091(1)(a)2, Florida Statutes).

provisions for funding the increase in benefits are made on a sound actuarial basis.[22] *In its current form, without an appropriation, this bill does not appear to satisfy this constitutional requirement.*

This conclusion is based on a recent actuarial study on the costs to upgrade previous service of medical examiners and qualifying forensic employees:

> The projected increase in actuarial liabilities is $26.4 million offset by the projected cost the members would pay for the eligible service under this proposal of $22.1 million, which results in the net additional unfunded liabilities of $4.3 million.[23]

The actuarial study further notes that this change will require an overall increase of 0.01 percent in the employer contribution rates for the Special Risk Class.[24]

The actuarial study explains that this fiscal impact is, in part, a result of differences in benefit accrual rates and contribution rates for certain periods: Benefits now accrue at a rate of 3.0 percent per year for all periods after 1974; yet, contributions between 1978 and 1992 were only funded with contribution rates of 2.0 percent to 2.8 percent.[25] Thus, to the extent upgraded service includes this 1978 to 1992 period, there is a shortfall between the price paid by the upgrading members and the true estimated costs to the Florida Retirement System. In the actuarial study, it was assumed that any member for whom the cost to purchase an upgrade was greater than value of additional benefits would not elect to upgrade the eligible service, so they were excluded from the study.

C. SECTION DIRECTORY:

Section 1: Amends section 121.0515, Florida Statutes, to permit medical examiners and certain forensic employees to purchase upgraded service in the Special Risk Class.

Section 2: Provides legislative findings and declares that the bill fulfills an important state interest.

Section 3: Provides that this bill takes effect upon becoming law.

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 state government revenues.

2. Expenditures:

   This bill appears to have a fiscal impact on state government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost the state $87,000 in Fiscal Year 2007.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill *does not* appear to have a fiscal impact on local government revenues.

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[22] Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

[23] Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

[24] Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

[25] Milliman, Inc., Actuarial Study, Service Upgrade for Specified Forensic Workers (Mar. 17, 2006), at p. 4.

2. Expenditures:

This bill appears to have a fiscal impact on local government expenditures. The unfunded liability to the Florida Retirement System from this bill is estimated to cost local governments $222,000 in Fiscal Year 2007.

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 the following fiscal note from the enrolled actuary regarding this bill:

> The cost proposed by this bill to be paid by the affected members/employees to upgrade the service is not sufficient to pay for this kind of benefit enhancement. Any costs not covered by this pricing structure would be shifted to the system and could result in increased contribution rates for all special risk employers. HB 1165 does not provide a funding source for the additional costs of such an improvement of retirement benefits.[26]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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.

This bill may, however, require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Because the bill provides that it fulfills an important state interest and the expenditures required by the bill appear to apply to all persons similarly situated, including the state and local governments, the bill appears to satisfy the requirements of section 18 of article VII of the Florida Constitution.[27]

2. Other:

Article X, Section 14

As previously discussed, benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. This bill does not appear to provide sufficient funding for the proposed benefits increase.

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[26] Fla. Dep't of Mgmt. Serv., HB 1165 (2006) Substantive Bill Analysis (Mar. 20, 2006) (on file with dep't).

[27] Section 18 of article VII of the Florida Constitution provides that counties and municipalities may not be bound by a general law requiring a county or municipality to spend funds or take an action requiring the expenditure of funds unless it fulfills an important state interest and one of five criteria is met: (1) funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; (2) the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; (3) the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; (4) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or (5) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Calculation or Funding

To address the expected unfunded liability and its potential constitutional issues, the sponsor may wish to consider changing the manner in which the upgraded credit is calculated[28] or providing a funding source.

Drafting Issue: Limited Timeframe

Because the costs of this bill increase for both the employee and the Florida Retirement System for each year in which an employee delays purchase, the sponsor may wish to consider limiting the timeframe in which an employee may avail himself or herself of its provisions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted an amendment and reported the bill favorably with committee substitute:

- Amendment 1 provided legislative findings and declared that the bill fulfilled an important state interest.

[28] For example, the following language appears to mitigate most of the unfunded liability: "Contributions for upgrading such service shall be equal to the difference in the contributions paid and the Special Risk contribution rate in effect on the effective date of this bill, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment."

CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Retirement System; amending s. 121.0515, F.S.; authorizing certain members to purchase additional retirement credit to upgrade prior service to Special Risk Class service; providing for the calculation of contributions for such service upgrade; authorizing the employer to purchase such additional credit for the member; providing a declaration of important state interest; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (9) of section 121.0515, Florida Statutes, to read:

121.0515 Special risk membership.--

(9) CREDIT FOR UPGRADED SERVICE.--

(c) Any member of the Special Risk Class who has earned creditable service in another membership class of the Florida Retirement System as a medical examiner or as an employee of a

24 law enforcement agency in a forensic discipline as described in
25 paragraph (2)(h), which service is within the purview of the
26 Special Risk Class, may purchase additional retirement credit to
27 upgrade such service to Special Risk Class service, to the
28 extent of the percentages of the member's average final
29 compensation provided in s. 121.091(1)(a)2. Contributions for
30 upgrading such service to Special Risk Class credit under this
31 subsection shall be equal to the difference in the contributions
32 paid and the Special Risk Class contribution rate as a
33 percentage of gross salary in effect for the period being
34 claimed, plus interest thereon at the rate of 6.5 percent a
35 year, compounded annually until the date of payment. This
36 service credit may be purchased by the employer on behalf of the
37 member.
38 Section 2. The Legislature finds that a proper and
39 legitimate state purpose is served when employees and retirees
40 of the state and its political subdivisions, and the dependents,
41 survivors, and beneficiaries of such employees and retirees, are
42 extended additional protections afforded by governmental
43 retirement systems. These persons must be provided benefits that
44 are fair and adequate and that are managed, administered, and
45 funded in a sound actuarial manner, as required by Section 14,
46 Article X of the State Constitution and part VII of chapter 112,
47 Florida Statutes. Therefore, the Legislature hereby determines
48 and declares that this act fulfills an important state interest.
49 Section 3. This act shall take effect upon becoming a law.

HB 1245

PLEASE NOTE

ANALYSIS FOR HB 1245
WILL BE AVAILABLE LATER

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1251 CS Firefighter and Municipal Police Pensions
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	6 Y, 0 N, w/CS	Mitchell	Williamson
2) Local Government Council		DiVagno	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

This bill amends the Marvin B. Clayton Firefighters Pension Trust Fund Act and the Marvin B. Clayton Police Officers Pension Trust Fund Act:

- Allows the terms of office for members of the boards of trustees to be increased, from two years to four years, by municipal ordinance, special act of the Legislature, or resolution;
- Adds specific fiduciary standards for executing the general powers and duties of the board of trustees;
- Increases the percentage of plan assets that the boards of trustees may invest in foreign securities to the same level as the State Board of Administration; and
- Permits boards of trustees to designate two individuals, other than the chair and the secretary, to sign drafts on accounts and subjects these individuals to the same fiduciary standards as required for the board of trustees.

The bill also expands the definition of firefighter to include supervisory and command personnel in the Marvin B. Clayton Firefighters Pension Trust Fund Act.

Although this bill does not appear to specifically create, modify, or eliminate rulemaking authority, the bill may require changes in the rules, regulations, resolutions, and ordinances which govern police officer and firefighter pension boards for local governments.

The bill provides an effective date of July 1, 2006, unless otherwise expressly provided for in the act.

This bill does not appear to have a fiscal impact on state government revenues or expenditures. This bill does not appear to have a fiscal impact on local government revenues or expenditures, but may create some compliance costs for the municipal and special district pension boards.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill permits increased terms of office, increases authorized investments in foreign securities, and authorizes additional signatories for the boards of trustees of the pension trust funds.

B. EFFECT OF PROPOSED CHANGES:

Background on Municipal and Special District Firefighter Pensions

Firefighters working for municipalities or special districts that have a constituted fire department or an authorized volunteer fire department,[1] which owns and uses equipment for fighting fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase,[2] have pension plans pursuant to chapter 175, Florida Statutes. Chapter 175, Florida Statutes, is the Marvin B. Clayton Firefighters Pension Trust Fund Act ("Firefighters PTFA").[3] The Firefighters PTFA sets forth the minimum benefits and minimum standards for municipal and special district firefighter pension plans. There currently are 20 special fire control districts and 159 municipalities that have established plans pursuant to the Firefighters PTFA.[4] These plans had revenues of approximately $66,319,992 in 2004; $5,096,380 of those revenues were generated by special fire control districts.[5]

Background on Municipal Police Officer Pensions

Police officers[6] working for municipalities with a regularly organized police department, which uses equipment in serviceable condition with a value exceeding $500 for the prevention of crime and for the preservation of life and property, have pension plans pursuant to chapter 185, Florida Statutes. Chapter 185, Florida Statutes is the Marvin B. Clayton Police Officers Pension Trust Fund Act ("Police Officer PTFA"). The Police Officer PTFA sets forth the minimum benefits and minimum standards for municipal police officer pension plans.

Similarities between the Acts

The Firefighter PTFA and the Police Officer PTFA have a number of provisions which mirror each other. For example, both the Firefighter PTFA and the Police Officer PTFA provide the following sources of funding for pension trust funds:

- Payment from the "premium tax" - the net proceeds of the excise tax upon insurance companies, insurance associations, or other property insurers on their gross receipts on premiums from holders of certain policies within the legal boundaries of the municipality or special district;
- Payment of a designated percentage deducted from the salary of each firefighter or police officer;
- Payment of all fines and forfeitures imposed and collected from the violation of any rule and regulation promulgated by the board of trustees;

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[1] Fla. Stat. § 175.041(1) (2005).
[2] Fla. Stat. § 175.041(2) (2005).
[3] Fla. Stat. § 175.025 (2005).
[4] Dep't of Mgmt. Serv., HB 381 (2006) Staff Analysis (Nov. 25, 2005) (on file with dep't).
[5] *Id.*
[6] Fla. Stat. § 185.02(11) (2005).

- Mandatory payment 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 chapter 112, Florida Statutes;
- All gifts, bequests, and devises when donated;
- All increases in the fund by way of interest or dividends on bank deposits; and
- All other sources or income authorized by law for the augmentation of such pension trust funds.[7]

The Firefighter PTFA and the Police Officer PTFA also provide for governance by a board of trustees consisting of five members: two members who are legal residents of the special district or municipality and are appointed by its legislative body; two members who are full-time firefighters or police officers elected by a majority of the active firefighters or police officers who are members of such plan; a fifth member who must be chosen by a majority of the other four members.[8] This board of trustees must meet quarterly.[9]

Among the powers of these board of trustees: invest and reinvest the assets of the firefighter pension fund in certain authorized investments, issue drafts, keep required records, retain a qualified independent consultant every three years, and employ legal counsel, independent actuaries, and other advisors.[10]

Both the Firefighter PTFA and the Police Officer PTFA provide requirements for the retirement,[11] disability,[12] death,[13] and presumed injuries[14] of firefighters and police officers under the plan.

The Division of Retirement is responsible for the daily oversight and monitoring of any firefighter or police officer pension plan under the Firefighter PTFA and the Police Officer PTFA.[15] Actuarial deficits are not, however, obligations of the State of Florida.[16]

Changes to Board of Trustee Terms

Currently each member of the board of trustee serves two years and may succeed themselves. This bill provides the option to change the period of the terms to four years by a municipal ordinance, special act of the Legislature, or resolution adopted by the governing body of the special fire control district.

Express Fiduciary Responsibilities

As this is not explicitly stated within these chapters, this bill provides that boards of trustees under the Firefighter PTFA and the Police Officer PTFA are expressly subject to certain fiduciary standards[17] in the exercise of their general powers and duties.

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[7] Fla. Stat. §§ 175.091 and 185.07 (2005).
[8] Fla. Stat. § 175.061(1) (2005) (The membership of the board of trustees for a chapter plan shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality or special fire control district, who shall be appointed by the governing body of the municipality or special fire control district, and two of whom shall be full-time firefighters as defined in s. 175.032 who shall be elected by a majority of the active firefighters who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired firefighters to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the governing body of the municipality or special fire control district.). Fla. Stat. § 185.05 (2005).
[9] Fla. Stat. §§ 175.061(3) and 185.05(3) (2005).
[10] Fla. Stat. §§ 175.071 and 185.06 (2005).
[11] Fla. Stat. §§ 175.162 and 185.16 (2005).
[12] Fla. Stat. §§ 175.191 and 185.18 (2005).
[13] Fla. Stat. §§ 175.201 and 185.21 (2005).
[14] Fla. Stat. § 175.231 (2005) (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); Fla. Stat. § 185.34 (2005).
[15] Fla. Stat. §§ 175.341 and 185.23 (2005).
[16] Fla. Stat. §§ 175.051 and 185.04 (2005).
[17] Fla. Stat. §§112.656 (fiduciaries and retirement systems), 112.611 (requiring compliance with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974), 112.311 to 112.3187 (Code of Ethics), and 518.11 (prudent investor rule) (2005).

Changes to the Authorized Investments

The Firefighter PTFA and the Police Officer PTFA each provide five authorized investments and reinvestments:[18]

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.[19]

5. Foreign securities not to exceed 10 percent of plan assets.

Boards of trustees may, however, request a variance from these authorized investments through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district. In addition, where a special act, or a municipal ordinance, adopted prior to July 1, 1998, permits greater than a 50-percent equity investment, these municipalities are not required to comply with the aggregate equity investment provisions.

This bill increases the percentage of plan assets that the boards of trustees may invest in foreign securities to the same level as the State Board of Administration.[20]

Changes to Draft Authority

Currently, in order to issue drafts upon the pension trust funds, the drafts must be consecutively numbered, signed by the chair and secretary, and state the purpose for the drafts. This bill will allow two individuals who are subject to the same fiduciary standards as required for the boards of trustees and who are designated by the board to sign drafts.

Changes Affecting Only the Firefighter PTFA

Section 175.032, Florida Statutes, provides the definitions for the Firefighters PTFA, including a definition for "firefighter." This bill expands the definition of firefighter to include all certified supervisory and command personnel whose duties include the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters, but does not include part-time firefighters or auxiliary firefighters. This is similar to a provision in the Police Officers PTFA in section 185.02(11), Florida Statutes.

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[18] Fla. Stat. §§ 175.071 and 185.06 (2005).

[19] *Id.* (The corporation must be listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service. These investments may not exceed more than five percent of the assets of the board of trustees in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.).

[20] Fla. Stat. § 215.47(5) (2005) (currently sets this level at 20 percent); *but see* HB 7155 (2005) (which increases this percentage to 25 percent). The bill has a contingent effective date to permit the percentage to be set at 25 percent should HB 7155 become law. HB 1251 CS (2005), § 9.

C. SECTION DIRECTORY:

Section 1: Amends section 175.032, Florida Statutes, to expand the definition of firefighter.

Section 2: Amends section 175.061, Florida Statutes, to provide the option to change the terms of office for the boards of trustees.

Section 3: Amends section 175.071, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 25 percent, and drafting authority.

Section 4: Amends section 175.071, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 20 percent, and drafting authority.

Section 5: Amends section 185.05, Florida Statutes, to provide the option to change the terms of office for the boards of trustees.

Section 6: Amends section 185.06, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 25 percent, and drafting authority.

Section 7: Amends section 185.06, Florida Statutes, to contingently expand the fiduciary standards, percent of plan assets in foreign securities to 20 percent, and drafting authority.

Section 8: Sets forth a severability clause.

Section 9: Provides an effective date of July 1, 2006 for sections 1, 2, 5, and 8; provides a contingent effective date of July 1, 2006, for either sections 3 and 6 or 4 and 7.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There does not appear to be a fiscal impact on state government revenues.

2. Expenditures:

   There does not appear to be a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   There does not appear to be a fiscal impact on local government revenues.

2. Expenditures:

   There does not appear to be fiscal impact on local government expenditures. The bill, however, may create some compliance costs for the municipal and special district pension boards.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The expanded investment authority of the municipal and special district pension boards may have a positive, direct impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided a fiscal note from the enrolled actuary regarding this bill: "There are no actuarial or benefit issues associated with this bill."[21]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties 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 municipalities or counties. This bill does not appear to reduce the authority that municipalities or counties have to raise revenue.

2. Other:

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis. Since this bill does not directly increase benefits, this constitutional requirement does not apply. The Department of Management Services reached the same conclusion.[22]

B. RULE-MAKING AUTHORITY:

Although this bill does not appear to specifically create, modify, or eliminate rulemaking authority, the bill will require changes in the rules, regulations, resolutions, and ordinances which govern police officer and firefighter pension boards for local governments.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Two Designated Signatories for Drafts

The Division of Retirement within the Department of Management Services, which is responsible for the daily oversight and monitoring for actuarial soundness, made the following comments on the provision allowing the board to designate two individuals to sign disbursements from the trust fund:

> The proposal appears to erode the responsibility and direction of the board of trustees. No criteria are established for the selection of these two individuals and no fiduciary designation is required. While it is not clear why this amendment is needed, if it is maintained in the proposal, it is suggested that additional language be added to require the designated individuals to be considered 'fiduciaries' to the plan.[23]

While the committee substitute does subject these two designated individuals to the same fiduciary standard as required for the board of trustees, the other comments still appear to raise valid issues which the sponsor of the bill may wish to address.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Governmental Operations Committee adopted a "strike-everything" amendment and reported the bill favorably with committee substitute:

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[21] Fla. Dep't of Mgmt. Serv., HB 1251 (2006) Substantive Bill Analysis (Mar. 24, 2006) (on file with dep't).
[22] *Id.*
[23] *Id.* at 6.

- Increases, from two years to four years, the terms of office for members of the boards of trustees if provided by municipal ordinance, special act of the Legislature, or resolution of the special fire control district;

- Expands the specific fiduciary standards for executing the general powers and duties of the board of trustees;

- Removes the provisions that would have mirrored the investment authority of the State Board of Administration and instead only increases from 10 percent to 20 or 25 percent, depending on other legislation being considered by the Legislature, the amount of plan assets which boards of trustees may invest in foreign securities;

- Continues to allow boards of trustees to designate two individuals, other than the chair and the secretary, to sign drafts on accounts, but subjects them to the same fiduciary standards as the boards of trustees; and

- Removes provisions that would have allowed boards of trustees to establish a maximum entrance age.

CHAMBER ACTION

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1 The Governmental Operations 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 firefighter and municipal police
7 pensions; amending s. 175.032, F.S.; revising the
8 definition of "firefighter"; amending s. 175.061, F.S.;
9 providing for the terms of service for the board of
10 trustees of the firefighters' pension trust fund to be
11 revised under certain circumstances; amending s. 175.071,
12 F.S.; requiring the board of trustees to perform its
13 powers subject to certain fiduciary standards and ethics
14 provisions; revising the percentage of assets of the
15 firefighters' pension trust fund that the board of
16 trustees may invest in foreign securities; authorizing two
17 individuals subject to certain fiduciary standards and
18 designated by the board to sign drafts issued upon the
19 firefighters' pension trust fund; amending s. 185.05,
20 F.S.; providing for the terms of service for the board of
21 trustees of the municipal police officers' retirement
22 trust fund to be revised under certain circumstances;
23 amending s. 185.06, F.S.; requiring the board of trustees

24 to perform its powers subject to certain fiduciary
25 standards and ethics provisions; revising the percentage
26 of assets of the municipal police officers' retirement
27 trust fund that the board of trustees may invest in
28 foreign securities; authorizing two individuals subject to
29 certain fiduciary standards and designated by the board to
30 sign drafts issued upon the municipal police officers'
31 retirement trust fund; providing for severability;
32 providing contingent effective dates.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Paragraph (a) of subsection (8) of section
37 175.032, Florida Statutes, is amended to read:
38 175.032 Definitions.--For any municipality, special fire
39 control district, chapter plan, local law municipality, local
40 law special fire control district, or local law plan under this
41 chapter, the following words and phrases have the following
42 meanings:
43 (8)(a) "Firefighter" means any person employed solely by a
44 constituted fire department of any municipality or special fire
45 control district who is certified as a firefighter as a
46 condition of employment in accordance with the provisions of s.
47 633.35 and whose duty it is to extinguish fires, to protect
48 life, or to protect property. <u>"Firefighter" includes all</u>
49 <u>certified supervisory and command personnel whose duties</u>
50 <u>include, in whole or in part, the supervision, training,</u>
51 <u>guidance, and management responsibilities of full-time</u>

52 firefighters, part-time firefighters, or auxiliary firefighters,
53 but does not include part-time firefighters or auxiliary
54 firefighters. However, for purposes of this chapter only,
55 "firefighter" also includes public safety officers who are
56 responsible for performing both police and fire services, who
57 are certified as police officers or firefighters, and who are
58 certified by their employers to the Chief Financial Officer as
59 participating in this chapter prior to October 1, 1979.
60 Effective October 1, 1979, public safety officers who have not
61 been certified as participating in this chapter shall be
62 considered police officers for retirement purposes and shall be
63 eligible to participate in chapter 185. Any plan may provide
64 that the fire chief shall have an option to participate, or not,
65 in that plan.
66 Section 2. Paragraph (a) of subsection (1) of section
67 175.061, Florida Statutes, is amended to read:
68 175.061 Board of trustees; members; terms of office;
69 meetings; legal entity; costs; attorney's fees.--For any
70 municipality, special fire control district, chapter plan, local
71 law municipality, local law special fire control district, or
72 local law plan under this chapter:
73 (1) In each municipality and in each special fire control
74 district there is hereby created a board of trustees of the
75 firefighters' pension trust fund, which shall be solely
76 responsible for administering the trust fund. Effective October
77 1, 1986, and thereafter:
78 (a) The membership of the board of trustees for a chapter
79 plan shall consist of five members, two of whom, unless

80 otherwise prohibited by law, shall be legal residents of the
81 municipality or special fire control district, who shall be
82 appointed by the governing body of the municipality or special
83 fire control district, and two of whom shall be full-time
84 firefighters as defined in s. 175.032 who shall be elected by a
85 majority of the active firefighters who are members of such
86 plan. With respect to any chapter plan or local law plan that,
87 on January 1, 1997, allowed retired firefighters to vote in such
88 elections, retirees may continue to vote in such elections. The
89 fifth member shall be chosen by a majority of the previous four
90 members as provided for herein, and such person's name shall be
91 submitted to the governing body of the municipality or special
92 fire control district. Upon receipt of the fifth person's name,
93 the governing body of the municipality or special fire control
94 district shall, as a ministerial duty, appoint such person to
95 the board of trustees as its fifth member. The fifth member
96 shall have the same rights as each of the other four members
97 appointed or elected as herein provided, shall serve as trustee
98 for a period of 2 years, and may succeed himself or herself in
99 office. Each resident member shall serve as trustee for a period
100 of 2 years, unless sooner replaced by the governing body at
101 whose pleasure he or she shall serve, and may succeed himself or
102 herself as a trustee. Each firefighter member shall serve as
103 trustee for a period of 2 years, unless he or she sooner leaves
104 the employment of the municipality or special fire control
105 district as a firefighter, whereupon a successor shall be chosen
106 in the same manner as an original appointment. Each firefighter
107 may succeed himself or herself in office. Effective July 1,

108 2006, the terms of office of the appointed and elected members
109 of the board may be amended by municipal ordinance, special act
110 of the Legislature, or resolution adopted by the governing body
111 of the special fire control district, to extend the terms of
112 office from 2 years to 4 years. The length of the terms of
113 office shall be the same for all board members.
114 Section 3. Effective July 1, 2006, if House Bill 7155 or
115 similar legislation is adopted in the same legislative session
116 or an extension thereof and becomes law, subsection (1) of
117 section 175.071, Florida Statutes, is amended to read:
118 175.071 General powers and duties of board of
119 trustees.--For any municipality, special fire control district,
120 chapter plan, local law municipality, local law special fire
121 control district, or local law plan under this chapter:
122 (1) The board of trustees, subject to the fiduciary
123 standards in ss. 112.656, 112.661, and 518.11 and the Code of
124 Ethics in ss. 112.311-112.3187, may:
125 (a) Invest and reinvest the assets of the firefighters'
126 pension trust fund in annuity and life insurance contracts of
127 life insurance companies in amounts sufficient to provide, in
128 whole or in part, the benefits to which all of the participants
129 in the firefighters' pension trust fund shall be entitled under
130 the provisions of this chapter and pay the initial and
131 subsequent premiums thereon.
132 (b) Invest and reinvest the assets of the firefighters'
133 pension trust fund in:
134 1. Time or savings accounts of a national bank, a state
135 bank insured by the Bank Insurance Fund, or a savings, building,

136 and loan association insured by the Savings Association
137 Insurance Fund which is administered by the Federal Deposit
138 Insurance Corporation or a state or federal chartered credit
139 union whose share accounts are insured by the National Credit
140 Union Share Insurance Fund.
141 2. Obligations of the United States or obligations
142 guaranteed as to principal and interest by the government of the
143 United States.
144 3. Bonds issued by the State of Israel.
145 4. Bonds, stocks, or other evidences of indebtedness
146 issued or guaranteed by a corporation organized under the laws
147 of the United States, any state or organized territory of the
148 United States, or the District of Columbia, provided:
149 a. The corporation is listed on any one or more of the
150 recognized national stock exchanges or on the National Market
151 System of the NASDAQ Stock Market and, in the case of bonds
152 only, holds a rating in one of the three highest classifications
153 by a major rating service; and
154 b. The board of trustees shall not invest more than 5
155 percent of its assets in the common stock or capital stock of
156 any one issuing company, nor shall the aggregate investment in
157 any one issuing company exceed 5 percent of the outstanding
158 capital stock of that company or the aggregate of its
159 investments under this subparagraph at cost exceed 50 percent of
160 the assets of the fund.
161
162 This paragraph shall apply to all boards of trustees and
163 participants. However, in the event that a municipality or

164 special fire control district has a duly enacted pension plan
165 pursuant to, and in compliance with, s. 175.351, and the
166 trustees thereof desire to vary the investment procedures
167 herein, the trustees of such plan shall request a variance of
168 the investment procedures as outlined herein only through a
169 municipal ordinance, special act of the Legislature, or
170 resolution by the governing body of the special fire control
171 district; where a special act, or a municipality by ordinance
172 adopted prior to July 1, 1998, permits a greater than 50-percent
173 equity investment, such municipality shall not be required to
174 comply with the aggregate equity investment provisions of this
175 paragraph. Notwithstanding any other provision of law to the
176 contrary, nothing in this section may be construed to take away
177 any preexisting legal authority to make equity investments that
178 exceed the requirements of this paragraph. The board of trustees
179 may invest up to 25 ~~10~~ percent of plan assets in foreign
180 securities.
181 (c) Issue drafts upon the firefighters' pension trust fund
182 pursuant to this act and rules and regulations prescribed by the
183 board of trustees. All such drafts shall be consecutively
184 numbered, be signed by the chair and secretary or two
185 individuals designated by the board who are subject to the same
186 fiduciary standards as required for the board of trustees under
187 this subsection, and state upon their faces the purpose for
188 which the drafts are drawn. The treasurer or depository of each
189 municipality or special fire control district shall retain such
190 drafts when paid, as permanent vouchers for disbursements made,
191 and no money shall be otherwise drawn from the fund.

192 (d) Convert into cash any securities of the fund.
193 (e) Keep a complete record of all receipts and
194 disbursements and of the board's acts and proceedings.
195 Section 4. Effective July 1, 2006, if House Bill 7155 or
196 similar legislation is not adopted in the same legislative
197 session or an extension thereof, subsection (1) of section
198 175.071, Florida Statutes, is amended to read:
199 175.071 General powers and duties of board of
200 trustees.--For any municipality, special fire control district,
201 chapter plan, local law municipality, local law special fire
202 control district, or local law plan under this chapter:
203 (1) The board of trustees, subject to the fiduciary
204 standards in ss. 112.656, 112.661, and 518.11 and the Code of
205 Ethics in ss. 112.311-112.3187, may:
206 (a) Invest and reinvest the assets of the firefighters'
207 pension trust fund in annuity and life insurance contracts of
208 life insurance companies in amounts sufficient to provide, in
209 whole or in part, the benefits to which all of the participants
210 in the firefighters' pension trust fund shall be entitled under
211 the provisions of this chapter and pay the initial and
212 subsequent premiums thereon.
213 (b) Invest and reinvest the assets of the firefighters'
214 pension trust fund in:
215 1. Time or savings accounts of a national bank, a state
216 bank insured by the Bank Insurance Fund, or a savings, building,
217 and loan association insured by the Savings Association
218 Insurance Fund which is administered by the Federal Deposit
219 Insurance Corporation or a state or federal chartered credit

220 union whose share accounts are insured by the National Credit
221 Union Share Insurance Fund.
222 2. Obligations of the United States or obligations
223 guaranteed as to principal and interest by the government of the
224 United States.
225 3. Bonds issued by the State of Israel.
226 4. Bonds, stocks, or other evidences of indebtedness
227 issued or guaranteed by a corporation organized under the laws
228 of the United States, any state or organized territory of the
229 United States, or the District of Columbia, provided:
230 a. The corporation is listed on any one or more of the
231 recognized national stock exchanges or on the National Market
232 System of the NASDAQ Stock Market and, in the case of bonds
233 only, holds a rating in one of the three highest classifications
234 by a major rating service; and
235 b. The board of trustees shall not invest more than 5
236 percent of its assets in the common stock or capital stock of
237 any one issuing company, nor shall the aggregate investment in
238 any one issuing company exceed 5 percent of the outstanding
239 capital stock of that company or the aggregate of its
240 investments under this subparagraph at cost exceed 50 percent of
241 the assets of the fund.
242
243 This paragraph shall apply to all boards of trustees and
244 participants. However, in the event that a municipality or
245 special fire control district has a duly enacted pension plan
246 pursuant to, and in compliance with, s. 175.351, and the
247 trustees thereof desire to vary the investment procedures

248 herein, the trustees of such plan shall request a variance of
249 the investment procedures as outlined herein only through a
250 municipal ordinance, special act of the Legislature, or
251 resolution by the governing body of the special fire control
252 district; where a special act, or a municipality by ordinance
253 adopted prior to July 1, 1998, permits a greater than 50-percent
254 equity investment, such municipality shall not be required to
255 comply with the aggregate equity investment provisions of this
256 paragraph. Notwithstanding any other provision of law to the
257 contrary, nothing in this section may be construed to take away
258 any preexisting legal authority to make equity investments that
259 exceed the requirements of this paragraph. The board of trustees
260 may invest up to 20 ~~10~~ percent of plan assets in foreign
261 securities.
262 (c) Issue drafts upon the firefighters' pension trust fund
263 pursuant to this act and rules and regulations prescribed by the
264 board of trustees. All such drafts shall be consecutively
265 numbered, be signed by the chair and secretary or two
266 individuals designated by the board who are subject to the same
267 fiduciary standards as required for the board of trustees under
268 this subsection, and state upon their faces the purpose for
269 which the drafts are drawn. The treasurer or depository of each
270 municipality or special fire control district shall retain such
271 drafts when paid, as permanent vouchers for disbursements made,
272 and no money shall be otherwise drawn from the fund.
273 (d) Convert into cash any securities of the fund.
274 (e) Keep a complete record of all receipts and
275 disbursements and of the board's acts and proceedings.

276 Section 5. Paragraph (a) of subsection (1) of section
277 185.05, Florida Statutes, is amended to read:
278 185.05 Board of trustees; members; terms of office;
279 meetings; legal entity; costs; attorney's fees.--For any
280 municipality, chapter plan, local law municipality, or local law
281 plan under this chapter:
282 (1) In each municipality described in s. 185.03 there is
283 hereby created a board of trustees of the municipal police
284 officers' retirement trust fund, which shall be solely
285 responsible for administering the trust fund. Effective October
286 1, 1986, and thereafter:
287 (a) The membership of the board of trustees for chapter
288 plans shall consist of five members, two of whom, unless
289 otherwise prohibited by law, shall be legal residents of the
290 municipality, who shall be appointed by the legislative body of
291 the municipality, and two of whom shall be police officers as
292 defined in s. 185.02 who shall be elected by a majority of the
293 active police officers who are members of such plan. With
294 respect to any chapter plan or local law plan that, on January
295 1, 1997, allowed retired police officers to vote in such
296 elections, retirees may continue to vote in such elections. The
297 fifth member shall be chosen by a majority of the previous four
298 members, and such person's name shall be submitted to the
299 legislative body of the municipality. Upon receipt of the fifth
300 person's name, the legislative body of the municipality shall,
301 as a ministerial duty, appoint such person to the board of
302 trustees as its fifth member. The fifth member shall have the
303 same rights as each of the other four members appointed or

304 elected as herein provided, shall serve as trustee for a period
305 of 2 years, and may succeed himself or herself in office. Each
306 resident member shall serve as trustee for a period of 2 years,
307 unless sooner replaced by the legislative body at whose pleasure
308 the member shall serve, and may succeed himself or herself as a
309 trustee. Each police officer member shall serve as trustee for a
310 period of 2 years, unless he or she sooner leaves the employment
311 of the municipality as a police officer, whereupon the
312 legislative body of the municipality shall choose a successor in
313 the same manner as an original appointment. Each police officer
314 may succeed himself or herself in office. Effective July 1,
315 2006, the terms of office of the appointed and elected members
316 of the board may be amended by municipal ordinance or special
317 act of the Legislature to extend the terms of office from 2
318 years to 4 years. The length of the terms of office shall be the
319 same for all board members.
320 Section 6. Effective July 1, 2006, if House Bill 7155 or
321 similar legislation is adopted in the same legislative session
322 or an extension thereof and becomes law, subsection (1) of
323 section 185.06, Florida Statutes, is amended to read:
324 185.06 General powers and duties of board of
325 trustees.--For any municipality, chapter plan, local law
326 municipality, or local law plan under this chapter:
327 (1) The board of trustees, subject to the fiduciary
328 standards in ss. 112.656, 112.661, and 518.11 and the Code of
329 Ethics in ss. 112.311-112.3187, may:
330 (a) Invest and reinvest the assets of the retirement trust
331 fund in annuity and life insurance contracts of life insurance

332 companies in amounts sufficient to provide, in whole or in part,
333 the benefits to which all of the participants in the municipal
334 police officers' retirement trust fund shall be entitled under
335 the provisions of this chapter, and pay the initial and
336 subsequent premiums thereon.
337 (b) Invest and reinvest the assets of the retirement trust
338 fund in:
339 1. Time or savings accounts of a national bank, a state
340 bank insured by the Bank Insurance Fund, or a savings and loan
341 association insured by the Savings Association Insurance Fund
342 which is administered by the Federal Deposit Insurance
343 Corporation or a state or federal chartered credit union whose
344 share accounts are insured by the National Credit Union Share
345 Insurance Fund.
346 2. Obligations of the United States or obligations
347 guaranteed as to principal and interest by the United States.
348 3. Bonds issued by the State of Israel.
349 4. Bonds, stocks, or other evidences of indebtedness
350 issued or guaranteed by a corporation organized under the laws
351 of the United States, any state or organized territory of the
352 United States, or the District of Columbia, provided:
353 a. The corporation is listed on any one or more of the
354 recognized national stock exchanges or on the National Market
355 System of the NASDAQ Stock Market and, in the case of bonds
356 only, holds a rating in one of the three highest classifications
357 by a major rating service; and
358 b. The board of trustees shall not invest more than 5
359 percent of its assets in the common stock or capital stock of

360 any one issuing company, nor shall the aggregate investment in
361 any one issuing company exceed 5 percent of the outstanding
362 capital stock of the company or the aggregate of its investments
363 under this subparagraph at cost exceed 50 percent of the fund's
364 assets.
365
366 This paragraph shall apply to all boards of trustees and
367 participants. However, in the event that a municipality has a
368 duly enacted pension plan pursuant to, and in compliance with,
369 s. 185.35 and the trustees thereof desire to vary the investment
370 procedures herein, the trustees of such plan shall request a
371 variance of the investment procedures as outlined herein only
372 through a municipal ordinance or special act of the Legislature;
373 where a special act, or a municipality by ordinance adopted
374 prior to July 1, 1998, permits a greater than 50-percent equity
375 investment, such municipality shall not be required to comply
376 with the aggregate equity investment provisions of this
377 paragraph. Notwithstanding any other provision of law to the
378 contrary, nothing in this section may be construed to take away
379 any preexisting legal authority to make equity investments that
380 exceed the requirements of this paragraph. The board of trustees
381 may invest up to 25 ~~10~~ percent of plan assets in foreign
382 securities.
383 (c) Issue drafts upon the municipal police officers'
384 retirement trust fund pursuant to this act and rules and
385 regulations prescribed by the board of trustees. All such drafts
386 shall be consecutively numbered, be signed by the chair and
387 secretary or two individuals designated by the board who are

388 subject to the same fiduciary standards as required for the
389 board of trustees under this subsection, and state upon their
390 faces the purposes for which the drafts are drawn. The city
391 treasurer or other depository shall retain such drafts when
392 paid, as permanent vouchers for disbursements made, and no money
393 shall otherwise be drawn from the fund.
394 (d) Finally decide all claims to relief under the board's
395 rules and regulations and pursuant to the provisions of this
396 act.
397 (e) Convert into cash any securities of the fund.
398 (f) Keep a complete record of all receipts and
399 disbursements and of the board's acts and proceedings.
400 Section 7. Effective July 1, 2006, if House Bill 7155 or
401 similar legislation is not adopted in the same legislative
402 session or an extension thereof, subsection (1) of section
403 185.06, Florida Statutes, is amended to read:
404 185.06 General powers and duties of board of
405 trustees.--For any municipality, chapter plan, local law
406 municipality, or local law plan under this chapter:
407 (1) The board of trustees, subject to the fiduciary
408 standards in ss. 112.656, 112.661, and 518.11 and the Code of
409 Ethics in ss. 112.311-112.3187, may:
410 (a) Invest and reinvest the assets of the retirement trust
411 fund in annuity and life insurance contracts of life insurance
412 companies in amounts sufficient to provide, in whole or in part,
413 the benefits to which all of the participants in the municipal
414 police officers' retirement trust fund shall be entitled under

415 the provisions of this chapter, and pay the initial and
416 subsequent premiums thereon.
417 (b) Invest and reinvest the assets of the retirement trust
418 fund in:
419 1. Time or savings accounts of a national bank, a state
420 bank insured by the Bank Insurance Fund, or a savings and loan
421 association insured by the Savings Association Insurance Fund
422 which is administered by the Federal Deposit Insurance
423 Corporation or a state or federal chartered credit union whose
424 share accounts are insured by the National Credit Union Share
425 Insurance Fund.
426 2. Obligations of the United States or obligations
427 guaranteed as to principal and interest by the United States.
428 3. Bonds issued by the State of Israel.
429 4. Bonds, stocks, or other evidences of indebtedness
430 issued or guaranteed by a corporation organized under the laws
431 of the United States, any state or organized territory of the
432 United States, or the District of Columbia, provided:
433 a. The corporation is listed on any one or more of the
434 recognized national stock exchanges or on the National Market
435 System of the NASDAQ Stock Market and, in the case of bonds
436 only, holds a rating in one of the three highest classifications
437 by a major rating service; and
438 b. The board of trustees shall not invest more than 5
439 percent of its assets in the common stock or capital stock of
440 any one issuing company, nor shall the aggregate investment in
441 any one issuing company exceed 5 percent of the outstanding
442 capital stock of the company or the aggregate of its investments

443 under this subparagraph at cost exceed 50 percent of the fund's
444 assets.
445
446 This paragraph shall apply to all boards of trustees and
447 participants. However, in the event that a municipality has a
448 duly enacted pension plan pursuant to, and in compliance with,
449 s. 185.35 and the trustees thereof desire to vary the investment
450 procedures herein, the trustees of such plan shall request a
451 variance of the investment procedures as outlined herein only
452 through a municipal ordinance or special act of the Legislature;
453 where a special act, or a municipality by ordinance adopted
454 prior to July 1, 1998, permits a greater than 50-percent equity
455 investment, such municipality shall not be required to comply
456 with the aggregate equity investment provisions of this
457 paragraph. Notwithstanding any other provision of law to the
458 contrary, nothing in this section may be construed to take away
459 any preexisting legal authority to make equity investments that
460 exceed the requirements of this paragraph. The board of trustees
461 may invest up to 20 ~~10~~ percent of plan assets in foreign
462 securities.
463 (c) Issue drafts upon the municipal police officers'
464 retirement trust fund pursuant to this act and rules and
465 regulations prescribed by the board of trustees. All such drafts
466 shall be consecutively numbered, be signed by the chair and
467 secretary or two individuals designated by the board who are
468 subject to the same fiduciary standards as required for the
469 board of trustees under this subsection, and state upon their
470 faces the purposes for which the drafts are drawn. The city

471 treasurer or other depository shall retain such drafts when
472 paid, as permanent vouchers for disbursements made, and no money
473 shall otherwise be drawn from the fund.
474 (d) Finally decide all claims to relief under the board's
475 rules and regulations and pursuant to the provisions of this
476 act.
477 (e) Convert into cash any securities of the fund.
478 (f) Keep a complete record of all receipts and
479 disbursements and of the board's acts and proceedings.
480 Section 8. <u>If any provision of this act or its application</u>
481 <u>to any person or circumstance is held invalid, the invalidity</u>
482 <u>does not affect other provisions or applications of the act</u>
483 <u>which can be given effect without the invalid provision or</u>
484 <u>application, and to this end the provisions of this act are</u>
485 <u>severable.</u>
486 Section 9. Except as otherwise expressly provided in this
487 act, this act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1413 Argyle Fire District, Walton County
SPONSOR(S): Brown
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill creates as an independent district the Argyle Fire District (District) in Walton County to provide a single comprehensive special act charter for the District. The bill specifies that the purpose of the District includes providing fire protection and firefighting services, rescue services, and emergency medical services. The District is granted al the powers under chapters 189, and 191, F.S., and is required to comply with the provisions of those chapters. This bill provides for the District boundaries.

The bill authorizes the District to levy annual assessments against the taxable real estate within the district. The bill authorizes the District to levy impact fees and preserves the District's authority to levy a non-ad valorem special assessment of $25.00 per residential dwelling or mobile home.

The bill also includes legislative intent; provides for duties of the property appraiser; provides for special assessment as a lien; provides for deposit of special assessments; provides for the District to disburse funds; authorizes the board to borrow money; provides for the use of district funds; authorizes the board to adopt rules and regulations; authorizes the board to enact fire prevention ordinances, appoint a District fire chief, acquire land, enter into contracts, establish salaries, and establish and operate a fire rescue service; allows the District to expand its boundaries to include lands within municipal boundaries subject to specific requirements; provides for dissolution of the District; provides immunity from tort liability for officers, agents, and employees; and provides for district expansion.

According to the Economic Impact Statement, the bill will result in estimated revenues of $38,000 for fiscal year 2006-07 and $39,000 for fiscal year 2007-08.

This bill may provide an exemption from the provisions of general law. Pursuant to House Rule 5.5(b), 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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/ensure lower taxes – This bill creates an independent special fire control district with authority to impose impact fees and preserves the District's authority to levy non-ad valorem special assessments.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

The bill authorizes the District to levy annual assessments against the taxable real estate within the district. The bill authorizes the District to levy impact fees and preserves the District's authority to levy a non-ad valorem special assessment of $25.00 per residential dwelling or mobile home.

The bill also includes legislative intent; provides for duties of the property appraiser; provides for special assessment as a lien; provides for deposit of special assessments; provides for the District to disburse funds; authorizes the board to borrow money; provides for the use of district funds; authorizes the board to adopt rules and regulations; authorizes the board to enact fire prevention ordinances, appoint a District fire chief, acquire land, enter into contracts, establish salaries, and establish and operate a fire rescue service; allows the District to expand its boundaries to include lands within municipal boundaries subject to specific requirements; provides for dissolution of the District; provides immunity from tort liability for officers, agents, and employees; and provides for district expansion.

Argyle Fire District

The Argyle Fire District was created in 1986, by county ordinance number 86-17, amended in 1989 to add additional land. The purpose of the District is to provide fire protection and other services in emergency and crisis situations for the benefit of the residents and properties within the District. The District is governed by five commissioners who reside within the fire district. The board of commissioners is designated as the governing body of the District. The District currently levies a special assessment.

Background

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. Currently, there are 56 districts in Florida.

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 four 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 five 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 five 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 therefor 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.

C. SECTION DIRECTORY:

Section 1. Provides definitions.
Section 2. Creates the District specifying that it has all powers provided in chs. 189 and 191, F.S., and those granted by the Legislature; describes the boundaries of the District; specifies the District's purpose; specifies that the District charter may only be amended by special act.
Section 3. Provides for the composition and election of the District's governing board.
Section 4. Provides for the administration of the District's governing board.
Section 5. Specifies the District's powers, duties, and responsibilities regarding reporting, planning, and the authority to levy annually a special assessment against the taxable property within the district and collection methods.
Section 6. Authorizes the District to impose impact fees on new users of services to the extent new construction requires new facilities.
Section 7. Authorizes the District to levy special assessments against the taxable real estate within the District to provide funds for the purpose of the District.
Section 8. Provides for the duties of the property appraiser; provides the tax collector will receive a commission or fee of 3 percent for collection of special assessments.
Section 9. Provides for special assessment as a lien.
Section 10. Provides for the deposit of special assessment and fees; authorizes District to disburse funds.
Section 11. Authorizes the District to borrow money.
Section 12. Specifies permissible uses of District funds.
Section 13. Provides for recording keeping, adoption of rules and regulations, annual reporting, and budgeting.
Section 14. Provides for adoption of fire prevention ordinances, provides for the appointment and employment of the fire chief, authorizes the acquisition of land by the District, provides for contracts, provides for salaries of the District personnel; and authorizes the District to establish and maintain emergency medical and rescue response services and acquire and maintain equipment.
Section 15. Specifies that municipal annexations will follow procedures in s. 171.093, F.S.
Section 16. Specifies that dissolution of the District must be accomplished by special act.
Section 17. Provides for immunity from liability to the same extent as other subdivisions of the state.
Section 18. Provides for expanding the boundaries of the District by Legislative enactment.
Section 19. Provides for liberal construction of the act.
Section 20. Provides for severability of the act.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 29, 2005 and January 5, 2006.

WHERE? *The Breeze* combined with *The Defuniak Springs Herald,* Defuniak Springs, Walton 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 []

According to the Economic Impact Statement, the bill will result in estimated revenues of $38,000 for fiscal year 2006-07 and $39,000 for fiscal year 2007-08.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The bill provides in section 17 of the charter tort immunity for District officers, agents, and employees. Article X, section 13, of the Florida Constitution states that "provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating." The general law that provides immunity is section 768.28, F.S., which applies to districts.

B. RULE-MAKING AUTHORITY:

The bill authorizes the board to adopt rules and regulations and authorizes the board to enact fire prevention ordinances.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exemption from General Law

The bill appears to exempt the District from section 191.014, F.S., regarding annexations. Section 18(4) of the charter states "Lands within municipal boundaries of cities contiguous to district boundaries may be included in the district upon request by the governing board of the municipality, approval of said request by affirmative vote of no fewer that three members of the district board, and referendum approval of inclusion by the electors of the municipality. The referendum shall be conducted by the municipality at the next available special or general election."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

THE BREEZE combined with
THE DEFUNIAK SPRINGS HERALD
Published Weekly
DeFUNIAK SPRINGS, FLORIDA 32433

STATE OF FLORIDA

Before the undersigned authority personally appeared Larry K. Woodham, Merle Woodham (Mrs. Larry K. Woodham), Gary B. Woodham, or Cindy Woodham (Mrs. Gary B. Woodham), who on oath says that he/she is editor-publisher of The DeFuniak Springs, Herald Breeze, a Florida newspaper published at DeFuniak Springs, in Walton County, Florida; that the attached copy of advertisement, being

NOTICE OF INTENT TO SEEK LEGISLATION

in the matter of

ARGYLE FIRE DISTRICT

In the Circuit Court for Walton County, Florida, was published in said newspaper in the issues of

December 29, 2005 & January 5, 2006

Affiant further says that the said The DeFuniak Springs Herald-Breeze is a newspaper published at DeFuniak Springs, in said Walton County, Florida, and that the said newspaper has heretofore been continuously published in said Walton 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.

Gary B. Woodham
known to me personally,
Sworn to and subscribed before me this

9th day of January

A.D., 20 06

Alisha G. Brown

ALISHA G. BROWN
MY COMMISSION # DD 344023
EXPIRES: August 4, 2008
Bonded Thru Pichard Insurance Agency

NOTICE OF INTENT TO SEEK LEGISLATION

Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to Walton County, Argyle Fire District, amending Laws of Florida; relating to Argyle Fire District, Walton County; creating a special district; providing definitions; providing for creation, status, charter amendments, boundaries, and purposes; providing for a board of commissioners and governance; providing an effective date.

2tc: December 29, 2005 & January 5, 2006 #597E

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1413

SPONSOR(S): Brown

RELATING TO: Walton County - Argyle Fire District

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Walton County

CONTACT PERSON: Brad Drake

PHONE # and E-Mail: 488-4726

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: Feb. 27

Location: Okaloosa - Walton College, DeFuniak Springs

(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 [Dec. 29, 2005 / Jan. 5, 2006

Where? DeFuniak Herald **County** Walton

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.

Thomas D. Brown / 6 March 2006

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 #: 1413

SPONSOR(S): Brown

RELATING TO: Walton County - Argyle Vol. Fire Dept.

[Indicate Area Affected (City, County, Special District) and Subject]

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

Expenditures:	FY 06-07	FY 07-08
totals =	$38,000	$39,000

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:			
State:			
Local:	Assessment fees	$38,000	$39,000

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues:	FY 06-07	FY 07-08
Increase due to population increase +/or County funds	varies	—

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

Advantages: NONE

Disadvantages: NONE

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

NA

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

Based on past projected assessment Revenues from County Property Appraiser, and on past County funds received.

PREPARED BY: (Tommy Yates) 3/1/2006
[Must be signed by Preparer] Date

TITLE: Chairman

REPRESENTING: Argyle Board of Fire Commissioners

PHONE: (850 892 -8631)

E-Mail Address: Try844@AOL.com

1 A bill to be entitled
2 An act relating to Argyle Fire District, Walton County;
3 creating a special district; providing definitions;
4 providing for creation, status, charter amendments,
5 boundaries, and purposes; providing for a board of
6 commissioners; providing for election and terms of
7 commissioners; providing for employment of board
8 personnel; providing for election of board officers;
9 providing for compensation and bonds of commissioners;
10 providing for powers, duties, and responsibilities of the
11 board; preserving the authority to levy non-ad valorem
12 special assessments; providing for impact fees;
13 authorizing the board to levy special assessments;
14 providing legislative intent; providing for duties of the
15 property appraiser; providing for special assessment as a
16 lien; providing for deposit of such special assessments;
17 providing for authority to disburse funds; authorizing the
18 board to borrow money; providing for use of district
19 funds; requiring a record of all board meetings;
20 authorizing the board to adopt rules and regulations;
21 providing for the board to make an annual budget;
22 requiring an annual report; authorizing the board to enact
23 fire prevention ordinances, appoint a district fire chief,
24 acquire land, enter contracts, establish salaries, and
25 establish and operate a fire rescue service; providing for
26 district authority upon annexation of district lands;
27 providing for dissolution; providing immunity from tort
28 liability for officers, agents, and employees; providing

29 for district expansion; providing for construction and
30 effect; providing an effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Argyle Fire District is hereby created and the
35 charter for the district is created to read:
36 Section 1. Definitions.--As used in the act, unless
37 otherwise specified:
38 (1) "District" means the Argyle Fire District.
39 (2) "Board" means the board of commissioners created
40 pursuant to this act and chapter 191, Florida Statutes.
41 (3) "Board of directors" means the existing policymaking
42 and governing body of the Argyle Fire District of Walton County.
43 (4) "Commissioner" means a member of the board of
44 commissioners of and for the district.
45 (5) "Director" means a member of the board of directors.
46 (6) "Residence" means one single-family dwelling,
47 including one single-apartment dwelling unit; one single-
48 condominium dwelling unit; one single duplex, triplex, or other
49 attached dwelling unit; one single-family detached dwelling
50 unit; or one single mobile or modular home dwelling unit.
51 (7) "Business" means motels, apartments, or rental
52 dwellings, along with other standard commercial or industrial
53 businesses such as gasoline stations, stores, marinas, and
54 similar establishments, as authorized pursuant to the applicable
55 local government comprehensive plan, whether or not such
56 businesses are required to pay or collect sales taxes.

57 Section 2. Creation; status; charter amendments;
58 boundaries; district purposes.--There is hereby created an
59 independent special fire control district and rescue service
60 district incorporating lands in Walton County described in
61 subsection (1) which shall be a public corporation having the
62 powers, duties, obligations, and immunities herein set forth
63 under the name of the Argyle Fire District. The district is
64 organized and exists for all purposes and shall hold all powers
65 set forth in this act and chapters 189 and 191, Florida
66 Statutes.
67 (1) The lands to be included within the district are the
68 following described lands in Walton County:
69 Those portions in Township 2 North, Range 18 West
70 which include, entire sections 1 through 24 inclusive.
71 Sections 26 through 29 inclusive. Sections 33 through
72 35 inclusive. And all of Sections 30 and 32 lying East
73 of the center of Bruce Creek.
74 Those portions within Township 2 North, Range 19 West
75 which include, Sections 13 and 24 lying East of the
76 center of Bruce Creek. Sections 1 and 2 lying outside
77 of the present city limits of DeFuniak Springs.
78 Those portions in Township 3 North, Range 18 West
79 which include, Sections 4 though 9 inclusive. Sections
80 16 through 21 inclusive. Sections 28 through 29
81 inclusive. Sections 32 and 33 inclusive. Those
82 portions of Sections 30 and 31 lying outside of the
83 present city limits of DeFuniak Springs.

84 Those portions in Township 3 North, Range 19 West
85 which include, those parts of Sections 1 and 2 lying
86 South of the centerline of County Road 1883 and
87 Sunrise Road. The portion of Section 3 lying south of
88 the centerline of Sunrise Road. The portion of Section
89 10 lying North and Southeast of Lake Juniper. Entire
90 Sections 11, 12, 13, 14 and 24. Those portions of
91 Section 15 lying East of a line running North and
92 South from the center of the Lake Juniper Dam and
93 lying outside of the present city limits of DeFuniak
94 Springs. The portion of Section 22 lying East of a
95 line running North and South from the center of the
96 Lake Juniper Dam and lying outside of the present city
97 limits of DeFuniak Springs. Those portions of section
98 23, 24, 25, and 36 lying North and or East of the
99 present city limits of DeFuniak Springs.
100 Those portions within Township 4 North, Range 18 West
101 which include, those portions of Section 31, lying
102 South of the centerline of Coy Ellis Road. Those parts
103 of Sections 32 and 33 lying South of the centerline of
104 County Road 183 North. The portion of Section 33 lying
105 East of County Road 183A.
106 The portion within Township 4 North, Range 19 West
107 which includes, that part of Section 36 lying South
108 and East of County Road 1883 and Coy Ellis Road.
109 (2) The purpose of this act is to promote the general
110 health, welfare, and safety of the citizens and residents of
111 Walton County who reside within the geographical limits of the

112 Argyle Fire District by providing for the financial support of
113 the Argyle Fire District of Walton County, a not-for-profit
114 corporation, which currently provides the district with fire
115 protection services, facilities, and firefighting equipment; the
116 establishment and maintenance of fire stations and fire
117 substations; the acquisition and maintenance of all firefighting
118 and protection equipment necessary for the prevention of fires
119 or fighting of fires; the employment and training of such
120 personnel as may be necessary to accomplish fire prevention and
121 firefighting; the establishment and maintenance of emergency
122 services; the acquisition and maintenance of rescue and other
123 emergency equipment; and the employment and training of
124 necessary emergency personnel. The district may provide
125 emergency medical services. The district shall have all other
126 powers necessary to carry out these purposes.
127 (3) Nothing herein shall prevent the district from
128 cooperating with the state or other local governments to render
129 such services to communities adjacent to the land described in
130 this section as evidenced by a signed aid agreement.
131 (4) The district charter may be amended only by special
132 act of the Legislature.
133 Section 3. Board of commissioners.--
134 (1) Pursuant to chapter 191, Florida Statutes, the
135 business and affairs of the district shall be governed and
136 administered by a board of five commissioners, who shall be
137 qualified electors residing within the district and shall be
138 elected by the qualified electors residing within the district
139 at a general election, subject to the provisions of chapters 189

140 and 191, Florida Statutes, and this act. Each commissioner shall
141 hold office until his or her successor is elected and qualified
142 under the provisions of this act. The procedures for conducting
143 district elections and for qualification of candidates and
144 electors shall be pursuant to chapters 189 and 191, Florida
145 Statutes.
146 (2) The five members of the initial board shall be elected
147 by the qualified electors residing within the district. The
148 three elected members for seats 1, 3, and 5 in the initial
149 election under this act shall serve terms of 4 years each. The
150 remaining two selected members for seats 2 and 4 in the initial
151 election under this act shall serve terms of 2 years each.
152 Subsequent elections under this act shall coincide with the
153 general elections of this state. The members of the board shall
154 serve on a nonpartisan basis for a term of 4 years each.
155 (3) Vacancies in office shall be filled by special
156 election, said election to be held coincidental with the next
157 countywide general or special election. The board may appoint a
158 qualified elector of the district to act as commissioner until
159 the vacancy is filled by election. A commissioner must be a
160 qualified elector residing within the district. A commissioner
161 may be removed from office for any reason that a state or county
162 officer may be removed.
163 (4) All elections shall be noticed, called, and held
164 pursuant to the provisions of the general laws of the state,
165 except as otherwise provided herein. The board shall, to the
166 extent possible, coordinate all elections with countywide
167 general or special elections in order to minimize costs.

168 Elections shall be called through the adoption of an appropriate
169 resolution of the district directed to the Board of County
170 Commissioners of Walton County, the Supervisor of Elections of
171 Walton County, and other appropriate officers of the county. The
172 district shall reimburse county government for the actual cost
173 of district elections. No commissioner shall be a paid employee
174 of the district while holding said position. This shall not
175 prevent volunteers from receiving reimbursement for expenses
176 from serving as commissioners.
177 (5) The board may employ such personnel as deemed
178 necessary for the proper function and operation of a fire
179 district. The salaries of fire department and emergency service
180 personnel and any other wages shall be determined by the board.
181 Section 4. Officers; board compensation; bond.--
182 (1) In accordance with chapter 191, Florida Statutes, each
183 elected member of the board shall assume office 10 days
184 following the member's election. Annually, within 60 days after
185 election of new members of said board, the members shall
186 organize by electing from their number a chair, vice chair,
187 secretary, and treasurer. However, the same member may be both
188 secretary and treasurer, in accordance with chapter 191, Florida
189 Statutes.
190 (2) The commissioners may receive reimbursement for actual
191 expenses incurred while performing the duties of their offices
192 in accordance with general law governing per diem for public
193 officials. Commissioners may receive compensation for their
194 services in accordance with chapter 191, Florida Statutes.

195 (3) Each commissioner, upon taking office and in
196 accordance with chapters 189 and 191, Florida Statutes, shall
197 execute to the Governor, for the benefit of the district, a bond
198 of $5,000 with a qualified personal or corporate surety,
199 conditioned upon the faithful performance of the duties of the
200 commissioner's office and upon an accounting for all funds which
201 come into his or her hands as commissioner; however, the
202 treasurer shall furnish a bond of $10,000, which may be in lieu
203 of the $5,000 bond. The premium of such bonds shall be paid from
204 district funds.
205 Section 5. Powers; duties; responsibilities.--
206 (1) The district shall have and the board may exercise by
207 majority vote all the powers and duties set forth in this act
208 and chapters 189, 191, and 197, Florida Statutes, including, but
209 not limited to, special assessments, other revenue-raising
210 capabilities, budget preparation and approval, liens and
211 foreclosure of liens, use of tax deeds and tax certificates as
212 appropriate from non-ad valorem assessments, contractual
213 agreements, and adoption of ordinances and resolutions that are
214 necessary to conduct district business if such ordinances do not
215 conflict with any ordinance of a local general purpose
216 government within whose jurisdiction the district is located.
217 (2) The board shall continue to have the right, power, and
218 authority to levy annually special assessment against the
219 taxable property within the district to provide funds for the
220 purposes of the district, in an amount not to exceed the limit
221 provided in chapter 191, Florida Statutes.

222 (3) The methods for assessing and collecting special
223 assessments, fees, or service charges shall be as set forth in
224 this act and chapters 170, 189, 191, and 197, Florida Statutes.
225 (4) The district shall levy and collect special
226 assessments in accordance with chapter 200, Florida Statutes.
227 (5) The district is authorized to levy and enforce special
228 assessments in accordance with chapters 170, 189, 191, and 197,
229 Florida Statutes.
230 (6) The district's planning requirements shall be as set
231 forth in this act and chapters 189 and 191, Florida Statutes.
232 (7) Requirements for financial disclosure, meeting
233 notices, reporting, public records maintenance, and per diem
234 expenses for officers and employees shall be as set forth in
235 this act and chapters 112, 119, 189, 191, and 286, Florida
236 Statutes.
237 Section 6. Impact fees.--
238 (1) Pursuant to section 191.009(4), Florida Statutes, it
239 is hereby declared that the cost of new facilities borne by fire
240 protection and emergency services should be borne by new users
241 of the district's services to the extent new construction
242 requires new facilities, but only to that extent. It is the
243 legislative intent of this section to transfer to the new users
244 of the district's fire protection and emergency services a fair
245 share of the costs that new users impose on the district for new
246 facilities. This shall only apply in the event that the general-
247 purpose local government in which the district is located has
248 not adopted an impact fee for fire services which is distributed

249 to the district for construction within its jurisdictional
250 boundaries.
251 (2) The impact fees collected by the district pursuant to
252 this section shall be kept as a separate fund from other
253 revenues of the district and shall be used exclusively for the
254 acquisition, purchase, or construction of new facilities or
255 portions thereof required to provide fire protection and
256 emergency services to new construction. "New facilities" means
257 land, buildings, and capital equipment, including, but not
258 limited to, fire and emergency vehicles and radio telemetry
259 equipment. The fees shall not be used for the acquisition,
260 purchase, or construction of facilities which must be obtained
261 in any event, regardless of growth within the district. The
262 board of fire commissioners shall maintain adequate records to
263 ensure that impact fees are expended only for permissible new
264 facilities.
265 Section 7. Special assessments.--
266 (1) The board shall have the right, power, and authority
267 to levy special assessments against the taxable real estate
268 within the district to provide funds for the purpose of the
269 district.
270 (2)(a) For each residential dwelling or mobile home
271 situated on any parcel of land within said district, the charge
272 shall be $25 annually. It is expressly understood that mobile
273 home parks or multiunit dwellings are not included in this
274 category and shall be included in paragraph (b).

275 (b) For each mobile home park, apartment building, motel,
276 hotel, condominium, townhouse, or other multifamily residence,
277 the charge shall not exceed:
278 1. 2 to 4 units or lots, $25 each annually.
279 2. 5 to 10 units or lots, $20 each annually.
280 3. 11 to 25 units or lots, $18 each annually.
281 4. Over 25 units or lots, $15 each annually.
282 (c) For each commercial establishment or business, the
283 charge shall not exceed the following rates:
284 1. Up to 5,000 square feet of floor space: $50 annually.
285 2. Over 5,000 square feet of floor space: $100 annually.
286
287 The existence of a commercial establishment or business shall be
288 evidenced by the presence of advertising signs, by tax roll
289 classification, or by custom. Business enterprises wholly
290 contained within a residential unit shall not be included in
291 this category and shall be included under paragraph (a).
292 Multifamily residential units and mobile home parks shall be
293 included under paragraph (b).
294 (d) No assessment shall be levied for any parcel of
295 agricultural, timber, unimproved residential, or other
296 unimproved property. Adjoining parcels owned by an individual
297 taxpayer will be treated as one parcel for assessment purposes,
298 even though they may be shown as separate items on the county
299 tax roll.
300 (e) No assessment shall be levied against churches,
301 schools, governmental property, or property owned by other
302 nonprofit charitable organizations.

303 (f) Any increase in the special assessment must be
304 approved by a majority of the electors within the Argyle Fire
305 District.
306 (3) It is the legislative intent that this act shall
307 authorize the Walton County Property Appraiser and the Walton
308 County Tax Collector to take all appropriate action to comply
309 with the intent of the purpose of this act.
310 (4) It is also the legislative intent that the board of
311 commissioners shall be a vehicle to provide funding to
312 accomplish the purpose set out in this act.
313 Section 8. Property appraiser.--
314 (1) The Walton County Property Appraiser shall furnish the
315 commissioners a tax roll covering all taxable properties within
316 the district on or before July 1 of each year.
317 (2) The Walton County Property Appraiser shall include in
318 the Walton County tax roll the assessments made by the board,
319 and the same shall be collected in the manner as provided for by
320 this act and paid over by the Walton County Tax Collector to the
321 board.
322 (3) The Walton County Property Appraiser shall be
323 reimbursed for assessing such special assessments in the manner
324 and amount authorized by general law, and the Walton County Tax
325 Collector shall receive a commission or fee of 3 percent for
326 collection of such special assessments.
327 Section 9. Special assessment as a lien.--The special
328 assessment levied and assessed by the district shall be a lien
329 upon the property so assessed along with the county taxes
330 assessed against such property until said assessment and taxes

331 have been paid, and if the special assessment levied by the
332 district becomes delinquent, such special assessment shall be
333 considered a part of the county tax subject to the same
334 penalties, charges, fees, and remedies for enforcement and
335 collection of such taxes.
336 Section 10. Deposit of special assessments; fees;
337 authority to disburse funds.--
338 (1) The proceeds of the assessments and funds of the
339 district shall be deposited in qualified public depositories in
340 accordance with chapters 191 and 280, Florida Statutes, in the
341 name of the district in a bank authorized to receive deposits of
342 district funds. The bank shall be designated by a resolution of
343 the board.
344 (2) All warrants for the payment of labor, equipment, and
345 other expenses of the board, and in carrying into effect this
346 act and the purpose thereof, shall be payable by the treasurer
347 of the board on accounts and vouchers approved and authorized by
348 two board members. No funds of the district shall be paid out or
349 disbursed except by check signed by two board members.
350 Section 11. Authority to borrow money.--
351 (1) The board of commissioners shall have the power and
352 authority to borrow money or issue other evidences of
353 indebtedness for the purpose of the district in accordance with
354 chapters 189 and 191, Florida Statutes, provided, however, that
355 the total payments in any one year, including principal and
356 interest, on any indebtedness incurred by the district shall not
357 exceed 50 percent of the total estimated annual budgeted
358 revenues of the district.

359 (2) The board of commissioners, board of directors as a
360 body, or any of the members of either board as individuals shall
361 not be personally or individually liable for the repayment of
362 such loan. Such repayment shall be made out of the special
363 assessment receipts of the district, except as provided in this
364 subsection. The commissioners shall not create any indebtedness
365 or incur obligations for any sum or amount which they are unable
366 to repay out of district funds available to them at that time,
367 except as otherwise provided in this act, provided, however,
368 that the commissioners may make purchases of equipment on an
369 installment basis as necessary if funds are available for the
370 payment of the current year's installment on such equipment plus
371 the amount due in that year of any of the installments and the
372 repayment of any bank loan or other existing indebtedness which
373 may be due that year.
374 Section 12. Use of district funds.--No funds of the
375 district shall be used for any purposes other than the
376 administration of the affairs and business of the district; the
377 construction, care, maintenance, upkeep, operation, and purchase
378 of firefighting and rescue equipment or fire station; the
379 payment of public utilities; and the payment of salaries of
380 district personnel as the board may from time to time determine
381 to be necessary for the operations and effectiveness of the
382 district.
383 Section 13. Record of board meetings; authority to adopt
384 rules and regulations; annual reports; budget.--
385 (1) A record shall be kept of all meetings of the board,
386 and in such meetings concurrence of a majority of the

387 commissioners present shall be necessary to any affirmative
388 action by the board.
389 (2) The board shall have the authority to adopt and amend
390 rules and regulations for the administration of the affairs of
391 the district under the terms of this act and chapters 189 and
392 191, Florida Statutes, which shall include, but not be limited
393 to, the authority to adopt the necessary rules and regulations
394 for the administration and supervision of the property and
395 personnel of the district; for the prevention of fires, fire
396 control, fire hydrant placement, and flow testing in accordance
397 with current NFPA rules; and for rescue work within the
398 district. Said commissioners shall have all the lawful power and
399 the authority necessary to carry out the purposes of said fire
400 district; to purchase all necessary real and personal property;
401 to purchase and carry standard insurance policies on all such
402 equipment; to employ such personnel as may be necessary to carry
403 out the purpose of said fire district; to provide adequate
404 insurance for said employees; to purchase and carry appropriate
405 insurance for the protection of all firefighters and personnel
406 as well as all equipment and personal property on loan to the
407 district; to sell surplus real and personal property in the same
408 manner and subject to the same restrictions as provided for such
409 sales by counties; to enter into contracts with qualified
410 service providers, the Argyle Fire District of Walton County,
411 other fire departments, municipalities, and state and federal
412 governmental units for the purpose of obtaining financial aid;
413 and for otherwise carrying out the purposes of the district. The

414 commissioners shall adopt a fiscal year for said fire district,
415 which shall be October 1 to September 30.
416 (3) Any policies, rules, and regulations promulgated and
417 made by the board shall have the force and effect of law after
418 copies thereof, signed by the secretary and chair or vice chair,
419 shall have been posted in three public places within the
420 district in conspicuous locations and advertised by title once a
421 week for 2 consecutive weeks in a newspaper of general paid
422 circulation in the district.
423 (4) The board shall, on or before November 1, make an
424 annual report of its actions and accounting of its funds as of
425 September of that year, and shall file said report in the office
426 of the Clerk of the Circuit Court of Walton County, whose duty
427 it shall be to receive and file said report and hold and keep
428 the same as a public record.
429 (5) For the purposes of carrying into effect this act, the
430 board shall annually prepare, consider, and adopt a district
431 budget pursuant to the applicable requirements of chapters 189
432 and 191, Florida Statutes. The board shall, at the same time as
433 it makes its annual report, file its estimated budget for the
434 fiscal year beginning October 1, which budget shall show the
435 estimated revenue to be received by the district and the
436 estimated expenditures to be incurred by the district in
437 carrying out its operations.
438 Section 14. Authority to enact fire prevention ordinances;
439 appoint or employ a fire chief; acquire land; enter contracts;
440 establish salaries; general and special powers; authority to
441 provide emergency medical and rescue services.--

442 (1) The board of commissioners shall have the right and
443 power to enact fire prevention ordinances in the same manner
444 provided for the adoption of policies and regulations in
445 subsection (2) of section 13, and when the provisions of such
446 fire prevention ordinances are determined by the board to be
447 violated, the office of the state attorney, upon written notice
448 of such violation issued by the board, is authorized to
449 prosecute such person or persons held to be in violation
450 thereof. Any person found guilty of a violation may be punished
451 as provided in chapter 775, Florida Statutes, as a misdemeanor
452 of the second degree. The cost of such prosecution shall be paid
453 out of the district funds, unless otherwise provided by law.
454 (2) The board shall have the power to appoint or employ a
455 fire chief, who shall be a person experienced in all types of
456 firefighting and fire prevention and who shall work with and
457 cooperate with the Fire Marshal in which the district is
458 situated in the prevention of fires of all types. The district
459 fire chief shall be authorized to enter, at all reasonable
460 hours, any building or premises for the purpose of making any
461 inspection or investigation which the State Fire Marshal is
462 authorized to make pursuant to state law and regulation. The
463 owner, lessee, manager, or operator of any building or premises
464 shall permit the district fire chief to enter and inspect the
465 building or premises at all reasonable hours. The district fire
466 chief shall report any violations of state fire safety laws or
467 regulations to the appropriate officials.
468 (3) The board shall have the power to acquire, by gift or
469 purchase, lands or rights in lands, and any other property, real

470 and personal, tangible or intangible, necessary, desirable, or
471 convenient for carrying out the purposes of the district, and to
472 pay any and all costs of same out of the funds of the district,
473 provided that prior to the acquisition of the location of a fire
474 station site, an appropriate investigation shall be conducted
475 which shall include, but not be limited to, obtaining the staff
476 recommendation of the Walton County Planning Department.
477 (4) The board shall have the power to enter into contracts
478 or to otherwise join with the Argyle Fire District of Walton
479 County, or to otherwise join with any other district, city, or
480 town, the United States of America, or any agency or authority
481 thereunder, for the purpose of expanding services, providing
482 effective aid, and accomplishing and carrying out the purposes
483 for which the district was created and for the further purpose
484 of specifically obtaining financial aid, assistance, or subsidy.
485 (5) The salaries of fire department personnel and any
486 other wages shall be determined by the board.
487 (6) The district is authorized to establish and maintain
488 emergency medical and rescue response services and acquire and
489 maintain rescue, medical, and other emergency equipment, subject
490 to the provisions of chapter 401, Florida Statutes.
491 Section 15. Annexations.--If any municipality or other
492 fire control district annexes any land included in the district,
493 such annexation shall follow the procedures set forth in section
494 171.093, Florida Statutes.
495 Section 16. Dissolution.--The district shall exist until
496 dissolved in the same manner as it was created. If the Argyle
497 Fire District of Walton County is dissolved or ceases to exist

498 for any reason, or if the board determines that the Argyle Fire
499 District of Walton County is unable to carry out its objectives
500 as stated or the objectives of the district as stated in
501 subsection (2) of section 2, or the district's published
502 policies, the board shall in its discretion make arrangements
503 for other means of providing fire protection and rescue
504 services.
505 Section 17. Immunity from tort liability.--
506 (1) The district and its officers, agents, and employees
507 shall have the same immunity from tort liability as other
508 agencies and subdivisions of the state. The provisions of
509 chapter 768, Florida Statutes, shall apply to all claims
510 asserted against the district.
511 (2) The district commissioners and all officers, agents,
512 and employees of the district shall have the same immunity and
513 exemption from personal liability as is provided by general law
514 of the state for state, county, and municipal officers.
515 (3) The district shall defend all claims against the
516 commissioners, officers, agents, and employees which arise
517 within the scope of employment or purposes of the district and
518 shall pay all judgments against said persons, except where said
519 persons acted in bad faith or with malicious purpose or in a
520 manner exhibiting wanton and willful disregard of human rights,
521 safety, or property.
522 Section 18. District expansion.--
523 (1) The district boundaries may be extended from time to
524 time as follows:

525 (a) Land contiguous to the boundaries of the district in
526 unincorporated Walton County may be included in the district
527 when a petition for inclusion signed and sworn to by a majority
528 of the owners of the real property within the tract or tracts to
529 be included in the district has been presented to the board of
530 commissioners and the proposal has been approved by the
531 affirmative vote of no fewer than three members of the board of
532 commissioners at a regular meeting.
533 (b) The petition must contain the legal description of the
534 property sought to be added to the district and the names and
535 addresses of the owners of the property.
536 (2) If a proposal to add an area to the district as
537 defined in subsection (1) is approved by the affirmative vote of
538 no fewer than three members of the board of commissioners at a
539 regular meeting, the board of commissioners shall thereafter
540 adopt a resolution describing the lands to be included within
541 the district and shall cause such resolution to be duly enrolled
542 in the record of the meeting and a certified copy of the
543 resolution to be recorded in the Office of the Clerk of the
544 Circuit Court of Walton County.
545 (3) Upon adoption of the resolution by the board, the
546 district shall, pursuant to chapter 191, Florida Statutes,
547 request that its legislative delegation approve said addition
548 and sponsor legislation amending the district boundary. Upon
549 approval by the Legislature, the boundary shall be amended.
550 (4) Lands within municipal boundaries of cities contiguous
551 to district boundaries may be included in the district upon
552 request by the governing board of the municipality, approval of

553 said request by affirmative vote of no fewer that three members
554 of the district board, and referendum approval of inclusion by
555 the electors of the municipality. The referendum shall be
556 conducted by the municipality at the next available special or
557 general election.
558 Section 19. Construction.--This act shall be construed as
559 remedial and shall be liberally construed to promote the purpose
560 for which it is intended.
561 Section 20. Effect.--In the event that any part of this
562 act should be held void for any reason, such holding shall not
563 affect any other part thereof.
564 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1443 CS Construction Lien Law
SPONSOR(S): Russell; Traviesa
TIED BILLS: None **IDEN./SIM. BILLS:** SB 588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice Committee	7 Y, 0 N, w/CS	Blalock	Bond
2) Local Government Council		Smith T.L.S.	Hamby
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

This bill amends the Construction Lien Law to:

- Allow for the local building department to electronically deliver a summary of the Construction Lien Law to the property owner;
- Provide that a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means a certified copy of the recorded notice of commencement;
- Increase from $5,000 to $7,500 the amount of a direct contract to repair or replace an existing heating or air-conditioning system in which a Notice of Commencement need not be filed;
- Provide that an issuing authority or a building official may not require that a notice of commencement be recorded as a condition of the application, processing, or issuance of a building permit;
- Authorize authorities issuing building permits to accept permit applications electronically and require an electronic application to include a sworn electronic submission statement;
- Require that an authority responsible for issuing building permit applications, which accepts building permit applications in an electronic format, provide public Internet access to the electronic building permit applications in a searchable format;
- Provide that when notices or other documents are sent by overnight or second-day delivery, evidence of delivery may be in electronic format.
- Provide procedures for determining the effective date of the service of notice when the notice was served electronically; and
- Provide that any person, firm, or corporation that furnishes a waiver or release of lien, or other documents containing false information, commits a third degree felony.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill amends construction lien law to both increase and decrease regulation.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 713.13, F.S., provides that the recording of a notice of commencement gives constructive notice that claims of lien may be recorded and may take priority. It does not constitute a lien, cloud, or encumbrance on real property.[1]

Liens for professional services and subdivision improvements attach at the time they are recorded and take priority at that time.[2] Liens of materialmen or laborers who are in privity with the owner and who comply with the provisions of ch. 713, F.S., attach and take priority at the time the notice of commencement is recorded. However, in the event a notice of commencement is not filed, the liens attach and take priority at the time the claim of lien is recorded.

A notice of commencement must be recorded in the clerk's office before a contractor actually begins an improvement to real property or recommences completion of any improvement after default or abandonment. The notice must provide:

- A description of the real property;
- A general description of the improvement;
- Name and address of the owner, the owner's interest in the site of the improvement, and the name and address of the fee simple titleholder, if other than the owner;
- The name and address of the contractor;
- The name and address of the surety on the payment bond, if any, and the amount of the bond (a copy of the bond must be attached to the notice; however, if the bond is not recorded it may be used as a transfer bond under s. 713.24, F.S.);[3]
- The name and address of any person making a loan for the construction of the improvements; and
- The name and address of a designated person upon whom documents may be served if other than the owner.

As a pre-requisite to perfecting a lien and recording a claim of lien, all lienors who are not in privity with the owner, except laborers, must serve a notice on the owner.[4] A notice to the owner provides the identity of all persons that have furnished labor or materials to improve the owner's property. The notice to the owner protects the owner from double payment and establishes priority of lien.[5] When final payment under a direct contract is due, the contractor must provide the owner a final payment affidavit. The contractor's final payment affidavit must state that all lienors under direct

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[1] Section 713.13(3), F.S.
[2] Section 713.07, F.S.
[3] Section 713.13(1)(e), F.S. A transfer bond allows an owner, who has erred and not recorded the bond with the notice of commencement, to transfer liens which are recorded against the owner's property. A lien may be transferred from the real property by depositing the amount required by s. 713.24(3), F.S., with the Clerk of the Court or by filing a surety bond in that amount with the clerk.
[4] Section 713.06(2)(a), F.S.
[5] Section 713.06, F.S.

contract have been paid in full, or if not paid in full, stating the name of each lienor that has not been paid in full and the amount due. Those lienors that fail to provide a notice to the owner may lose their lien rights if the owner makes proper payments.[6]

After receipt of a lienor notice to the owner,[7] an owner must make proper payments to the lienor. Proper payment means the owner pays all lienors named in the notice directly.[8] Similarly, when an owner receives a contractor's final payment affidavit, the owner must make proper payments to the contractor. Owners that make these payments will have a proper payment defense against any claim of lien. The notice of commencement must state if the contract between the owner and the contractor named in the notice is for construction or improvement that takes in excess of one year. Any payments made by the owner after the expiration of the notice are considered improper payments.

Effect of Proposed Changes

Requirements for Issuing Building Permits

Section 713.135(1), F.S., provides that when any person applies for a building permit, the authority issuing the permit is required to:

- Print on the face of each permit card a statement that the owner's failure to record a notice of commencement may result in the owner paying twice for improvements to the property;[9]
- Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the construction lien law. The authority must also provide the applicant with a statement from the department providing a summary of construction lien law. The authority must mail the statement to the owner;[10] and
- Inform each applicant who is not the person whose right, title, and interest is subject to attachment, that as a condition to the issuance of a building permit, the applicant must promise in good faith that the statement will be delivered to the person whose property is subject to attachment.

Section 713.135(1)(d), F.S., provides that a Notice of Commencement is not required in direct contracts to repair or replace an existing heating or air-conditioning system in an amount less than $5,000.

This bill amends s. 713.135(1)(b), F.S., to require that the building permit issuing authority must mail, deliver by electronic mail or other electronic format or facsimile, or personally deliver the statement required a summary of the Construction Lien Law to the owner or personally deliver the summary to the owner or, if the owner is required to personally appear to obtain the permit , provide the summary to any owner making improvements to real property.

This bill amends s. 713.135 (1)(d), F.S., to provide that in addition to a building permit issuing authority, a private provider performing inspection services may not perform or approve subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means a certified copy of the recorded notice of commencement.

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[6] Section 713.06(3)(d), F.S.
[7] The notice to owner must be served no later then 45 days from commencing services to the property and before the date of the owner's final payment after the contractor has furnished the required final payment affidavit. s. 713.06(2)(a), F.S.
[8] Section 713.06, F.S.
[9] Section 713.135(1)(a), F.S.
[10] Section 713.135(1)(b), F.S.

This bill also amends s. 713.135(1)(d), F.S., by increasing the amount from $5,000 to $7,500 in direct contracts to repair or replace an existing heating or air-conditioning system in which a Notice of Commencement need not be filed.

This bill amends s. 713.135(1)(e), F.S., by providing that an issuing authority or a building official may not require that a notice of commencement be recorded as a condition of the application, processing, or issuance of a building permit. It provides that the paragraph does not modify or waive the inspection requirements set forth in the subsection.

This bill amends s. 713.135(4), F.S., to conform with the electronic mail provisions in the new s. 713.135(6)(b), F.S.

This bill amends s. 713.135(6)(b) and (c), F.S., to authorize authorities issuing building permits to accept permit applications electronically. It requires an electronic application to include a sworn electronic submission statement. This bill also requires that an authority responsible for issuing building permit applications that accepts building permit applications in an electronic format provide public Internet access to the electronic building permit applications in a searchable format.

Procedures for Serving Notices and Other Instruments

Section 713.18, F.S., provides that service of notices and other documents required under the Construction Lien Law must be made by actual delivery to the person to be served; or if a partnership, to one of the partners; or, if a corporation, to an officer, director, managing agent, or business agent thereof.[11] If service of notices by actual delivery or by mail cannot be accomplished, then posting on the premises is permitted.[12]

Section 713.18(1)(b), F.S., provides that notice may be sent by registered or certified mail, with postage prepaid, or by overnight or second-day delivery with evidence of delivery.[13] If a notice to an owner, is mailed by registered or certified mail with postage prepaid to the person to be served, within 40 days after the date the lienor first furnishes labor, services, or materials, service of that notice is effective as of the date of mailing if the person who served the notice maintains a registered or certified mail log that shows:[14] (1) the registered or certified mail number issued by the United States Postal Service; (2) the name and address of the person served; and (3) the date stamp of the United States Postal Service confirming the date of mailing.

This bill amends s. 713.18(1)(b), F.S., to provide that evidence of delivery of documents that are sent by overnight or second day delivery with postage paid as required under Construction Lien Law can be in electronic format.

This bill also amends s. 713.18(1)(b), F.S., to provide that where the person who served notice maintains electronic tracking records generated through the United States Postal Service, containing the postal tracking number, the service of notice is effective as of the date of mailing, if the person shows the name and address of the person served, and verification of the date of receipt by the United States Postal Service.

Making or Furnishing False Statement

Section 713.35, F.S., provides that if any person, firm, or corporation knowingly and intentionally furnishes to another person, firm, or corporation a written statement in the form of an affidavit containing false information about the payment status of subcontractors, sub-subcontractors, or

[11] Section 713.18(1)(a), F.S.
[12] Section 713.18(1)(c), F.S.
[13] Section 713.18(1)(b), F.S.
[14] Section 713.18(1)(b), F.S.

suppliers in connection with the improvement of real property in this state, and that person relies on the information to his detriment, then that person is guilty of a felony of the third degree.[15]

The bill amends s. 713.35, F.S., by revising the list of legal documents to include a waiver or release of lien, or other document in which it is a third-degree felony to knowingly and intentionally include certain false information about the payment status of subcontractors, sub-subcontractors, or suppliers in connection with the improvement of real property.

C. SECTION DIRECTORY:

Section 1 amends s. 713.135, F.S., relating to the notice of commencement and applicability of a lien.

Section 2 amends s. 713.18, F.S., relating to the use of electronic mailing and other formats for serving notices, claims of lien, affidavits, and other documents required by the Construction Lien Law.

Section 3 amends s. 713.35, F.S., relating to the making or furnishing a false statement.

Section 4 provides an effective date of October 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:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[15] Section 713.35, F.S.

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

On March 28, 2006 the Civil Justice Committee adopted two amendments to this bill. The first amendment provided that evidence of delivery of service of notices, claims of lien, affidavits, and other documents required by the Construction Lien Law may be in an electronic format when notice is sent by overnight or second-day delivery. The second amendment provided procedures for determining the effective date of a service of notice when the notice was served electronically and the person who served the notice maintains electronic tracking records. The bill, as amended, was reported favorably with committee substitute.

CHAMBER ACTION

1 The Civil Justice 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 the Construction Lien Law; amending s.
7 713.135, F.S.; revising certain notice of commencement and
8 applicability of lien requirements for certain authorities
9 issuing building permits; prohibiting private providers
10 performing inspection services from performing or
11 approving certain inspections under certain circumstances;
12 increasing a threshold amount for certain application
13 requirement exemptions; prohibiting issuing authorities
14 from requiring recordation of a notice of commencement for
15 certain purposes; authorizing fees for furnishing copies
16 of certain statements; authorizing authorities issuing
17 building permits to accept permit applications
18 electronically; requiring an electronic submission
19 statement on building permit applications; requiring
20 provision of Internet access; amending s. 713.18, F.S.;
21 providing for electronic evidence of delivery of notices
22 required by the Construction Lien Law; amending s. 713.35,
23 F.S.; revising provisions relating to the making or

24 furnishing of false statements on certain construction
25 documents; providing penalties; providing an effective
26 date.
27
28 Be It Enacted by the Legislature of the State of Florida:
29
30 Section 1. Paragraphs (b) and (d) of subsection (1) and
31 subsections (4) and (6) of section 713.135, Florida Statutes,
32 are amended, and paragraph (e) is added to subsection (1) of
33 that section, to read:
34 713.135 Notice of commencement and applicability of
35 lien.--
36 (1) When any person applies for a building permit, the
37 authority issuing such permit shall:
38 (b) Provide the applicant and the owner of the real
39 property upon which improvements are to be constructed with a
40 printed statement stating that the right, title, and interest of
41 the person who has contracted for the improvement may be subject
42 to attachment under the Construction Lien Law. The Department of
43 Business and Professional Regulation shall furnish, for
44 distribution, the statement described in this paragraph, and the
45 statement must be a summary of the Construction Lien Law and
46 must include an explanation of the provisions of the
47 Construction Lien Law relating to the recording, and the posting
48 of copies, of notices of commencement and a statement
49 encouraging the owner to record a notice of commencement and
50 post a copy of the notice of commencement in accordance with s.
51 713.13. The statement must also contain an explanation of the

52 owner's rights if a lienor fails to furnish the owner with a
53 notice as provided in s. 713.06(2) and an explanation of the
54 owner's rights as provided in s. 713.22. The authority that
55 issues the building permit must obtain from the Department of
56 Business and Professional Regulation the statement required by
57 this paragraph and must mail, deliver by electronic mail or
58 other electronic format or facsimile, or personally deliver that
59 statement to the owner or, in a case in which the owner is
60 required to personally appear to obtain the permit, provide that
61 statement to any owner making improvements to real property
62 consisting of a single or multiple family dwelling up to and
63 including four units. However, the failure by the authorities to
64 provide the summary does not subject the issuing authority to
65 liability.
66 (d) Furnish to the applicant two or more copies of a form
67 of notice of commencement conforming with s. 713.13. If the
68 direct contract is greater than $2,500, the applicant shall file
69 with the issuing authority prior to the first inspection either
70 a certified copy of the recorded notice of commencement or a
71 notarized statement that the notice of commencement has been
72 filed for recording, along with a copy thereof. In the absence
73 of the filing of a certified copy of the recorded notice of
74 commencement, the issuing authority or a private provider
75 performing inspection services may ~~shall~~ not perform or approve
76 subsequent inspections until the applicant files by mail,
77 facsimile, hand delivery, or any other means such certified copy
78 with the issuing authority. The certified copy of the notice of
79 commencement must contain the name and address of the owner, the

80 name and address of the contractor, and the location or address
81 of the property being improved. The issuing authority shall
82 verify that the name and address of the owner, the name of the
83 contractor, and the location or address of the property being
84 improved which is contained in the certified copy of the notice
85 of commencement is consistent with the information in the
86 building permit application. The issuing authority shall provide
87 the recording information on the certified copy of the recorded
88 notice of commencement to any person upon request. This
89 subsection does not require the recording of a notice of
90 commencement prior to the issuance of a building permit. If a
91 local government requires a separate permit or inspection for
92 installation of temporary electrical service or other temporary
93 utility service, land clearing, or other preliminary site work,
94 such permits may be issued and such inspections may be conducted
95 without providing the issuing authority with a certified copy of
96 a recorded notice of commencement or a notarized statement
97 regarding a recorded notice of commencement. This subsection
98 does not apply to a direct contract to repair or replace an
99 existing heating or air-conditioning system in an amount less
100 than $7,500 ~~$5,000~~.
101 (e) Not require that a notice of commencement be recorded
102 as a condition of the application for or processing or issuance
103 of a building permit. However, this paragraph does not modify or
104 waive the inspection requirements set forth in this subsection.
105 (4) The several boards of county commissioners, municipal
106 councils, or other similar bodies may by ordinance or resolution
107 establish reasonable fees for furnishing copies of the forms and

108 the printed statement provided in paragraphs ~~paragraph~~ (1)(b)
109 and (d) in an amount not to exceed $5 to be paid by the
110 applicant for each permit in addition to all other costs of the
111 permit; however, no forms or statement need be furnished,
112 mailed, or otherwise provided to, nor may such additional fee be
113 obtained from, applicants for permits in those cases in which
114 the owner of a legal or equitable interest (including that of
115 ownership of stock of a corporate landowner) of the real
116 property to be improved is engaged in the business of
117 construction of buildings for sale to others and intends to make
118 the improvements authorized by the permit on the property and
119 upon completion will offer the improved real property for sale.
120 (6)(a) In addition to any other information required by
121 the authority issuing the permit, the building permit
122 application must be in substantially the following form:
123
124 Tax Folio No._____
125 BUILDING PERMIT APPLICATION
126
127 Owner's Name
128 Owner's Address
129 Fee Simple Titleholder's Name (If other than owner)
130 Fee Simple Titleholder's Address (If other than owner)
131 City
132 State_____ Zip_____
133 Contractor's Name
134 Contractor's Address
135 City

136 State_____ Zip_____
137 Job Name
138 Job Address
139 City_____ County_____
140 Legal Description
141 Bonding Company
142 Bonding Company Address
143 City_____ State_____
144 Architect/Engineer's Name
145 Architect/Engineer's Address
146 Mortgage Lender's Name
147 Mortgage Lender's Address
148
149 Application is hereby made to obtain a permit to do the
150 work and installations as indicated. I certify that no work or
151 installation has commenced prior to the issuance of a permit and
152 that all work will be performed to meet the standards of all
153 laws regulating construction in this jurisdiction. I understand
154 that a separate permit must be secured for ELECTRICAL WORK,
155 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,
156 TANKS, and AIR CONDITIONERS, etc.
157
158 OWNER'S AFFIDAVIT: I certify that all the foregoing information
159 is accurate and that all work will be done in compliance with
160 all applicable laws regulating construction and zoning.
161
162

163 WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
164 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO
165 YOUR PROPERTY.
166
167
168 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR
169 AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.
170
171 (Signature of Owner or Agent)
172 (including contractor)
173 STATE OF FLORIDA
174 COUNTY OF _____
175
176
177 Sworn to (or affirmed) and subscribed before me this _____
178 day of _____, (year) , by (name of person making statement)
179 .
180
181 (Signature of Notary Public - State of Florida)
182 (Print, Type, or Stamp Commissioned Name of Notary Public)
183
184 Personally Known _____ OR Produced Identification _____
185
186 Type of Identification Produced _____
187 (Signature of Contractor)
188
189
190 STATE OF FLORIDA

191 COUNTY OF _____
192
193
194 Sworn to (or affirmed) and subscribed before me this _____
195 day of _____, (year) , by (name of person making statement)
196 .
197
198 (Signature of Notary Public - State of Florida)
199 (Print, Type, or Stamp Commissioned Name of Notary Public)
200
201 Personally Known _____ OR Produced Identification _____
202
203 Type of Identification Produced _____
204
205 (Certificate of Competency Holder)
206
207 Contractor's State Certification or Registration No._____
208
209 Contractor's Certificate of Competency No._____
210
211 APPLICATION APPROVED BY
212 _____ Permit Officer
213
214 (b) Consistent with the requirements of paragraph (a), an
215 authority responsible for issuing building permits under this
216 section may accept a building permit application in an
217 electronic format, as prescribed by the authority. Building

218 permit applications submitted to the authority electronically
219 must contain the following additional statement:
220
221 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of
222 perjury, I declare that all the information contained in this
223 building permit application is true and correct.
224
225 (c) An authority responsible for issuing building permit
226 applications which accepts building permit applications in an
227 electronic format shall provide public Internet access to the
228 electronic building permit applications in a searchable format.
229 Section 2. Paragraph (b) of subsection (1) of section
230 713.18, Florida Statutes, is amended to read:
231 713.18 Manner of serving notices and other instruments.--
232 (1) Service of notices, claims of lien, affidavits,
233 assignments, and other instruments permitted or required under
234 this part, or copies thereof when so permitted or required,
235 unless otherwise specifically provided in this part, must be
236 made by one of the following methods:
237 (b) By sending the same by registered or certified mail,
238 with postage prepaid, or by overnight or second-day delivery
239 with evidence of delivery, which may be in an electronic format.
240 1. If a notice to owner, a notice to contractor under s.
241 713.23, or a preliminary notice under s. 255.05 is mailed by
242 registered or certified mail with postage prepaid to the person
243 to be served at any of the addresses set forth in subparagraph
244 2. within 40 days after the date the lienor first furnishes
245 labor, services, or materials, service of that notice is

246 effective as of the date of mailing if the person who served the
247 notice maintains a registered or certified mail log that shows
248 the registered or certified mail number issued by the United
249 States Postal Service, the name and address of the person
250 served, and the date stamp of the United States Postal Service
251 confirming the date of mailing or if the person who served the
252 notice maintains electronic tracking records generated through
253 use of the United States Postal Service Confirm service or a
254 similar service containing the postal tracking number, the name
255 and address of the person served, and verification of the date
256 of receipt by the United States Postal Service.
257 2. If an instrument served pursuant to this section to the
258 last address shown in the notice of commencement or any
259 amendment thereto or, in the absence of a notice of
260 commencement, to the last address shown in the building permit
261 application, or to the last known address of the person to be
262 served, is not received, but is returned as being "refused,"
263 "moved, not forwardable," or "unclaimed," or is otherwise not
264 delivered or deliverable through no fault of the person serving
265 the item, then service is effective on the date the notice was
266 sent.
267 Section 3. Section 713.35, Florida Statutes, is amended to
268 read:
269 713.35 Making or furnishing false statement.--Any person,
270 firm, or corporation who knowingly and intentionally makes or
271 furnishes to another person, firm, or corporation~~, a written~~
272 ~~statement in the form of~~ an affidavit, a waiver or release of
273 lien, or other document, whether or not under oath, containing

274 false information about the payment status of subcontractors,
275 sub-subcontractors, or suppliers in connection with the
276 improvement of real property in this state, knowing that the one
277 to whom it was furnished might rely on it, and the one to whom
278 it was furnished will part with draw payments or final payment
279 relying on the truth of such statement as an inducement to do so
280 commits ~~is guilty of~~ a felony of the third degree, punishable as
281 provided in s. 775.082 or s. 775.083. A state attorney or the
282 statewide prosecutor, upon the filing of an indictment or
283 information against a contractor, subcontractor, or sub-
284 subcontractor which charges such person with a violation of this
285 section, shall forward a copy of the indictment or information
286 to the Department of Business and Professional Regulation. The
287 Department of Business and Professional Regulation shall
288 promptly open an investigation into the matter and, if probable
289 cause is found, shall furnish a copy of any investigative report
290 to the state attorney or statewide prosecutor who furnished a
291 copy of the indictment or information and to the owner of the
292 property which is the subject of the investigation.
293 Section 4. This act shall take effect October 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1443

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative Russell offered the following:
3
4 **Amendment**
5 Insert between lines 224 - 225 and insert:
6
7 The additional statement is in lieu of the requirement in
8 paragraph (a) that a signed, sworn, and notarized signature of
9 the owner or agent and the contractor be part of the owner's
10 affidavit.
11

000000

PLEASE NOTE

ANALYSIS FOR HB 1483
WILL BE AVAILABLE LATER

HB 1497

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1497 Sunshine Water Control District, Broward County
SPONSOR(S): Sobel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby JAR
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1497 establishes the Sunshine Water Control District (District) in Broward County as a dependent district and incorporates the District's authority into an ordinance of the City of Coral Springs.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill establishes the Sunshine Water Control District in Broward County as a dependent district and repeals and then incorporates chapter 63-609, L.O.F., into an ordinance of the City of Coral Springs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Sunshine Water Control District (District), an independent special district, was created in 1963 by chapter 63-609, L.O.F. The District was created to provide for drainage, reclamation and improvement of water. The District also has the right to dike, dam and construct levees. The District is governed pursuant to chapter 298, F.S. Each landowner within the District is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The District has a three-member board of supervisors. The District currently imposes a special assessment.

Effect of Proposed Changes

This bill repeals chapter 63-609, L.O.F., thereby establishing the Sunshine Water Control District in Broward County as a dependent district and incorporates the District's authority into an ordinance of the City of Coral Springs.

This bill authorizes the City of Coral Springs to provide by ordinance for the election or appointment of a replacement supervisor when a District supervisor's term has expired.

This bill provides that any budget of the District approved subsequent to the effective date of this act be approved by the City of Coral Springs pursuant to the procedures provided in chapters 189 and 200, F.S., and in compliance with the charter of the City of Coral Springs.

This bill provides that except as provided for in this act, nothing will preclude the District from using any power contained in chapter 298, F.S.

The bill provides that all title to property, uncollected taxes and assessments, judgments, causes of action, and property rights held or owned by the District will continue to be vested in the District.

The bill provides that no obligations or contracts, including bonds or causes of action, will be impaired or avoided.

The bill provides that all contracts, franchises, and permits to do business issued by the District will remain in full force and effect according to their terms.

C. SECTION DIRECTORY:

Section 1. Repeals chapter 63-609, L.O.F.

Section 2. Provides upon the expiration of the term of any supervisor of the District for the City of Coral Springs to provide by ordinance for the election or appointment of a replacement supervisor.

Section 3. Provides that any District budget approved subsequent to the effective date of this act be approved by the City of Coral Springs pursuant to the procedures provided in chapters 189 and 200, F.S., and in compliance with the charter of the City of Coral Springs.

Section 4. Provides for the status of the District.

Section 5. Provides that except as provided for in this act, nothing will preclude the District from using any power contained in chapter 298, F.S.

Section 6. Provides for the continuation of all assets, obligations, contracts, franchises, and permits.

Section 7. Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 27, 2006.

WHERE? Sun-Sentinel, Fort Lauderdale, Broward County; Boca Raton, Palm Beach County; Miami, Miami Dade 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:

Other Comments

The City of Margate passed resolution no. 10-539, endorsing HB 1497, relating to the Sunshine Water Control District and the City of Coral Springs, amending chapter 63-609, L.O.F.

Sandy Harris, Executive Director, of the Broward County Legislative Delegation, submitted a letter stating the following (in part):[1]

[1] *See* Memorandum from Sandy Harris (March 16, 2006) (on file with House of Representatives, Local Government Council).

The City of Margate initiated conflict resolution procedures pursuant to chapter 164, F.S., as to the maintenance of the property of the Sunshine Water Control District. The City of Margate determined that large trees on the property owned by the Sunshine Water Control District along the boundary between the City of Coral Springs and the City of Margate remain felled on the property of the Sunshine Water Control District and property within the City of Margate. The fallen tress are a result of Hurricane Wilma.

The properties of the Sunshine Water Control District are totally within the boundaries of the City of Coral Springs. However, the fallen trees have precluded many Margate residents who own property along the boundary between the City of Coral Springs and the City of Margate from utilizing their backyards for any purpose. In addition, the trees pose a danger to ingress and egress for Margate emergency employees and other wise interfere with property within the City of Margate.

The District previously disclaimed any responsibility for the cause or maintenance of the above nuisance in spite of the fact that minutes of the District's Board demonstrate that the District was well aware of the potential liability. Excerpts from the minutes of the Board Meetings show that the District had discussed taking preemptive action to avoid damage to adjacent properties as a result of trees being damaged during a hurricane as long ago as 1995. However, no action was taken. At a meeting between the District and the City of Margate, the District committed to a plan for clean up of the downed trees.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

1497

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:

Sunshine Water Control District

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF:

1/27 12691667

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 Sunshine Water Control District and the City of Coral Springs, Florida; providing for classification and status of the district; providing for election or appointment of supervisors; providing for powers of the district; providing for approval of the budget of the district; providing for powers and responsibilities of the district.
January 27, 2006

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: 27-January-2006, A.D.

_____
(SIGNATURE OF NOTARY PUBLIC)

Commission # DD326508
Expires June 6, 2008
STATE OF FLORIDA
Bonded Thru Atlantic Bonding Insurance, Inc. 800-385-7019

_____
(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN _____ OR

PRODUCED IDENTIFICATION _____

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1497

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: Sunshine Water Control District, 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 [✓] NO [ ]

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

Date hearing held: 3/3/06

Location: City of Margate Commission Chambers

(3) Was this bill formally approved by a majority of the delegation members?
YES [✓] 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 [✓] NO [ ] DATE [1-27-06 **]**

Where? Sun-Sentinel **County** Broward County

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.

Eleanor Sobel 03/07/06

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 1497

SPONSOR(S): Representative Eleanor Sobel

RELATING TO: Sunshine Water Control 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:	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:	0	0

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

Advantages: None

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]:

None

PREPARED BY: _____ _____
[Must be signed by Preparer] Date

TITLE: Representative Ron Greenstein

REPRESENTING: City of Margate

PHONE: (954-956-5600)

E-Mail Address: ron.greenstein@myfloridahouse.gov

1 A bill to be entitled
2 An act relating to the Sunshine Water Control District,
3 Broward County; repealing chapter 63-609, Laws of Florida,
4 the enacting law of the district, and providing for
5 incorporation thereof as an ordinance of the City of Coral
6 Springs; providing for classification and status of the
7 district; providing for election or appointment of
8 supervisors; providing for approval of the budget of the
9 district; providing for powers and responsibilities of the
10 district; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Chapter 63-609, Laws of Florida, is hereby
15 repealed, except that said special act is hereby declared to be
16 an ordinance of the City of Coral Springs subject to the
17 procedure of amendment and repeal as any other duly enacted
18 ordinance of the City of Coral Springs in conformance with this
19 act.
20 Section 2. Notwithstanding chapter 298, Florida Statutes,
21 upon the expiration of the term of any supervisor of the
22 Sunshine Water Control District, the City of Coral Springs may
23 provide for the election or appointment of a replacement
24 supervisor by ordinance of the City of Coral Springs.
25 Section 3. Notwithstanding anything contained in chapter
26 63-609, Laws of Florida, any budget of the Sunshine Water
27 Control District approved subsequent to the effective date of
28 this act shall be approved by the City of Coral Springs pursuant

29 to the procedures provided for in chapters 189 and 200, Florida
30 Statutes, and in compliance with the Charter of the City of
31 Coral Springs.
32 Section 4. Subsequent to the effective date of this act,
33 the Sunshine Water Control District shall be determined to be a
34 dependent special district of the City of Coral Springs.
35 Section 5. Nothing in this act shall preclude the Sunshine
36 Water Control District from using any power contained in chapter
37 298, Florida Statutes, except as provided in this act.
38 Section 6. All title to property, uncollected taxes and
39 assessments, judgments, causes of action, and property rights
40 held or owned by the Sunshine Water Control District shall
41 continue to be vested in the Sunshine Water Control District,
42 and no obligations or contracts, including bonds or causes of
43 action, shall be impaired or avoided by this act. All contracts,
44 franchises, and permits to do business issued by the Sunshine
45 Water Control District shall remain in full force and effect
46 according to their terms.
47 Section 7. This act shall take effect upon becoming a law.

HB 1531

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1531 West Palm Beach Water Catchment Area, Palm Beach County
SPONSOR(S): Brandenburg
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2) Water & Natural Resources Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 531 revises the boundaries of the West Palm Beach Water Catchment Area (Area) to reflect the resolution of the dispute between the City of West Palm Beach and Palm Beach County by defining respective retail utility service areas between the City and the County. The boundaries agreed to are intended to eliminate or minimize duplication of facilities and to provide for growth, expansion and extension of respective water, wastewater, and reclaimed water utility systems. The bill also authorizes the City to grant licenses permitting utility crossings of the M-Canal.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

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:

The West Palm Beach Water Catchment Area (Area) was created in 1967 by chapter 67-2169, L.O.F. Also known as the Grassy Waters Preserve, the Area is the principal source of supply of potable and domestic water used by the public and managed by the City of West Palm Beach Public Utilities Department.

The bill revises the boundaries of the Area to reflect the resolution of the dispute between the City of West Palm Beach and Palm Beach County by defining respective retail utility service areas between the City and the County. The boundaries agreed to are intended to eliminate or minimize duplication of facilities and to provide for growth, expansion and extension of respective water, wastewater, and reclaimed water utility systems.[1] The bill also authorizes the City to grant licenses permitting utility crossings of the M-Canal.

C. SECTION DIRECTORY:

Section 1. Amends sections 1 and 2 of chapter 67-2169, L.O.F., relating to the West Palm Beach Water Catchment Area.

Section 1. Amends the boundaries of the West Palm Beach Water Catchment Area.

Section 2. Authorizes the licensing or permitting of certain uses within the water catchment area.

Section 2. Provides effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? March 3, 2006.

WHERE? *The Palm Beach Post*, West Palm Beach, Palm Beach 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 []

---

[1] *See* Palm Beach County Board of County Commissioners Agenda Item #6D-1 (December 12, 2005) (on file with House of Representatives, Local Government Council).

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

Not Applicable.

THE PALM BEACH POST

Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Intent to Seek Legislation** was published in said newspaper in the issues of **January 26, 2006**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach 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/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.

Sworn to and subscribed before 3rd day of March, A.D. 2006

Personally known XX or Produced Identification_____
Type of Identification Produced_____

Karen M. McLinton
Commission # DD359566
Expires: NOV. 15, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

NO. 5062756
PUBLIC NOTICE
NOTICE OF INTENT TO SEEK LEGISLATION

The City of West Palm Beach hereby gives notice of its intent to seek introduction and legislative approval of a special act by the Florida Legislature during the 2006 regular Legislative Session. The proposed legislation will amend Chapter 67-2169, Laws of Florida relating to the City of West Palm Beach Water Catchment Area by correcting certain survey errors in the Area boundary, removing a proposed roadway from the M canal right-of-way and authorizing the City to grant licenses for utility crossings of the M Canal.

Lois J. Frankel
Mayor

PUB: The Palm Beach Post
January 26, 2006

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Rep. Mary Brandenburg
RELATING TO: City of West Palm Beach
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Palm Beach County
CONTACT PERSON: Ed Chase, Executive Director
PHONE # and E-MAIL 561/355-2406 echase@pbcgov.com

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 30, 2006
Location: Palm Beach, 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:** January 26, 2006

Where? Palm Beach Post **County:** Palm Beach

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 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.

Carl A Domino — 3 Feb 2006
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 #: _____

SPONSOR(S): Representative Mary Brandenburg

RELATING TO: City of West Palm Beach Water Catchment Area
[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:	N/A	N/A
State:		
Local:		

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: Correction of boundary survey error; codification of previous boundary agreement with area landowners; removal of road right-of-way requested by Palm Beach County.

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 previous legislation and landowner and interlocal agreements.

PREPARED BY: _____ 6/24/06
[Must be signed by Preparer] Date

TITLE: Special Counsel_____

REPRESENTING: City of West Palm Beach _____ _____

PHONE: (561) 640-0820 _____ _____

1 A bill to be entitled
2 An act relating to the West Palm Beach Water Catchment
3 Area, Palm Beach County; amending chapter 67-2169, Laws of
4 Florida, as amended; revising the legal description of the
5 water catchment area; authorizing the licensing or
6 permitting of certain uses within the water catchment
7 area; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Sections 1 and 2 of chapter 67-2169, Laws of
12 Florida, as amended, are amended to read:
13 Section 1. West Palm Beach Water Catchment area
14 described.--The following described lands in Palm Beach County,
15 Florida, owned by the City of West Palm Beach, Florida, form the
16 West Palm Beach water catchment area, to wit:
17
18 PARCEL ONE.
19
20 The South four hundred fifty feet (450') of the
21 Southwest quarter (SW 1/4) of Section one (1) in
22 Township forty-three South (43 S), Range forty-two
23 East (42 E), except right-of-way of Military Trail and
24 Haverhill Road.
25
26 PARCEL TWO.
27

28 The South four hundred fifty feet (450') of the
29 Southeast quarter (SE 1/4) and the entire Southwest
30 quarter (SW 1/4) of Section two (2) of Township forty-
31 three South (43 S), Range forty-two East (42 E),
32 except right-of-way for Haverhill Road subject,
33 however, to that certain easement from Model Land
34 Company to Florida Power and Light Company dated
35 September 16, 1931, to construct and operate power
36 lines on the East side of said property.
37
38 Said PARCEL TWO being also subject to 160 ft. width
39 electric power and communication line easement as
40 granted by West Palm Beach Water Company unto Florida
41 Power and Light Company by right-of-way agreement
42 dated June 23, 1953, recorded in Deed Book 1023, page
43 680, Palm Beach County Public Records. (Less Right-of-
44 Way of Haverhill Road.)
45
46 PARCEL THREE.
47
48 The South half (S 1/2) of Section three (3), Township
49 forty-three South (43 S), Range forty-two East (42 E).
50
51 Less and except Jog Road extension described as
52 follows:
53
54 A parcel of land in Section three (3), Township forty-
55 three South (43 S), Range forty-two East (42 E), Palm

56 Beach County, Florida, more particularly described as
57 follows: Commence at the southeast corner of said
58 Section three (3); thence along the south line of said
59 Section three (3), N 88°43'44" W for 302.06 feet to
60 the West right-of-way line of Florida's Turnpike,
61 recorded in Circuit Court Minutes Book 68, page 204,
62 of the public records of Palm Beach County, Florida;
63 thence along said right-of-way line, N 01°54'17" E for
64 2,188.38 feet to the point of curvature of a curve
65 concave to the east, having a radius of 43,121.85
66 feet; thence northerly, along said curve and right-of-
67 way line to the right, through a central angle of
68 0°39'37" for 496.98 feet to the north line of the
69 South half (S 1/2) of said Section three (3); thence
70 along said north line, N 88°33'32" W for 166.86 feet
71 to a non-tangent curve, concave to the west, having a
72 radius of 657.00 feet, where a radial line bears S
73 85°35'16" W; thence southerly, along said curve to the
74 right, through a central angle of 6°19'01" for 72.44
75 feet to a point of tangency; thence S 01°54'17" W for
76 2,613.48 feet to the said south line of Section three
77 (3); thence along said south line, S 88°43'44" E for
78 160.01 feet to the Point of Beginning.
79
80 PARCEL FOUR.
81
82 The North four hundred fifty feet (450') of Section
83 eleven (11), Township forty-three ~~43~~ South (43 S),

84 Range forty-two ~~42~~ East (42 E), except right-of-way
85 for Haverhill Road.
86
87 PARCEL FIVE.
88
89 The North four hundred fifty feet (450') of Northwest
90 quarter (NW 1/4) of Section twelve (12), Township
91 forty-three South (43 S), Range forty-two East (42 E),
92 as conveyed to West Palm Beach Water Company by Model
93 Land Company's two deeds of July 12, 1944, recorded in
94 Deed Book 694, page 317, and Deed Book 694, page 319,
95 subject to right-of-way of Military Trail. (Less
96 Right-of-Way of Haverhill Road.)
97
98 Subject also to easement from Model Land Company to
99 Florida Power and Light Company dated September 16,
100 1931, to construct and operate power lines on west
101 side of said North half (N 1/2) of Northwest quarter
102 (NW 1/4) of said Section twelve (12). ~~12;~~
103
104 PARCEL SIX.
105
106 The North half (N 1/2) ~~One-Half~~ of the North half (N
107 1/2) ~~One-Half~~ of the Northwest quarter (NW 1/4) ~~One-~~
108 ~~Quarter~~ of the Northeast quarter (NE 1/4) ~~One-Quarter~~,
109 Section ten (10), Township forty-three South (43 S),
110 Range forty-two East (42 E).
111

112 PARCEL SEVEN.
113
114 All of Section seventeen (17) lying South of Seaboard
115 Air Line Railway, all of Sections eighteen (18),
116 nineteen (19) and twenty (20), all of Section twenty-
117 one (21) south of Seaboard Air Line Railway; all of
118 Sections twenty-eight (28), twenty-nine (29), thirty
119 (30), thirty-one (31), thirty-two (32) and thirty-
120 three (33), all being in Township forty-two ~~(42)~~ South
121 (42 S), Range forty-two East (42 E).
122
123 PARCEL EIGHT.
124
125 That part of South one-half (S 1/2) of Section sixteen
126 (16), Township forty-two ~~(T 42)~~ South (42 S), Range
127 forty-two ~~(R 42)~~ East (42 E), lying south and west of
128 right-of-way of Florida Western and Northern Railroad
129 Company as described in Deed Book 225, Page 160, of
130 Palm Beach County public records, now owned by
131 Seaboard Air Line Railroad Company.
132
133 Said PARCELS SEVEN and EIGHT being subject to easement
134 of Palm Beach County, Florida, for public road known
135 as Lake Park Road across said sections 16-17-18-19-20-
136 21.
137
138 Said Sections 17-18 in said PARCEL SEVEN being also
139 subject to agreement between West Palm Beach Water

140 Company and Palm Beach County by Deed of February 26,
141 1951, recorded in Deed Book 936, page 151, permitting
142 removal by said County of shell not exceeding 15 ft.
143 in depth by the present level of water from said land.
144
145 Part of said Section thirty-two (32) ~~32~~ of Township 42
146 South (42 S), Range 42 East (42 E) in said PARCEL
147 SEVEN being subject to an estate, for its ~~his~~ natural
148 life, in Ike Lee, with remainder to Model Land
149 Company, its successors and assigns, as described in
150 Indenture of August 21, 1942, between J.C. Bills, Jr.,
151 et als, parties of the first part, Ike Lee, party of
152 the second part, and Model Land Company, party of the
153 third part, recorded Deed Book 656, page 102, Public
154 Records, Palm Beach County, Florida.
155
156 PARCEL NINE.
157
158 All of Sections four (4), five (5), six (6), seven
159 (7), eight (8), nine (9), seventeen (17) and eighteen
160 (18), all being in Township forty-three ~~(43)~~ South (43
161 S), Range forty-two ~~(42)~~ East (42 E).
162
163 PARCEL TEN.
164
165 All of the following described lands:
166

167 Starting at the southeast corner of Section 4, T 43 S,
168 R 40 E, proceed westerly a distance of 329.57' more or
169 less to the point of beginning, said point being on
170 the north R/W line of the Central and Southern Florida
171 Flood Control District L-8 tie back canal. From said
172 point of beginning, proceed westerly a distance of
173 170.42' more or less to a point; thence proceed N 00°
174 05' 50" a distance of 339.29' more or less to a point;
175 thence proceed easterly a distance of 170' more or
176 less to a point; thence proceed N 00° 05' E a distance
177 of 1,203.89', more or less to a point; thence N 45° E
178 a distance of 467.50' more or less to a point on the
179 east line of Section 4, T 43 S, R 40 E; thence S 00°
180 05' W a distance of 354.16' more or less to a point;
181 thence S 45° 00' W a distance of 113.34' to a point;
182 thence S 00° 05' W a distance of 1,190.74' more or
183 less to a point on the North R/W line of the Central
184 and Southern Florida Flood Control District L-8 tie
185 back canal; thence S 45° 08' 50" E a distance of
186 352.64' to the point of beginning; all the above
187 described lands lying in Section 4, T 43 S, R 40 E and
188 containing 10.83 acres, more or less.
189
190 Starting at the southwest corner of Section 3, T 43 S,
191 R 40 E proceed N 00° 05' E a distance of 1,430.16'
192 more or less to the point of beginning. From said
193 point of beginning proceed N 00° 05' E a distance of
194 354.16' more or less to a point; thence N 45° 00' E a

195 distance of 3,550.36' more or less, to a point on the
196 north line of Section 3, T 43 S, R 40 E; thence S 87°
197 46' E a distance of 340.54' more or less to a point;
198 thence S 45° 00' W a distance of 4,032.32' more or
199 less to the point of beginning. All of the above
200 described lands lie in Section 3, T 43 S, R 40 E and
201 contain 21.75 acres, more or less.
202
203 Starting at the southeast corner of Section 34, T 42
204 S, R 40 E proceed northerly a distance of 80' more or
205 less to the point of beginning; thence N 87° 46' W a
206 distance of 2,802.44' more or less, to a point; thence
207 S 45° 00' W a distance of 108.97', more or less to a
208 point on the south line of Section 34, T 42 S, R 40 E;
209 thence N 87° 46' W a distance of 340.54' more or less,
210 to a point; thence N 45° 00' E a distance of 449.51'
211 more or less to a point; thence S 87° 46' E a distance
212 of 2,902.00' more or less to a point; thence southerly
213 a distance of 250.19' more or less to the point of
214 beginning; said described lands containing 18.52 acres
215 more or less and lie wholly in Section 34, T 42 S, R
216 40 E.
217
218 Starting at the southwest corner of Section 35, T 42
219 S, R 40 E proceed northerly a distance of 80' more or
220 less, to the point of beginning; thence proceed
221 northerly a distance of 250' more or less to a point;
222 thence proceed S 87° 46' E a distance of 5,262.93'

223 more or less to a point; thence N 88° 37' E a distance
224 of 12.87' more or less to a point; thence proceed
225 southerly a distance of 250' more or less to a point;
226 thence proceed S 88° 37' W a distance of 3.12' more or
227 less to a point; thence proceed N 87° 46' W a distance
228 of 5,272.68' more or less to the point of beginning;
229 all above described lands lying in Section 35, T 42 S,
230 R 40 E and containing 30.2 acres, more or less.
231
232 Starting at the southwest corner of Section 36, T 42
233 S, R 40 E, proceed northerly a distance of 80' more or
234 less to the point of beginning; thence proceed
235 northerly a distance of 250' more or less to a point;
236 thence proceed N 88° 37' E a distance of 5,287.66'
237 more or less to the southwest corner of Section 31, T
238 42 S, R 41 E; thence proceed S 1° 41' W a distance of
239 250.11' more or less, to a point; thence proceed S 88°
240 37' W a distance of 5,281.62' more or less to the
241 point of beginning; the above described lands lying in
242 Section 36, T 42 S, R 40 E and containing 30.3 acres,
243 more or less.
244
245 Less and except that portion of Sections 35 and 36,
246 Township 42 South, Range 40 East, as described above,
247 that lie North of the following described line:
248
249 Commencing at the northwest corner of said Section 35;
250 thence S 00 05' 34" E, along the West line of said

251 Section 35, 5,205.17 feet to a point lying 82.04 feet
252 north of (as measured along said West line) the "Royal
253 Palm Beach Colony" south line of said Section 35 and
254 the Point of Beginning of the herein described line;
255 thence S 87 38' 00" E, 983.00 feet; thence S 87 51'
256 58" E, 3,082.46 feet; thence S 87 57' 41" E, 1,210.03
257 feet; thence N 88 43' 01" E, 7.93 feet to a point on
258 the East line of said Section 35, said point lying
259 57.90 feet north of (as measured along said East line)
260 the said south line of Section 35 also being the West
261 line of Section 36; thence continue N 88 43' 01" E,
262 779.85 feet; thence S 89 29' 30" E, 525.09 feet;
263 thence S 89 07' 06" E, 283.89 feet; thence N 88 39'
264 13" E, 2,494.69 feet; thence N 88 29' 15" E, 1,207.18
265 feet to a point on the East line of said Section 36,
266 said point lying 336.46 feet north of (as measured
267 along said East line) the said "Royal Palm Beach
268 Colony" south line of Section 36 and the Point of
269 Termination of the herein described line.
270
271 Said Sections are as shown on the M Canal R/W Map as
272 recorded in Road Plat Book 6, pages 136-141, Public
273 Records of Palm Beach County, Florida.
274
275 The north 250' of Section 6, T 43 S, R 41 E.
276
277 The north 250' of Section 5, T 43 S, R 41 E.
278

279 Beginning at the southwest corner of Section 33, T 42
280 S, R 41 E proceed N 59° 47' E a distance of 660' more
281 or less to a point; thence N 89° 47' E a distance of
282 4,720.0' more or less to a point on the east line of
283 said Section 33, said point being 330' more or less to
284 a point northerly from the southeast corner of said
285 Section 33. From the above described point proceed
286 southerly a distance of 250' more or less to a point;
287 thence proceed S 89° 47' W a distance of 4,490.16'
288 more or less to a point; thence S 59° 47' W a distance
289 of 160' more or less to a point on the south line of
290 Section 33, T 42 S, R 41 E; thence S 89° 47' W a
291 distance of 661.58' more or less to the point of
292 beginning; all above described land lying in Section
293 33, T 42 S, R 41 E, containing 29.5 acres, more or
294 less.
295
296 Beginning at the northwest corner of Section 4, T 43
297 S, R 41 E proceed N 89° 47' E a distance of 661.58'
298 more or less to a point; thence S 59° 47' W a distance
299 of 500' more or less to a point; thence S 89° 47' W a
300 distance of 229.51' more or less to a point on the
301 west line of said Section 4; thence northerly a
302 distance of 250' more or less to the point of
303 beginning; all above described land lying in Section
304 4, T 43 S, R 41 E, containing 2.57 acres more or less.
305 The south 330' of Section 34, T 42 S, R 41 E less the

306 south 80' thereof, containing 30.36 acres, more or
307 less.
308
309 The south 330' of Section 35, T 42 S, R 41 E less the
310 south 80' thereof, containing 30.36 acres, more or
311 less.
312
313 The south 330' of Section 36, T 42 S, R 41 E less the
314 south 80' thereof, containing 30.36 acres, more or
315 less (less R/W of State Road 7).
316
317 Section 2. Uses.--It shall be mandatory that the City of
318 West Palm Beach retain in perpetuity full ownership and control
319 and shall not lease or grant any license for any part of the
320 water catchment area which is inconsistent with water supply,
321 environmental, educational, or conservation purposes, including,
322 but not limited to, environmental mitigation. No use of the
323 water catchment area shall be made by the city which is
324 inconsistent with water supply, environmental, educational, or
325 conservation purposes, which purposes include, but are not
326 limited to, environmental mitigation purposes. The City of West
327 Palm Beach may grant licenses permitting the construction,
328 installation, maintenance, and removal of crossings above,
329 below, and across the M-Canal by water, wastewater, gas, or
330 other utility pipes and electric or other utility lines and for
331 the construction, expansion, extension, relocation, and
332 maintenance of government roadways across the M-Canal, provided
333 such crossings are not inconsistent with the uses established in

334 this section and such crossings are not inconsistent with this
335 act or applicable laws and regulations governing Class I potable
336 water supplies and the water catchment area.
337 Section 2. This act shall take effect upon becoming a law.

HB 1559

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1559 Brevard County
SPONSOR(S): Poppell
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

This bill creates the Viera Stewardship District (district), which encompasses approximately 14,000 undeveloped acres within Brevard County, for the purpose of providing community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill provides the minimum requirements that must be included in the charter when creating an independent special district. The bill authorizes the district to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized by this bill. The district may, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Brevard County Board of County Commissioners or with any other applicable public or private entity, or is approved or required by a development order and is not inconsistent with the effective local comprehensive plan.

The district may levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; and special assessments. The district may impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire board is elected by electors of the district.

The bill creates a five-member Board of Supervisors to govern the district. The Board is initially elected on a one-acre/one-vote basis, however, as population in the district increases, members are elected by qualified electors of the district. Five years after creation, one board member will be elected by qualified electors, and ten years after creation a second board member is elected by qualified electors. When the district is populated by 60 percent of the projected total qualified electors, the third governing board member is elected by qualified electors. Five years later, all five board members are elected by qualified electors. It is not known when the district will be populated by 60 percent of the projected total qualified electors.

The attached Economic Impact Statement does not project any fiscal impact in FY 05-06 and FY 06-07; however, the district is authorized to levy special assessments, fees, non ad-valorem assessments, and ad valorem taxes (upon approval at referendum) but the amount of revenues generated by these assessments is indeterminate. The district is authorized to perform numerous functions and undertake a wide range of projects within the district; therefore, expenditures are expected to be substantial but indeterminate.
This bill appears to provide exemptions from the provisions of general law. Pursuant to House Rule 5.5(b), 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. [Please see p. 20 of this analysis.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates an independent special district that is authorized to perform a wide range of functions within its jurisdictional boundaries and extraterritorially, and that may adopt a wide range of administrative rules pursuant to ch. 120, F.S.

Provide for Lower Taxes: The district is authorized to raise revenues by levying ad valorem taxes up to 3 mills, if approved at referendum; non-ad valorem maintenance taxes; non-ad valorem assessments; benefit special assessments; maintenance special assessments; special assessments; and fees, or service charges.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

The bill specifies that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"[1] within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis.

If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located. As of November 2003, there were 210 active CDDs in Florida.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager; the right

[1] Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

to contract; to borrow money; to adopt administrative rules pursuant to ch. 120, F.S.; and the power of eminent domain.[2]

Election Procedures for Community Development Districts Generally

Section 190.006(3), F.S., provides for the transition of Community Development District (CDD) boards that are elected by landowners to boards elected by qualified electors of the districts. If a CDD wishes to exercise ad valorem taxing power, the district board must call an election at which the members of the board of supervisors will be elected by qualified electors. Each member must be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members are elected for a period of 4 years and two members for a period of 2 years. All elected board members must be qualified electors of the district.

Regardless of whether a district has proposed to levy ad valorem taxes, commencing 10 years after the initial appointment of members, the position of each member whose term has expired must be filled by a qualified elector of the district, elected by the qualified electors of the district. However, if, in the 10th year after initial appointment for districts exceeding 5,000 acres in area, there are not at least 500 qualified electors, members of the board continue to be elected by landowners.

If a district has less than 50 qualified electors when the District is created, after the 10th year and, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring must be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring must be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members must be qualified electors elected by qualified electors of the district for a term of 4 years.

Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November.

EFFECT OF PROPOSED CHANGES

This bill creates the Viera Stewardship District (district), a "public body corporate and politic, an independent, limited, special purpose local government, an independent special district." The general purpose of the district is to provide, through a special purpose governmental entity, certain capital infrastructure, facilities and services which benefit the residents of the district. The boundaries of the district encompass approximately 14,000 undeveloped contiguous acres in Brevard County.

According to the findings in the bill, "[w]hile chapter 190, F.S., provides an opportunity for community development services and facilities to be provided by the establishment of community development districts in a manner that furthers the public interest, given the vast nature of the lands covered by this act and the potentially long-term nature of its development, establishing multiple community development districts over these lands would result in an inefficient, duplicative, and needless proliferation of local special purpose government, contrary to the public interest and the Legislature's findings in chapter 190, Florida Statutes."

The district is not authorized to exercise any comprehensive planning, zoning, or development permitting power; the establishment of the district is not be considered a development order; and all applicable planning and permitting laws, rules, regulations, and policies of Brevard County control the development of the land to be serviced by the district.

[2] *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

The jurisdiction of the district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially when limited to, and as authorized expressly elsewhere in, the charter of the district as created in this act or applicable general law.

Referendum Requirements

The substantive provisions of the bill take effect upon approval by a majority vote of the owners of land within the district who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners' meeting to be held within 90 days after the effective date of this act. Such landowners' meeting must be noticed as required for the initial landowners' meeting and may be combined with such meeting. At the time of the initial referendum, there is expected to be one landowner within the district, the Viera Company.

The provisions of this bill that authorize the levy of ad valorem taxation and issuance of general obligation bonds take effect only upon express approval by a majority vote of those qualified electors of the Viera Stewardship District voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district.

Modification of District Boundaries and Charter

The bill specifies that the charter of the district, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the district boundaries or the general or special powers of the district unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S.

The board may ask the Legislature through its local legislative delegation in and for Brevard County to amend this act to contract, to expand or to contract, or to expand the boundaries of the district by amendment of this section.

The district remains in existence until:

- The district is terminated and dissolved pursuant to amendment to this act by the Legislature.
- The district has become inactive pursuant to s. 189.4044, F.S.

Provided, however, if, within 5 years after the effective date of this act establishing the district, the primary landowner has not received a development permit, as defined in ch. 380, F.S., on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court must cause a statement to that effect to be filed in the public records.

The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

Election of the District Board

a. Election of Board by Landowners

The district is governed by a Board of Supervisors (Board) consisting of 5 members. Board members must be residents of the state and citizens of the United States. Initial Board members are elected by landowners of the district voting at an election held within 90 days following the effective date of this bill. The landowners present at the meeting, in person or by proxy, constitute a quorum. At any landowners' meeting, 50 percent of the district acreage is not required to constitute a quorum, and each governing board member elected by landowners is to be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting. Each landowner is entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre is treated as 1 acre, entitling the landowner to one vote with respect thereto.

With respect to the elections of initial board members, the two candidates receiving the highest number of votes must be elected for a term expiring November 18, 2008, and the three candidates receiving the next largest number of votes are elected for a term expiring November 7, 2006, with the 4-year term of office for each successful candidate commencing upon election. The members of the first Board elected by landowners serve their respective terms; however, the next election of Board members must be held on the first Tuesday after the first Monday in November 2006. Thereafter, elections by landowners for the district must be conducted every 2 years on the first Tuesday after the first Monday in November.

The Board may not exercise the ad valorem taxing power authorized by this bill until such time as all members of the Board are qualified electors who are elected by qualified electors of the district.

Lastly, the bill provides that it is not a conflict of interest under ch. 112, F.S., for a Board member, the district manager, or another employee of the district to be a stockholder, officer, or employee of a landowner.

b. Election of Board by Qualified Electors

Regardless of whether the district has proposed to levy ad valorem taxes or issue general obligation bonds, board members must begin being elected by qualified electors of the district as the district becomes populated with qualified electors. The transition must occur such that the composition of the board, after the first general election following a trigger as set forth below, must be as follows:

(I) Five years following the creation of the district, one governing board member must be a person who was elected by the qualified electors and four governing board members must be persons who were elected by the landowners.
(II) Ten years following the creation of the district, two governing board members must be persons who were elected by the qualified electors and three governing board members must be persons elected by the landowners.
(III) When the district is populated by 60 percent of the projected total qualified electors, three governing board members must be persons who were elected by the qualified electors and two governing members must be persons who were elected by the landowners.
(IV) Three years following the trigger in sub-sub-subparagraph (III), four governing board members must be persons who were elected by the qualified electors and one governing board member must be a person who was elected by the landowners.
(V) Five years following the trigger in subparagraph (III), all five governing board members must be persons who were elected by the qualified electors.

The term "projected total qualified electors" means the product of:

(The total number of single-family and multi-family units approved within the district by a development order issued by Brevard County and in effect in the tenth year following creation of the district)

multiplied by

(The average number of persons residing within a household located within Brevard County based on the 2010 U.S. Census)

multiplied by

(The percentage of Brevard County's general population registered to vote as reported by the Brevard County Supervisor of Elections as of the general election occurring November 2014).

On or before June 1, 2016, the board must determine the number of projected qualified electors in the district as of the immediately preceding April 15. Additionally, on or before June 1, 2016, and each year thereafter until the trigger in subparagraph (III) is met, the board must determine the actual number of qualified electors in the district as of the immediately preceding April 15. The board must use and rely

upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination must be made at a properly noticed meeting of the board and become a part of the official minutes of the district.

Once the district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November. The board must adopt a resolution if necessary to this requirement. The transition process described herein is intended to be in lieu of the process set forth in s.189.4051, F.S. If, during the term of office, a vacancy occurs, the remainder of the unexpired term must be filled as follows:

- If the vacancy arises with respect to a supervisor that was elected by landowners, the vacancy must be filled by a supervisor elected by the landowners; and
- If the vacancy arises with respect to a supervisor that was elected by the qualified electors of the district, the vacancy must be filled by a supervisor elected by the qualified electors of the district, in which case the district must be responsible for paying the expenses associated with any special election that is required to be conducted.

Elections of board members by qualified electors held pursuant to this subsection must be nonpartisan and must be conducted in the manner prescribed by law for holding general elections. Candidates seeking election to office by qualified electors must conduct their campaigns in accordance with the provisions of ch. 106, F.S., and file qualifying papers and qualify for individual seats in accordance with general law.

General Board Administration

Members of the board, regardless of how elected, are public officers, and, upon entering into office, must take and subscribe to the oath of office as prescribed by general law. Members of the board are subject to ethics and conflict of interest laws of the state that apply to all local public officers.

Any elected board member may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act, and any vacancies that may occur in such office for such reasons must be filled by the Governor as soon as practicable.

Each supervisor is entitled to receive for his or her services an amount not to exceed $200 per board meeting, not to exceed $4,800 per year per supervisor, or an amount established by the electors at a referendum. In addition, each supervisor must receive travel and per diem expenses as set forth in s. 112.061, F.S.

All meetings of the board must be open to the public and governed by the provisions of ch. 286, F.S. The record book of the district and all other district records must at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to ch. 119, F.S.

District Budget

On an annual basis, the district manager must prepare a proposed budget for the ensuing fiscal year to be submitted to the Board for approval. The Board must consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The Board must indicate approval of the budget by resolution, which must provide for a hearing on the budget as approved. At the time and place designated in the public notice of the hearing, the Board must hear all objections to the budget as proposed and may make such changes as the Board deems necessary. At the conclusion of the budget hearing, the Board must, by resolution, adopt the budget as finally approved by the Board.

At least 60 days prior to adoption, the Board must submit to the Brevard County Board of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the Board of County Commissioners may submit written comments to the

Board solely for the assistance and information of the Board of the district in adopting its annual district budget.

The Board must annually submit its district public facilities report or the most recent development of regional impact report to the Brevard County Board of County Commissioners. The Board of County Commissioners must use and rely on the district public facilities report in the preparation or revision of its comprehensive plan.

The district must take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information must be made available to all existing residents and all prospective residents of the district. The district must furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy. Any developer of a residential property within the district, when required by law to provide a public offering statement, must include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation must ensure that disclosures made by developers pursuant to ch. 498, F.S., meet the requirements of s. 190.009(1), F.S.

General Powers

This bill grants the district general powers consistent with those granted to community development districts under s. 190.011, F.S. The general powers of the district must be construed liberally in order to carry out effectively the specialized purpose of this bill.

- To sue and be sued in the name of the district; to acquire, by purchase, gift, devise, or otherwise, and to own and dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To apply for coverage of its employees under the Florida Retirement System in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the Florida Retirement System Trust Fund.
- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements as set forth in general law applicable to independent special districts.
- 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, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt and enforce rules and orders pursuant to the provisions of ch. 120, F.S., prescribing 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 certificates evidencing tax liens and all other documents and records of the district. The board may also adopt and enforce administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.
- To maintain an office at such place or places as the board of supervisors designates in Brevard County, and within the district when facilities are available.
- To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for the purposes authorized by this act.
- To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities

or property of any nature for the use of the district to carry out the purposes authorized by this act.

- To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of district activities and services and the maintenance of district facilities and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
- To exercise within the district, or beyond the district with prior approval by vote of a resolution of the governing body of Brevard County if the taking will occur in an unincorporated area in that county, the right and power of eminent domain, pursuant to the provisions of chs. 73 and 74, F.S., over any property within the state, except municipal, county, state, and federal property, for the uses and purpose of the district relating solely to water, sewer, district roads, and water management and control, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
- To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.
- To assess and to impose upon lands in the district ad valorem taxes as provided by this act.
- If and when authorized by general law to determine, order, levy, impose, collect, and enforce maintenance taxes.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and ch. 170, F.S., as amended from time to time, pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this act, or by other means authorized by general law now or hereinafter enacted.
- To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to ch. 163, F.S., or which must be required or permitted to be undertaken by the district pursuant to any development order or development of regional impact, including any interlocal service agreement with Brevard County for proportionate, fair-share, or pipelining capital construction funding for any certain capital facilities or systems required of the developer pursuant to any applicable development order or agreement.
- To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the special purpose of the district authorized by this act.

Special Powers

The district has, and the board may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, systems, facilities, services, improvements, projects, works, and infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure. Any or all of the following special powers are granted by this act in order to implement the special purpose of the district:

- To provide water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges and to construct, acquire and operate any dam, work, appurtenant work, impoundment, or reservoir and any connecting, intercepting or outlet mains and pipes in, along or under any street, alley, highway or other public place or ways; including, but not limited to, acquiring, operating, maintaining, repairing and improving water

management and control facilities necessary for the collection, storage control, development, utilization and distribution of nonpotable waters for irrigation purposes.

- To provide water systems, sewer systems, and wastewater management, reclamation and reuse, or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system. The district may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district must consider, at a minimum, criteria specified by the bill.
- To provide bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of way, highway, grade, fill, or cut.
- To provide public roads and related improvements equal to or exceeding the specifications of Brevard County, including, but not limited to transportation improvements necessary to comply with conditions of development approval applicable to lands within the district. This special power includes, but is not limited to, roads, parkways, interchanges, bridges, landscaping, hardscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire installed to pursuant an agreement with or tariff of a retail provider of services, and all other related improvements and the elements of a functioning modern road system in general or as related to the conditions of development approval for the lands within the district, together with transportation improvements and facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local law and ordinance.
- To provide buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.
- To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.
- To provide conservation areas, mitigation areas, wilderness areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property, and to evaluate, acquire, enhance, manage, monitor and maintain conservation, mitigation, and preservation lands and wildlife habitat.
- Using its general and special powers as set forth in this act, to provide any other project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Board of County Commissioners of Brevard County or with any other applicable public or private entity, or is approved or required by a development order pursuant to sections 380.06 or s. s 380.061, F.S., and is not inconsistent with the effective local comprehensive plan.
- To provide parks and facilities for indoor and outdoor recreational, cultural, and educational uses, provided, however, that in no event may the district finance or own a golf course.
- To provide fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
- To provide school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.
- To provide security, including, but not limited to, guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; however, the district may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased

level of such services within the district boundaries. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must he operated by the district or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.

- To provide control and elimination of mosquitoes and other arthropods of public health importance.
- To provide waste collection and disposal.
- To enter into impact fee credit agreements.
- To provide buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized or granted by this act.
- To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees or other agencies and such administrative duties and other powers as the board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that must retain the powers of the board.

The enumeration of special powers herein may not be deemed exclusive or restrictive but must be deemed to incorporate powers express or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this special act charter to the district to implement its single purpose.

The district may exercise its powers to provide facilities for potable water, sewer, fire protection, mosquito control, waste collection and waste disposal services only if such facilities are to be dedicated to and operated by the county or a municipality already providing the service or if such county or municipality declines or is unable to provide the service at the time the service becomes necessary. The bill specifically provides that nothing:

- May prevent the district from dedicating transportation or other facilities to the county or a municipality;
- May be construed to authorize the district to provide or approve franchises for emergency medical ambulance services, which authority is reserved to Brevard County under ch. 71-556 F.S.;
- Is intended to authorize the imposition of impact fees based upon alleged police powers or regulatory powers of the district;
- Is intended to limit the power of the county or a city to provide such facilities and to require landowners to utilize such facilities as a condition to development of lands within the district; or
- Is intended to prohibit the district from providing additional services beyond those offered by the county or a municipality.

District Borrowing and Issuance of Bonds

The district is authorized to obtain loans in any amount and on such terms as the board approves at an interest rate not to exceed the maximum rate allowed by general law. The district is also authorized to issue bond anticipation notes, interim certificates, certificates of indebtedness, assessment bonds, revenue bonds, and refunding bonds.

The district may also issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds may be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections must be called to be held in the district by the Board of County Commissioners of Brevard County upon the request of the board of the district. The expenses of calling and holding an election are at the expense of the district, and the district must reimburse the county for any expenses incurred in calling or holding such election.

The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitation as to rate or amount.

The power of the district to issue bonds may be determined, and any of the bonds of the district maturing over a period of more than 5 years must be validated and confirmed, by court decree, under the provisions of ch. 75, F.S., and laws supplementary thereto.

The state pledges to the holders of any bonds issued under this bill that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

A default on the bonds or obligations of a district does not constitute a debt or obligation of the state or any general-purpose local government or the state.

To the extent allowed by general law, all bonds issued by the district and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by ch. 220, F.S.

Taxes, Special Assessments, Fees, and Charges

Ad Valorem Taxation. When the entire Board is elected by qualified electors of the district, the Board is authorized to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the Board for operating purposes, exclusive of debt service on bonds, may not exceed 3 mills. The ad valorem tax is in addition to county and all other ad valorem taxes provided for by law. Ad valorem taxes must be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum as required by s. 9 of Art. VII of the State Constitution.

Benefit Special Assessments. The Board must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable

improvements. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy must be evidenced to and certified to the property appraiser by the board not later than August 31 of each year. Such assessment must be entered by the property appraiser on the county tax rolls and must be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof must be paid to the district. However, the district may, in its discretion, use the method prescribed in either s. 197.3632, F.S., or ch. 173, F.S., as each may be amended from time to time, for collecting and enforcing these assessments. Each annual installment of benefit special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers must be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The board may, if it determines it is in the best interests of the district, set forth in the proceedings initially levying such benefit special assessments or in subsequent proceedings a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment all future annual installments of benefit special assessments. Payment of that amount relieves and discharges the lien of such benefit special assessments and any subsequent annual installment on a taxable parcel. The board may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, the prepayment amount of all future annual installments of benefit special assessments as determined in the preceding sentence are immediately due and payable together with such delinquent annual installment.

Non-ad valorem maintenance taxes. If and when authorized by general law, to maintain and to preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the district pursuant to this act, to repair and restore any one or more of them, when needed, and to defray the current expenses of the district, including any sum which may be required to pay state and county ad valorem taxes on any taxable lands which may have been purchased and which are held by the district under the provisions of this act, the Board of Supervisors may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a "maintenance tax." This non-ad valorem maintenance tax must be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction and must be evidenced to and certified by the Board of Supervisors of the district not later than June 1 of each year to the property appraiser of Brevard County and must be extended by the property appraiser on the tax roll of the property appraiser, as certified by the property appraiser to the tax collector, and collected by the tax collector on the merged collection roll of the tax collector in the same manner and at the same time as county ad valorem taxes, and the proceeds must be paid to the district. This non-ad valorem maintenance tax is a lien until paid on the property against which assessed and enforceable in like manner and of the same dignity as county ad valorem taxes.

Maintenance special assessments. To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the property appraiser by the Board of Supervisors not later than August 31 of each year and must be entered by the property appraiser on the county tax rolls and must be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds must be paid to the district. However, this subsection does not prohibit the district in its discretion from using the method prescribed in either ss. 197.363, 197.3631, or 197.3632, F.S., for collecting and enforcing these assessments. These maintenance special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this section must be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Special Assessments. As an alternative method to the levy and imposition of special assessments pursuant to ch. 170, F.S., pursuant to the authority of s. 197.3631, F.S., or pursuant to other provisions of general law, now or hereafter enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any of its powers permitted under this act using specified uniform procedures.

At a noticed meeting, the board of supervisors of the district may consider and review an engineer's report on the costs of the systems, facilities, and services to be provided, a preliminary assessment methodology, and a preliminary roll based on acreage or platted lands, depending upon whether platting has occurred.

The assessment methodology must address and discuss and the board must consider whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It must be fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services which give rise to unique, special, and peculiar benefits to property of the same or similar characteristics under the assessment methodology so long as such fixed proportion does not exceed the unique, special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

The engineer's cost report must identify the nature the proposed systems, facilities, and services, their location, a cost breakdown plus a total estimated cost, including cost of construction or reconstruction, labor, and materials, lands, property, rights, easements, franchises, or systems, facilities, and services to be acquired, cost of plans and specifications, surveys of estimates of costs and revenues, costs of engineering, legal, and other professional consultation services, and other expenses or costs necessary or incident to determining the feasibility or practicability of such construction, reconstruction, or acquisition, administrative expenses, relationship to the authority and power of the district in its charter, and such other expenses or costs as may be necessary or incident to the financing to be authorized by the Board of Supervisors.

The preliminary assessment roll to be prepared will be in accordance with the method of assessment provided for in the assessment methodology and as may be adopted by the Board of Supervisors; the assessment roll must be completed as promptly as possible and must show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar benefit to the property, lot, parcel, or acreage of land; and, if the assessment against each such lot, parcel, acreage, or portion of land is to be paid in installments, the number of annual installments in which the assessment is divided must be entered into and shown upon the assessment roll.

The Board of Supervisors of the district may determine and declare by an initial assessment resolution to levy and assess the assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting such assessable improvements, the information in the engineer's cost report, the information in the assessment methodology as determined by the board at the noticed meeting and referencing and incorporating as part of the resolution the engineer's cost report, the preliminary assessment methodology, and the preliminary assessment roll as referenced exhibits to the resolution by reference. If the board determines to declare and levy the special assessments by the initial assessment resolution, the board must also adopt and declare a notice resolution which must provide and cause the initial assessment resolution to be published once a week for a period of 2 weeks in newspapers of general circulation published in Brevard County and said board must by the same resolution fix a time and place at which the owner or owners of the property to be assessed or any other persons interested therein may appear

before said board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place must be given to such property owners. The notice must include the amount of the assessment and must be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the district manager or engineer deems reliable, and proof of such mailing must be made by the affidavit of the manager of the district or by the engineer, said proof to be filed with the district manager, provided that failure to mail said notice or notices must not invalidate any of the proceedings hereunder. It is provided further that the last publication must be at least 1 week prior to the date of the hearing on the final assessment resolution. Said notice must describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the manager of the district. Such service by publication must be verified by the affidavit of the publisher and filed with the manager of the district. Moreover, the initial assessment resolution with its attached, referenced, and incorporated engineer's cost report, preliminary assessment methodology, and preliminary assessment roll, along with the notice resolution, must be available for public inspection at the office of the manager and the office of the engineer or any other office designated by the Board of Supervisors in the notice resolution. Notwithstanding the foregoing, the landowners of all of the property which is proposed to be assessed may give the district written notice of waiver of any notice and publication provided for in this subparagraph and such notice and publication is not required, provided, however, that any meeting of the Board of Supervisors to consider such resolution must be a publicly noticed meeting.

At the time and place named in the noticed resolution as provided for in subparagraph 2., the board of supervisors of the district must meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial assessment resolution on the property. Following the testimony and questions from the members of the board or any professional advisors to the district of the preparers of the engineer's cost report, the assessment methodology, and the assessment roll, the board of supervisors must make a final decision on whether to levy and assess the particular assessments. Thereafter, the board of supervisors must meet as an equalizing board to hear and to consider any and all complaints as to the particular assessments and must adjust and equalize the assessments on the basis of justice and right.

When so equalized and approved by resolution or ordinance by the board of supervisors, to be called the final assessment resolution, a final assessment roll must be filed with the clerk of the board and such assessment must stand confirmed and remain legal, valid, and binding first liens on the property against which such assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, service, project, improvement, works, or infrastructure, the district must credit to each of the assessments the difference in the assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no event may the final assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. Promptly after such confirmation, the assessment must be recorded by the clerk of the district in the minutes of the proceedings of the district, and the record of the lien in this set of minutes constitutes prima facie evidence of its validity. The board of supervisors, in its sole discretion, may, by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any assessments during such period prior to the time such financing costs are incurred as may be specified by the board of supervisors in such resolution.

District assessments may be made payable in installments over no more than 30 years from the date of the payment of the first installment thereof and may bear interest at fixed or variable rates.

Notwithstanding any provision of this act or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is not applicable to any district assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of general law, including, but not limited to ch. 170, F.S.

In addition, the district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of assessments.

Fees, Rentals, and Charges. The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the systems, facilities, and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for an such rates, fees, rentals, or other charges that are delinquent.

Rates, fees, rentals, or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons must have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges must be adopted under the administrative rulemaking authority of the district, but must not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges must have been published in a newspaper of general circulation in Brevard County at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted must be kept on file in an office designated by the board and must be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served must be extended to cover any additional users or properties thereafter served which must fall in the same class, without the necessity of any notice or hearing.

Such rates, fees, rentals, and charges must be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

The rates, fees, rentals, or other charges prescribed must be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

1. To provide for all expenses of operation and maintenance of such facility or service.
2. To pay when due all bonds and interest thereon for the payment of which such revenues are, or must have been, pledged or encumbered, including reserves for such purpose.
3. To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

The board has the power to enter into contracts for the use of the projects of the district and with respect to the services, systems, and facilities furnished or to be furnished by the district.

In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board has the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Enforcement of taxes

All taxes provided for in this act are delinquent and bear penalties on the amount of such taxes in the same manner as county taxes. The collection and enforcement of all taxes levied by the district must be at the same time and in like manner as county taxes, and the provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith are applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes are subject to the same discounts as county taxes.

Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in ch. 173, F.S., and the provisions of that chapter are applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under ch. 173, F.S., may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien may be foreclosed against any political subdivision or agency of the state. Other legal remedies remain available.

Competitive Bidding Requirements

No contract may be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017, F.S., for category four, unless notice of bids are advertised once in a newspaper in general circulation in Brevard County. The board seeking to construct or improve a public building, structure, or other public works must comply with the bidding procedures of s. 255.20, F.S., and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder must be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section prevents the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, F.S., apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

Contracts for maintenance services for any district facility or project are subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s.

287.017, F.S., for category four. The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts. Nothing herein precludes the use of requests for proposal instead of invitations to bid as determined by the district to be in its best interest.

District Property Declared Public Property
Any system, facility, service, works, improvement, project, or other infrastructure owned by the district, or funded by federal tax exempt bonding issued by the district, is public; and the district by rule may regulate and may impose reasonable charges or fees for the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

C. SECTION DIRECTORY:

Section 1. Provides short title of the Act.
Section 2. Provides legislative intent and definitions.
Section 3. Provides minimum charter requirements, creates the District, and provides for exclusive charter.
Section 4. Sets forth District boundaries.
Section 5. Provides for the District governing board and its administration.
Section 6. Provides for the general duties of the governing board; general and special powers of the District; bonds; ad valorem taxation; special assessments; non-ad valorem maintenance taxes; tax liens; fees, rentals, and charges; and other administrative provisions.
Section 7. Provides for severability.
Section 8. Provides that the bill takes effect upon becoming a law, except that the provisions regarding the levy of ad valorem taxes are not effective until approved at a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 20, 2006

WHERE? Florida Today, Brevard County, Florida

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

IF YES, WHEN? The substantive provisions of the bill take effect upon approval by a majority vote of the owners of land within the district who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners' meeting to be held within 90 days after the effective date of this act. Such landowners' meeting must be noticed and may be combined with the initial landowners' meeting. However, the provisions of the bill that authorize the levy of ad valorem taxation and issuance of general obligation bonds take effect only upon express approval by a majority vote of those qualified electors of the Viera Stewardship District voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district.

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

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

One-Acre, One-Vote Election Mechanism

It should be noted that the broad grants of power to the District *may* impact the permissibility of conducting elections on a "one-vote-per-acre" basis. In *State v. Frontier Acres Community Development District Pasco County, Florida*, 472 So.2d 455 (Fla.1985), the Florida Supreme Court upheld one-vote-per-acre voting for community development districts created under ch. 190, F.S., based on the decisions of the United States Supreme Court,[13] the narrow purpose of such districts, and the disproportionate effect district operations have on landowners:

> The powers exercised by these districts must comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments. Moreover, the limited grant of these powers does not constitute sufficient general governmental power so as to invoke the demands of Reynolds. Rather, these districts' powers implement the single, narrow legislative purpose of ensuring that future growth in this State will be complemented by an adequate community infrastructure provided in a manner compatible with all state and local regulations.

Following this case, the 4th District Court of Appeal reached a similar conclusion with respect to water control districts which are governed by ch. 298, F.S., in *Stelzel v. South Indian River Water Control Dist.*, 486 So.2d 65 (Fla. 4th DCA 1986). In reaching its decision, the court evaluated the functions exercised by the water control district and found that the evidence established that the District does not exercise general governmental functions:

> While the record here contains evidence which tends to support appellants' claims that the District exercises municipal functions, it also demonstrates with equal clarity that each of the functions performed by the District directly relate either to its water control function or to its limited road maintenance authority.

These decisions, and the decisions of the United States Supreme Court, suggest a nexus between the nature and number of powers granted to a special district and whether voting may be conducted on a one-vote-per-acre basis. Thus, the more and varied powers a special district has, it seems more likely that one-vote-per acre voting would be unconstitutional, particularly if the district meets any of the following criteria upon which the courts have based their decisions:

- The district does not have to comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments;
- The district has a grant of power that is not limited and which constitutes "sufficient general governmental power;"
- The district does not have a single, narrow legislative purpose; or
- The functions performed by the district do not directly relate to its single, narrow purpose.

B. RULE-MAKING AUTHORITY:

The bill authorizes the district to adopt and enforce rules and orders pursuant to ch. 120, F.S., the Florida Administrative Procedure Act, prescribing the duties, powers, and functions of the officers of the district, the conduct of the business of the district; the maintenance of records; and, the form of certificates evidencing tax liens and all other documents and records of the district.

The bill authorizes the district to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, which are authorized by proper governmental agencies; however, the district may not exercise any powers of a law enforcement agency. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing

security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.

The district board may adopt and enforce appropriate rules following the procedures of ch. 120, F.S., in connection with the provision of one or more services through its systems and facilities. The district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of special assessments.

The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.

Lastly, the bill requires rates, fees, rentals, and other charges imposed by the district to be adopted under the administrative rulemaking authority of the district. In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board is authorized, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- The bill establishes a process to transition the governing board from one elected by landowners only to a board elected by qualified electors of the district. The bill specifically provides that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." [Emphasis added.]

- Notwithstanding any provision of this bill or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is not applicable to any District assessments, whether imposed, levied, and collected pursuant to the provisions of this bill or other provisions of Florida law, including, but not limited to ch. 170, F.S.

- The bill authorizes the District to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cares, which authorized by proper governmental agencies; however, the District may not exercise any powers of a law enforcement agency. Notwithstanding any provision of general law, the District may operate guardhouses for the limited purpose of providing security for the residents of the District and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the District or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.

- Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by

banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

Broad Powers of the District

The "specialized functions and related prescribed powers," which are a defining characteristic for a special district, are extremely broad for this particular District, including the power to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the District; observation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; and provide buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

However, such broad powers, however, have been upheld by the courts as demonstrated by the leading case on this issue, *State v. Reedy Creek Imp. Dist.*, 216 So.2d 202 (Fla. 1968):

> So long as specific constitutional provisions are not offended, the Legislature in the exercise of its plenary authority may create a special improvement district encompassing more than one county and possessing multi-purpose powers essential to the realization of a valid public purpose. In the present case, the numerous and diverse powers granted to the District by the enabling act appear to be logically related and essential to the realization of the valid public purposes by the District. In reaching this conclusion, we reject the State's argument that the powers granted the District are commensurate in scope with those characteristic of a local municipal government rendering the enabling act a mere subterfuge to avoid the creation of a municipality.

Modification of District Boundaries/Binding Future Legislatures

The bill specifies that the charter of the district, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the district boundaries or the special powers of the district unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S. Although this bill appears to prohibit future legislatures from amending district boundaries unless a resolution from the affected county is secured, this provision cannot "bind" future legislatures or limit the legislature's ability to amend the district's boundaries. Therefore, although this language may evidence intent of the parties, a future legislature that wishes to amend the boundaries of the district may do so without a resolution from an affected county.

Supremacy Clause

Section 3(4) of this bill includes a supremacy clause as follows:

> This special-purpose district is created as a public body corporate and politic, and local government authority and power is limited by its charter, this act, and subject to the provisions of other general laws, including chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such authorities, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein, including those necessary and incidental thereto.

Supremacy clauses are provisions that attempt to resolve conflicts between legislative enactments by assigning supremacy or prominence to one provision or set of provisions over another. If a bill includes a general supremacy clause, such as the one contained in this bill, the judiciary determines superiority between general and special law provisions, rather than the Legislature. In addition, general supremacy clauses do not inform interested persons or members of the Legislature of the specific laws containing potential conflicts. Unless the specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

Extraterritorial Services and Projects
Section 3(4) of the bill provides as follows:

> The jurisdiction of this district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially when limited to, and as authorized expressly elsewhere in, the charter of the district as created in this act or applicable general law.

Section 6(7) of the charter authorizes the district to, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Brevard County Board of County Commissioners or with any other applicable public or private entity, or is approved or required by a development order and is not inconsistent with the effective local comprehensive plan.

The ability of the District to exercise its general and special powers *outside its boundaries* may raise questions regarding the levy of special assessments on property owners within the District if proceeds of the special assessments, fees, or non-ad valorem taxes are used to fund projects outside the District. The charter is unclear as to when and under what circumstances the District may exercise its powers extraterritorially or how assessments, taxes, and fees will be apportioned to fund projects outside District boundaries.

New Powers to Community Development Districts
Although the District is created pursuant to chapter 189, Florida Statutes, Section 3(2) of the bill attempts to give the District future powers that may be included in ch. 190, F.S., relating to Community Development Districts as follows:

> Any amendments to chapter 190, Florida Statutes, after January 1, 2006, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Viera Stewardship District.

Therefore, if the Legislature amends ch. 190, F.S., to grant community development districts additional authority at any time in the future, that additional authority will be automatically granted to the District without further legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

1559

FLORIDA TODAY

Published Daily

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared **MAUREEN FARR** who on oath says that she is **LEGAL ADVERTISING CLERK** of the **FLORIDA TODAY**, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a **LEGAL NOTICE** **(AD#672651-$58.43)** **in the** matter of **HOPPING GREEN & SAMS, P.A.** in the _____ Court **NOTICE OF INTENT TO SEEK LEGISLATION**

was published in the **FLORIDA TODAY** in the issues of **JANUARY 20, 2006**

affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard 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 said newspaper.

AD#672651-1/20,2006

NOTICE OF INTENT TO SEEK LEGISLATION
TO WHOM IT MAY CONCERN:
Notice is hereby given of intent to apply to the 2006 Florida Legislature for passage of an act relating to Brevard County. The legislation would create a new independent special district within such county, tentatively called the Viera Stewardship District. The district would be designed to fund, finance and provide infrastructure and services to persons and property within the district boundaries, which are within unincorporated areas in Brevard County. The legislation would describe the district boundaries, create the district charter, provide for a governing board, establish district powers, provide for required referenda, and provide an effective date.

Maureen Farr
(Signature of Affiant)

Sworn to and subscribed before this **20TH DAY OF JANUARY, 2006**

Linda L. Braud
(Signature of Notary Public)

LINDA L. BRAUD
MY COMMISSION EXPIRES May 4, 2009
#DD 422930
Bonded thru Notary Public Underwriters
NOTARY PUBLIC STATE OF FLORIDA

LINDA L. BRAUD
(Name of Notary Typed, Printed or Stamped)

Personally Known _____ or Produced Identification _____
Type Identification Produced _____

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: **HB 1559**

SPONSOR(S): Rep. Ralph Poppell

RELATING TO: **Brevard County**

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Brevard County

CONTACT PERSON: Andrew Grogan

PHONE # and E-Mail: (850) 488-3006 andrew.grogan@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: 12/15/2005

Location: Brevard County Commission Chamber, 2725 Judge Fran Jamieson Way Melbourne, FL 32940

(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 [01/20/2006]

Where? Florida Today Newspaper County Brevard

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 [x] NO [ ] NOT APPLICABLE [ ]

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

3/9/06

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

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

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SPONSOR(S): Rep. Ralph Poppell

RELATING TO: **Brevard County**

[Indicate Area Affected (City, County, Special District) and Subject]

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(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: 12/15/2005

Location: Brevard County Commission Chamber, 2725 Judge Fran Jamieson Way Melbourne, FL 32940

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Notice published: YES [x] NO [ ] DATE [01/20/2006]

Where? Florida Today Newspaper County Brevard

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

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

3/9/06

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# 1559

Sponsor(s): Ralph Poppell

Relating To: Creation of Viera Stewardship District

I. Estimated Cost of Administration, Implementation, and Enforcement:

	FY 05-06	FY 06-07
Expenditures:	$0	$0

There are no State, Local or Federal expenditures involved with the proposed bill. The proposed Viera Stewardship District will be a self-funding Special Taxing District which will not require any funding from other local governments.

II. Anticipated Source(s) of Funding:

	FY 05-06	FY 06-07
Federal:	$0	$0
State:	$0	$0
Local:	$0	$0

The sources of funding will consist of maintenance and debt service assessments levied against the developable properties within the geographical boundaries of the Viera Stewardship District. It is anticipated that the District will be utilized to finance, construct and maintain the community wide public infrastructure of the development.

No local funding is anticipated during the above referenced fiscal years. In future years, the District will be self-funding with the amount of the funding dependent upon the approved development plan.

III. Anticipated New, Increased, or Decreased Revenues:

	FY 05-06	FY 06-07
Federal:	$0	$0
State:	$0	$0
Local:	$0	$0

There are no anticipated new, increased or decreased revenues anticipated during the above referenced fiscal years.

IV. Estimated Economic Impact on Individuals, Business, or Governments:

Advantages: Increased tax revenues to the state and local governments from the development of the property for residential, commercial and industrial use. The public infrastructure cost will be paid for by the property owners within the proposed development therefore not overburdening the state and local general purpose governments with providing the necessary infrastructure for development. By providing the necessary public infrastructure to allow development, this will attract new businesses and create jobs in the local communities.

The Viera Stewardship District is approximately 13,400 acres located in Brevard County and is anticipated to consist of residential, commercial and light industrial development. However, the types and extent of development within the District is ultimately contingent upon securing the necessary development approvals from Brevard County. A development of this size will have a significant positive economic impact on individuals, businesses and governments.

Disadvantages: There are no disadvantages. Required disclosures to future property owners will inform potential purchaser about the Viera Stewardship District and the financial obligations placed upon them as property owners within the District.

V. Estimated Impact Upon Competition and the Open Market For Employment:

There will be a positive impact. The Viera Stewardship District will provide the necessary public infrastructure to promote development within the District which will have a positive impact on employment. New businesses will be established in the District from the increase in population due to the proposed residential development. The construction of the infrastructure will be the responsibility of the District, thus subject to government standards for contracting, bidding and government in the "sunshine".

VI. Data and Method Used in Making Estimates (Include Source(s) of Data):

Proposed Viera Stewardship Act

Prepared By: _____

George S. Flint 1/20/06

Title: Vice President

Representing: GMS-Central Florida, LLC

Phone: (407) 514-2645

E-Mail Address: gflint@govmgtsvc.com

1 A bill to be entitled
2 An act relating to Brevard County; creating the Viera
3 Stewardship District; providing a short title; providing
4 legislative findings and intent; providing definitions;
5 stating legislative policy regarding creation of the
6 district; establishing compliance with minimum
7 requirements in s. 189.404(3), F.S., for creation of an
8 independent special district; providing for creation and
9 establishment of the district; establishing the legal
10 boundaries of the district; providing for the jurisdiction
11 and charter of the district; providing for a board of
12 supervisors and establishing membership criteria and
13 election procedures; providing for board members' terms of
14 office; providing for board meetings; providing for
15 administrative duties of the board; providing a method for
16 transition of the board from landowner control to control
17 by the resident electors of the district; providing for a
18 district manager and district personnel; providing for a
19 district treasurer, selection of a public depository, and
20 district budgets and financial reports; providing for the
21 general powers of the district; providing for the special
22 powers of the district to plan, finance, and provide
23 community infrastructure and services within the district;
24 providing for required notices to purchasers of
25 residential units within the district; providing
26 severability; providing for a referendum; providing an
27 effective date.
28

29 Be It Enacted by the Legislature of the State of Florida:
30
31 Section 1. Short title.--This act may be cited as the
32 "Viera Stewardship District Act."
33 Section 2. Legislative findings and intent; definitions;
34 policy.--
35 (1) LEGISLATIVE FINDINGS AND INTENT.--
36 (a) The extensive lands located within Brevard County and
37 covered by this act contain many opportunities for thoughtful,
38 comprehensive, environmentally responsible, and consistent
39 development over a long period.
40 (b) There is a particular special need to use a
41 specialized and limited single-purpose independent special
42 district unit of local government for the district lands located
43 within Brevard County and covered by this act to prevent urban
44 sprawl by providing sustaining and freestanding infrastructure
45 and by preventing needless and counterproductive community
46 development when the existing urban area is not yet developed,
47 and to prevent the needless duplication, fragmentation, and
48 proliferation of local government services in a proposed land
49 use area.
50 (c) The establishment of such a limited specialized
51 single-purpose local government for the district lands will
52 serve a necessary and useful public purpose by providing an
53 efficient and effective method of ensuring the long-term
54 stewardship of environmental and conservation resources within
55 the district through the comprehensive management of the
56 district's ecosystem, including, but not limited to, the

57 implementation and administration of habitat protection and
58 management plans approved by regulatory agencies having
59 jurisdiction and the local governing authority.
60 (d) The creation and establishment of the district will
61 constitute a timely, efficient, effective, responsive, and
62 economical method to deliver capital infrastructure, facilities,
63 and services to accommodate the growth projected under Brevard
64 County's comprehensive land use plan for the extensive lands
65 comprising the district, by providing a legitimate alternative
66 method for owning, operating, constructing, and financing such
67 infrastructure, facilities, and services which will not
68 overburden local general purpose governments and their
69 taxpayers.
70 (e) While chapter 190, Florida Statutes, provides an
71 opportunity for community development services and facilities to
72 be provided by the establishment of community development
73 districts in a manner that furthers the public interest, given
74 the vast nature of the lands covered by this act and the
75 potentially long-term nature of its development, establishing
76 multiple community development districts over these lands would
77 result in an inefficient, duplicative, and needless
78 proliferation of local special purpose government, contrary to
79 the public interest and the Legislature's findings in chapter
80 190, Florida Statutes. Instead, it is in the public interest
81 that the long-range provision for, and management, financing,
82 and long-term maintenance, upkeep, and operation of, services
83 and facilities to be provided for ultimate development of the
84 lands covered by this act be under one coordinated entity.

85 (f) Longer involvement of the initial landowner with
86 regard to the provision of systems, facilities, and services for
87 the district lands, coupled with a severely limited and highly
88 specialized single purpose of the district is in the public
89 interest.
90 (g) Any public or private system to provide infrastructure
91 improvements, systems, facilities, and services to these lands
92 must be focused on an unfettered, highly specialized,
93 innovative, responsive, and accountable mechanism to provide the
94 components of infrastructure at sustained levels of high quality
95 over the long term only when and as needed for such a unique
96 community in such a unique area.
97 (h) There is a need to coincide the use and special
98 attributes of various public and private alternatives for the
99 provision of infrastructure to such a community development,
100 including the limited, flexible, focused, and locally
101 accountable management and related financing capabilities of
102 independent special-purpose local government.
103 (i) The existence and use of such a limited specialized
104 single purpose local government for the district lands, subject
105 to the respective county comprehensive plans, will result in a
106 high propensity to provide for orderly development and prevent
107 urban sprawl; protect and preserve environmental, conservation,
108 and agricultural uses and assets; enhance the market value for
109 both present and future landowners of the property consistent
110 with the need to protect private property; enhance the net
111 economic benefit to the Brevard County area, including an
112 enhanced and well-maintained tax base to the benefit of all

113 present and future taxpayers in Brevard County; and result in
114 the sharing of costs of providing certain systems, facilities,
115 and services in an innovative, sequential, and flexible manner
116 within the developing area to be serviced by the district.
117 (j) The creation and establishment of the district will
118 encourage local government financial self-sufficiency in
119 providing public facilities and in identifying and implementing
120 physically sound, innovative, and cost-effective techniques to
121 provide and finance public facilities while encouraging
122 development, use, and coordination of capital improvement plans
123 by all levels of government, pursuant to chapter 187, Florida
124 Statutes.
125 (k) The creation and establishment of the district will
126 encourage and enhance cooperation among communities that have
127 unique assets, irrespective of political boundaries, to bring
128 the private and public sectors together for establishing an
129 orderly and environmentally and economically sound plan for
130 current and future needs and growth.
131 (l) In order to be responsive to the critical timing
132 required through the exercise of its special management
133 functions, an independent district requires financing of those
134 functions, including bondable lienable and nonlienable revenue,
135 with full and continuing public disclosure and accountability,
136 funded by landowners, both present and future, and funded also
137 by users of the systems, facilities, and services provided to
138 the land area by the district, without unduly burdening the
139 taxpayers and citizens of the state, Brevard County, or any
140 municipality therein.

141 (m) The district created and established by this act shall
142 not have or exercise any comprehensive planning, zoning, or
143 development permitting power; the establishment of the district
144 shall not be considered a development order within the meaning
145 of chapter 380, Florida Statutes; and all applicable planning
146 and permitting laws, rules, regulations, and policies of Brevard
147 County control the development of the land to be serviced by the
148 district.
149 (n) The creation by this act of the Viera Stewardship
150 District is not inconsistent with the Brevard County
151 comprehensive plan.
152 (o) It is the legislative intent and purpose that no debt
153 or obligation of the district constitute a burden on any local
154 general-purpose government without its consent.
155 (2) DEFINITIONS.--As used in this act:
156 (a) "Ad valorem bonds" means bonds which are payable from
157 the proceeds of ad valorem taxes levied on real and tangible
158 personal property and which are generally referred to as general
159 obligation bonds.
160 (b) "Assessable improvements" means, without limitation,
161 any and all public improvements and community facilities that
162 the district is empowered to provide in accordance with this act
163 that provide a special benefit to property within the district.
164 (c) "Assessment bonds" means special obligations of the
165 district which are payable solely from proceeds of the special
166 assessments or benefit special assessments levied for assessable
167 improvements, provided that, in lieu of issuing assessment bonds
168 to fund the costs of assessable improvements, the district may

169 issue revenue bonds for such purposes payable from special
170 assessments.
171 (d) "Assessments" means those nonmillage district
172 assessments which include special assessments, benefit special
173 assessments, and maintenance special assessments and a
174 nonmillage, non-ad valorem maintenance tax if authorized by
175 general law.
176 (e) "Benefit special assessments" are district assessments
177 imposed, levied, and collected pursuant to the provisions of
178 section 6(12)(b).
179 (f) "Board of supervisors" or "board" means the governing
180 board of the district or, if such board has been abolished, the
181 board, body, or commission assuming the principal functions
182 thereof or to whom the powers given to the board by this act
183 have been given by law.
184 (g) "Bond" includes "certificate" and the provisions that
185 are applicable to bonds are equally applicable to certificates.
186 The term "bond" includes any general obligation bond, assessment
187 bond, refunding bond, revenue bond, and other such obligation in
188 the nature of a bond as is provided for in this act.
189 (h) "Cost" or "costs," when used with reference to any
190 project, includes, but is not limited to:
191 1. The expenses of determining the feasibility or
192 practicability of acquisition, construction, or reconstruction.
193 2. The cost of surveys, estimates, plans, and
194 specifications.
195 3. The cost of improvements.

196 4. Planning, engineering, designing, fiscal, legal, and
197 other professional and consultant expenses and charges.
198 5. The cost of all labor, materials, machinery, and
199 equipment.
200 6. The cost of all lands, properties, rights, easements,
201 and franchises acquired.
202 7. Financing charges.
203 8. The creation of initial reserve and debt service funds.
204 9. Working capital.
205 10. Interest charges incurred or estimated to be incurred
206 on money borrowed prior to and during construction and
207 acquisition and for such reasonable period of time after
208 completion of construction or acquisition as the board may
209 determine.
210 11. The cost of issuance of bonds pursuant to this act,
211 including advertisements and printing.
212 12. The cost of any bond or tax referendum held pursuant
213 to this act and all other expenses of issuance of bonds.
214 13. The discount, if any, on the sale or exchange of
215 bonds.
216 14. Administrative expenses.
217 15. Such other expenses as may be necessary or incidental
218 to the acquisition, disposition, transfer, construction, or
219 reconstruction of any project, to the financing thereof, or to
220 the development of any lands within the district.
221 16. Payments, contributions, dedications, and any other
222 exactions required as a condition of receiving any governmental
223 approval or permit necessary to accomplish any district purpose.

224 (i) "District" means the Viera Stewardship District.
225 (j) "District manager" means the manager of the district.
226 (k) "District roads" means highways, streets, roads,
227 alleys, sidewalks, landscaping, storm drains, bridges, and
228 thoroughfares of all kinds.
229 (l) "General obligation bonds" means bonds which are
230 secured by, or provide for their payment by, the pledge of the
231 full faith and credit and taxing power of the district, in
232 addition to those special taxes levied for their discharge and
233 such other sources as may be provided for their payment or
234 pledged as security under the resolution authorizing their
235 issuance, and for payment of which recourse may be had against
236 the general fund of the district.
237 (m) "Governing board member" means any member of the board
238 of supervisors.
239 (n) "Land development regulations" means those regulations
240 of general purpose local government, adopted under the Florida
241 Local Government Comprehensive Planning and Land Development
242 Regulation Act, part II of chapter 163, Florida Statutes, to
243 which the district is subject and as to which the district may
244 not do anything that is inconsistent. Land development
245 regulations shall not mean specific management, engineering,
246 planning, operating, and other criteria and standards needed in
247 the daily management, implementation, and provision by the
248 district of systems, facilities, services, works, improvements,
249 projects, or infrastructure, including design criteria and
250 standards, so long as they remain subject to and are not
251 inconsistent with the applicable land development regulations.

252 (o) "Landowner" means the owner of a freehold estate as it
253 appears on the deed record, including a trustee, a private
254 corporation, and an owner of a condominium unit. "Landowner"
255 does not include a reversioner, remainderman, mortgagee, or any
256 governmental entity, who shall not be counted and need not be
257 notified of proceedings under this act. "Landowner" also means
258 the owner of a ground lease from a governmental entity, which
259 leasehold interest has a remaining term, excluding all renewal
260 options, in excess of 50 years.
261 (p) "General-purpose local government" means a county,
262 municipality, or consolidated city-county government.
263 (q) "Maintenance special assessments" are assessments
264 imposed, levied, and collected pursuant to the provisions of
265 section 6(12)(d).
266 (r) "Non-ad valorem assessment" means only those
267 assessments which are not based upon millage and which can
268 become a lien against a homestead as permitted in s. 4, Art. X
269 of the State Constitution.
270 (s) "Powers" means powers used and exercised by the board
271 to accomplish the single, limited, and special purpose of the
272 district, including:
273 1. "General powers" means those organizational and
274 administrative powers of the district as provided in this
275 charter in order to carry out its single special purpose as a
276 local government public corporate body politic.
277 2. "Special powers" means those powers enumerated by the
278 district charter to implement its specialized systems,
279 facilities, services, projects, improvements, and infrastructure

280 and related functions in order to carry out its single
281 specialized purpose.
282 3. Any other powers, authority, or functions set forth in
283 this act or in chapter 189 or chapter 190, Florida Statutes.
284 (t) "Project" means any development, improvement,
285 property, power, utility, facility, enterprise, service, system,
286 works, or infrastructure now existing or hereafter undertaken or
287 established under the provisions of this act.
288 (u) "Qualified elector" means any person at least 18 years
289 of age who is a citizen of the United States and a legal
290 resident of the state and of the district and who registers to
291 vote with the Supervisor of Elections of Brevard County.
292 (v) "Refunding bonds" means bonds issued to refinance
293 outstanding bonds of any type and the interest and redemption
294 premium thereon. Refunding bonds shall be issuable and payable
295 in the same manner as refinanced bonds, except that no approval
296 by the electorate shall be required unless required by the State
297 Constitution.
298 (w) "Revenue bonds" means obligations of the district that
299 are payable from revenues, including, but not limited to,
300 special assessments and benefit special assessments, derived
301 from sources other than ad valorem taxes on real or tangible
302 personal property and that do not pledge the property, credit,
303 or general tax revenue of the district.
304 (x) "Sewer system" means any plant, system, facility, or
305 property, and additions, extensions, and improvements thereto at
306 any future time constructed or acquired as part thereof, useful
307 or necessary or having the present capacity for future use in

308 connection with the collection, treatment, purification, or
309 disposal of sewage, including, but not limited to, industrial
310 wastes resulting from any process of industry, manufacture,
311 trade, or business or from the development of any natural
312 resource. "Sewer system" also includes treatment plants, pumping
313 stations, lift stations, valves, force mains, intercepting
314 sewers, laterals, pressure lines, mains, and all necessary
315 appurtenances and equipment; all sewer mains, laterals, and
316 other devices for the reception and collection of sewage from
317 premises connected therewith; and all real and personal property
318 and any interest therein, and rights, easements, and franchises
319 of any nature relating to any such system and necessary or
320 convenient for operation thereof.
321 (y) "Special assessments" means assessments as imposed,
322 levied, and collected by the district for the costs of
323 assessable improvements pursuant to the provisions of this act,
324 chapter 170, Florida Statutes, and the additional authority
325 under section 197.3631, Florida Statutes, or other provisions of
326 general law, now or hereinafter enacted, which provide or
327 authorize a supplemental means to impose, levy, or collect
328 special assessments.
329 (z) "Taxes" or "tax" means those levies and impositions of
330 the board that support and pay for government and the
331 administration of law and that may be:
332 1. Ad valorem or property taxes based upon both the
333 appraised value of property and millage, at a rate uniform
334 within the jurisdiction; or

335 2. If and when authorized by general law, non-ad valorem
336 maintenance taxes not based on millage that are used to maintain
337 district systems, facilities, and services.
338 (aa) "Viera Stewardship District" means the unit of
339 special and single purpose local government created and
340 chartered by this act, including the creation of its charter,
341 and limited to the performance, in implementing its single
342 purpose, of those general and special powers authorized by its
343 charter under this act, the boundaries of which are set forth by
344 the act, the governing head of which is created and authorized
345 to operate with legal existence by this act, and the purpose of
346 which is as set forth in this act.
347 (bb) "Water management and control facilities" means any
348 lakes, canals, ditches, reservoirs, dams, impoundments, levees,
349 sluiceways, floodways, pumping stations, or any other works,
350 structures, or facilities for the conservation, control,
351 development, utilization, and disposal of nonpotable water, and
352 any purposes appurtenant, necessary or incidental thereto. The
353 term "water management and control facilities" includes all real
354 and personal property and any interest therein, rights,
355 easements, and franchises of any nature relating to any such
356 water management and control facilities or necessary or
357 convenient for the acquisition, construction, reconstruction,
358 operation or maintenance thereof.
359 (cc) "Water system" means any plant, system, facility, or
360 property, and any addition, extension, or improvement thereto at
361 any future time constructed or acquired as a part thereof,
362 useful, necessary, or having the present capacity for future use

363 in connection with the development of sources, treatment,
364 purification, or distribution of water. "Water system" also
365 includes dams, reservoirs, storage tanks, mains, lines, valves,
366 pumping stations, laterals, and pipes for the purpose of
367 carrying water to the premises connected with such system, and
368 all rights, easements, and franchises of any nature relating to
369 any such system and necessary or convenient for the operation
370 thereof.
371 (3) POLICY.--Based upon its findings, ascertainments,
372 determinations, intent, purpose, and definitions, the
373 Legislature states its policy expressly:
374 (a) The district and the district charter, with its
375 general and special powers, as created in this act, are
376 essential and the best alternative for the residential,
377 commercial, and other community uses, projects, or functions in
378 the included portions of Brevard County consistent with the
379 effective comprehensive plans and designed to serve a lawful
380 public purpose.
381 (b) The district, which is a local government and
382 political subdivision, is limited to its special purpose as
383 expressed in this act, with the power to provide, plan,
384 implement, construct, operate, maintain, repair, improve,
385 replace, manage, and finance as a local government management
386 entity its systems, facilities, services, improvements,
387 infrastructure, and projects and possessing financing powers to
388 fund its management power over the long term and with sustained
389 levels of high quality.

390 (c) The creation of the Viera Stewardship District by and
391 pursuant to this act, and its exercise of its management and
392 related financing powers to implement its limited, single, and
393 special purpose, is not a development order and does not trigger
394 or invoke any provision within the meaning of chapter 380,
395 Florida Statutes, and all applicable governmental planning,
396 environmental, and land development laws, regulations, rules,
397 policies, and ordinances apply to all development of the land
398 within the jurisdiction of the district as created by this act.
399 Moreover, the creation of the district itself shall neither
400 cause a reclassification for assessment purposes of any
401 agricultural lands within the district, nor prohibit or preclude
402 the use of any land within the district for agricultural
403 purposes or for any use related thereto.
404 (d) The district shall operate and function subject to,
405 and not inconsistent with, the comprehensive plan of Brevard
406 County and any applicable development orders, zoning
407 regulations, and other land development regulations.
408 (e) The special and single purpose Viera Stewardship
409 District shall not have the power of a general-purpose local
410 government to adopt a comprehensive plan or related land
411 development regulation as those terms are defined in the Local
412 Government Comprehensive Planning and Land Development
413 Regulation Act.
414 (f) This act may be amended, in whole or in part, only by
415 special act of the Legislature. No amendment to this act that
416 alters the district boundaries or the general or special powers
417 of the district may be considered by the Legislature unless it

418 is accompanied by a resolution or official statement as provided
419 for in section 189.404(2)(e)4., Florida Statutes.
420 Section 3. Minimum charter requirements; creation and
421 establishment; jurisdiction; construction; charter with legal
422 description.--
423 (1) Pursuant to section 189.404(3), Florida Statutes, the
424 Legislature sets forth that the minimum requirements in
425 paragraphs (a)-(o) have been met in the identified provisions of
426 this act as follows:
427 (a) The reasons for the district are articulated in the
428 findings in section 2, and the specific functions of the
429 district are described through the powers granted to the
430 district throughout the bill. However, in summary, the general
431 purpose of the district is to provide, through a special purpose
432 governmental entity, certain capital infrastructure, facilities
433 and services which benefit the residents of the district.
434 (b) The powers, functions, and duties of the district
435 regarding ad valorem taxation, bond issuance, other revenue-
436 raising capabilities, budget preparation and approval, liens and
437 foreclosure of liens, use of tax deeds and tax certificates as
438 appropriate for non-ad valorem assessments, and contractual
439 agreements are set forth in section 6.
440 (c) The provisions for methods for establishing the
441 district are in this section.
442 (d) The methods for amending the charter of the district
443 are set forth in section 2.

444 (e) The provisions for the membership and organization of
445 the governing board and the establishment of a quorum are in
446 section 5.
447 (f) The provisions regarding maximum compensation of each
448 board member are in section 5.
449 (g) The provisions regarding the administrative duties of
450 the governing board are found in sections 5 and 6.
451 (h) The provisions applicable to financial disclosure,
452 noticing, and reporting requirements generally are set forth in
453 sections 5 and 6.
454 (i) The provisions regarding procedures and requirements
455 for issuing bonds are set forth in section 6.
456 (j) The provisions regarding elections or referenda and
457 the qualifications of an elector of the district are in sections
458 2 and 5.
459 (k) The provisions regarding methods for financing the
460 district are generally in section 6.
461 (l) Other than taxes levied for the payment of bonds and
462 taxes levied for periods not longer than 2 years when authorized
463 by vote of the electors of the district, the provisions for the
464 authority to levy ad valorem tax and the authorized millage rate
465 are in section 6.
466 (m) The provisions for the method or methods of collecting
467 non-ad valorem assessments, fees, or service charges are in
468 section 6.
469 (n) The provisions for planning requirements are in this
470 section and section 6.

471 (o) The provisions for geographic boundary limitations of
472 the district are set forth in sections 4 and 6.
473 (2) The Viera Stewardship District, which also may be
474 referred to as the "stewardship district," "Viera District," or
475 "district," is created and incorporated as a public body
476 corporate and politic, an independent, limited, special purpose
477 local government, an independent special district, under section
478 189.404, Florida Statutes, and as defined in this act and in
479 section 189.403(3), Florida Statutes. Any amendments to chapter
480 190, Florida Statutes, after January 1, 2006, granting
481 additional general powers, special powers, authorities, or
482 projects to a community development district by amendment to its
483 uniform charter, sections 190.006-190.041, Florida Statutes,
484 shall constitute a general power, special power, authority, or
485 function of the Viera Stewardship District. All notices for the
486 enactment by the Legislature of this special act have been
487 provided pursuant to the State Constitution, the laws of Florida
488 and the Rules of the Florida House of Representatives and of the
489 Florida Senate. Subject to the referendum requirement in section
490 9, the district, as created by this act, is established on the
491 property described in this act.
492 (3) The territorial boundary of the district shall embrace
493 and include all of that certain real property described legally
494 in section 4.
495 (4) The jurisdiction of this district, in the exercise of
496 its general and special powers, and in the carrying out of its
497 special purposes, is both within the external boundaries of the
498 legal description of this district and extraterritorially when

499 limited to, and as authorized expressly elsewhere in, the
500 charter of the district as created in this act or applicable
501 general law. This special-purpose district is created as a
502 public body corporate and politic, and local government
503 authority and power is limited by its charter, this act, and
504 subject to the provisions of other general laws, including
505 chapter 189, Florida Statutes, except that an inconsistent
506 provision in this act shall control and the district has
507 jurisdiction to perform such acts and exercise such authorities,
508 functions, and powers as shall be necessary, convenient,
509 incidental, proper, or reasonable for the implementation of its
510 limited, single, and specialized purpose regarding the sound
511 planning, provision, acquisition, development, operation,
512 maintenance, and related financing of those public systems,
513 facilities, services, improvements, projects, and infrastructure
514 works as authorized herein, including those necessary and
515 incidental thereto.
516 (5) The exclusive charter of the Viera Stewardship
517 District is this act and, except as otherwise provided in
518 subsection (2), may be amended only by special act of the
519 Legislature.
520 Section 4. Legal description of the Viera Stewardship
521 District.--
522 The legal description of the district, within which
523 there are no parcels of property owned by those who do
524 not wish for their property to be included within the
525 district, is as follows:

526 Commence at a 4" X 4" concrete monument at the
527 Northwest corner of Section 30, Township 25 South,
528 Range 36 East and run N89°21'55"E, along the North
529 line of said Section 30, a distance of 2,545.93 feet,
530 to an iron rod and the POINT OF BEGINNING of the
531 herein described lands; thence S08°24'33"E, a distance
532 of 748.62 feet, to an iron rod; thence S08°55'25"E, a
533 distance of 405.40 feet, to an iron rod; thence
534 S07°53'09"E, a distance of 404.42 feet, to an iron
535 rod; thence S07°41'38"E, a distance of 556.16 feet, to
536 an iron rod; thence S08°07'57"E, a distance of 556.72
537 feet, to an iron rod; thence S07°54'48"E, a distance
538 of 556.44 feet, to an iron rod; thence S08°10'16"E, a
539 distance of 880.33 feet, to an iron rod; thence
540 S07°57'39"E, a distance of 482.44 feet, to an iron
541 rod; thence S79°41'18"W, a distance of 8.69 feet, to
542 an iron rod; thence S07°38'31"E, a distance of 396.84
543 feet, to an iron rod; thence S13°30'01"W, a distance
544 of 6.84 feet, to an iron rod; thence S68°53'11"W, a
545 distance of 456.26 feet, to an iron rod; thence
546 S75°44'29"W, a distance of 86.29 feet, to an iron rod;
547 thence S64°14'40"W, a distance of 129.79 feet, to an
548 iron rod; thence S68°29'29"W, a distance of 703.75
549 feet, to an iron rod; thence S03°43'55"E, a distance
550 of 774.28 feet, to an iron rod; thence S03°43'05"E, a
551 distance of 420.39 feet, to an iron rod; thence
552 S17°31'55"W, a distance of 31.51 feet, to an iron rod;
553 thence S02°10'23"W, a distance of 15.32 feet, to an

554 iron rod; thence S84°49'06"W, a distance of 1,260.85
555 feet, to an iron rod; thence S65°26'07"W, a distance
556 of 553.39 feet, to an iron rod; thence S65°16'09"W, a
557 distance of 553.65 feet, to an iron rod; thence
558 S65°26'06"W, a distance of 552.21 feet, to an iron
559 rod; thence S65°42'09"W, a distance of 553.14 feet, to
560 an iron rod; thence S86°33'52"W, a distance of 560.20
561 feet, to an iron rod; thence S86°36'43"W, a distance
562 of 1,119.98 feet, to an iron rod; thence N15°49'12"W,
563 a distance of 53.08 feet, to an iron rod; thence
564 S88°41'21"W, a distance of 144.31 feet to an iron rod;
565 thence S86°14'12"W, a distance of 360.22 feet, to an
566 iron rod; thence S44°22'00"W, a distance of 2,194.87
567 feet, to an iron rod; thence S02°24'20"E, a distance
568 of 99.12 feet, to an iron rod; thence S46°55'21"W, a
569 distance of 146.56 feet, to an iron rod; thence
570 S65°38'19"W, a distance of 194.77 feet, to an iron
571 rod; thence S63°42'25"W, a distance of 577.43 feet, to
572 an iron rod; thence S69°45'01"W, a distance of 412.41
573 feet, to an iron rod; thence N89°15'09", a distance of
574 79.29 feet, to an iron rod; thence S73°35'49W, a
575 distance of 521.37 feet, to an iron rod; thence
576 S87°25'48"W, a distance of 483.14 feet, to an iron
577 rod; thence S87°26'32"W, a distance of 966.55 feet, to
578 an iron rod; thence S87°21'06"W, a distance of 485.66
579 feet, to an iron rod; thence S62°14'38"W, a distance
580 of 444.40 feet, to an iron rod; thence S62°17'07"W, a
581 distance of 446.88 feet, to an iron rod; thence

582 S62°19'23"W, a distance of 358.90 feet, to an iron
583 rod; thence S62°27'13"W, a distance of 370.19 feet, to
584 an iron rod; thence S77°23'47"W, a distance of 411.83
585 feet, to an iron rod; thence S00°53'45"W, a distance
586 of 125.73 feet, to an iron rod; thence S00°13'05"W, a
587 distance of 658.60 feet, to an iron rod; thence
588 S00°02'40"E, a distance of 1,583.00 feet, to an iron
589 rod; thence S00°01'31"E, a distance of 543.46 feet, to
590 an iron rod; thence S06°38'41"E, a distance of 236.05
591 feet, to an iron rod; thence S00°05'15"W, a distance
592 of 1,609.02 feet, to an iron rod, thence N89°56'44"E,
593 a distance of 1,150.63 feet, to an iron rod; thence
594 N89°41'56"E, a distance of 575.37 feet, to an iron
595 rod; thence S89°48'28"E, a distance of 575.27 feet, to
596 an iron rod; thence S05°17'41"E, a distance of
597 5,150.06 feet, to an iron rod; thence S88°28'59"W, a
598 distance of 892.20 feet, to an iron rod; thence
599 S89°18'35"W, a distance of 1,352.16 feet, to an iron
600 rod; thence N88°11'42"W, a distance of 478.57 feet, to
601 an iron rod; thence S04°20'09"W, a distance of 165.35
602 feet, to an iron rod; thence S44°31'42"E, a distance
603 of 1,884.04 feet, to an iron rod; thence S44°35'30"E,
604 a distance of 3,917.97 feet, to an iron rod; thence
605 S62°09'21"E, a distance of 2,317.97 feet, to an iron
606 rod; thence S61°05'48"E, a distance of 649.92 feet, to
607 an iron rod; thence N47°11'55", a distance of 35.75
608 feet, to an iron rod; thence S61°57'44"E, a distance
609 of 923.38 feet, to an iron rod; thence S41°26'58"E, a

610 distance of 273.10 feet, to an iron rod; thence
611 S30°04'29"E, a distance of 310.25 feet, to an iron
612 rod; thence S34°43'38"E, a distance of 598.07 feet, to
613 an iron rod; thence S26°25'22"E, a distance of 301.86
614 feet, to an iron rod; thence S04°19'41"E, a distance
615 of 773.92 feet, to an iron rod; thence S03°54'52"E, a
616 distance of 1,444.29 feet, to an iron rod; thence
617 S88°57'24"E, a distance of 504.03 feet, to an iron
618 rod; thence S13°21'03"W, a distance of 118.12 feet, to
619 an iron rod; thence S34°02'56"W, a distance of
620 1,348.21 feet, to an iron rod; thence S45°13'06"W, a
621 distance of 1,297.85 feet, to an iron rod; thence
622 S63°01'28"W, a distance of 72.85 feet, to an iron rod;
623 thence S35°48'10"E, a distance of 45.45 feet, to an
624 iron rod; thence S36°43'44"E, a distance of 81.14
625 feet, to an iron rod; thence S43°22'10"E, a distance
626 of 2,416.90 feet, to an iron rod; thence S54°43'27"E,
627 a distance of 118.25 feet, to an iron rod; thence
628 S76°01'08"E, a distance of 114.63 feet, to an iron
629 rod; thence S89°15'48"E, a distance of 397.01 feet, to
630 an iron rod; thence S67°53'23"E, a distance of 92.26
631 feet, to a iron rod; thence S27°40'02"E, a distance of
632 156.14 feet, to an iron rod; thence S64°16'29"E, a
633 distance of 37.61 feet, to an iron rod; thence
634 S89°15'14"E, a distance of 352.87 feet, to an iron
635 rod; thence S85°51''17"E, a distance of 307.67 feet,
636 to an iron rod; thence N86°54'20"E, a distance of
637 151.74 feet, to an iron rod; thence N76°30'06"E, a

638 distance of 261.56 feet, to an iron rod; thence
639 N87°06'14"E, a distance of 251.77 feet, to an iron
640 rod; thence N88°53'08"E, a distance of 158.24 feet, to
641 an iron rod; thence N85°02'05"E, a distance of 159.48
642 feet, to an iron rod; thence S87°50'11"E, a distance
643 of 174.88 feet, to an iron rod; thence S83°44'02"E, a
644 distance of 176.43 feet, to an iron rod; thence
645 S86°24'25"E, a distance of 258.17 feet, to an iron
646 rod; thence S81°07'19"E, a distance of 151.23 feet, to
647 an iron rod; thence N73°40'28"E, a distance of 247.99
648 feet, to an iron rod; thence N84°35'54"E, a distance
649 of 81.80 feet, to an iron rod; thence S79°39'38"E, a
650 distance of 98.82 feet, to an iron rod; thence
651 S67°29'44"E, a distance of 168.94 feet, to an iron
652 rod; thence S56°25'12"E, a distance of 206.81 feet, to
653 an iron rod; thence S70°16'15"E, a distance of 241.47
654 feet, to an iron rod; thence S71°16'02"E, a distance
655 of 271.51 feet, to an iron rod; thence S76°57'22"E, a
656 distance of 144.38 feet, to an iron rod; thence
657 S83°43'51"E, a distance of 362.54 feet, to an iron
658 rod; thence S82°09'02"E, a distance of 428.93 feet, to
659 an iron rod; thence S76°54'20"E, a distance of 74.04
660 feet, to an iron rod; thence S69°05'45"E, a distance
661 of 73.41 feet, to an iron rod; thence S54°06'44"E, a
662 distance of 97.18 feet, to an iron rod; thence
663 S37°26'00"E, a distance of 287.82 feet, to an iron
664 rod; thence S54°56'39"E, a distance of 72.06 feet, to
665 an iron rod; thence S73°11'26"E, a distance of 65.07

666 feet, to an iron rod; thence S79°38'52"E, a distance
667 of 374.93 feet, to an iron rod; thence S74°51'17"E, a
668 distance of 156.56 feet, to an iron rod; thence
669 S60°41'38"E, a distance of 171.07 feet, to an iron
670 rod; thence S75°22'42"E, a distance of 109.56 feet, to
671 an iron rod; thence S52°26'28"E, a distance of 84.10
672 feet, to an iron rod; thence S41°24'22"E, a distance
673 of 210.47 feet, to an iron rod; thence S38°52'45"E, a
674 distance of 174.40 feet, to an iron rod; thence
675 S33°54'38"E, a distance of 212.94 feet, to an iron
676 rod; thence S37°40'21"E, a distance of 119.90 feet, to
677 an iron rod; thence S63°38'27"E, a distance of 397.23
678 feet, to an iron rod; thence S54°42'23"E, a distance
679 of 137.02 feet, to an iron rod; thence S66°28'00"E, a
680 distance of 72.13 feet, to an iron rod; thence
681 S74°03'50"E, a distance of 526.89 feet, to an iron
682 rod; thence S65°07'14"E, a distance of 169.50 feet, to
683 an iron rod; thence S56°11'35"E, a distance of 261.82
684 feet, to an iron rod; thence S62°05'45"E, a distance
685 of 141.63 feet, to an iron rod; thence S82°38'30"E, a
686 distance of 227.95 feet, to an iron rod; thence
687 S64°34'06"E, a distance of 134.09 feet, to an iron
688 rod; thence S44°50'15"E, a distance of 117.21 feet, to
689 an iron rod; thence S36°18'31"E, a distance of 242.72
690 feet, to an iron rod; thence S49°43'39"E, a distance
691 of 178.02 feet, to an iron rod; thence S45°48'41"E, a
692 distance of 179.26 feet, to an iron rod; thence
693 S49°49'20"E, a distance of 214.19 feet, to an iron

694 rod; thence S41°48'48"E, a distance of 222.20 feet, to
695 an iron rod; thence S48°35'30"E, a distance of 200.25
696 feet, to an iron rod; thence S61°25'40"E, a distance
697 of 428.09 feet, to an iron rod; thence S63°06'44"E, a
698 distance of 644.39 feet, to an iron rod; thence
699 S62°46'04"E, a distance of 678.14 feet, to an iron
700 rod; thence S62°43'50"E, a distance of 652.63 feet, to
701 an iron rod; thence S53°36'34"E, a distance of 218.94
702 feet, to an iron rod; thence S64°10'09"E, a distance
703 of 726.09 feet, to an iron rod; thence S64°07'34"E, a
704 distance of 634.55 feet, to an iron rod; thence
705 S62°56'15"E, a distance of 752.40 feet, to an iron
706 rod; thence S65°29'06"E, a distance of 118.42 feet, to
707 an iron rod; thence S59°29'15"E, a distance of 116.71
708 feet, to an iron rod; thence S41°56'01"E, a distance
709 of 88.47 feet, to an iron rod; thence S39°21'46"E, a
710 distance of 287.92 feet, to an iron rod; thence
711 S39°13'55"E, a distance of 321.23 feet, to an iron
712 rod; thence S39°37'39"E, a distance of 318.13 feet, to
713 an iron rod; thence S51°26'09"E, a distance of 73.03
714 feet, to an iron rod; thence S75°43'21"E, a distance
715 of 132.64 feet, to an iron rod; thence S81°00'26"E, a
716 distance of 449.69 feet, to an iron rod; thence
717 S61°25'12"E, a distance of 181.24 feet, to an iron
718 rod; thence S76°11'38"E, a distance of 79.34 feet, to
719 an iron rod; thence N83°23'17"E, a distance of 57.02
720 feet, to an iron rod; thence N57°28'51"E, a distance
721 of 65.75 feet, to an iron rod; thence N48°12'37"E, a

722 distance of 218.65 feet, to an iron rod; thence
723 S71°43'37"E, a distance of 109.38 feet, to an iron
724 rod; thence S55°14'02"E, a distance of 91.32 feet, to
725 an iron rod; thence S38°01'21"E, a distance of 56.46
726 feet, to an iron rod; thence S03°46'11"E, a distance
727 of 62.49 feet, to an iron rod; thence S00°46'56"W, a
728 distance of 262.22 feet, to an iron rod; thence
729 S13°01'47"E, a distance of 243.27 feet, to an iron
730 rod; thence S16°57'33"E, a distance of 140.72 feet, to
731 an iron rod on the South line of the Southeast one-
732 quarter of Section 33, Township 26 South, Range 36
733 East; thence N88°28'46"E along the South line of said
734 Section 33, 1212.95 feet to Southwest Corner of
735 Section 34, Township 26 South, Range 36 East; thence
736 N89°06'05"E along the South line of said Section 34,
737 4798.14 feet to a point on the West Right-of-Way line
738 of Interstate 95 (Circuit Court Book 53, Pages 359-
739 363, Public Records of Brevard County Florida), thence
740 N00°03'59"W, along said Right-of-Way 2480.30 feet;
741 thence N00°28'45"W, 328.41 feet, to a point on the
742 South Boundary line of Nail Farms (Deed Book 63, Page
743 155, Public Records of Brevard County, Florida);
744 thence S78°21'10"W along said South Line, 303.63 feet;
745 thence N00°38'50"W, 554.40 feet; thence N89°21'11"E,
746 290.53 feet, to a point on the said West Right-of-Way
747 line of Interstate 95 and a non-tangent intersection
748 with a curve to the left; Thence along said Right-of-
749 Way line and the arc of said curve, (said curve being

750 concave to the West and having a radius of 22800.32
751 feet; a radial bearing of S87°51'38"W, a delta angle
752 of 12°22'37", a chord distance of 4915.73 feet; and a
753 chord bearing of N08°19'41"W) a distance of 4925.30
754 feet to the end of said curve; thence N14°30'59"W,
755 4457.16 feet; thence S75°29'01"W, 200.00 feet; thence
756 N14°30'59"W, 950.00 feet; thence N75°29'01"E, 200.00
757 feet; thence N14°30'59"W, 4932.58 feet to the
758 Southeast corner of the Plat of Viera Central PUD,
759 Tract 12, Unit 1, Parcels 1-3, Phase 3 (Plat Book 44
760 Pages 52-54, Public Records of Brevard County,
761 Florida); thence S61°38'33"W along the South line of
762 said Plat, 86.02 feet to a non-tangent intersection
763 with a curve to the left; Thence along the arc of said
764 curve, (said curve being concave to the West and
765 having a radius of 750.00 feet; a radial bearing of
766 S61°38'33"W, a delta angle of 33°08'08", a chord
767 distance of 427.72 feet; and a chord bearing of
768 N44°55'31"W) a distance of 433.74 feet to the end of
769 said curve and a point on the East line of a parcel of
770 land described in Official Records Book 4568, Pages
771 518-522, Public Records of Brevard County, Florida;
772 thence S14°30'59"E along the East line of said parcel,
773 253.23 feet; thence S75°13'39"W, 717.10 feet; thence
774 N14°17'52"W, 287.62 feet to the beginning of a curve
775 to the right; Thence along the arc of said curve,
776 (said curve being curved concave to the East and
777 having a radius of 50.00 feet; a delta angle of

778 39°18'18", a chord distance of 33.63 feet; and a chord
779 bearing of N05°21'17"E) a distance of 34.30 feet to
780 the beginning of a reverse curve to the left; Thence
781 along the arc of said curve, (said curve being curved
782 concave to the West and having a radius of 195.00
783 feet; a delta angle of 39°31'10", a chord distance of
784 131.85 feet, and a chord bearing of N05°14'51"E) a
785 distance of 134.50 feet to the Southeast corner of the
786 Plat of Viera Central PUD, Tract 12, Unit 1, Parcels
787 1-3, Phase 5 (Plat Book 45, Page 22, Public Records of
788 Brevard County, Florida) and a non-tangent
789 intersection with a curve to the left; Thence along
790 the South line of said Plat and the arc of said curve,
791 (said curve being concave to the Southeast and having
792 a radius of 750.00 feet; a radial bearing of
793 S25°55'03"E, a delta angle of 47°24'20", a chord
794 distance of 602.99 feet; and a chord bearing of
795 S40°22'47"W) a distance of 620.54 feet to the end of
796 said curve; thence S76°30'35"W, 326.62 feet to the
797 Southwest corner of said plat and a point on the East
798 line of the Plat of Trafford West (Plat Book 51, Page
799 54, Public Records of Brevard County, Florida) and a
800 non-tangent intersection with a curve to the right;
801 Thence along the East line of said plat and arc of
802 said curve, (said curve being concave to the West and
803 having a radius of 3025.00 feet; a delta angle of
804 01°51'26", a chord distance of 98.06 feet; and a chord
805 bearing of S12°33'47"E) a distance of 98.06 feet to a

806 non-tangent intersection with the Southerly boundary
807 of said plat; thence along said Southerly boundary the
808 following 5 courses and distances:
809 1) S89°08'33"W, 217.69 feet;
810 2) S35°10'57"W, 136.27 feet;
811 3) S00°51'27"E, 242.81 feet;
812 4) S89°08'33"W, 725.22 feet;
813 5) N00°51'27"W, 898.20 feet to the Northwest corner
814 of Tract A of said Trafford West, and a point on the
815 South Right-of-Way line of Trafford Drive; thence
816 S89°08'33"W along said Right-of-Way line of Trafford
817 Drive, 50.00 feet to the Southwest corner of Trafford
818 Drive; thence N00°51'27"W along the West line of
819 Trafford Drive, 100.00 feet to the Northwest corner of
820 Trafford Drive; thence N89°08'33"E along the North
821 Right-of-Way line of Trafford Drive, 70.79 feet to the
822 Southwest corner of that certain parcel of land
823 described in Official Records Book 4939, Page 1184;
824 thence N00°51'24"W, along the West line of said
825 parcel, 401.50 feet to the Northwest corner of said
826 parcel; thence N89°08'33"E, along the North line of
827 said Parcel, 590.76 feet to the Northeast corner of
828 said parcel and a point on the West Right-of-Way line
829 of Lake Andrew Drive (150' Right-of Way, Tract G-1,
830 Plat of Viera Central PUD, Tract 12, Unit 1, Parcels
831 1-3, Phase 4, Plat Book 44, Pages 91-92); thence
832 N31°59'26"W along said West Right-of-Way, 1061.84 feet
833 to the beginning of a curve to the right; Thence along

834 the arc of said curve, (said curve being concave to
835 the Northeast and having a radius of 7025.00 feet; a
836 delta angle of 10°02'20", a chord distance of 242.21
837 feet, and a chord bearing of N26°58'16"W) a distance
838 of 363.57 feet to the end of said curve; thence
839 S69°25'46"W, 700.00 feet; thence N20°34'14"W, 100.00
840 feet; thence S69°25'46"W, 208.37 feet; thence
841 S89°08'33"W, 566.39 feet; thence S44°08'33"W, 1022.48
842 feet; thence S89°08'33"W, 150.00 feet; thence
843 N00°51'27"W, 318.85 feet; thence S89°08'33"W, 40.00
844 feet; thence N00°51'27"W, 40.00 feet; thence
845 S89°08'33"W, 1293.68 feet; thence N00°51'27"W, 1059.47
846 feet; thence S89°08'33"W, 150.00 feet; thence
847 S00°51'27"E, 438.26 feet; thence S89°08'33"W, 1552.65
848 feet; thence N00°35'21"E, 849.03 feet to a point on
849 the South Right-of Way line of Wickham Road (Plat of
850 Wickham Road Extension, Plat Book 50, Page 10, Public
851 Records of Brevard County, Florida); thence
852 S89°08'33"W along the South line of said plat, 2225.96
853 feet to the Southwest corner of said Plat; thence
854 N00°51'27"W along the West line of said plat, 150.00
855 feet to the Northwest corner of said plat of Wickham
856 Road Extension, and a point on the South line of the
857 Plat of Heritage Isle - Phase 1 (Plat Book 50, Pages
858 61-66, Public Records of Brevard County, Florida);
859 thence S89°08'33"W along the South line of said plat
860 of Heritage Isle - Phase 1, 1772.10 feet to a point on
861 the West line of the Viera Development of Regional

862 Impact (DRI) (as described in the BREVARD COUNTY
863 RESOLUTION 01-391, Public Records of Brevard County,
864 Florida) and the West line of Section 8, Township 26
865 South, Range 36 East; thence N00°35'22"W along the
866 West line of said Viera DRI and Section 8, 5227.90
867 feet to the Southwest Corner of Section 5, Township 26
868 South, Range 36 East; thence N00°33'35"W along the
869 West line of said Section 5, 5290.28 feet to the
870 Southwest corner of Section 32, Township 25 South,
871 Range 36 East thence N00°31'18"E along the West line
872 of said Section 32, 4667.92 feet; thence N66°33'30"E,
873 1990.78 feet to the beginning of a curve to the left;
874 Thence along the arc of said curve, (said curve being
875 curved concave to the Northwest and having a radius of
876 2988.25 feet; a delta angle of 28°53'46", a chord
877 distance of 1491.15 feet; , and a chord bearing of
878 N52°06'37"E) a distance of 1507.07 feet to the end of
879 said curve and an intersection with a non-tangent
880 line; thence N26°25'15"W, along said non-tangent line,
881 1508.04 feet; thence N00°33'05"W, 470.00 feet; thence
882 N45°39'16"W, 1200.05 feet; thence S89°26'55"W, 150.00
883 feet; thence N45°51'06"W, 274.34 feet; thence
884 N00°33'05"W, 1456.41 feet to a point on the North line
885 of Section 29, Township 25 South, Range 36 East;
886 thence S89°20'44"W along the North line of said
887 Section 29, 1153.36 feet to the Northeast corner of
888 Section 30, Township 25 South, Range 36 East; Thence

889 S89°23'19"W along the North line of said Section 30,
890 2789.62 feet to the POINT OF BEGINNING.
891 Subject to Easements, Restrictions, Reservations and
892 Rights-of-way of record.
893 LESS AND EXCEPT those certain parcels of land
894 described in Official Records Book 2951, Page 1574;
895 Official Records Book 3412, Page 4823; Official
896 Records Book 4203, Page 2463; Official Records Book
897 5262, Page 3838; AND LESS AND EXCEPT that certain
898 parcel of land described in Civil Action Documents 96-
899 16731-CA-F; all being recorded in the Public Records
900 of Brevard County, Florida.
901 TOGETHER WITH that certain parcel described in
902 Official Records Book 5262, Page 3836, Public Records
903 of Brevard County, Florida
904 Section 5. Board of supervisors; members and meetings;
905 organization; powers; duties; terms of office; related election
906 requirements.--
907 (1) The board of the district shall exercise the powers
908 granted to the district pursuant to this act. The board shall
909 consist of five members, each of whom shall hold office for a
910 term of 4 years, as provided in this section, except as
911 otherwise provided herein for initial board members, and until a
912 successor is chosen and qualified. The members of the board must
913 be residents of the state and citizens of the United States.
914 (2)(a) Within 90 days following the effective date of the
915 law establishing the district, there shall be held a meeting of
916 the landowners of the district for the purpose of electing five

917 supervisors for the district. Notice of the landowners' meeting
918 shall be published once a week for 2 consecutive weeks in a
919 newspaper which is in general circulation in the area of the
920 district, the last day of such publication to be not fewer than
921 14 days or more than 28 days before the date of the election.
922 The landowners, when assembled at such meeting, shall organize
923 by electing a chair, who shall conduct the meeting. The chair
924 may be any person present at the meeting. If the chair is a
925 landowner or proxy holder of a landowner, he or she may nominate
926 candidates and make and second motions. The landowners present
927 at the meeting, in person or by proxy, shall constitute a
928 quorum. At any landowners' meeting, 50 percent of the district
929 acreage shall not be required to constitute a quorum, and each
930 governing board member elected by landowners shall be elected by
931 a majority of the acreage represented either by owner or proxy
932 present and voting at said meeting.
933 (b) At such meeting, each landowner shall be entitled to
934 cast one vote per acre of land owned by him or her and located
935 within the district for each person to be elected. A landowner
936 may vote in person or by proxy in writing. Each proxy must be
937 signed by one of the legal owners of the property for which the
938 vote is cast and must contain the typed or printed name of the
939 individual who signed the proxy; the street address, legal
940 description of the property, or tax parcel identification
941 number; and the number of authorized votes. If the proxy
942 authorizes more than one vote, each property must be listed and
943 the number of acres of each property must be included. The
944 signature on a proxy need not be notarized. A fraction of an

945 acre shall be treated as 1 acre, entitling the landowner to one
946 vote with respect thereto. The two candidates receiving the
947 highest number of votes shall be elected for a term expiring
948 November 18, 2008, and the three candidates receiving the next
949 largest number of votes shall be elected for a term expiring
950 November 7, 2006, with the term of office for each successful
951 candidate commencing upon election. The members of the first
952 board elected by landowners shall serve their respective terms;
953 however, the next election of board members shall be held on the
954 first Tuesday after the first Monday in November 2006.
955 Thereafter, there shall be an election by landowners for the
956 district every 2 years on the first Tuesday after the first
957 Monday in November, which shall be noticed pursuant to paragraph
958 (a). The second and subsequent landowners' election shall be
959 announced at a public meeting of the board at least 90 days
960 prior to the date of the landowners' meeting and shall also be
961 noticed pursuant to paragraph (a). Instructions on how all
962 landowners may participate in the election, along with sample
963 proxies, shall be provided during the board meeting that
964 announces the landowners' meeting. Each supervisor elected in or
965 after November 2006 shall serve a 4-year term, unless the
966 supervisor is elected to complete a term created by a vacancy in
967 the office.
968 (3)(a)1. The board may not exercise the ad valorem taxing
969 power or the general obligation bond power authorized by this
970 act until such time as all members of the board are qualified
971 electors who are elected by qualified electors of the district.

972 2.a. Regardless of whether the district has proposed to
973 levy ad valorem taxes or issue general obligation bonds, board
974 members shall begin being elected by qualified electors of the
975 district as the district becomes populated with qualified
976 electors. The transition shall occur such that the composition
977 of the board, after the first general election following a
978 trigger as set forth below, shall be as follows:
979 (I) Five years following the creation of the district, one
980 governing board member shall be a person who was elected by the
981 qualified electors and four governing board members shall be
982 persons who were elected by the landowners.
983 (II) Ten years following the creation of the district, two
984 governing board members shall be persons who were elected by the
985 qualified electors and three governing board members shall be
986 persons elected by the landowners.
987 (III) When the district is populated by 60 percent of the
988 projected total qualified electors, three governing board
989 members shall be persons who were elected by the qualified
990 electors and two governing members shall be persons who were
991 elected by the landowners.
992 (IV) Three years following the trigger in sub-sub-
993 subparagraph (III), four governing board members shall be
994 persons who were elected by the qualified electors and one
995 governing board member shall be a person who was elected by the
996 landowners.
997 (V) Five years following the trigger in subparagraph
998 (III), all five governing board members shall be persons who
999 were elected by the qualified electors.

1000
1001 For purposes of this subparagraph, "projected total qualified
1002 electors" shall mean and refer to the product of: (the total
1003 number of single-family and multi-family units approved within
1004 the district by a development order issued by Brevard County and
1005 in effect in the tenth year following creation of the district)
1006 x (the average number of persons residing within a household
1007 located within Brevard County based on the 2010 U.S. Census) x
1008 (the percentage of Brevard County's general population
1009 registered to vote as reported by the Brevard County Supervisor
1010 of Elections as of the general election occurring November
1011 2014).
1012 Nothing in this sub-subparagraph is intended to require an
1013 election prior to the expiration of an existing board member's
1014 term.
1015 b. On or before June 1, 2016, the board shall determine
1016 the number of projected qualified electors in the district as of
1017 the immediately preceding April 15. Additionally, on or before
1018 June 1, 2016, and each year thereafter until the trigger in
1019 subparagraph (III) is met, the board shall determine the actual
1020 number of qualified electors in the district as of the
1021 immediately preceding April 15. The board shall use and rely
1022 upon the official records maintained by the supervisor of
1023 elections and property appraiser or tax collector in each county
1024 in making this determination. Such determination shall be made
1025 at a properly noticed meeting of the board and shall become a
1026 part of the official minutes of the district.

1027 c. All governing board members elected by qualified
1028 electors shall be elected at large at an election occurring as
1029 provided in subsection (2) and this subsection.
1030 d. Once the district qualifies to have any of its board
1031 members elected by the qualified electors of the district, the
1032 initial and all subsequent elections by the qualified electors
1033 of the district shall be held at the general election in
1034 November, except as provided in sub-subparagraph e. The board
1035 shall adopt a resolution if necessary to this requirement. The
1036 transition process described herein is intended to be in lieu of
1037 the process set forth in section 189.4051, Florida Statutes.
1038 e. If, during the term of office, a vacancy occurs, the
1039 remainder of the unexpired term shall be filled as follows:
1040 (I) If the vacancy arises with respect to a supervisor
1041 that was elected by landowners, the vacancy shall be filled by a
1042 supervisor elected by the landowners; and
1043 (II) If the vacancy arises with respect to a supervisor
1044 that was elected by the qualified electors of the district, the
1045 vacancy shall be filled by a supervisor elected by the qualified
1046 electors of the district, in which case the district shall be
1047 responsible for paying the expenses associated with any special
1048 election that is required to be conducted.
1049 (b) Elections of board members by qualified electors held
1050 pursuant to this subsection shall be nonpartisan and shall be
1051 conducted in the manner prescribed by law for holding general
1052 elections. Board members shall assume the office on the second
1053 Tuesday following their election.

1054 (c) Candidates seeking election to office by qualified
1055 electors under this subsection shall conduct their campaigns in
1056 accordance with the provisions of chapter 106, Florida Statutes,
1057 and shall file qualifying papers and qualify for individual
1058 seats in accordance with section 99.061, Florida Statutes.
1059 Candidates shall pay a qualifying fee, which shall consist of a
1060 filing fee and an election assessment or, as an alternative,
1061 shall file a petition signed by not less than 1 percent of the
1062 registered voters of the district, and take the oath required in
1063 section 99.021, Florida Statutes, with the supervisor of
1064 elections in the county affected by such candidacy. The amount
1065 of the filing fee is 3 percent of $4,800; however, if the
1066 electors have provided for compensation, the amount of the
1067 filing fee is 3 percent of the maximum annual compensation so
1068 provided. The amount of the election assessment is 1 percent of
1069 $4,800; however, if the electors have provided for compensation,
1070 the amount of the election assessment is 1 percent of the
1071 maximum annual compensation so provided. The filing fee and
1072 election assessment shall be distributed as provided in section
1073 105.031(3), Florida Statutes.
1074 (d) The supervisors of elections shall appoint the
1075 inspectors and clerks of elections, prepare and furnish the
1076 ballots, designate polling places, and canvass the returns of
1077 the election of board members by qualified electors. The county
1078 canvassing boards shall declare and certify the results of the
1079 election.
1080 (4) Members of the board, regardless of how elected, shall
1081 be public officers, shall be known as supervisors, and, upon

1082 entering into office, shall take and subscribe to the oath of
1083 office as prescribed by section 876.05, Florida Statutes.
1084 Members of the board shall be subject to ethics and conflict of
1085 interest laws of the state that apply to all local public
1086 officers. They shall hold office for the terms for which they
1087 were elected or appointed and until their successors are chosen
1088 and qualified.
1089 (5) Any elected board member may be removed by the
1090 Governor for malfeasance, misfeasance, dishonesty, incompetency,
1091 or failure to perform the duties imposed upon him or her by this
1092 act, and any vacancies that may occur in such office for such
1093 reasons shall be filled by the Governor as soon as practicable.
1094 (6) A majority of the members of the board constitutes a
1095 quorum for the purposes of conducting its business and
1096 exercising its powers and for all other purposes. Action taken
1097 by the district shall be upon a vote of a majority of the
1098 members present unless general law or a rule of the district
1099 requires a greater number.
1100 (7) As soon as practicable after each election or
1101 appointment, the board shall organize by electing one of its
1102 members as chair and by electing a secretary, who need not be a
1103 member of the board, and such other officers as the board may
1104 deem necessary.
1105 (8) The board shall keep a permanent record book entitled
1106 "Record of Proceedings of Viera Stewardship District," in which
1107 shall be recorded minutes of all meetings, resolutions,
1108 proceedings, certificates, bonds given by all employees, and any
1109 and all corporate acts. The record book and all other district

1110 records shall at reasonable times be opened to inspection in the
1111 same manner as state, county, and municipal records pursuant to
1112 chapter 119, Florida Statutes. The record book shall be kept at
1113 the office or other regular place of business maintained by the
1114 board in a designated location in Brevard County.
1115 (9) Each supervisor shall be entitled to receive for his
1116 or her services an amount not to exceed $200 per board meeting,
1117 not to exceed $4,800 per year per supervisor, or an amount
1118 established by the electors at a referendum. In addition, each
1119 supervisor shall receive travel and per diem expenses as set
1120 forth in section 112.061, Florida Statutes.
1121 (10) All meetings of the board shall be open to the public
1122 and governed by the provisions of chapter 286, Florida Statutes.
1123 Section 6. Board of supervisors; general duties.--
1124 (1) DISTRICT MANAGER AND EMPLOYEES.--The board shall
1125 employ and fix the compensation of a district manager, who shall
1126 have charge and supervision of the works of the district and
1127 shall be responsible for preserving and maintaining any
1128 improvement or facility constructed or erected pursuant to the
1129 provisions of this act, for maintaining and operating the
1130 equipment owned by the district, and for performing such other
1131 duties as may be prescribed by the board. It shall not be a
1132 conflict of interest under chapter 112, Florida Statutes, for a
1133 board member, the district manager, or another employee of the
1134 district to be a stockholder, officer, or employee of a
1135 landowner. The district manager may hire or otherwise employ and
1136 terminate the employment of such other persons, including,
1137 without limitation, professional, supervisory, and clerical

1138 employees, as may be necessary and authorized by the board. The
1139 compensation and other conditions of employment of the officers
1140 and employees of the district shall be as provided by the board.
1141 (2) TREASURER.--The board shall designate a person who is
1142 a resident of the state as treasurer of the district, who shall
1143 have charge of the funds of the district. Such funds shall be
1144 disbursed only upon the order of or pursuant to a resolution of
1145 the board by warrant or check countersigned by the treasurer and
1146 by such other person as may be authorized by the board. The
1147 board may give the treasurer such other or additional powers and
1148 duties as the board may deem appropriate and may fix his or her
1149 compensation. The board may require the treasurer to give a bond
1150 in such amount, on such terms, and with such sureties as may be
1151 deemed satisfactory to the board to secure the performance by
1152 the treasurer of his or her powers and duties. The financial
1153 records of the board shall be audited by an independent
1154 certified public accountant at least once a year.
1155 (3) PUBLIC DEPOSITORY.--The board is authorized to select
1156 as a depository for its funds any qualified public depository as
1157 defined in section 280.02, Florida Statutes, which meets all the
1158 requirements of chapter 280, Florida Statutes, and has been
1159 designated by the treasurer as a qualified public depository
1160 upon such terms and conditions as to the payment of interest by
1161 such depository upon the funds so deposited as the board may
1162 deem just and reasonable.
1163 (4) BUDGET; REPORTS AND REVIEWS.--

1164 (a) The district shall provide financial reports in such
1165 form and such manner as prescribed pursuant to this act and
1166 chapter 218, Florida Statutes, as amended from time to time.
1167 (b) On or before July 15 of each year, the district
1168 manager shall prepare a proposed budget for the ensuing fiscal
1169 year to be submitted to the board for board approval. The
1170 proposed budget shall include at the direction of the board an
1171 estimate of all necessary expenditures of the district for the
1172 ensuing fiscal year and an estimate of income to the district
1173 from the taxes and assessments provided in this act. The board
1174 shall consider the proposed budget item by item and may either
1175 approve the budget as proposed by the district manager or modify
1176 the same in part or in whole. The board shall indicate its
1177 approval of the budget by resolution, which resolution shall
1178 provide for a hearing on the budget as approved. Notice of the
1179 hearing on the budget shall be published in a newspaper of
1180 general circulation in the area of the district once a week for
1181 2 consecutive weeks, except that the first publication shall be
1182 not fewer than 15 days prior to the date of the hearing. The
1183 notice shall further contain a designation of the day, time, and
1184 place of the public hearing. At the time and place designated in
1185 the notice, the board shall hear all objections to the budget as
1186 proposed and may make such changes as the board deems necessary.
1187 At the conclusion of the budget hearing, the board shall, by
1188 resolution, adopt the budget as finally approved by the board.
1189 The budget shall be adopted prior to October 1 of each year.
1190 (c) At least 60 days prior to adoption, the Board of
1191 Supervisors of the district shall submit to the Brevard County

1192 Board of County Commissioners, for purposes of disclosure and
1193 information only, the proposed annual budget for the ensuing
1194 fiscal year, and the Board of County Commissioners may submit
1195 written comments to the Board of Supervisors solely for the
1196 assistance and information of the Board of Supervisors of the
1197 district in adopting its annual district budget.
1198 (d) The Board of Supervisors of the district shall submit
1199 annually, to the Board of County Commissioners of Brevard
1200 County, its district public facilities report under section
1201 189.415(2), Florida Statutes, or the most recent Development of
1202 Regional Impact report required by section 380.06(15) and (18),
1203 Florida Statutes, to the extent the report provides the
1204 information required by section 189.415(2), Florida Statutes,
1205 which reports the board of county commissioners shall use and
1206 rely upon in the preparation or revision of its comprehensive
1207 plan, specifically under section 189.415(6), Florida Statutes.
1208 (5) DISCLOSURE OF PUBLIC FINANCING.--The district shall
1209 take affirmative steps to provide for the full disclosure of
1210 information relating to the public financing and maintenance of
1211 improvements to real property undertaken by the district. Such
1212 information shall be made available to all existing residents
1213 and all prospective residents of the district. The district
1214 shall furnish each developer of a residential development within
1215 the district with sufficient copies of that information to
1216 provide each prospective initial purchaser of property in that
1217 development with a copy; and any developer of a residential
1218 development within the district, when required by law to provide
1219 a public offering statement, shall include a copy of such

1220 information relating to the public financing and maintenance of
1221 improvements in the public offering statement. The Division of
1222 Florida Land Sales, Condominiums, and Mobile Homes of the
1223 Department of Business and Professional Regulation shall ensure
1224 that disclosures made by developers pursuant to chapter 498,
1225 Florida Statutes, meet the requirements of section 190.009(1),
1226 Florida Statutes.
1227 (6) GENERAL POWERS.--The district shall have, and the
1228 board may exercise, the following general powers, together with
1229 all other general powers authorized under chapters 189 and 190:
1230 (a) To sue and be sued in the name of the district; to
1231 adopt and use a seal and authorize the use of a facsimile
1232 thereof; to acquire, by purchase, gift, devise, or otherwise,
1233 and to own and dispose of, real and personal property, or any
1234 estate therein; and to make and execute contracts and other
1235 instruments necessary or convenient to the exercise of its
1236 powers.
1237 (b) To apply for coverage of its employees under the
1238 Florida Retirement System in the same manner as if such
1239 employees were state employees, subject to necessary action by
1240 the district to pay employer contributions into the Florida
1241 Retirement System Trust Fund.
1242 (c) To contract for the services of consultants to perform
1243 planning, engineering, legal, or other appropriate services of a
1244 professional nature. Such contracts shall be subject to public
1245 bidding or competitive negotiation requirements as set forth in
1246 general law applicable to independent special districts.

1247 (d) To borrow money and accept gifts; to apply for and use
1248 grants or loans of money or other property from the United
1249 States, the state, a unit of local government, or any person for
1250 any district purposes and enter into agreements required in
1251 connection therewith; and to hold, use, and dispose of such
1252 moneys or property for any district purposes in accordance with
1253 the terms of the gift, grant, loan, or agreement relating
1254 thereto.
1255 (e) To adopt and enforce rules and orders pursuant to the
1256 provisions of chapter 120, Florida Statutes, prescribing powers,
1257 duties, and functions of the officers of the district; the
1258 conduct of the business of the district; the maintenance of
1259 records; and the form of certificates evidencing tax liens and
1260 all other documents and records of the district. The board may
1261 also adopt and enforce administrative rules with respect to any
1262 of the projects of the district and define the area to be
1263 included therein. The board may also adopt resolutions which may
1264 be necessary for the conduct of district business.
1265 (f) To maintain an office at such place or places as the
1266 board of supervisors designates in Brevard County, and within
1267 the district when facilities are available.
1268 (g) To hold, control, and acquire by donation, purchase,
1269 or condemnation, or dispose of, any public easements,
1270 dedications to public use, platted reservations for public
1271 purposes, or any reservations for those purposes authorized by
1272 this act and to make use of such easements, dedications, or
1273 reservations for the purposes authorized by this act.

1274 (h) To lease as lessor or lessee to or from any person,
1275 firm, corporation, association, or body, public or private, any
1276 projects of the type that the district is authorized to
1277 undertake and facilities or property of any nature for the use
1278 of the district to carry out the purposes authorized by this
1279 act.
1280 (i) To borrow money and issue bonds, certificates,
1281 warrants, notes, or other evidence of indebtedness as
1282 hereinafter provided; to levy such taxes and assessments as may
1283 be authorized; and to charge, collect, and enforce fees and
1284 other user charges.
1285 (j) To raise, by user charges or fees authorized by
1286 resolution of the board, amounts of money which are necessary
1287 for the conduct of district activities and services and the
1288 maintenance of district facilities and to enforce their receipt
1289 and collection in the manner prescribed by resolution not
1290 inconsistent with law.
1291 (k) To exercise within the district, or beyond the
1292 district with prior approval by vote of a resolution of the
1293 governing body of Brevard County if the taking will occur in an
1294 unincorporated area in that county, the right and power of
1295 eminent domain, pursuant to the provisions of chapters 73 and
1296 74, Florida Statutes, over any property within the state, except
1297 municipal, county, state, and federal property, for the uses and
1298 purpose of the district relating solely to water, sewer,
1299 district roads, and water management and control, specifically
1300 including, without limitation, the power for the taking of

1301 easements for the drainage of the land of one person over and
1302 through the land of another.
1303 (l) To cooperate with, or contract with, other
1304 governmental agencies as may be necessary, convenient,
1305 incidental, or proper in connection with any of the powers,
1306 duties, or purposes authorized by this act.
1307 (m) To assess and to impose upon lands in the district ad
1308 valorem taxes as provided by this act.
1309 (n) If and when authorized by general law to determine,
1310 order, levy, impose, collect, and enforce maintenance taxes.
1311 (o) To determine, order, levy, impose, collect, and
1312 enforce assessments pursuant to this act and chapter 170,
1313 Florida Statutes, as amended from time to time, pursuant to
1314 authority granted in section 197.3631, Florida Statutes, or
1315 pursuant to other provisions of general law now or hereinafter
1316 enacted which provide or authorize a supplemental means to
1317 order, levy, impose, or collect special assessments. Such
1318 special assessments, in the discretion of the district, may be
1319 collected and enforced pursuant to the provisions of sections
1320 197.3632 and 197.3635, Florida Statutes, and chapters 170 and
1321 173, Florida Statutes, as they may be amended from time to time,
1322 or as provided by this act, or by other means authorized by
1323 general law now or hereinafter enacted.
1324 (p) To exercise such special powers and other express
1325 powers as may be authorized and granted by this act in the
1326 charter of the district, including powers as provided in any
1327 interlocal agreement entered into pursuant to chapter 163,
1328 Florida Statutes, or which shall be required or permitted to be

1329 undertaken by the district pursuant to any development order or
1330 development of regional impact, including any interlocal service
1331 agreement with Brevard County for proportionate, fair-share, or
1332 pipelining capital construction funding for any certain capital
1333 facilities or systems required of the developer pursuant to any
1334 applicable development order or agreement.
1335 (q) To exercise all of the powers necessary, convenient,
1336 incidental, or proper in connection with any other powers or
1337 duties or the special purpose of the district authorized by this
1338 act.
1339
1340 The provisions of this subsection shall be construed liberally
1341 in order to carry out effectively the specialized purpose of
1342 this act.
1343 (7) SPECIAL POWERS.--The district shall have, and the
1344 board may exercise, the following special powers to implement
1345 its lawful and special purpose and to provide, pursuant to that
1346 purpose, systems, facilities, services, improvements, projects,
1347 works, and infrastructure, each of which constitutes a lawful
1348 public purpose when exercised pursuant to this charter, subject
1349 to, and not inconsistent with, the regulatory jurisdiction and
1350 permitting authority of all other applicable governmental
1351 bodies, agencies, and any special districts having authority
1352 with respect to any area included therein, and to plan,
1353 establish, acquire, construct or reconstruct, enlarge or extend,
1354 equip, operate, finance, fund, and maintain improvements,
1355 systems, facilities, services, works, projects, and
1356 infrastructure. Any or all of the following special powers are

1357 granted by this act in order to implement the special purpose of
1358 the district:
1359 (a) To provide water management and control for the lands
1360 within the district and to connect some or any of such
1361 facilities with roads and bridges and to construct, acquire and
1362 operate any dam, work, appurtenant work, impoundment, or
1363 reservoir and any connecting, intercepting or outlet mains and
1364 pipes in, along or under any street, alley, highway or other
1365 public place or ways; including, but not limited to, acquiring,
1366 operating, maintaining, repairing and improving water management
1367 and control facilities necessary for the collection, storage
1368 control, development, utilization and distribution of nonpotable
1369 waters for irrigation purposes.
1370 (b) To provide water systems, sewer systems, and
1371 wastewater management, reclamation and reuse, or any combination
1372 thereof, and to construct and operate connecting intercepting or
1373 outlet sewers and sewer mains and pipes and water mains,
1374 conduits, or pipelines in, along, and under any street, alley,
1375 highway, or other public place or ways, and to dispose of any
1376 effluent, residue, or other byproducts of such system or sewer
1377 system.
1378 1. The district may not purchase or sell a water, sewer,
1379 or wastewater reuse utility that provides service to the public
1380 for compensation, or enter into a wastewater facility
1381 privatization contract for a wastewater facility, until the
1382 governing body of the district has held a public hearing on the
1383 purchase, sale, or wastewater facility privatization contract
1384 and made a determination that the purchase, sale, or wastewater

1385 facility privatization contract is in the public interest. This
1386 limitation is not applicable to an irrigation water utility
1387 provided pursuant to paragraph (a).
1388 2. In determining if the purchase, sale, or wastewater
1389 facility privatization contract is in the public interest, the
1390 district shall consider, at a minimum, the following:
1391 a. The most recent available income and expense statement
1392 for the utility.
1393 b. The most recent available balance sheet for the
1394 utility, listing assets and liabilities and clearly showing the
1395 amount of contributions in aid of construction and the
1396 accumulated depreciation thereon.
1397 c. A statement of the existing rate base of the utility
1398 for regulatory purposes.
1399 d. The physical condition of the utility facilities being
1400 purchased or sold or subject to a wastewater facility
1401 privatization contract.
1402 e. The reasonableness of the purchase, sale, or wastewater
1403 facility privatization contract price and terms.
1404 f. The impacts of the purchase, sale, or wastewater
1405 facility privatization contract on utility customers, both
1406 positive and negative.
1407 g. Any additional investment required and the ability and
1408 willingness of the purchaser or the private firm under a
1409 wastewater facility privatization contract to make that
1410 investment, whether the purchaser is the district or the entity
1411 purchasing the utility from the district.

1412 h. In the case of a wastewater facility privatization
1413 contract, the terms and conditions on which the private firm
1414 will provide capital investment and financing or a combination
1415 thereof for contemplated capital replacements, additions,
1416 expansions, and repairs.
1417 i. The alternatives to the purchase, sale, or wastewater
1418 facility privatization contract and the potential impact on
1419 utility customers if the purchase, sale, or wastewater facility
1420 privatization contract is not made.
1421 j. The ability of the purchaser or the private firm under
1422 a wastewater facility privatization contract to provide and
1423 maintain high-quality and cost-effective utility service,
1424 whether the purchaser is the district or the entity purchasing
1425 the utility from the district.
1426 k. In the case of a wastewater facility privatization
1427 contract, the district shall give significant weight to the
1428 technical expertise and experience of the private firm in
1429 carrying out the obligations specified in the wastewater
1430 facility privatization contract.
1431 l. All moneys paid by a private firm to a district
1432 pursuant to a wastewater facility privatization contract shall
1433 be used for the purpose of reducing or offsetting property
1434 taxes, wastewater service rates, or debt reduction or making
1435 infrastructure improvements or capital asset expenditures or
1436 other public purpose, provided, however, that nothing herein
1437 shall preclude the district from using all or part of the moneys
1438 for the purpose of the district's qualification for relief from
1439 the repayment of federal grant awards associated with the

1440 wastewater system as may be required by federal law or
1441 regulation. The district shall prepare a statement showing that
1442 the purchase, sale, or wastewater facility privatization
1443 contract is in the public interest, including a summary of the
1444 purchaser's or private firm's experience in water, sewer, or
1445 wastewater reuse utility operation and a showing of financial
1446 ability to provide the service, whether the purchaser or private
1447 firm is the district or the entity purchasing the utility from
1448 the district.
1449 (c) To provide bridges or culverts that may be needed
1450 across any drain, ditch, canal, floodway, holding basin,
1451 excavation, public highway, tract, grade, fill, or cut and
1452 roadways over levees and embankments, and to construct any and
1453 all of such works and improvements across, through, or over any
1454 public right-of way, highway, grade, fill, or cut.
1455 (d) To provide public roads and related improvements equal
1456 to or exceeding the specifications of Brevard County, including,
1457 but not limited to transportation improvements necessary to
1458 comply with conditions of development approval applicable to
1459 lands within the district. This special power includes, but is
1460 not limited to, roads, parkways, interchanges, bridges,
1461 landscaping, hardscaping, irrigation, bicycle lanes, jogging
1462 paths, street lighting, traffic signals, regulatory or
1463 informational signage, road striping, underground conduit,
1464 underground cable or fiber or wire installed to pursuant an
1465 agreement with or tariff of a retail provider of services, and
1466 all other related improvements and the elements of a functioning
1467 modern road system in general or as related to the conditions of

1468 development approval for the lands within the district, together
1469 with transportation improvements and facilities that are
1470 freestanding or that may be related to any innovative strategic
1471 intermodal system of transportation pursuant to applicable
1472 federal, state, and local law and ordinance.
1473 (e) To provide buses, trolleys, transit shelters,
1474 ridesharing facilities and services, parking improvements, and
1475 related signage.
1476 (f) To provide investigation and remediation costs
1477 associated with the cleanup of actual or perceived environmental
1478 contamination within the district under the supervision or
1479 direction of a competent governmental authority unless the
1480 covered costs benefit any person who is a landowner within the
1481 district and who caused or contributed to the contamination.
1482 (g) To provide conservation areas, mitigation areas,
1483 wilderness areas, and wildlife habitat, including the
1484 maintenance of any plant or animal species, and any related
1485 interest in real or personal property, and to evaluate, acquire,
1486 enhance, manage, monitor and maintain conservation, mitigation,
1487 and preservation lands and wildlife habitat.
1488 (h) Using its general and special powers as set forth in
1489 this act, to provide any other project within or without the
1490 boundaries of the district when the project is the subject of an
1491 agreement between the district and the Board of County
1492 Commissioners of Brevard County or with any other applicable
1493 public or private entity, or is approved or required by a
1494 development order pursuant to sections 380.06 or sections

1495 380.061, Florida Statutes and is not inconsistent with the
1496 effective local comprehensive plan.
1497 (i) To provide parks and facilities for indoor and outdoor
1498 recreational, cultural, and educational uses, provided, however,
1499 that in no event shall the district finance or own a golf
1500 course..
1501 (j) To provide fire prevention and control, including fire
1502 stations, water mains and plugs, fire trucks, and other vehicles
1503 and equipment.
1504 (k) To provide school buildings and related structures,
1505 which may be leased, sold, or donated to the school district,
1506 for use in the educational system when authorized by the
1507 district school board.
1508 (l) To provide security, including, but not limited to,
1509 guardhouses, fences, and gates, electronic intrusion-detection
1510 systems, and patrol cars, when authorized by proper governmental
1511 agencies; however, the district may not exercise any powers of a
1512 law enforcement agency but may contract with the appropriate
1513 local general-purpose government agencies for an increased level
1514 of such services within the district boundaries. Notwithstanding
1515 any provision of general law, the district may operate
1516 guardhouses for the limited purpose of providing security for
1517 the residents of the district and which serve a predominate
1518 public, as opposed to private, purpose. Such guardhouses shall
1519 he operated by the district or any other unit of local
1520 government pursuant to procedures designed to serve such
1521 security purposes as set forth in rules adopted by the board,

1522 from time to time, following the procedures set forth in chapter
1523 120, Florida Statutes.
1524 (m) To provide control and elimination of mosquitoes and
1525 other arthropods of public health importance.
1526 (n) To provide waste collection and disposal.
1527 (o) To enter into impact fee credit agreements.
1528 (p) To provide buildings and structures for district
1529 offices, maintenance facilities, meeting facilities, community
1530 centers, or any other project authorized or granted by this act.
1531 (q) To establish and create, at noticed meetings, such
1532 governmental departments of the Board of Supervisors of the
1533 district, as well as committees, task forces, boards, or
1534 commissions, or other agencies under the supervision and control
1535 of the district, as from time to time the board may deem
1536 necessary or desirable in the performance of the acts or other
1537 things necessary to exercise the board's general or special
1538 powers to implement an innovative project to carry out the
1539 special purpose of the district as provided in this act and to
1540 delegate the exercise of its powers to such departments, boards,
1541 task forces, committees or other agencies and such
1542 administrative duties and other powers as the board may deem
1543 necessary or desirable but only if there is a set of expressed
1544 limitations for accountability, notice, and periodic written
1545 reporting to the board that shall retain the powers of the
1546 board.
1547 (r) To adopt and enforce appropriate rules following the
1548 procedures of chapter 120, in connection with the provision of
1549 one or more services through its systems and facilities.

1550

1551 The enumeration of special powers herein shall not be deemed
1552 exclusive or restrictive but shall be deemed to incorporate
1553 powers express or implied necessary or incident to carrying out
1554 such enumerated special powers, including also the general
1555 powers provided by this special act charter to the district to
1556 implement its single purpose. Further, the provisions of this
1557 subsection shall be construed liberally in order to carry out
1558 effectively the special purpose of this district under this act.
1559 The district may exercise its powers to provide facilities for
1560 potable water, sewer, fire protection, mosquito control, waste
1561 collection and waste disposal services only if such facilities
1562 are to be dedicated to and operated by the county or a
1563 municipality already providing the service or if such county or
1564 municipality declines or is unable to provide the service at the
1565 time the service becomes necessary. Nothing herein:
1566 1. Shall prevent the district from dedicating
1567 transportation or other facilities to the county or a
1568 municipality;
1569 2. Shall be construed to authorize the district to provide
1570 or approve franchises for emergency medical ambulance services,
1571 which authority is reserved to Brevard County under chapter 71-
1572 556 Laws of Florida;
1573 3. Is intended to authorize the imposition of impact fees
1574 based upon alleged police powers or regulatory powers of the
1575 district;
1576 4. Is intended to limit the power of the county or a city
1577 to provide such facilities and to require landowners to utilize

1578 such facilities as a condition to development of lands within
1579 the district; or
1580 5. Is intended to prohibit the district from providing
1581 additional services beyond those offered by the county or a
1582 municipality.
1583 (8) ISSUANCE OF BOND ANTICIPATION NOTES.--In addition to
1584 the other powers provided for in this act, and not in limitation
1585 thereof, the district shall have the power, at any time and from
1586 time to time after the issuance of any bonds of the district
1587 shall have been authorized, to borrow money for the purposes for
1588 which such bonds are to be issued in anticipation of the receipt
1589 of the proceeds of the sale of such bonds and to issue bond
1590 anticipation notes in a principal sum not in excess of the
1591 authorized maximum amount of such bond issue. Such notes shall
1592 be in such denomination or denominations, bear interest at such
1593 rate as the board may determine not to exceed the maximum rate
1594 allowed by general law, mature at such time or times not later
1595 than 5 years from the date of issuance, and be in such form and
1596 executed in such manner as the board shall prescribe. Such notes
1597 may be sold at either public or private sale or, if such notes
1598 shall be renewal notes, may be exchanged for notes then
1599 outstanding on such terms as the board shall determine. Such
1600 notes shall be paid from the proceeds of such bonds when issued
1601 The board may, in its discretion, in lieu of retiring the notes
1602 by means of bonds, retire them by means of current revenues or
1603 from any taxes or assessments levied for the payment of such
1604 bonds, but, in such event, a like amount of the bonds authorized
1605 shall not be issued.

1606 (9) BORROWING.--The district at any time may obtain loans,
1607 in such amount and on such terms and conditions as the board may
1608 approve, for the purpose of paying any of the expenses of the
1609 district or any costs incurred or that may be incurred in
1610 connection with any of the projects of the district, which loans
1611 shall bear interest as the board determines, not to exceed the
1612 maximum rate allowed by general law, and may be payable from and
1613 secured by a pledge of such funds, revenues, taxes, and
1614 assessments as the board may determine, subject, however, to the
1615 provisions contained in any proceeding under which bonds were
1616 theretofore issued and are then outstanding. For the purpose of
1617 defraying such costs and expenses, the district may issue
1618 negotiable notes, warrants, or other evidences of debt to be
1619 payable at such times and to bear such interest as the board may
1620 determine, not to exceed the maximum rate allowed by general
1621 law, and to be sold or discounted at such price or prices not
1622 less than 95 percent of par value and on such terms as the board
1623 may deem advisable. The board shall have the right to provide
1624 for the payment thereof by pledging the whole or any part of the
1625 funds, revenues, taxes, and assessments of the district. The
1626 approval of the electors residing in the district shall not be
1627 necessary except when required by the State Constitution.
1628 (10) BONDS.--
1629 (a) Sale of bonds.--Bonds may be sold in blocks or
1630 installments at different times, or an entire issue or series
1631 may be sold at one time. Bonds may be sold at public or private
1632 sale after such advertisement, if any, as the board may deem
1633 advisable but not in any event at less than 90 percent of the

1634 par value thereof, together with accrued interest thereon. Bonds
1635 may be sold or exchanged for refunding bonds. Special assessment
1636 and revenue bonds may be delivered by the district as payment of
1637 the purchase price of any project or part thereof, or a
1638 combination of projects or parts thereof, or as the purchase
1639 price or exchange for any property, real, personal, or mixed,
1640 including franchises or services rendered by any contractor,
1641 engineer, or other person, all at one time or in blocks from
1642 time to time, in such manner and upon such terms as the board in
1643 its discretion shall determine. The price or prices for any
1644 bonds sold, exchanged, or delivered may be:
1645 1. The money paid for the bonds.
1646 2. The principal amount, plus accrued interest to the date
1647 of redemption or exchange, or outstanding obligations exchanged
1648 for refunding bonds.
1649 3. In the case of special assessment or revenue bonds, the
1650 amount of any indebtedness to contractors or other persons paid
1651 with such bonds, or the fair value of any properties exchanged
1652 for the bonds, as determined by the board.
1653 (b) Authorization and form of bonds.--Any general
1654 obligation bonds, special assessment bonds, or revenue bonds may
1655 be authorized by resolution or resolutions of the board which
1656 shall be adopted by a majority of all the members thereof then
1657 in office. Such resolution or resolutions may be adopted at the
1658 same meeting at which they are introduced and need not be
1659 published or posted. The board may, by resolution, authorize the
1660 issuance of bonds and fix the aggregate amount of bonds to be
1661 issued; the purpose or purposes for which the moneys derived

1662 therefrom shall be expended, including, but not limited to,
1663 payment of costs as defined in section 2(2)(i); the rate or
1664 rates of interest, not to exceed the maximum rate allowed by
1665 general law; the denomination of the bonds; whether or not the
1666 bonds are to be issued in one or more series; the date or dates
1667 of maturity, which shall not exceed 40 years from their
1668 respective dates of issuance; the medium of payment; the place
1669 or places within or without the state at which payment shall be
1670 made; registration privileges; redemption terms and privileges,
1671 whether with or without premium; the manner of execution; the
1672 form of the bonds, including any interest coupons to be attached
1673 thereto; the manner of execution of bonds and coupons; and any
1674 and all other terms, covenants, and conditions thereof and the
1675 establishment of revenue or other funds. Such authorizing
1676 resolution or resolutions may further provide for the contracts
1677 authorized by section 159.825(1)(f) and (g), Florida Statutes,
1678 regardless of the tax treatment of such bonds being authorized,
1679 subject to the finding by the board of a net saving to the
1680 district resulting by reason thereof. Such authorizing
1681 resolution may further provide that such bonds may be executed
1682 in accordance with the Registered Public Obligations Act, except
1683 that bonds not issued in registered form shall be valid if
1684 manually countersigned by an officer designated by appropriate
1685 resolution of the board. The seal of the district may be
1686 affixed, lithographed, engraved, or otherwise reproduced in
1687 facsimile on such bonds. In case any officer whose signature
1688 shall appear on any bonds or coupons shall cease to be such
1689 officer before the delivery of such bonds, such signature or

1690 facsimile shall nevertheless be valid and sufficient for all
1691 purposes the same as if he or she had remained in office until
1692 such delivery.
1693 (c) Interim certificates; replacement
1694 certificates.--Pending the preparation of definitive bonds, the
1695 board may issue interim certificates or receipts or temporary
1696 bonds, in such form and with such provisions as the board may
1697 determine, exchangeable for definitive bonds when such bonds
1698 have been executed and are available for delivery. The board may
1699 also provide for the replacement of any bonds which become
1700 mutilated lost, or destroyed.
1701 (d) Negotiability of bonds.--Any bond issued under this
1702 act or any temporary bond, in the absence of an express recital
1703 on the face thereof that it is nonnegotiable, shall be fully
1704 negotiable and shall be and constitute a negotiable instrument
1705 within the meaning and for all purposes of the law merchant and
1706 the laws of the state.
1707 (e) Defeasance.--The board may make such provision with
1708 respect to the defeasance of the right, title, and interest of
1709 the holders of any of the bonds and obligations of the district
1710 in any revenues, funds, or other properties by which such bonds
1711 are secured as the board deems appropriate and, without
1712 limitation on the foregoing, may provide that when such bonds or
1713 obligations become due and payable or shall have been called for
1714 redemption and the whole amount of the principal and interest
1715 and premium, if any, due and payable upon the bonds or
1716 obligations then outstanding shall be held in trust for such
1717 purpose, and provision shall also be made for paying all other

1718 sums payable in connection with such bonds or other obligations,
1719 then and in such event the right, title, and interest of the
1720 holders of the bonds in any revenues, funds, or other properties
1721 by which such bonds are secured shall thereupon cease,
1722 terminate, and become void; and the board may apply any surplus
1723 in any sinking fund established in connection with such bonds or
1724 obligations and all balances remaining in all other funds or
1725 accounts other than moneys held for the redemption or payment of
1726 the bonds or other obligations to any lawful purpose of the
1727 district as the board shall determine.
1728 (f) Issuance of additional bonds.--If the proceeds of any
1729 bonds are less than the cost of completing the project in
1730 connection with which such bonds were issued, the board may
1731 authorize the issuance of additional bonds, upon such terms and
1732 conditions as the board may provide in the resolution
1733 authorizing the issuance thereof, but only in compliance with
1734 the resolution or other proceedings authorizing the issuance of
1735 the original bonds.
1736 (g) Refunding bonds.--The district shall have the power to
1737 issue bonds to provide for the retirement or refunding of any
1738 bonds or obligations of the district that at the time of such
1739 issuance are or subsequent thereto become due and payable, or
1740 that at the time of issuance have been called or are or will be
1741 subject to call for redemption within 10 years thereafter, or
1742 the surrender of which can be procured from the holders thereof
1743 at prices satisfactory to the board. Refunding bonds may be
1744 issued at any time that in the judgment of the board such
1745 issuance will be advantageous to the district. No approval of

1746 the qualified electors residing in the district shall be
1747 required for the issuance of refunding bonds except in cases in
1748 which such approval is required by the State Constitution. The
1749 board may by resolution confer upon the holders of such
1750 refunding bonds all rights, powers, and remedies to which the
1751 holders would be entitled if they continued to be the owners and
1752 had possession of the bonds for the refinancing of which such
1753 refunding bonds are issued, including, but not limited to, the
1754 preservation of the lien of such bonds on the revenues of any
1755 project or on pledged funds, without extinguishment, impairment,
1756 or diminution thereof. The provisions of this act pertaining to
1757 bonds of the district shall, unless the context otherwise
1758 requires, govern the issuance of refunding bonds, the form and
1759 other details thereof, the rights of the holders thereof, and
1760 the duties of the board with respect to them.
1761 (h) Revenue bonds.--
1762 1. The district shall have the power to issue revenue
1763 bonds from time to time without limitation as to amount. Such
1764 revenue bonds may be secured by, or payable from, the gross or
1765 net pledge of the revenues to be derived from any project or
1766 combination of projects; from the rates, fees, or other charges
1767 to be collected from the users of any project or projects; from
1768 any revenue-producing undertaking or activity of the district;
1769 from special assessments; or from benefit special assessments;
1770 or from any other source or pledged security. Such bonds shall
1771 not constitute an indebtedness of the district, and the approval
1772 of the qualified electors shall not be required unless such

1773 bonds are additionally secured by the full faith and credit and
1774 taxing power of the district.
1775 2. Any two or more projects may be combined and
1776 consolidated into a single project and may hereafter be operated
1777 and maintained as a single project. The revenue bonds authorized
1778 herein may be issued to finance any one or more of such
1779 projects, regardless of whether or not such projects have been
1780 combined and consolidated into a single project. If the board
1781 deems it advisable, the proceedings authorizing such revenue
1782 bonds may provide that the district may thereafter combine the
1783 projects then being financed or theretofore financed with other
1784 projects to be subsequently financed by the district and that
1785 revenue bonds to be thereafter issued by the district shall be
1786 on parity with the revenue bonds then being issued, all on such
1787 terms, conditions, and limitations as shall have been provided
1788 in the proceeding which authorized the original bonds.
1789 (i) General obligation bonds.--
1790 1. Subject to the limitations of this charter, the
1791 district shall have the power from time to time to issue general
1792 obligation bonds to finance or refinance capital projects or to
1793 refund outstanding bonds in an aggregate principal amount of
1794 bonds outstanding at any one time not in excess of 35 percent of
1795 the assessed value of the taxable property within the district
1796 as shown on the pertinent tax records at the time of the
1797 authorization of the general obligation bonds for which the full
1798 faith and credit of the district is pledged. Except for
1799 refunding bonds, no general obligation bonds shall be issued
1800 unless the bonds are issued to finance or refinance a capital

1801 project and the issuance has been approved at an election held
1802 in accordance with the requirements for such election as
1803 prescribed by the State Constitution. Such elections shall be
1804 called to be held in the district by the Board of County
1805 Commissioners of Brevard County upon the request of the board of
1806 the district. The expenses of calling and holding an election
1807 shall be at the expense of the district, and the district shall
1808 reimburse the county for any expenses incurred in calling or
1809 holding such election.
1810 2. The district may pledge its full faith and credit for
1811 the payment of the principal and interest on such general
1812 obligation bonds and for any reserve funds provided therefor and
1813 may unconditionally and irrevocably pledge itself to levy ad
1814 valorem taxes on all taxable property in the district, to the
1815 extent necessary for the payment thereof, without limitation as
1816 to rate or amount.
1817 3. If the board determines to issue general obligation
1818 bonds for more than one capital project, the approval of the
1819 issuance of the bonds for each and all such projects may be
1820 submitted to the electors on one and the same ballot. The
1821 failure of the electors to approve the issuance of bonds for one
1822 or more capital projects shall not defeat the approval of any
1823 bonds for any capital project which has been approved by the
1824 electors.
1825 4. In arriving at the amount of general obligation bonds
1826 permitted to be outstanding at any one time pursuant to
1827 subparagraph 1., there shall not be included any general

1828 obligation bonds which are additionally secured by the pledge
1829 of:
1830 a. Any assessments levied in an amount sufficient to pay
1831 the principal and interest on the general obligation bonds so
1832 additionally secured, which assessments have been equalized and
1833 confirmed by resolution of the board pursuant to this act or
1834 section 170.08, Florida Statutes.
1835 b. Water revenues, sewer revenues, or water and sewer
1836 revenues of the district to be derived from user fees in an
1837 amount sufficient to pay the principal and interest on the
1838 general obligation bonds so additionally secured.
1839 c. Any combination of assessments and revenues described
1840 in sub-subparagraphs a. and b.
1841 (j) Bonds as legal investment or security.--
1842 1. Notwithstanding any provisions of any other law to the
1843 contrary, all bonds issued under the provisions of this act
1844 shall constitute legal investments for savings banks, banks,
1845 trust companies, insurance companies, executors, administrators,
1846 trustees, guardians, and other fiduciaries and for any board,
1847 body, agency, instrumentality, county, municipality, or other
1848 political subdivision of the state and shall be and constitute
1849 security which may be deposited by banks or trust companies as
1850 security for deposits of state, county, municipal, or other
1851 public funds or by insurance companies as required or voluntary
1852 statutory deposits.
1853 2. Any bonds issued by the district shall be incontestable
1854 in the hands of bona fide purchasers or holders for value and

1855 shall not be invalid because of any irregularity or defect in
1856 the proceedings for the issue and sale thereof.
1857 (k) Covenants.--Any resolution authorizing the issuance of
1858 bonds may contain such covenants as the board may deem
1859 advisable, and all such covenants shall constitute valid and
1860 legally binding and enforceable contracts between the district
1861 and the bondholders, regardless of the time of issuance thereof.
1862 Such covenants may include, without limitation, covenants
1863 concerning the disposition of the bond proceeds; the use and
1864 disposition of project revenues; the pledging of revenues,
1865 taxes, and assessments; the obligations of the district with
1866 respect to the operation of the project and the maintenance of
1867 adequate project revenues; the issuance of additional bonds; the
1868 appointment, powers, and duties of trustees and receivers; the
1869 acquisition of outstanding bonds and obligations; restrictions
1870 on the establishing of competing projects or facilities;
1871 restrictions on the sale or disposal of the assets and property
1872 of the district; the priority of assessment liens; the priority
1873 of claims by bondholders on the taxing power of the district;
1874 the maintenance of deposits to ensure the payment of revenues by
1875 users of district facilities and services; the discontinuance of
1876 district services by reason of delinquent payments; acceleration
1877 upon default; the execution of necessary instruments; the
1878 procedure for amending or abrogating covenants with the
1879 bondholders; and such other covenants as may be deemed necessary
1880 or desirable for the security of the bondholders.
1881 (l) Validation proceedings.--The power of the district to
1882 issue bonds under the provisions of this act may be determined,

1883 and any of the bonds of the district maturing over a period of
1884 more than 5 years shall be validated and confirmed, by court
1885 decree, under the provisions of chapter 75, Florida Statutes,
1886 and laws amendatory thereof or supplementary thereto.
1887 (m) Tax exemption.--To the extent allowed by general law,
1888 all bonds issued hereunder and interest paid thereon and all
1889 fees, charges, and other revenues derived by the district from
1890 the projects provided by this act are exempt from all taxes by
1891 the state or by any political subdivision, agency, or
1892 instrumentality thereof; however, any interest, income, or
1893 profits on debt obligations issued hereunder are not exempt from
1894 the tax imposed by chapter 220, Florida Statutes.
1895 (n) Application of section 189.4085, Florida
1896 Statutes.--Bonds issued by the district shall meet the criteria
1897 set forth in section 189.4085, Florida Statutes.
1898 (o) Act furnishes full authority for issuance of the
1899 bonds.--This act constitutes full and complete authority for the
1900 issuance of bonds and the exercise of the powers of the district
1901 provided herein. No procedures or proceedings, publications,
1902 notices, consents, approvals, orders, acts, or things by the
1903 board, or any board, officer, commission, department, agency, or
1904 instrumentality of the district, other than those required b
1905 this act, shall be required to perform anything under this act,
1906 except that the issuance or sale of bonds pursuant to the
1907 provisions of this act shall comply with the general law
1908 requirements applicable to the issuance or sale of bonds by the
1909 district. Nothing in this act shall be construed to authorize

1910 the district to utilize bond proceeds to fund the ongoing
1911 operations of the district.
1912 (p) Pledge by the state to the bondholders of the
1913 district.--The state pledges to the holders of any bonds issued
1914 under this act that it will not limit or alter the rights of the
1915 district to own, acquire, construct, reconstruct, improve,
1916 maintain, operate, or furnish the projects or to levy and
1917 collect the taxes, assessments, rentals, rates, fees, and other
1918 charges provided for herein and to fulfill the terms of any
1919 agreement made with the holders of such bonds or other
1920 obligations and that it will not in any way impair the rights or
1921 remedies of such holders.
1922 (q) Default.--A default on the bonds or obligations of a
1923 district shall not constitute a debt or obligation of the state
1924 or any general-purpose local government or the state.
1925 (11) TRUST AGREEMENTS.--Any issue of bonds shall be
1926 secured by a trust agreement by and between the district and a
1927 corporate trustee or trustees, which may be any trust company or
1928 bank having the powers of a trust company within or without the
1929 state. The resolution authorizing the issuance of the bonds or
1930 such trust agreement may pledge the revenues to be received from
1931 any projects of the district and may contain such provisions for
1932 protecting and enforcing the rights and remedies of the
1933 bondholders as the board may approve, including, without
1934 limitation, covenants setting forth the duties of the district
1935 in relation to: the acquisition, construction, reconstruction,
1936 improvement, maintenance, repair, operation, and insurance of
1937 any projects; the fixing and revising of the rates, fees, and

1938 charges; and the custody, safeguarding, and application of all
1939 moneys and for the employment of consulting engineers in
1940 connection with such acquisition, construction, reconstruction,
1941 improvement, maintenance, repair, or operation. It shall be
1942 lawful for any bank or trust company within or without the state
1943 which may act as a depository of the proceeds of bonds or of
1944 revenues to furnish such indemnifying bonds or to pledge such
1945 securities as may be required by the district. Such resolution
1946 or trust agreement may set forth the rights and remedies of the
1947 bondholders and of the trustee, if any, and may restrict the
1948 individual right of action by bondholders. The board may provide
1949 for the payment of proceeds of the sale of the bonds and the
1950 revenues of any project to such officer, board, or depository as
1951 it may designate for the custody thereof and may provide for the
1952 method of disbursement thereof with such safeguards and
1953 restrictions as it may determine. All expenses incurred in
1954 carrying out the provisions of such resolution or trust
1955 agreement may be treated as part of the cost of operation of the
1956 project to which such trust agreement pertains.
1957 (12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL
1958 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
1959 ASSESSMENTS; MAINTENANCE TAXES.--
1960 (a) Ad valorem taxes.--When all members of the board are
1961 qualified electors who are elected by qualified electors of the
1962 district, the board shall have the power to levy and assess an
1963 ad valorem tax on all the taxable property in the district to
1964 construct, operate, and maintain assessable improvements; to pay
1965 the principal of, and interest on, any general obligation bonds

1966 of the district; and to provide for any sinking or other funds
1967 established in connection with any such bonds. An ad valorem tax
1968 levied by the board for operating purposes, exclusive of debt
1969 service on bonds, shall not exceed 3 mills. The ad valorem tax
1970 provided for herein shall be in addition to county and all other
1971 ad valorem taxes provided for by law. Such tax shall be
1972 assessed, levied, and collected in the same manner and at the
1973 same time as county taxes. The levy of ad valorem taxes must be
1974 approved by referendum as required by s. 9, Article VII of the
1975 State Constitution.
1976 (b) Benefit special assessments.--The board annually shall
1977 determine, order, and levy the annual installment of the total
1978 benefit special assessments for bonds issued and related
1979 expenses to finance assessable improvements. These assessments
1980 may be due and collected during each year that county taxes are
1981 due and collected, in which case such annual installment and
1982 levy shall be evidenced to and certified to the property
1983 appraiser by the board not later than August 31 of each year.
1984 Such assessment shall be entered by the property appraiser on
1985 the county tax rolls and shall be collected and enforced by the
1986 tax collector in the same manner and at the same time as county
1987 taxes, and the proceeds thereof shall be paid to the district.
1988 However, this subsection shall not prohibit the district in its
1989 discretion from using the method prescribed in either section
1990 197.3632, Florida Statutes or chapter 173, Florida Statutes, as
1991 each may be amended from time to time, for collecting and
1992 enforcing these assessments. Each annual installment of benefit
1993 special assessments shall be a lien on the property against

1994 which assessed until paid and shall be enforceable in like
1995 manner as county taxes. The amount of the assessment for the
1996 exercise of the district's powers under subsections (6) and (7)
1997 shall be determined by the board based upon a report of the
1998 district's engineer and assessed by the board upon such lands,
1999 which may be part or all of the lands within the district
2000 benefited by the improvement, apportioned between benefited
2001 lands in proportion to the benefits received by each tract of
2002 land. The board may, if it determines it is in the best
2003 interests of the district, set forth in the proceedings
2004 initially levying such benefit special assessments or in
2005 subsequent proceedings a formula for the determination of an
2006 amount, which when paid by a taxpayer with respect to any tax
2007 parcel, shall constitute a prepayment all future annual
2008 installments of such benefit special assessments and that the
2009 payment of which amount with respect such tax parcel shall
2010 relieve and discharge such tax parcel of the lien of such
2011 benefit special assessments and any subsequent annual
2012 installment thereof. The board may provide further that upon
2013 delinquency in the payment of any annual installment of benefit
2014 special assessments, the prepayment amount of all future annual
2015 installments of benefit special assessments as determined in the
2016 preceding sentence shall be and become immediately due and
2017 payable together with such delinquent annual installment.
2018 (c) Non-ad valorem maintenance taxes.--If and when
2019 authorized by general law, to maintain and to preserve the
2020 physical facilities and services constituting the works,
2021 improvements, or infrastructure provided by the district

2022 pursuant to this act, to repair and restore any one or more of
2023 them, when needed, and to defray the current expenses of the
2024 district, including any sum which may be required to pay state
2025 and county ad valorem taxes on any taxable lands which may have
2026 been purchased and which are held by the district under the
2027 provisions of this act, the Board of Supervisors may, upon the
2028 completion of said systems, facilities, services, works,
2029 improvements, or infrastructure, in whole or in part, as may be
2030 certified to the board by the engineer of the board, levy
2031 annually a non-ad valorem and nonmillage tax upon each tract or
2032 parcel of land within the district, to be known as a
2033 "maintenance tax." This non-ad valorem maintenance tax shall be
2034 apportioned upon the basis of the net assessments of benefits
2035 assessed as accruing from the original construction and shall be
2036 evidenced to and certified by the Board of Supervisors of the
2037 district not later than June 1 of each year to the property
2038 appraiser of Brevard County and shall be extended by the
2039 property appraiser on the tax roll of the property appraiser, as
2040 certified by the property appraiser to the tax collector, and
2041 collected by the tax collector on the merged collection roll of
2042 the tax collector in the same manner and at the same time as
2043 county ad valorem taxes, and the proceeds therefrom shall be
2044 paid to the district. This non-ad valorem maintenance tax shall
2045 be a lien until paid on the property against which assessed and
2046 enforceable in like manner and of the same dignity as county ad
2047 valorem taxes.
2048 (d) Maintenance special assessments.--To maintain and
2049 preserve the facilities and projects of the district, the board

2050 may levy a maintenance special assessment. This assessment may
2051 be evidenced to and certified to the property appraiser by the
2052 Board of Supervisors not later than August 31 of each year and
2053 shall be entered by the property appraiser on the county tax
2054 rolls and shall be collected and enforced by the tax collector
2055 in the same manner and at the same time as county taxes, and the
2056 proceeds therefrom shall be paid to the district. However, this
2057 subsection shall not prohibit the district in its discretion
2058 from using the method prescribed in either section 197.363,
2059 section 197.3631, or section 197.3632, Florida Statutes, for
2060 collecting and enforcing these assessments. These maintenance
2061 special assessments shall be a lien on the property against
2062 which assessed until paid and shall be enforceable in like
2063 manner as county taxes. The amount of the maintenance special
2064 assessment for the exercise of the district's powers under this
2065 section shall be determined by the board based upon a report of
2066 the district's engineer and assessed by the board upon such
2067 lands, which may be all of the lands within the district
2068 benefited by the maintenance thereof, apportioned between the
2069 benefited lands in proportion to the benefits received by each
2070 tract of land.
2071 (e) Special assessments.--To levy and impose any special
2072 assessments pursuant to this subsection.
2073 (f) Enforcement of taxes.--The collection and enforcement
2074 of all taxes levied by the district shall be at the same time
2075 and in like manner as county taxes, and the provisions of the
2076 laws of Florida relating to the sale of lands for unpaid and
2077 delinquent county taxes; the issuance, sale, and delivery of tax

2078 certificates for such unpaid and delinquent county taxes; the
2079 redemption thereof; the issuance to individuals of tax deeds
2080 based thereon; and all other procedures in connection therewith
2081 shall be applicable to the district to the same extent as if
2082 such statutory provisions were expressly set forth herein. All
2083 taxes shall be subject to the same discounts as county taxes.
2084 (g) When unpaid tax is delinquent; penalty.--All taxes
2085 provided for in this act shall become delinquent and bear
2086 penalties on the amount of such taxes in the same manner as
2087 county taxes.
2088 (h) Status of assessments.--Benefit special assessments,
2089 maintenance special assessments, and special assessments are
2090 hereby found and determined to be non-ad valorem assessments as
2091 defined by section 197.3632, Florida Statutes. Maintenance taxes
2092 are non-ad valorem taxes and are not special assessments.
2093 (i) Assessments constitute liens; collection.--Any and all
2094 assessments, including special assessments, benefit special
2095 assessments, and maintenance special assessments authorized by
2096 this section, and including special assessments as defined by
2097 section 2(2)(z) and granted and authorized by this subsection,
2098 and including maintenance taxes if authorized by general law,
2099 shall constitute a lien on the property against which assessed
2100 from the date of levy and imposition thereof until paid, coequal
2101 with the lien of state, county, municipal, and school board
2102 taxes. These assessments may be collected, at the district's
2103 discretion, under authority of section 197.3631, Florida
2104 Statutes, as amended from time to time, by the tax collector
2105 pursuant to the provisions of sections 197.3632 and 197.3635,

2106 Florida Statutes, as amended from time to time, or in accordance
2107 with other collection measures provided by law. In addition to,
2108 and not in limitation of, any powers otherwise set forth herein
2109 or in general law, these assessments may also be enforced
2110 pursuant to the provisions of chapter 173, Florida Statutes, as
2111 amended from time to time.
2112 (j) Land owned by governmental entity.--Except as
2113 otherwise provided by law, no levy of ad valorem taxes or non-ad
2114 valorem assessments under this act, chapter 170, or chapter 197,
2115 Florida Statutes, as each may be amended from time to time, or
2116 otherwise, by a board of a District, on property of a
2117 governmental entity that is subject to a ground lease as
2118 described in section 190.003(13), Florida Statutes, shall
2119 constitute a lien or encumbrance on the underlying fee interest
2120 of such governmental entity.
2121 (13) SPECIAL ASSESSMENTS.--
2122 (a) As an alternative method to the levy and imposition of
2123 special assessments pursuant to chapter 170, Florida Statutes,
2124 pursuant to the authority of section 197.3631, Florida Statutes,
2125 or pursuant to other provisions of general law, now or hereafter
2126 enacted, which provide a supplemental means or authority to
2127 impose, levy, and collect special assessments as otherwise
2128 authorized under this act, the board may levy and impose special
2129 assessments to finance the exercise of any of its powers
2130 permitted under this act using the following uniform procedures:
2131 1. At a noticed meeting, the board of supervisors of the
2132 district may consider and review an engineer's report on the
2133 costs of the systems, facilities, and services to be provided, a

2134 preliminary assessment methodology, and a preliminary roll based
2135 on acreage or platted lands, depending upon whether platting has
2136 occurred.
2137 a. The assessment methodology shall address and discuss
2138 and the board shall consider whether the systems, facilities,
2139 and services being contemplated will result in special benefits
2140 peculiar to the property, different in kind and degree than
2141 general benefits, as a logical connection between the systems,
2142 facilities, and services themselves and the property, and
2143 whether the duty to pay the assessments by the property owners
2144 is apportioned in a manner that is fair and equitable and not in
2145 excess of the special benefit received. It shall be fair and
2146 equitable to designate a fixed proportion of the annual debt
2147 service, together with interest thereon, on the aggregate
2148 principal amount of bonds issued to finance such systems,
2149 facilities, and services which give rise to unique, special, and
2150 peculiar benefits to property of the same or similar
2151 characteristics under the assessment methodology so long as such
2152 fixed proportion does not exceed the unique, special, and
2153 peculiar benefits enjoyed by such property from such systems,
2154 facilities, and services.
2155 b. The engineer's cost report shall identify the nature
2156 the proposed systems, facilities, and services, their location,
2157 a cost breakdown plus a total estimated cost, including cost of
2158 construction or reconstruction, labor, and materials, lands,
2159 property, rights, easements, franchises, or systems, facilities,
2160 and services to be acquired, cost of plans and specifications,
2161 surveys of estimates of costs and revenues, costs of

2162 engineering, legal, and other professional consultation
2163 services, and other expenses or costs necessary or incident to
2164 determining the feasibility or practicability of such
2165 construction, reconstruction, or acquisition, administrative
2166 expenses, relationship to the authority and power of the
2167 district in its charter, and such other expenses or costs as may
2168 be necessary or incident to the financing to be authorized by
2169 the Board of Supervisors.
2170 c. The preliminary assessment roll to be prepared will be
2171 in accordance with the method of assessment provided for in the
2172 assessment methodology and as may be adopted by the Board of
2173 Supervisors; the assessment roll shall be completed as promptly
2174 as possible and shall show the acreage, lots, lands, or plats
2175 assessed and the amount of the fairly and reasonably apportioned
2176 assessment based on special and peculiar benefit to the
2177 property, lot, parcel, or acreage of land; and, if the
2178 assessment against each such lot, parcel, acreage, or portion of
2179 land is to be paid in installments, the number of annual
2180 installments in which the assessment is divided shall be entered
2181 into and shown upon the assessment roll.
2182 2. The Board of Supervisors of the district may determine
2183 and declare by an initial assessment resolution to levy and
2184 assess the assessments with respect to assessable improvements
2185 stating the nature of the systems, facilities, and services,
2186 improvements, projects, or infrastructure constituting such
2187 assessable improvements, the information in the engineer's cost
2188 report, the information in the assessment methodology as
2189 determined by the board at the noticed meeting and referencing

2190 and incorporating as part of the resolution the engineer's cost
2191 report, the preliminary assessment methodology, and the
2192 preliminary assessment roll as referenced exhibits to the
2193 resolution by reference. If the board determines to declare and
2194 levy the special assessments by the initial assessment
2195 resolution, the board shall also adopt and declare a notice
2196 resolution which shall provide and cause the initial assessment
2197 resolution to be published once a week for a period of 2 weeks
2198 in newspapers of general circulation published in Brevard County
2199 and said board shall by the same resolution fix a time and place
2200 at which the owner or owners of the property to be assessed or
2201 any other persons interested therein may appear before said
2202 board and be heard as to the propriety and advisability of
2203 making such improvements, as to the costs thereof, as to the
2204 manner of payment therefor, and as to the amount thereof to be
2205 assessed against each property so improved. Thirty days' notice
2206 in writing of such time and place shall be given to such
2207 property owners. The notice shall include the amount of the
2208 assessment and shall be served by mailing a copy to each
2209 assessed property owner at his or her last known address, the
2210 names and addresses of such property owners to be obtained from
2211 the record of the property appraiser of the county political
2212 subdivision in which the land is located or from such other
2213 sources as the district manager or engineer deems reliable, and
2214 proof of such mailing shall be made by the affidavit of the
2215 manager of the district or by the engineer, said proof to be
2216 filed with the district manager, provided that failure to mail
2217 said notice or notices shall not invalidate any of the

2218 proceedings hereunder. It is provided further that the last
2219 publication shall be at least 1 week prior to the date of the
2220 hearing on the final assessment resolution. Said notice shall
2221 describe the general areas to be improved and advise all persons
2222 interested that the description of each property to be assessed
2223 and the amount to be assessed to each piece, parcel, lot, or
2224 acre of property may be ascertained at the office of the manager
2225 of the district. Such service by publication shall be verified
2226 by the affidavit of the publisher and filed with the manager of
2227 the district. Moreover, the initial assessment resolution with
2228 its attached, referenced, and incorporated engineer's cost
2229 report, preliminary assessment methodology, and preliminary
2230 assessment roll, along with the notice resolution, shall be
2231 available for public inspection at the office of the manager and
2232 the office of the engineer or any other office designated by the
2233 Board of Supervisors in the notice resolution. Notwithstanding
2234 the foregoing, the landowners of all of the property which is
2235 proposed to be assessed may give the district written notice of
2236 waiver of any notice and publication provided for in this
2237 subparagraph and such notice and publication shall not be
2238 required, provided, however, that any meeting of the Board of
2239 Supervisors to consider such resolution shall be a publicly
2240 noticed meeting.
2241 3. At the time and place named in the noticed resolution
2242 as provided for in subparagraph 2., the board of supervisors of
2243 the district shall meet and hear testimony from affected
2244 property owners as to the propriety and advisability of making
2245 the systems, facilities, services, projects, works,

2246 improvements, or infrastructure and funding them with
2247 assessments referenced in the initial assessment resolution on
2248 the property. Following the testimony and questions from the
2249 members of the board or any professional advisors to the
2250 district of the preparers of the engineer's cost report, the
2251 assessment methodology, and the assessment roll, the board of
2252 supervisors shall make a final decision on whether to levy and
2253 assess the particular assessments. Thereafter, the board of
2254 supervisors shall meet as an equalizing board to hear and to
2255 consider any and all complaints as to the particular assessments
2256 and shall adjust and equalize the assessments on the basis of
2257 justice and right.
2258 4. When so equalized and approved by resolution or
2259 ordinance by the board of supervisors, to be called the final
2260 assessment resolution, a final assessment roll shall be filed
2261 with the clerk of the board and such assessment shall stand
2262 confirmed and remain legal, valid, and binding first liens on
2263 the property against which such assessments are made until paid,
2264 equal in dignity to the first liens of ad valorem taxation of
2265 county and municipal governments and school boards. However,
2266 upon completion of the systems, facilities, service, project,
2267 improvement, works, or infrastructure, the district shall credit
2268 to each of the assessments the difference in the assessment as
2269 originally made, approved, levied, assessed, and confirmed and
2270 the proportionate part of the actual cost of the improvement to
2271 be paid by the particular special assessments as finally
2272 determined upon the completion of the improvement; but in no
2273 event shall the final assessment exceed the amount of the

2274 special and peculiar benefits as apportioned fairly and
2275 reasonably to the property from the system, facility, or service
2276 being provided as originally assessed. Promptly after such
2277 confirmation, the assessment shall be recorded by the clerk of
2278 the district in the minutes of the proceedings of the district,
2279 and the record of the lien in this set of minutes shall
2280 constitute prima facie evidence of its validity. The board of
2281 supervisors, in its sole discretion, may, by resolution grant a
2282 discount equal to all or a part of the payee's proportionate
2283 share of the cost of the project consisting of bond financing
2284 cost, such as capitalized interest, funded reserves, and bond
2285 discounts included in the estimated cost of the project, upon
2286 payment in full of any assessments during such period prior to
2287 the time such financing costs are incurred as may be specified
2288 by the board of supervisors in such resolution.
2289 5. District assessments may be made payable in
2290 installments over no more than 30 years from the date of the
2291 payment of the first installment thereof and may bear interest
2292 at fixed or variable rates.
2293 (b) Notwithstanding any provision of this act or chapter
2294 170, Florida Statutes, that portion of section 170.09, Florida
2295 Statutes, that provides that assessments may be paid without
2296 interest at any time within 30 days after the improvement is
2297 completed and a resolution accepting the same has been adopted
2298 by the governing authority shall not be applicable to any
2299 district assessments, whether imposed, levied, and collected
2300 pursuant to the provisions of this act or other provisions of

2301 general law, including, but not limited to chapter 170, Florida
2302 Statutes.
2303 (c) In addition, the district is authorized expressly in
2304 the exercise of its rulemaking power to adopt a rule or rules
2305 which provides or provide for notice, levy, imposition,
2306 equalization, and collection of assessments.
2307 (14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON
2308 ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.--
2309 (a) The board may, after any special assessments or
2310 benefit special assessments for assessable improvements are
2311 made, determined, and confirmed as provided in this act, issue
2312 certificates of indebtedness for the amount so assessed against
2313 the abutting property or property otherwise benefited, as the
2314 case may be, and separate certificates shall be issued against
2315 each part or parcel of land or property assessed, which
2316 certificates shall state the general nature of the improvement
2317 for which the assessment is made. The certificates shall be
2318 payable in annual installments in accordance with the
2319 installments of the special assessment for which they are
2320 issued. The board may determine the interest to be borne by such
2321 certificates, not to exceed the maximum rate allowed by general
2322 law, and may sell such certificates at either private or public
2323 sale and determine the form, manner of execution, and other
2324 details of such certificates. The certificates shall recite that
2325 they are payable only from the special assessments levied and
2326 collected from the part or parcel of land or property against
2327 which they are issued. The proceeds of such certificates may be
2328 pledged for the payment of principal of and interest on any

2329 revenue bonds or general obligation bonds issued to finance in
2330 whole or in part such assessable improvement, or, if not so
2331 pledged, may be used to pay the cost or part of the cost of such
2332 assessable improvements.
2333 (b) The district may also issue assessment bonds, revenue
2334 bonds, or other obligations payable from a special fund into
2335 which such certificates of indebtedness referred to in the
2336 preceding subsection may be deposited or, if such certificates
2337 of indebtedness have not been issued, the district may assign to
2338 such special fund for the benefit of the holders of such
2339 assessment bonds or other obligations, or to a trustee for such
2340 bondholders, the assessment liens provided for in this act
2341 unless such certificates of indebtedness or assessment liens
2342 have been theretofore pledged for any bonds or other obligations
2343 authorized hereunder. In the event of the creation of such
2344 special fund and the issuance of such assessment bonds or other
2345 obligations, the proceeds of such certificates of indebtedness
2346 or assessment liens deposited therein shall be used only for the
2347 payment of the assessment bonds or other obligations issued as
2348 provided in this section. The district is authorized to covenant
2349 with the holders of such assessment bonds, revenue bonds, or
2350 other obligations that it will diligently and faithfully enforce
2351 and collect all the special assessments, and interest and
2352 penalties thereon, for which such certificates of indebtedness
2353 or assessment liens have been deposited in or assigned to such
2354 fund; to foreclose such assessment liens so assigned to such
2355 special fund or represented by the certificates of indebtedness
2356 deposited in the special fund, after such assessment liens have

2357 become delinquent, and deposit the proceeds derived from such
2358 foreclosure, including interest and penalties, in such special
2359 fund; and to make any other covenants deemed necessary or
2360 advisable in order to properly secure the holders of such
2361 assessment bonds or other obligations.
2362 (c) The assessment bonds, revenue bonds, or other
2363 obligations issued pursuant to this section shall have such
2364 dates of issue and maturity as shall be deemed advisable by the
2365 board; however, the maturities of such assessment bonds or other
2366 obligations shall not be more than 2 years after the due date of
2367 the last installment which will be payable on any of the special
2368 assessments for which such assessment liens, or the certificates
2369 of indebtedness representing such assessment liens, are assigned
2370 to or deposited in such special fund.
2371 (d) Such assessment bonds, revenue bonds, or other
2372 obligations issued under this section shall bear such interest
2373 as the board may determine, not to exceed the maximum rate
2374 allowed by general law, and shall be executed, shall have such
2375 provisions for redemption prior to maturity, shall be sold in
2376 the manner, and shall be subject to all of the applicable
2377 provisions contained in this act for revenue bonds, except as
2378 the same may be inconsistent with the provisions of this
2379 section.
2380 (e) All assessment bonds, revenue bonds, or other
2381 obligations issued under the provisions of this section shall
2382 be, shall constitute, and shall have all the qualities and
2383 incidents of negotiable instruments under the law merchant and
2384 the laws of the state.

2385 (15) TAX LIENS.--All taxes of the district provided for in
2386 this act, except together with all penalties for default in the
2387 payment of the same and all costs in collecting the same,
2388 including a reasonable attorney's fee fixed by the court and
2389 taxed as a cost in the action brought to enforce payment, shall,
2390 from January 1 for each year the property is liable to
2391 assessment and until paid, constitute a lien of equal dignity
2392 with the liens for state and county taxes and other taxes of
2393 equal dignity with state and county taxes, upon all the lands
2394 against which such taxes shall be levied. A sale of any of the
2395 real property within the district for state and county or other
2396 taxes shall not operate to relieve or release the property so
2397 sold from the lien for subsequent district taxes or installments
2398 of district taxes, which lien may be enforced against such
2399 property as though no such sale thereof had been made. In
2400 addition to, and not in limitation of, the preceding sentence,
2401 for purposes of section 197.552, Florida Statutes, the lien of
2402 all special assessments levied by the district shall constitute
2403 a lien of record held by a municipal or county governmental
2404 unit. The provisions of sections 194.171, 197.122, 197.333, and
2405 197.432, Florida Statutes, shall be applicable to district taxes
2406 with the same force and effect as if such provisions were
2407 expressly set forth in this act.
2408 (16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
2409 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.--
2410 (a) The district shall have the power and right to:

2411 1. Pay any delinquent state, county, district, municipal,
2412 or other tax or assessment upon lands located wholly or
2413 partially within the boundaries of the district.
2414 2. Redeem or purchase any tax sales certificates issued or
2415 sold on account of any state, county, district, municipal, or
2416 other taxes or assessments upon lands located wholly or
2417 partially within the boundaries of the district.
2418 (b) Delinquent taxes paid, or tax sales certificates
2419 redeemed or purchased by the district, together with all
2420 penalties for the default in payment of the same and all costs
2421 in collecting the same and a reasonable attorney's fee, shall
2422 constitute a lien in favor of the district of equal dignity with
2423 the liens of state and county taxes and other taxes of equal
2424 dignity with state and county taxes upon all the real property
2425 against which the taxes were levied. The lien of the district
2426 may be foreclosed in the manner provided in this act.
2427 (c) In any sale of land pursuant to section 197.542,
2428 Florida Statutes, the district may certify to the clerk of the
2429 circuit court of the county holding such sale the amount of
2430 taxes due to the district upon the lands sought to be sold, and
2431 the district shall share in the disbursement of the sales
2432 proceeds in accordance with the provisions of this act and under
2433 the laws of the state.
2434 (17) FORECLOSURE OF LIENS.--Any lien in favor of the
2435 district arising under this act may be foreclosed by the
2436 district by foreclosure proceedings in the name of the district
2437 in a court of competent jurisdiction as provided by general law
2438 in like manner as is provided in chapter 173, Florida Statutes,

2439 and the provisions of that chapter shall be applicable to such
2440 proceedings with the same force and effect as if those
2441 provisions were expressly set forth in this act. Any act
2442 required or authorized to be done by or on behalf of a
2443 municipality in foreclosure proceedings under chapter 173,
2444 Florida Statutes, may be performed by such officer or agent of
2445 the district as the board of supervisors may designate. Such
2446 foreclosure proceedings may be brought at any time after the
2447 expiration of 1 year from the date any tax, or installment
2448 thereof, becomes delinquent; however, no lien shall be
2449 foreclosed against any political subdivision or agency of the
2450 state. Other legal remedies shall remain available.
2451 (18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,
2452 FACILITIES, AND SERVICES.--To the full extent permitted by law,
2453 the district shall require all lands, buildings, premises,
2454 persons, firms, and corporations within the district to use the
2455 water management and control facilities, water systems, and
2456 sewer systems of the district.
2457 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
2458 PROVISIONS REQUIRED.--
2459 (a) No contract shall be let by the board for any goods,
2460 supplies, or materials to be purchased when the amount thereof
2461 to be paid by the district shall exceed the amount provided in
2462 section 287.017, Florida Statutes, for category four, unless
2463 notice of bids shall be advertised once in a newspaper in
2464 general circulation in Brevard County. Any board seeking to
2465 construct or improve a public building, structure, or other
2466 public works shall comply with the bidding procedures of section

2467 255.20, Florida Statutes, and other applicable general law. In
2468 each case, the bid of the lowest responsive and responsible
2469 bidder shall be accepted unless all bids are rejected because
2470 the bids are too high or the board determines it is in the best
2471 interests of the district to reject all bids. The board may
2472 require the bidders to furnish bond with a responsible surety to
2473 be approved by the board. Nothing in this section shall prevent
2474 the board from undertaking and performing the construction,
2475 operation, and maintenance of any project or facility authorized
2476 by this act by the employment of labor, material, and machinery.
2477 (b) The provisions of the Consultants' Competitive
2478 Negotiation Act, section 287.055, Florida Statutes, shall apply
2479 to contracts for engineering, architecture, landscape
2480 architecture, or registered surveying and mapping services let
2481 by the board.
2482 (c) Contracts for maintenance services for any district
2483 facility or project shall be subject to competitive bidding
2484 requirements when the amount thereof to be paid by the district
2485 exceeds the amount provided in section 287.017, Florida
2486 Statutes, for category four. The district shall adopt rules,
2487 policies, or procedures establishing competitive bidding
2488 procedures for maintenance services. Contracts for other
2489 services shall not be subject to competitive bidding unless the
2490 district adopts a rule, policy, or procedure applying
2491 competitive bidding procedures to said contracts. Nothing herein
2492 shall preclude the use of requests for proposal instead of
2493 invitations to bid as determined by the district to be in its
2494 best interest.

2495 (20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
2496 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.--
2497 (a) The district is authorized to prescribe, fix,
2498 establish, and collect rates, fees, rentals, or other charges,
2499 hereinafter sometimes referred to as "revenues," and to revise
2500 the same from time to time, for the systems, facilities, and
2501 services furnished by the district, within the limits of the
2502 district, including, but not limited to, recreational
2503 facilities, water management and control facilities, and water
2504 and sewer systems; to recover the costs of making connection
2505 with any district service, facility, or system; and to provide
2506 for reasonable penalties against any user or property for an
2507 such rates, fees, rentals, or other charges that are delinquent.
2508 (b) No such rates, fees, rentals, or other charges for any
2509 of the facilities or services of the district shall be fixed
2510 until after a public hearing at which all the users of the
2511 proposed facility or services or owners, tenants, or occupants
2512 served or to be served thereby and all other interested persons
2513 shall have an opportunity to be heard concerning the proposed
2514 rates, fees, rentals, or other charges. Rates, fees, rentals,
2515 and other charges shall be adopted under the administrative
2516 rulemaking authority of the district, but shall not apply to
2517 district leases. Notice of such public hearing setting forth the
2518 proposed schedule or schedules of rates, fees, rentals, and
2519 other charges shall have been published in a newspaper of
2520 general circulation in Brevard County at least once and at least
2521 10 days prior to such public hearing. The rulemaking hearing may
2522 be adjourned from time to time. After such hearing, such

2523 schedule or schedules, either as initially proposed or as
2524 modified or amended, may be finally adopted. A copy of the
2525 schedule or schedules of such rates, fees, rentals, or charges
2526 as finally adopted shall be kept on file in an office designated
2527 by the board and shall be open at all reasonable times to public
2528 inspection. The rates, fees, rentals, or charges so fixed for
2529 any class of users or property served shall be extended to cover
2530 any additional users or properties thereafter served which shall
2531 fall in the same class, without the necessity of any notice or
2532 hearing.
2533 (c) Such rates, fees, rentals, and charges shall be just
2534 and equitable and uniform for users of the same class, and when
2535 appropriate may be based or computed either upon the amount of
2536 service furnished, upon the average number of persons residing
2537 or working in or otherwise occupying the premises served, or
2538 upon any other factor affecting the use of the facilities
2539 furnished, or upon any combination of the foregoing factors, as
2540 may be determined by the board on an equitable basis.
2541 (d) The rates, fees, rentals, or other charges prescribed
2542 shall be such as will produce revenues, together with any other
2543 assessments, taxes, revenues, or funds available or pledged for
2544 such purpose, at least sufficient to provide for the items
2545 hereinafter listed, but not necessarily in the order stated:
2546 1. To provide for all expenses of operation and
2547 maintenance of such facility or service.
2548 2. To pay when due all bonds and interest thereon for the
2549 payment of which such revenues are, or shall have been, pledged
2550 or encumbered, including reserves for such purpose.

2551 3. To provide for any other funds which may be required
2552 under the resolution or resolutions authorizing the issuance of
2553 bonds pursuant to this act.
2554 (e) The board shall have the power to enter into contracts
2555 for the use of the projects of the district and with respect to
2556 the services, systems, and facilities furnished or to be
2557 furnished by the district.
2558 (21) RECOVERY OF DELINQUENT CHARGES.--In the event that
2559 any rates, fees, rentals, charges, or delinquent penalties shall
2560 not be paid as and when due and shall be in default for 60 days
2561 or more, the unpaid balance thereof and all interest accrued
2562 thereon, together with reasonable attorney's fees and costs, may
2563 be recovered by the district in a civil action.
2564 (22) DISCONTINUANCE OF SERVICE.--In the event the fees,
2565 rentals, or other charges for water and sewer services, or
2566 either of them, are not paid when due, the board shall have the
2567 power, under such reasonable rules and regulations as the board
2568 may adopt, to discontinue and shut off both water and sewer
2569 services until such fees, rentals, or other charges, including
2570 interest, penalties, and charges for the shutting off and
2571 discontinuance and the restoration of such water and sewer
2572 services or both, are fully paid; and, for such purposes, the
2573 board may enter on any lands, waters, or premises of any person,
2574 firm, corporation, or body, public or private, within the
2575 district limits. Such delinquent fees, rentals, or other charges
2576 together with interest, penalties, and charges for the shutting
2577 off and discontinuance and the restoration of such services and
2578 facilities and reasonable attorney's fees and other expenses may

2579 be recovered by the district, which may also enforce payment of
2580 such delinquent fees, rentals, or other charges by any other
2581 lawful method of enforcement.
2582 (23) ENFORCEMENT AND PENALTIES.--The board or any
2583 aggrieved person may have recourse to such remedies in law and
2584 at equity as may be necessary to ensure compliance with the
2585 provisions of this act, including injunctive relief to enjoin or
2586 restrain any person violating the provisions of this act or any
2587 bylaws, resolutions, regulations, rules, codes, or orders
2588 adopted under this act. In case any building or structure is
2589 erected, constructed, reconstructed, altered, repaired,
2590 converted, or maintained, or any building, structure, land, or
2591 water is used in violation of this act or of any code, order,
2592 resolution, or other regulation made under authority conferred
2593 by this act or under law, the board or any citizen residing in
2594 the district may institute any appropriate action or proceeding
2595 to prevent such unlawful erection, construction, reconstruction,
2596 alteration, repair, conversion, maintenance, or use; to
2597 restrain, correct, or avoid such violation; to prevent the
2598 occupancy of such building, structure, land, or water; and to
2599 prevent any illegal act, conduct, business, or use in or about
2600 such premises, land, or water.
2601 (24) SUITS AGAINST THE DISTRICT.--Any suit or action
2602 brought or maintained against the district for damages arising
2603 out of tort, including, without limitation, any claim arising
2604 upon account of an act causing an injury or loss of property,
2605 personal injury, or death, shall be subject to the limitations
2606 provided in section 768.28, Florida Statutes.

2607 (25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All
2608 district property shall be exempt from levy and sale by virtue
2609 of an execution, and no execution or other judicial process
2610 shall issue against such property, nor shall any judgment
2611 against the district be a charge or lien on its property or
2612 revenues; however, nothing contained herein shall apply to or
2613 limit the rights of bondholders to pursue any remedy for the
2614 enforcement of any lien or pledge given by the district in
2615 connection with any of the bonds or obligations of the district.
2616 (26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.--
2617 (a) The board may ask the Legislature through its local
2618 legislative delegation in and for Brevard County to amend this
2619 act to contract, to expand or to contract, or to expand the
2620 boundaries of the district by amendment of this section.
2621 (b) The district shall remain in existence until:
2622 1. The district is terminated and dissolved pursuant to
2623 amendment to this act by the Legislature.
2624 2. The district has become inactive pursuant to section
2625 189.4044, Florida Statutes.
2626
2627 Provided, however, if, within 5 years after the effective date
2628 of this act establishing the district, the primary landowner has
2629 not received a development permit, as defined in chapter 380, on
2630 some part or all of the area covered by the district, then the
2631 district will be automatically dissolved and a judge of the
2632 circuit court shall cause a statement to that effect to be filed
2633 in the public records.

2634 (27) INCLUSION OF TERRITORY.--The inclusion of any or all
2635 territory of the district within a municipality does not change,
2636 alter, or affect the boundary, territory, existence, or
2637 jurisdiction of the district.
2638 (28) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
2639 DISCLOSURE TO PURCHASER.--Subsequent to the creation of this
2640 district under this act, each contract for the initial sale of a
2641 parcel of real property and each contract for the initial sale
2642 of a residential unit within the district shall include,
2643 immediately prior to the space reserved in the contract for the
2644 signature of the purchaser, the following disclosure statement
2645 in boldfaced and conspicuous type which is larger than the type
2646 in the remaining text of the contract: "THE VIERA STEWARDSHIP
2647 DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES
2648 AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS
2649 PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF
2650 CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT
2651 AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT.
2652 THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER
2653 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
2654 ASSESSMENTS PROVIDED FOR BY LAW."
2655 (29) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
2656 after the election of the first board of supervisors creating
2657 this district, the district shall cause to be recorded in the
2658 grantor-grantee index of the property records in each county in
2659 which it is located a "Notice of Creation and Establishment of
2660 the Viera Stewardship District." The notice shall, at a minimum,

2661 include the legal description of the property covered by this
2662 act.
2663 (30) DISTRICT PROPERTY PUBLIC; FEES.--Any system,
2664 facility, service, works, improvement, project, or other
2665 infrastructure owned by the district, or funded by federal tax
2666 exempt bonding issued by the district, is public; and the
2667 district by rule may regulate and may impose reasonable charges
2668 or fees for the use thereof but not to the extent that such
2669 regulation or imposition of such charges or fees constitutes
2670 denial of reasonable access.
2671 Section 7. If any provision of this act is determined
2672 unconstitutional or otherwise determined invalid by a court of
2673 law, all the rest and remainder of the act shall remain in full
2674 force and effect as the law of this state.
2675 Section 8. In the election provided for in section 9, each
2676 assessable acre or fraction thereof present in person or by
2677 proxy shall be counted as one vote.
2678 Section 9. This section and section 8 shall take effect
2679 upon this act becoming law, and the remaining sections shall
2680 take effect upon approval by a majority vote of the owners of
2681 land within the district who are not exempt from ad valorem
2682 taxes or non-ad valorem assessments and who are present in
2683 person or by proxy at a landowners' meeting to be held within 90
2684 days after the effective date of this act. Such landowners'
2685 meeting shall be noticed as provided in section 5 for the
2686 initial landowners' meeting and may be combined with such
2687 meeting. However, the provisions of this act which authorize the
2688 levy of ad valorem taxation and issuance of general obligation

2689 bonds shall take effect only upon express approval by a majority
2690 vote of those qualified electors of the Viera Stewardship
2691 District voting in a referendum election held at such time as
2692 all members of the board are qualified electors who are elected
2693 by qualified electors of the district as provided in this act.

HB 1585

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1585 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 1585 provides for the annexation and deannexation of certain described lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches in Broward County. The bill notes that approximately 30 acres of property known as the Laguna Isles Community Center and adjoining wetlands currently is located in the Town of Southwest Ranches, while the remaining area of the Laguna Isles community is located within the municipal limits of the City of Pembroke Pines. Also, the bill notes that approximately 30 acres of property known as the Frontier Trails Park is owned by the Town of Southwest Ranches, but currently part of the City of Pembroke Pines.

The provisions of the bill serve to deannex the Laguna Isles Community Center and its adjoining wetlands from the Town of Southwest Ranches, and annex this property into the City of Pembroke Pines so that the entire development is housed within one municipality. The bill also will deannex the Frontier Trails Park from the City of Pembroke Pines and annex that land into the Town of Southwest Ranches, the owner of the property.

The act takes effect upon becoming law.

According to the Economic Impact Statement, this bill has no fiscal impact.

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

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 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]

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[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.

[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.

- 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]

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

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

- 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.

Contraction Procedures

Section 171.051, F.S., provides that any municipality may initiate the contraction of municipal boundaries in the following manner:

(1) The governing body proposes the contraction of municipal boundaries by ordinance, and provides an effective date for the contraction.

(2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the municipal boundaries, filed with the clerk of the municipal governing body, may propose such an ordinance. The municipality to which such petition is directed must then undertake a study of the feasibility of such proposal and, within six months, either initiate proceedings, as provided in (1), above, or reject the petition, specifically stating the facts upon which the rejection is based.

After introduction, the contraction ordinance must be noticed at least once per week for two consecutive weeks in a newspaper of general circulation in the municipality. The notice must describe the area to be excluded, include a statement of findings to show that the area to be excluded fails to meet the criteria of s. 171.043, F.S., set the time and place of the meeting at which the ordinance will be considered, and advise that all parties affected may be heard.

If, at the meeting held for such purpose, a petition is filed and signed by at least 15 percent of the qualified voters resident in the area proposed for contraction requesting a referendum on the question, the governing body must, upon verification, paid for by the municipality, of the sufficiency of the petition, and before passing such ordinance, submit the question of contraction to a vote of the qualified voters of the area proposed for contraction, or the governing body may vote not to contract the municipal boundaries.

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[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.

The governing body also may call for a referendum on the question of contraction on its own volition and in the absence of a petition requesting a referendum. The referendum, if required, is held at the next regularly scheduled election, or, if approved by a majority of the municipal governing body, at a special election held prior to such election, but no sooner than 30 days after verification of the petition or passage of the resolution or ordinance calling for the referendum.

The municipal governing body must establish the date of election and publish notice of the referendum election at least once a week for the two consecutive weeks immediately prior to the election in a newspaper of general circulation in the area proposed to be excluded or in the municipality. Such notice must give the time and places for the election and a general description of the area to be excluded in the form of a map.

Ballots or mechanical voting devices shall offer the choices "for deannexation" and "against deannexation," in that order. A majority vote "for deannexation" will cause the area proposed for exclusion to be excluded upon the effective date set in the contraction ordinance. A majority vote "against deannexation" prevents any part of the area proposed for exclusion from being the subject of a contraction ordinance for a period of two years from the date of the referendum election.

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]

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.

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[9] Section 171.091, F.S.
[10] Section 171.081, F.S.

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.

2001 Broward County Legislative Delegation's Ad Hoc Committee on Annexation

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."

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 1585 provides for the annexation and deannexation of certain described lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches in Broward County. The bill notes that approximately 30 acres of property known as the Laguna Isles Community Center and adjoining wetlands currently is located in the Town of Southwest Ranches, while the remaining area of the Laguna Isles community is located within the municipal limits of the City of Pembroke Pines. Also, the bill notes that approximately 30 acres of property known as the Frontier Trails Park is owned by the Town of Southwest Ranches, but currently part of the City of Pembroke Pines.

The provisions of the bill serve to deannex the Laguna Isles Community Center and its adjoining wetlands from the Town of Southwest Ranches, and annex this property into the City of Pembroke Pines so that the entire development is housed within one municipality. The bill also will deannex the Frontier Trails Park from the City of Pembroke Pines and annex that land into the Town of Southwest Ranches, the owner of the property.

Neither of these parcels is populated, and both cities have adopted resolutions supporting these actions.[12]

The act takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Provides the legal description for lands to be deannexed from the City of Pembroke Pines.

Section 2: Provides the legal description for lands to be deannexed from the Town of Southwest Ranches.

Section 3: Provides a legal description for lands to be annexed into the City of Pembroke Pines

Section 4: Provides a legal description for lands to be annexed into the Town of Southwest Ranches.

Section 5: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

[11] A city engages in cherry-picking when it seeks to annex only areas that will produce a positive tax cash flow.
[12] These documents are on file with the Local Government Council.

IF YES, WHEN? January 10, 2006

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward County.

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 []

According to the Economic Impact Statement, this bill will have no fiscal impact.

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

Me 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 Pembroke Pines

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF:

1/10,1X 12666522

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.

Me
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: 10-January-2006 A.D.

Idella M. Johnson
(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 Broward County, Florida, providing for annexation and de-annexation of lands within the municipal limits of the City of Pembroke Pines and the Town of Southwest Ranches; providing an effective date.
BROWARD COUNTY LEGISLATIVE DELEGATION
REPRESENTATIVE
ELEANOR SOBEL, CHAIR
CONTACT: Sandy Harris
(954-357-6555)
January 10, 2006

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1585

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: Southwest Ranches Deannexation/Annexation, Broward County
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Broward 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: 2-28-06

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 [1-10-06 **]**

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 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 1585

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: Town of Southwest Ranches

[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:	-0-	-0-

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

Advantages: No economic impact

Disadvantages: No economic impact

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

No impact

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

Review of tax roll

PREPARED BY: _____ _____
[Must be signed by Preparer] Date

TITLE: Town Administrator

REPRESENTING: Town of Southwest Ranches

PHONE: (954-434-0008)

E-Mail Address: jcanada@swranches.org

1 A bill to be entitled
2 An act relating to Broward County; providing for
3 annexation and deannexation of certain described lands
4 within the municipal limits of the City of Pembroke Pines
5 and the Town of Southwest Ranches; providing an effective
6 date.
7
8 WHEREAS, the approximately 30 acres of property known as
9 the Laguna Isles Community Center and adjoining wetlands is
10 currently located in the Town of Southwest Ranches, with the
11 remaining area of the Laguna Isles community residing in the
12 City of Pembroke Pines, and
13 WHEREAS, the approximately 30 acres of property known as
14 the Frontier Trails Park is owned by the Town of Southwest
15 Ranches, but currently resides in the City of Pembroke Pines,
16 and both municipalities desire to return these properties to the
17 appropriate municipality, NOW, THEREFORE,
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. The lands contained in the following legal
22 description are deannexed from the City of Pembroke Pines,
23 Broward County:
24 ALL OF THE PLAT OF "FRONTIER TRAILS", AS RECORDED IN
25 PLAT BOOK 97, PAGE 8, OF THE PUBLIC RECORDS OF BROWARD
26 COUNTY, FLORIDA. SAID LANDS SITUATE IN THE CITY OF
27 PEMBROKE PINES, BROWARD COUNTY, FLORIDA AND CONTAINING
28 30.057 ACRES, MORE OR LESS.

29 Section 2. The lands contained in the following legal
30 description are deannexed from the Town of Southwest Ranches,
31 Broward County:
32 A PORTION OF PARCEL C, ACCORDING TO THE PLAT OF BIG
33 SKY NORTH RESIDENTIAL, AS RECORDED IN PLAT BOOK 168 AT
34 PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY,
35 FLORIDA, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY
36 OF SHERIDAN STREET AS NOW LOCATED AND CONSTRUCTED, AND
37 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
38 BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL C;
39 THENCE RUN NORTH 01°46'07" WEST (ON A PLAT BEARING)
40 2231.07 FEET ALONG THE WEST BOUNDARY OF SAID PARCEL C,
41 TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THAT
42 CERTAIN FPL EASEMENT AS DESCRIBED IN THE INSTRUMENT
43 FOUND IN OFFICIAL RECORDS BOOK 5429 AT PAGE 931 OF THE
44 PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE RUN
45 NORTH 89°53'13" EAST 615.03 FEET ALONG SAID NORTH
46 BOUNDARY, TO AN INTERSECTION WITH A LINE 15 FEET WEST
47 OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE
48 EAST BOUNDARY OF SAID PARCEL C; THENCE RUN SOUTH
49 01°46'15" EAST 1478.21 FEET ALONG SAID PARALLEL LINE,
50 TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT;
51 THENCE ALONG SAID PARALLEL LINE, ON THE ARC OF SAID
52 CURVE TO THE RIGHT, HAVING A RADIUS OF 1485.00 FEET
53 AND A CENTRAL ANGLE OF 14°29'42" RUN SOUTHWESTERLY
54 375.68 FEET TO A POINT OF REVERSE CURVATURE; THENCE
55 ALONG SAID PARALLEL LINE, ON THE ARC OF A CURVE TO THE
56 LEFT, HAVING A RADIUS OF 1575.00 FEET AND A CENTRAL

57 ANGLE OF 12°36'11" RUN SOUTHWESTERLY 346.44 FEET;
58 THENCE RUN SOUTH 44°53'41" WEST 51.23 FEET ALONG SAID
59 PARALLEL LINE AND ITS EXTENSION TO AN INTERSECTION
60 WITH THE SOUTH BOUNDARY OF SAID PARCEL C; THENCE RUN
61 SOUTH 01°46'15" EAST 100.04 FEET TO AN INTERSECTION
62 WITH THE SOUTH BOUNDARY OF SECTION 1, TOWNSHIP 51
63 SOUTH, RANGE 39 EAST; THENCE RUN SOUTH 89°53'41" WEST
64 481.26 FEET ALONG SAID SOUTH BOUNDARY OF SECTION 1, TO
65 AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE
66 WEST BOUNDARY OF SAID PARCEL C; THENCE RUN NORTH
67 01°46'07" WEST 100.04 FEET ALONG SAID SOUTHERLY
68 EXTENSION TO THE POINT OF BEGINNING. SAID LANDS
69 SITUATE IN THE TOWN OF SOUTHWEST RANCHES, BROWARD
70 COUNTY, FLORIDA, AND CONTAINING 31.748 ACRES, MORE OR
71 LESS.
72 Section 3. The present corporate limits of the City of
73 Pembroke Pines, Broward County, are extended and enlarged so as
74 to include, in addition to the territory presently within its
75 corporate limits, the following:
76 A PORTION OF PARCEL C, ACCORDING TO THE PLAT OF BIG
77 SKY NORTH RESIDENTIAL, AS RECORDED IN PLAT BOOK 168 AT
78 PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY,
79 FLORIDA, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY
80 OF SHERIDAN STREET AS NOW LOCATED AND CONSTRUCTED, AND
81 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
82 BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL C;
83 THENCE RUN NORTH 01°46'07" WEST (ON A PLAT BEARING)
84 2231.07 FEET ALONG THE WEST BOUNDARY OF SAID PARCEL C,

85 TO AN INTERSECTION WITH THE NORTH BOUNDARY OF THAT
86 CERTAIN FPL EASEMENT AS DESCRIBED IN THE INSTRUMENT
87 FOUND IN OFFICIAL RECORDS BOOK 5429 AT PAGE 931 OF THE
88 PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE RUN
89 NORTH 89°53'13" EAST 615.03 FEET ALONG SAID NORTH
90 BOUNDARY, TO AN INTERSECTION WITH A LINE 15 FEET WEST
91 OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE
92 EAST BOUNDARY OF SAID PARCEL C; THENCE RUN SOUTH
93 01°46'15" EAST 1478.21 FEET ALONG SAID PARALLEL LINE,
94 TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT;
95 THENCE ALONG SAID PARALLEL LINE, ON THE ARC OF SAID
96 CURVE TO THE RIGHT, HAVING A RADIUS OF 1485.00 FEET
97 AND A CENTRAL ANGLE OF 14°29'42" RUN SOUTHWESTERLY
98 375.68 FEET TO A POINT OF REVERSE CURVATURE; THENCE
99 ALONG SAID PARALLEL LINE, ON THE ARC OF A CURVE TO THE
100 LEFT, HAVING A RADIUS OF 1575.00 FEET AND A CENTRAL
101 ANGLE OF 12°36'11" RUN SOUTHWESTERLY 346.44 FEET;
102 THENCE RUN SOUTH 44°53'41" WEST 51.23 FEET ALONG SAID
103 PARALLEL LINE AND ITS EXTENSION TO AN INTERSECTION
104 WITH THE SOUTH BOUNDARY OF SAID PARCEL C; THENCE RUN
105 SOUTH 01°46'15" EAST 100.04 FEET TO AN INTERSECTION
106 WITH THE SOUTH BOUNDARY OF SECTION 1, TOWNSHIP 51
107 SOUTH, RANGE 39 EAST; THENCE RUN SOUTH 89°53'41" WEST
108 481.26 FEET ALONG SAID SOUTH BOUNDARY OF SECTION 1, TO
109 AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE
110 WEST BOUNDARY OF SAID PARCEL C; THENCE RUN NORTH
111 01°46'07" WEST 100.04 FEET ALONG SAID SOUTHERLY
112 EXTENSION TO THE POINT OF BEGINNING. SAID LANDS

113 SITUATE IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY,
114 FLORIDA, AND CONTAINING 31.748 ACRES, MORE OR LESS.
115 Section 4. The present corporate limits of the Town of
116 Southwest Ranches, Broward County, are extended and enlarged so
117 as to include, in addition to the territory presently within its
118 corporate limits, the following:
119 ALL OF THE PLAT OF "FRONTIER TRAILS", AS RECORDED IN
120 PLAT BOOK 97, PAGE 8, OF THE PUBLIC RECORDS OF BROWARD
121 COUNTY, FLORIDA. SAID LANDS SITUATE IN THE TOWN OF
122 SOUTHWEST RANCHES, BROWARD COUNTY, FLORIDA AND
123 CONTAINING 30.057 ACRES, MORE OR LESS.
124 Section 5. This act shall take effect upon becoming a law.

HB 1629

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1629 Gainesville-Alachua County Regional Airport Authority
SPONSOR(S): Jennings
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T. L. S.	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Gainesville-Alachua County Regional Airport Authority (Authority) is a dependent special district located in Alachua County. The Authority was created under ch. 86-469, L.O.F., which has been amended by subsequent special acts. The Authority has nine appointed board members who serve 3-year terms. The Authority has jurisdiction over operation, maintenance, and improvements to the airport and its facilities.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority. The bill contains provisions which do not simply codify existing law, but amend the charter of the Authority, as follows:

- Deletes specified provisions relating to the Authority board membership, status of District, term limits of Authority members, certain powers and duties of the Authority, and a building restriction provision.
- Provides a list of Legislative findings and intent statements.
- Adds the following definitions: "Airport lands" and "Airport facility district."
- Declares the Authority lands and other real and personal property, easements, and privileges acquired and used by the Authority have been acquired and used for public and governmental purposes and as a matter of public necessity.
- States the Authority is an independent special district.
- States the Authority has exclusive jurisdiction, control, supervision, and management over all airports in the County except privately owned airports.
- Provides for subsequent appointments of members when their term limits expire or upon the effective date of this act, provides for a replacement if a member's term limit has expired.
- Provides for a 4-year term instead of a 3-year term and provides no member will serve more than two successive terms.
- Requires no traditional public notice for emergency meetings.
- Clarifies restrictions on previous board member transactions on business dealings, representing of business entities, and submission of proposals for doing business with the Authority.
- States no member, as an individual, may represent the Authority without being directed through a formal action of the governing board to do so.
- Provides the Authority has exclusive jurisdiction over the operation and maintenance of and improvements to airport lands and provides the Authority shall oversee the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which will govern items including, but not limited to, height, landscaping, sidewalks, and lighting.
- Provides for an alcoholic beverage license.
- Provides for a discrimination clause.

Pursuant to House Rule 5.5(b), 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. The provisions of House Rule 5.5(b) appear to apply to this bill.

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:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

Gainesville-Alachua County Regional Airport Authority

The Gainesville-Alachua County Regional Airport Authority is a dependent special district located in Alachua County. The Authority was created under ch. 86-469, L.O.F., which has been amended by subsequent special acts. The Authority has nine appointed board members who serve 3-year terms. The Authority has jurisdiction over operation, maintenance, and improvements to the airport and its facilities. The Authority has authority to enter into contracts, lease the airport and its facilities, accept revenues from the operation of the airport, undertake capital projects, issue revenue bonds, and fix and collect fees and other charges for the use of the airport and its facilities. The Authority may also acquire land in the name of the City by eminent domain, appoint guards or police with full police powers and expend funds to advertise and promote the airport.

Changes to the Gainesville-Alachua County Regional Airport Authority Charter

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is

not to be construed as a grant of additional authority. The exclusive charter of the Authority is recreated by this bill.

The bill contains provisions which do not simply codify existing law, but amend the charter of the Authority, as follows:

- Deletes specified provisions relating to the Authority board membership, status of District[1], terms of Authority members, certain powers and duties of the Authority, and a building restriction provision.
- Provides a list of Legislative findings, which include the following:
  - The proper operation of a publicly owned or operated airport in the county is essential to the welfare of the people of the Gainesville-Alachua County area, the state, and the people of the state.
  - A publicly owned or operated airport in the county establishes a vital transportation link between the state and the economic systems of the nation and the world and enables the state to enjoy and provide the benefits of an international tourist and commercial center.
  - The economic validity and stability of a publicly owned or operated airport in the county is a matter of statewide importance.
  - The policy of this state is to promote the development of commerce and tourism and to secure for the state's residents the benefits of those activities conducted in the state.
  - The proper operation of a publicly owned or operated airport in the county is essential to the welfare of the state and its people, and the Legislature recognizes and affirms such operation as a governmental function to be discharged in furtherance of the policy of securing the benefits of commerce and tourism for the state and its people.
- Provides a list of Legislative intent statements, including:
  - The Authority comply with federal law regarding expenditure of federal moneys.
  - This act not be construed as impairing or infringing upon any rights, privileges, or benefits enjoyed by any employee of the Authority who is so employed on the effective date of this act.
  - The members and employees of the authority comply with the code of ethics provisions under part III of chapter 112, F.S.
  - This act provide an additional, alternative, and complete method for the exercise of the powers granted and authorized by this act and be regarded as supplemental to powers conferred by other laws and not as a derogation of any powers now existing.
  - The Authority manage airport facilities and grant airport concessions to further the development of commerce and tourism in or affecting the Gainesville-Alachua County area and the state. In managing its facilities and granting concessions for services to the public, the Authority shall promote the development of commerce and tourism by:
    - Securing a diversity of airport services.
    - Avoiding wasteful duplication of such services.
    - Securing for the users of the airport safe, courteous, and quality service.
    - Limiting or prohibiting business competition that is destructive to the promotion of commerce and tourism in the state.
    - Allocating limited airport resources to promote such ends.
    - Fostering Florida's image as a commercial and tourism center.

- Adds the following definitions: "Airport lands" and "Airport facility district."
- Declares the Authority lands and other real and personal property, easements, and privileges acquired and used by the Authority have been acquired and used for public and governmental purposes and as a matter of public necessity.
- States the Authority is an independent special district.

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[1] See ch. 86-469, L.O.F. § 3; ch. 95-457, L.O.F. § 1. The Authority is listed as an independent district on the 2006 Special District Information Database, http://www.floridaspecialdistricts.org/OfficialList/report.asp.

- States the Authority has exclusive jurisdiction, control, supervision, and management over all airports in the County except privately owned airports.
- Provides for subsequent appointments of members when their term limits expire or upon the effective date of this act, provides for a replacement if a member's term limit has expired.
- Provides for a 4-year term instead of a 3-year term and provides no member will serve more than two successive terms.
- Requires no traditional public notice for emergency meetings.
- Clarifies restrictions on previous board member transactions on business dealings, representing of business entities, and submission of proposals for doing business with the Authority.
- States no member, as an individual, may represent the Authority without being directed through a formal action of the governing board to do so.
- Provides the Authority has exclusive jurisdiction over the operation and maintenance of and improvements to airport lands and provides the Authority shall oversee the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which will govern items including, but not limited to, height, landscaping, sidewalks, and lighting.
- Provides for an alcoholic beverage license.
- Provides for a discrimination clause prohibiting:
  (1) the authority and its lessees, including successors in interest, shall not because of race, color, sex, religion, national origin, age, disability, or sexual orientation of any individual refuse to hire or employ, or bar or discharge from employment, such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions, or privileges of employment.
  (2) No person on the grounds of race, color, sex, religion, national origin, age, disability, or sexual orientation shall be excluded from the participation in, denied the benefits of, or otherwise subjected to discrimination in the use of leased premises of the authority.
  (3) In furnishing services or materials, or in the construction of any improvements, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination with respect thereto.
  (4) There is no right to apply to the court for relief on account of any order, requirement, decision, determination, or action of the authority under this section unless there has been an appeal to the authority.

Charter of the Authority

This bill recreates and reenacts the Authority's charter as follows:

Section 1. Provides for a short title.

Section 2. Provides Legislative findings and intent.

Section 3. Provides definitions for "Airport", "Airport facilities", "Airport lands", "Airport facility district", "Authority", "Authorized project", "Board of county commissioners", "Bond", "City", "County", "Person", "Revenue bonds", and "Refunding bonds."[2]

Section 4. Recreates the Gainesville-Alachua County Regional Airport.[3]

Section 5. Provides for the Authority's governing board; provides the board will consist of nine members who are residents within the city, the county, or a county contiguous to Alachua County; provides members will not receive compensation for their services; provides no member will serve on the Authority's board and hold any publicly elected office in the state at the same time; provides for

[2] *See generally* ch. 86-469, L.O.F. § 2, ch. 89-433, L.O.F. § 1, ch. 95-457, L.O.F. § 1.
[3] *See generally* ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

subsequent appointments of the board members; provides for replacement of board members; provides for 4-year terms; and provides for vacancies.[4]

Section 6: Provides for the organization of the board; provides for term limits of the officers; provides for meetings; provides for notice of a meeting; provides for emergency meetings; and provides for a quorum.[5]

Section 7. Provides for restrictions[6] as follows:
(1) No person who has transacted business with the Authority shall be eligible for appointment to the Authority until 3 years after the last transaction. No person who has served on the Authority shall be eligible to transact business with the Authority or be employed directly or indirectly by an entity transacting business with the Authority until 3 years after the date of termination of membership. "Transactions" include all business dealings, representation of business entities, and submission of proposals for doing business with the Authority either for oneself or as an employee of, agent for, or consultant to any other person or legal entity. However, nothing in this paragraph shall be construed as prohibiting an appointed member from purchasing supplies or services from any fixed-base operator or tenant at the airport or Airport Industrial Park or for renting individual aircraft hangars or tie-downs offered to the general public and owned by the Authority.
(2) No member, officer, agent, or employee of the Authority, either for himself or herself or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, franchise, contract, or other transaction entered into by the Authority or the city. The provisions of this subsection shall be cumulative to any general laws of the state that may from time to time be applicable to members, officers, agents, or employees of the Authority and that require the disclosure of, or prohibit, conflicts of interest.
(3) No member, as an individual, may represent the Authority, speak for the Authority, or speak on behalf of the Authority without being directed through a formal action of the governing board to do so.

Section 8. Provides for the powers of the Board of Directors[7], including the power to:
1) The Authority shall have exclusive jurisdiction over the operation and maintenance and improvements to airport lands. Further, the Authority oversees the airport, consisting of airport lands for purposes of City of Gainesville land use regulations, which govern items including, but not limited to, height, landscaping, sidewalks, and lighting, and shall:

(a) Approve, file with the clerk, and pay any surety bond required of any member or of any employee of the Authority.
(b) Exclusively control, supervise, and manage all airports in the county and each municipality, except any airport owned, controlled, or operated by a private person.
(c) Advertise for sealed bids when required by law; however, the Authority may reject all bids and re-advertise or select a single item from any bid.
(d) Adopt before October 1 of each year an annual budget prepared by the chief executive officer, which includes an estimate of all revenues and anticipated expenditures for the ensuing fiscal year.

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[4] *See generally* ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.
[5] *See generally* ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.
[6] *See generally* ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.
[7] *See generally* ch. 86-469, L.O.F. § 4, ch. 89-433, L.O.F. § 2, ch. 95-457, L.O.F. § 1.

(e) Require in all bond documents that moneys derived from such bonds be paid to or upon order of the Authority.
(f) Have the Authority's finances audited in the same manner as other independent special districts are audited.

(2) The Authority is authorized to:
(a) Rely on the provisions of this act, without reference to other laws, in exercising its powers.
(b) Appoint or employ and constitute its own airport guards or police officers or contract with the city, county, or any agency of the state to provide law enforcement services and protection through its duly sworn officers, and all officers have full power of arrest to prevent or abate the commission of an offense against the ordinances of the city or county, the laws of this state, or the laws of the United States when any such offense or threatened offense occurs on any airport lands.
(c) Construct and maintain terminal buildings, causeways, roadways, and bridges for approach to or connecting with the airport.
(d) Require the secretary-treasurer and other officers or employees of the Authority to execute an adequate surety bond in a penal sum fixed by the Authority conditioned on the faithful performance of the duties of the office or employment.
(e) Establish positions, duties, and a pay plan and employ, pay, provide benefits for, promote, discipline, and terminate personnel, including a chief executive officer who shall be responsible for the day-to-day administration, management, and operation of the Authority in accordance with policy established by the members of the Authority and perform other duties as authorized by the members.
(f) By policy or resolution, authorize the chief executive officer to perform any of the powers of the Authority in whole or in part and with whatever other limitations the Authority may impose, provided that the authorization does not result in an invalid exercise of delegated legislative authority as defined in general law.
(g) Employ or contract with technical and professional experts necessary to assist the Authority in carrying out or exercising any powers granted by this act.
(h) Reimburse for all travel expenses incurred while on business for the Authority, upon requisition, any member, the Authority's attorneys, the chief executive officer, and any employee of the Authority traveling under the direction of the chief executive officer or the chief executive officer's designee in accordance with Authority policies.
(i) Create, appoint, and prescribe the duties of any committee.
(j) Sue and be sued.
(k) Adopt, use, and alter a corporate seal.
(l) Publish advertisements.
(m) Waive advertisement when the Authority determines an emergency exists and supplies and materials must be immediately acquired by the Authority.
(n) Negotiate and enter into contracts, agreements, exclusive or limited agreements, and cooperation agreements of any kind necessary for the Authority to fulfill the purposes of this act.
(o) Include contract specifications maximizing the employment of persons whose protected group has been underutilized in the past.
(p) Enter into exclusive or limited agreements with a single operator or a limited number of operators. The Authority shall grant exclusive or limited agreements to eliminate business competition by rule or policy whenever the Authority determines, in consideration of the factors set forth in this paragraph that any such agreement is necessary to further the purposes

of this act. Before entering into any exclusive or limited agreement, the Authority must, under authority expressly delegated by the state, determine the necessity for an exclusive or limited agreement to further the policies and objectives stated in this act, which include public safety, public convenience, quality of service, the need to conserve airport space, the need to avoid duplication of services, the impact on the environment or facilities of the airport as an essential commercial and tourism service center, and the need to avoid destructive competition that may impair the quality of airport services to the public, lead to uncertainty, disruption, or instability in rendering such services, or detract from the Gainesville-Alachua County area and the state's attractiveness as a center of tourism and commerce. In making its determination, the Authority shall take evidence or make findings of fact and establish policies it deems necessary. Nothing in this paragraph shall excuse the Authority from complying with applicable state or local requirements for competitive bidding or public hearings that are required before awarding or entering into any contract or other agreement.

(q) Provide for the manual execution of any instrument on behalf of the Authority by the signature of the chair or vice chair and attested to by the secretary or the assistant secretary or, if delegated by the members to do so, the chief executive officer or any other Authority personnel to whom authority has been delegated, or by signer's facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act.

(r) Purchase and sell equipment, supplies, and services required for Authority purposes.

(s) Sell, lease, transfer, dispose of, or grant a lesser interest in any Authority properties.

(t) Dispose of tangible personal property in accordance with chapter 274, F.S.

(u) Grant concessions.

(v) Advertise, promote, and encourage the use and expansion of facilities under the Authority's jurisdiction.

(w) Enact airport zoning regulations in accordance with chapter 333, F.S., to ensure the safe operation of airports under the Authority's jurisdiction; however, any airport zoning regulations may not affect the zoning use regulations imposed by the county or any municipality.

(x) Acquire, own, construct, install, maintain, and operate Authority facilities and real property by purchase, gift, devise, lease, or any other means, including eminent domain in accordance with chapters 73 and 74, F.S. For the purposes of making surveys and examinations incidental to any condemnation proceedings, the Authority may lawfully enter any land, doing no unnecessary damage. The Authority may take possession of property to be acquired by condemnation at any time after filing a petition describing the property in condemnation proceedings as provided in general law. The Authority is not precluded from abandoning the condemnation of any such property in any case where possession has not been taken.

(y) Reimburse the owner of any structure for which the Authority may require removal, relocation, or reconstruction located in, on, under, or across any private property, public street, highway, or other public or private places for the estimated or actual expense of the removal, relocation, or reconstruction.

(z) Supplement and coordinate in design and operation air navigation facilities with those established and operated by the federal and state governments.

(aa) Request the county or any municipality to convey to the Authority the fee simple title to any county-owned or municipality-owned airport or other property needed for airport purposes.
(bb) Upon determining that any airport or part of any airport under the Authority's jurisdiction but owned by a county, municipality, or other governmental agency is no longer required for Authority purposes, relinquish jurisdiction, control, supervision, and management over that airport property or that part of any airport property. However, the consent and approval of any revenue bondholders must first be obtained and necessary authorizations or approvals received from federal agencies regulating airports.
(cc) Expend revenues for the cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, improving, equipping, and erecting Authority facilities by appropriation of revenues or wholly or partly from the proceeds of bonds of the Authority. The term "cost" includes awards in condemnation proceedings, rentals when an acquisition is by lease, and amounts paid to utility companies for relocation of their wires, poles, and other facilities.
(dd) Incur expenses as provided in the Authority's annual budget and any amended budget.
(ee) Assess against and collect from the owner or operator of each airplane using any Authority facility a landing fee or service charge sufficient to cover the cost of the service provided, which cost may include the liquidation of bonds or other indebtedness for construction and improvement.
(ff) Accept federal, state, and any other public or private moneys, grants, contributions, or loans for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of Authority facilities, or for any other lawful purpose.
(gg) Fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services of Authority facilities at reasonable and uniform rates.
(hh) Apply for, hold, and periodically transfer alcoholic beverage licenses as provided by this act.
(ii) Adopt and amend rules, regulations, and policies reasonably necessary for the implementation of this act.
(jj) By resolution, fix and enforce penalties for the violation of this act or a rule, regulation, or policy adopted in accordance with this act.
(kk) Amend the budget after its adoption.
(ll) Receive, deposit, secure, and pay out moneys as provided by this act.
(mm) Designate a depository or depositories that is qualified as a public depository under section 280.04, F.S., and thereafter establish and open an account or accounts into which revenues collected are deposited and from which expenditures are made.
(nn) Establish and deposit into and expend moneys from a surplus fund by using funds that may remain unexpended at the end of the fiscal year and may be set aside in a separate fund to be known as the Capital Improvement Fund and accumulated and expended from year to year solely for the purpose of building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including runways, taxi strips, and aprons.
(oo) Except as otherwise provided in this act, by resolution borrow money and issue bonds in the manner and within the limitation prescribed by general law for the issuance and authorization of bonds; however, any bonds issued by the Authority must have a maturity date not exceeding 40 years from the date of issuance, must be self-liquidating or otherwise

payable from revenues of the Authority, must be payable semiannually, and not be a lien against the general taxing powers of the county or any municipality.
(pp) Enter into any deeds of trust, indentures, or other agreements with any bank or trust company as security for Authority bonds, and assign and pledge any or all of the Authority's revenues. Such deeds of trust, indentures, or other agreements may contain provisions customary in such instruments or as authorized by the Authority.
(qq) Secure the payment of bonds or any part thereof by pledging all or any part of Authority revenues and provide for the security of the bonds and the rights and remedies of the bondholders.
(rr) Pending the preparation of definitive bonds, issue certificates or temporary bonds to the purchaser of bonds.
(ss) Transact the business of the Authority and exercise all powers necessarily incidental to the exercise of the general and special powers granted in this act and under any other law.
(tt) Exercise all powers of a local agency granted pursuant to part II of chapter 159, F.S., and to a governmental unit granted pursuant to part VII of chapter 159, F.S.
(uu) Do all acts and things necessary or convenient for the promotion of Authority business and the general welfare of the Authority.

Section 9. Provides for the budget; provides for the fiscal year; provides for a public hearing; and provides for budget amendments.[8]

Section 10. Provides for the relationship between the Authority and the City and County.[9]

Section 11. Provides for the title to the airport land.[10]

Section 12. Authorizes issuance of bonds; provides purposes of bonds; and provides procedures.[11]

Section 13. Provides for bondholder rights and remedies.[12]

Section 14. Provides a covenant of the state provision between the Authority and the Federal Government.[13]

Section 15. Provides for an alcoholic beverage license.

Section 16. Provides for purchasing and the award of contracts.

Section 17. Provides for the exemption of property from taxation; provides facilities owned or operated by the District under the provisions of this act constitute public property; provides when the facilities are used for governmental purposes, the board will not be required to pay any taxes or assessments on any facilities or parts.

Section 18. Provides for a discrimination clause.

Section 19. Provides for a litigation provision.[14]

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[8] *See generally* ch. 86-469, L.O.F. § 5, ch. 95-457, L.O.F. § 1.
[9] *See* ch. 86-469, L.O.F. § 7, ch. 95-457, L.O.F. § 1.
[10] *See* ch. 86-469, L.O.F. § 8, ch. 95-457, L.O.F. § 1.
[11] *See generally* ch. 86-469, L.O.F. § 9, ch. 95-457, L.O.F. § 1.
[12] *See generally* ch. 86-469, L.O.F. § 10, ch. 95-457, L.O.F. § 1.
[13] *See generally* ch. 86-469, L.O.F. § 10, ch. 95-457, L.O.F. § 1.
[14] *See generally* ch. 86-469, L.O.F. § 13, ch. 95-457, L.O.F. § 1.

Section 20. Provides a severability clause.

C. SECTION DIRECTORY:

Section 1: Provides that the reenactment of existing law in this bill may not be construed as a grant of additional authority; provides legislative intent.

Section 2: Codifies, reenacts, amends and repeals chapters 86-469, 89-433, and 95-457, L.O.F.

Section 3: Recreates and reenacts the charter of the Authority.

Section 4: Repeals chapters 86-469, 89-433, and 95-457, L.O.F.

Section 5: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 25, 2006.

WHERE? *The Gainesville Sun*, Gainesville, Alachua 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:

<u>EXEMPTIONS FROM AD VALOREM TAXATION</u>

Section 17 of section 3 of the bill provides:

> Exemption of property from taxation. The exercise of the powers by the board conferred in this act constitutes the performance of government functions. Facilities owned or operated by the district under the provisions of this act constitute public property. When such facilities are used for governmental purposes, the board shall not be required to pay any taxes or assessments upon any such facilities or parts thereof.

Property owned by governmental entities is subject to ad valorem taxation unless immune or exempt, and such exemptions are strictly construed against party claiming them. Immunity from taxation precludes the power to tax, while an exemption from taxation presupposes the existence of the power to tax but the power is limited by a constitutional or statutory provision. *Orange State Oil Co. v. Amos,* 139 So.2d 707 (Fla. 1930). The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Sebring Airport Authority v. McIntyre,* 783 So.2d 238 (Fla. 2001).

Special districts are not immune from taxation. Therefore, property owed by special districts is taxable unless the Legislature enacts an exemption from taxation that is consistent with the Florida Constitution. Section 189.403(1), F.S., provides that special districts are treated as municipalities for purposes of s. 196.199(1), F.S., which exempts from ad valorem taxation property owned by a municipality and used for "governmental, municipal, or public purposes". Accordingly, property owned by a municipality or special district is entitled to exemption only if used for a governmental or public purpose.

If a private entity leases government owned property from an exempt governmental entity, such as a special district, the actual use of the property determines whether a valid exemption from ad valorem taxation continues to apply. If public property is leased to a private entity, but is not used for a "public purpose", the fee interest in the property is taxable. The "public purpose" standard applicable in tax exemption cases is the "governmental-governmental" standard under which property leased to private entities for "governmental-proprietary" activities is not tax exempt. *Sebring Airport Authority v. McIntyre,* 783 So.2d 238 (Fla. 2001). Non-exempt "governmental-proprietary" use occurs when a nongovernmental lessee utilizes public property for proprietary and for-profit aims to promote the comfort, convenience, safety and happiness of citizens. Conversely, exempt "governmental-governmental" use occurs when a lease of public property concerns the administration of some phase of government. It should be noted that the leasehold interest in leased public property may be subject to the intangibles tax regardless of whether the leased property itself is subject to ad valorem taxation. *See Capitol City Country Club v. Tucker,* 448 So.2d 613 (Fla. 1993).

B. RULE-MAKING AUTHORITY:

This bill allows the District to adopt and amend rules, regulations, and policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exception to General Law

Pursuant to House Rule 5.5(b), 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. The provisions of House Rule 5.5(b) appear to apply to this bill because the bill grants an exemption to general law which exempts the airport authority from the procedure of obtaining beverage licenses.[15]

Drafting Issues

Lines 831 – 844 should be removed from the bill because the language pertains to a mobile home park recreation district.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

[15] Chapters 561 – 565, F.S.

1607

AFFIDAVIT OF PUBLICATION

The Gainesville Sun
Published – Daily
Gainesville, Alachua County, Florida

STATE OF FLORIDA
COUNTY OF ALACHUA

Before the undersigned, a Notary Public of Said County and State, Ernest Blake, III, who on oath says that he is Legal Advertising Coordinator of THE GAINESVILLE SUN, a daily newspaper published at Gainesville, in Alachua County, Florida; that the attached copy of advertisement, being a notice in the matter of

NOTICE OF INTENT TO SEEK LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to the Gainesville-Alachua County Regional Airport Authority, amending the 1995 Act (95-457, La

was published in said newspaper in the issues of:

1/25 1x

Affiant further says that the said THE GAINESVILLE SUN is a daily newspaper published at Gainesville, in said Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said Alachua County, Florida, daily, and has been entered as second class mail matter at the post office in Gainesville in said Alachua 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 has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the person of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 25th day of January, A.D., 2006

Jeffrey L Bloodsworth
Notary Public
MY COMMISSION # DD159430 EXPIRES
October 20, 2006
BONDED THRU TROY FAIN INS. CO.
(Print, Type or Stamp Name of Notary Public)

My commission expires 20 day of Oct, 2006

Ad #: A000120953

NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to the Gainesville-Alachua County Regional Airport Authority, amending the 1995 Act (95-457, Laws of Florida), revising provisions of the current legislation that are no longer applicable, removing inconsistencies and redundancies, improving clarity, reflecting the requirements of standard business for an independent special district, adding a provision for four-year board member terms, clarifying the City Commission continues to appoint five members, and further defining and stipulating bonding rights and responsibilities.

29436, 1/25/06
#A000120953

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1629

SPONSOR(S): Jennings

RELATING TO: City of Gainesville Airport Codification
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Alachua County

CONTACT PERSON: Sharon Spann (Rep. Jennings)

PHONE # and E-Mail: 488-5794 / sharon.spann@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 [✓] NO [ ]

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

Date hearing held: Dec. 14, 2005 & Jan. 25, 2006

Location: Gainesville, Fl & Tallahassee, Fl

(3) Was this bill formally approved by a majority of the delegation members?
YES [✓] 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 [✓] NO [ ] DATE [Jan. 25, 2006 **]**

Where? Gainesville Sun **County** Alachua

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.

03/06/06

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 #: 1629

SPONSOR(S): Jennings

RELATING TO: A City of Gainesville Airport Codification

[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures: None		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal: None		
State: None		
Local: None		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: None		

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

Advantages: None

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]:

None

PREPARED BY: _____ 1-31-06
[Must be signed by Preparer] Date

TITLE: Chief Executive Officer

REPRESENTING: Gainesville Regional Airport

PHONE: (352-373-0249)

E-Mail Address: rick.crider@flygainesville.com

1 A bill to be entitled
2 An act relating to the Gainesville-Alachua County Regional
3 Airport Authority; codifying, reenacting, amending, and
4 repealing chapters 86-469, 89-433, and 95-457, Laws of
5 Florida, relating to the authority; providing a short
6 title; providing legislative findings and intent;
7 providing definitions; providing purpose of the authority;
8 providing for membership, organization, restrictions, and
9 powers and duties of the authority; requiring a budget;
10 specifying relationship between the authority and local
11 government; providing for conveyance of land to the
12 authority; authorizing issuance of bonds; providing
13 bondholder rights and remedies; specifying covenant of the
14 state; authorizing an alcoholic beverage license;
15 providing for purchasing and award of contracts; exempting
16 property from taxation; prohibiting discrimination;
17 providing that the authority may sue and be sued;
18 providing for severability; providing an effective date.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. (1) The reenactment of existing law in this
23 act shall not be construed as a grant of additional authority to
24 or to supersede the authority of any entity pursuant to law.
25 Exceptions to law contained in any special act that are
26 reenacted pursuant to this act shall continue to apply.
27 (2) The reenactment of existing law in this act shall not
28 be construed to modify, amend, or alter any covenants,

29 contracts, or other obligations of any district with respect to
30 bonded indebtedness. Nothing pertaining to the reenactment of
31 existing law in this act shall be construed to affect the
32 ability of any district to levy and collect taxes, assessments,
33 fees, or charges for the purpose of redeeming or servicing
34 bonded indebtedness of the district.
35 Section 2. Chapters 86-469, 89-433, and 95-457, Laws of
36 Florida, are amended, codified, reenacted, and repealed as
37 provided in this act.
38 Section 3. The charter for the Gainesville-Alachua County
39 Regional Airport Authority is re-created and reenacted to read:
40 Section 1. Short title.--This act may be cited as the
41 "Gainesville-Alachua County Regional Airport Authority Act."
42 Section 2. Legislative findings and intent.--
43 (1) The Legislature finds that:
44 (a) The proper operation of a publicly owned or operated
45 airport in the county is essential to the welfare of the people
46 of the Gainesville-Alachua County area, the state, and the
47 people of the state.
48 (b) A publicly owned or operated airport in the county
49 establishes a vital transportation link between the state and
50 the economic systems of the nation and the world and enables the
51 state to enjoy and provide the benefits of an international
52 tourist and commercial center.
53 (c) The economic validity and stability of a publicly
54 owned or operated airport in the county is a matter of statewide
55 importance.

56 (d) The policy of this state is to promote the development
57 of commerce and tourism and to secure for the state's residents
58 the benefits of those activities conducted in the state.
59 (e) The proper operation of a publicly owned or operated
60 airport in the county is essential to the welfare of the state
61 and its people, and the Legislature recognizes and affirms such
62 operation as a governmental function to be discharged in
63 furtherance of the policy of securing the benefits of commerce
64 and tourism for the state and its people.
65 (2) It is the intent of the Legislature that:
66 (a) The authority comply with federal law regarding
67 expenditure of federal moneys.
68 (b) This act not be construed as impairing or infringing
69 upon any rights, privileges, or benefits enjoyed by any employee
70 of the authority who is so employed on the effective date of
71 this act.
72 (c) The members and employees of the authority comply with
73 the code of ethics provisions under part III of chapter 112,
74 Florida Statutes.
75 (d) This act provide an additional, alternative, and
76 complete method for the exercise of the powers granted and
77 authorized by this act and be regarded as supplemental to powers
78 conferred by other laws and not as a derogation of any powers
79 now existing.
80 (e) The authority manage airport facilities and grant
81 airport concessions to further the development of commerce and
82 tourism in or affecting the Gainesville-Alachua County area and
83 the state. In managing its facilities and granting concessions

84 for services to the public, the authority shall promote the
85 development of commerce and tourism by:
86 1. Securing a diversity of airport services.
87 2. Avoiding wasteful duplication of such services.
88 3. Securing for the users of the airport safe, courteous,
89 and quality service.
90 4. Limiting or prohibiting business competition that is
91 destructive to the promotion of commerce and tourism in the
92 state.
93 5. Allocating limited airport resources to promote such
94 ends.
95 6. Fostering Florida's image as a commercial and tourism
96 center.
97 Section 3. Definitions.--As used in this act, unless the
98 context otherwise requires, the term:
99 (1) "Airport" means any area of land or water designed for
100 landing and takeoff of aircraft, whether or not facilities are
101 provided for the shelter, servicing, or repair of aircraft or
102 for receiving and discharging passengers or cargo, including all
103 appurtenant areas used or suitable for use for airport buildings
104 or other airport facilities and all appurtenant rights-of-way at
105 the area now known, and which may hereafter be known, as the
106 Gainesville Regional Airport.
107 (2) "Airport facilities" means airport facilities at the
108 Gainesville Regional Airport and used for the transportation of
109 people and cargo, including, but not limited to, runways,
110 taxiways, taxi lanes, aprons, hangars, shops, terminals,
111 buildings, parking lots, roadways, and all other facilities

112 necessary or desirable for landing, takeoff, operating,
113 servicing, repairing, and parking of aircraft, and the unloading
114 and handling of passengers, mail, and express and freight cargo,
115 together with all necessary appurtenances and equipment and all
116 properties, rights, easements, and franchises relating thereto
117 and deemed necessary or convenient by the authority in
118 connection therewith. This shall also include the area known on
119 the effective date of this act as the "Airport Industrial Park"
120 and all appurtenant facilities related thereto.
121 (3) "Airport lands" means any area of land or water
122 described on the Gainesville Regional Airport Property Map as
123 presented to the Federal Aviation Administration, which may be
124 amended from time to time, and used for operation of the
125 airport, for protection of the airport, or for aeronautical or
126 nonaeronautical revenue generated for the benefit of the
127 airport.
128 (4) "Airport facility district" means the district
129 described in the City of Gainesville land use regulations that
130 recognizes the unique conditions pertaining to Gainesville
131 Regional Airport and provides a means of balancing conformance
132 to applicable state and federal regulations with local concerns
133 and specific needs of the airport.
134 (5) "Authority" means the Gainesville-Alachua County
135 Regional Airport Authority created herein.
136 (6) "Authorized project" means an undertaking, including a
137 capital project, approved by the authority and includes all
138 property rights, easements, and franchises related thereto and
139 deemed necessary or convenient for the construction,

140 acquisition, or operation thereof and embraces any capital
141 expenditure that is made for a public purpose, including the
142 refunding of any bonded indebtedness that may be outstanding on
143 any existing project that is to be improved by a new project.
144 (7) "Board of county commissioners" means the Board of
145 County Commissioners of the County of Alachua.
146 (8) "Bond" includes bonds, debentures, notes, certificates
147 of indebtedness, mortgage certificates, or other obligations or
148 evidences of indebtedness of any type or character.
149 (9) "City" means the City of Gainesville.
150 (10) "City commission" means the City Commission of the
151 City of Gainesville.
152 (11) "County" means the County of Alachua.
153 (12) "Person" means any individual, firm, partnership,
154 corporation, company, association, joint stock association, or
155 body politic and includes any trustee, receiver, assignee, or
156 other similar representative thereof.
157 (13) "Revenue bonds" means obligations of the authority
158 that are payable from revenues derived from sources other than
159 ad valorem taxes on real or tangible personal property and that
160 do not pledge the property, credit, or general tax revenue of
161 the authority or the city.
162 (14) "Refunding bonds" means bonds issued to refinance
163 outstanding bonds of any type and the interest and redemption
164 premium thereon. Refunding bonds shall be issuable and payable
165 in the same manner as the refinanced bonds, except that no
166 approval by the electorate is required unless required by the
167 State Constitution.

168 Section 4. Creation; purpose.--
169 (1) The Gainesville-Alachua County Regional Airport is
170 created, and the powers granted by this act are declared to be
171 public and governmental functions exercised for public purposes
172 and are matters of public necessity. Lands and other real and
173 personal property, easements, and privileges acquired and used
174 by the authority are declared to have been acquired for and used
175 for public and governmental purposes and as a matter of public
176 necessity. The authority is a public body corporate and is an
177 independent special district.
178 (2) The authority has exclusive jurisdiction, control,
179 supervision, and management over all airports in Alachua County
180 except any airport owned, controlled, and operated by a private
181 person. Said jurisdiction, control, supervision, and management
182 are in the best interest of the county and each municipality.
183 Section 5. Membership of the authority.--
184 (1) The powers of the authority are vested in its members.
185 There shall be nine members. No member shall receive any
186 compensation for services as a member. As a condition of
187 eligibility for appointment and to hold office, each member
188 shall reside within the city, the county, or a county contiguous
189 to Alachua County. No person shall serve as a member of the
190 authority and at the same time hold any publicly elected office
191 in the state.
192 (2) Upon expiration of the terms of office of those
193 members of the authority upon the effective date of this act,
194 subsequent appointments shall be made as follows:

195 (a) On or before the date a respective member's term is to
196 expire, the Governor shall replace by appointment any of the
197 three members appointed by the Governor.
198 (b) On or before the date the member's term is to expire,
199 the board of county commissioners shall replace by appointment
200 the member appointed by the board.
201 (c) On or before the date a respective member's term is to
202 expire, the city commission shall replace by appointment any of
203 the remaining five members appointed by the commission.
204 (3) If, upon expiration of a member's term of office, an
205 appointing entity fails to replace that member and the member is
206 willing to continue to serve, the member with the expired term
207 shall continue to serve until a replacement is appointed.
208 (4) The term of any member appointed before the effective
209 date of this act shall expire on July 31 of the year such
210 member's term was scheduled to expire. No member shall serve
211 more than two successive terms.
212 (5) All members appointed after the effective date of this
213 act shall serve 4-year terms of office, beginning on August 1
214 and expiring on July 31 of the appropriate years.
215 (6) Except as otherwise provided herein, vacancies in
216 office shall be filled for the remainder of the term by the
217 appropriate appointing entity in the same manner as set forth in
218 subsection (2). Except as provided in subsection (3), a vacant
219 position shall remain vacant until a successor has been
220 appointed by the appropriate entity.
221 (7) A member may be removed by his or her appointing
222 entity upon grounds constituting misfeasance, neglect of duty,

223 incompetence, or permanent inability to perform official duties.
224 Conviction of a felony shall automatically remove a member. The
225 unexcused absence from three consecutive regular meetings of the
226 authority shall be deemed neglect of duty, without limiting the
227 meaning of the term "neglect of duty."
228 Section 6. Organization; meetings; notice; quorum.--A
229 chair, vice chair, and secretary-treasurer shall be chosen by
230 and from the authority membership. The chair, vice chair, and
231 secretary-treasurer shall each serve a term of office of 1 year,
232 and no member may hold the same office for more than 2
233 consecutive terms.
234 (1) The authority shall meet at the call of the chair, at
235 the request of three or more of its members, and at such other
236 times as may be prescribed by rule of the authority.
237 (2) The authority shall give notice of all meetings at
238 least 48 hours prior thereto, which notice shall be published in
239 a newspaper in general circulation in Alachua County, and shall
240 include agenda items whenever such items involve leasing of any
241 airport property. Emergency meetings shall be called only when
242 there is an immediate danger to the public health, safety, or
243 welfare, and do not require traditional public notice.
244 (3) The presence of five members is required to constitute
245 a quorum, and the affirmative vote of a majority of the members
246 present and eligible to vote, but no fewer than four of the
247 members present and eligible to vote, is required for any action
248 or recommendation by the authority.
249 Section 7. Restrictions.--
250 (1) No person who has transacted business with the

251 authority shall be eligible for appointment to the authority
252 until 3 years after the last transaction. No person who has
253 served on the authority shall be eligible to transact business
254 with the authority or be employed directly or indirectly by an
255 entity transacting business with the authority until 3 years
256 after the date of termination of membership. "Transactions"
257 include all business dealings, representation of business
258 entities, and submission of proposals for doing business with
259 the authority either for oneself or as an employee of, agent
260 for, or consultant to any other person or legal entity. However,
261 nothing in this paragraph shall be construed as prohibiting an
262 appointed member from purchasing supplies or services from any
263 fixed-base operator or tenant at the airport or Airport
264 Industrial Park or for renting individual aircraft hangars or
265 tie-downs offered to the general public and owned by the
266 authority.
267 (2) No member, officer, agent, or employee of the
268 authority, either for himself or herself or as agent for anyone
269 else, or as a stockholder or owner in any other legal entity,
270 shall participate in or benefit directly or indirectly from any
271 sale, purchase, lease, franchise, contract, or other transaction
272 entered into by the authority or the city. The provisions of
273 this subsection shall be cumulative to any general laws of the
274 state that may from time to time be applicable to members,
275 officers, agents, or employees of the authority and that require
276 the disclosure of, or prohibit, conflicts of interest.
277 (3) No member, as an individual, may represent the
278 authority, speak for the authority, or speak on behalf of the

279 authority without being directed through a formal action of the
280 governing board to do so.
281 Section 8. Powers and duties.--
282 (1) The authority shall have exclusive jurisdiction over
283 the operation and maintenance of and improvements to airport
284 lands. Further, the authority shall oversee the Airport Facility
285 District, consisting of airport lands for purposes of City of
286 Gainesville land use regulations, which shall govern items
287 including, but not limited to, height, landscaping, sidewalks,
288 and lighting, and shall:
289 (a) Approve, file with the clerk, and pay any surety bond
290 required of any member or of any employee of the authority.
291 (b) Exclusively control, supervise, and manage all
292 airports in the county and each municipality, except any airport
293 owned, controlled, or operated by a private person.
294 (c) Advertise for sealed bids when required by law;
295 however, the authority may reject all bids and readvertise or
296 select a single item from any bid as further provided in this
297 act.
298 (d) Adopt before October 1 of each year an annual budget
299 prepared by the chief executive officer, which must include an
300 estimate of all revenues and anticipated expenditures for the
301 ensuing fiscal year.
302 (e) Require in all bond documents that moneys derived from
303 such bonds be paid to or upon order of the authority.
304 (f) Have the authority's finances audited in the same
305 manner as other independent special districts are audited.
306 (2) The authority is authorized to:

307 (a) Rely on the provisions of this act, without reference
308 to other laws, in exercising its powers.
309 (b) Appoint or employ and constitute its own airport
310 guards or police officers or contract with the city, county, or
311 any agency of the state to provide law enforcement services and
312 protection through its duly sworn officers, and all such
313 officers shall have full power of arrest to prevent or abate the
314 commission of an offense against the ordinances of the city or
315 county, the laws of this state, or the laws of the United States
316 when any such offense or threatened offense occurs upon any
317 airport lands.
318 (c) Construct and maintain terminal buildings, causeways,
319 roadways, and bridges for approach to or connecting with the
320 airport.
321 (d) Require the secretary-treasurer and other officers or
322 employees of the authority to execute an adequate surety bond in
323 a penal sum fixed by the authority conditioned upon the faithful
324 performance of the duties of the office or employment.
325 (e) Establish positions, duties, and a pay plan and
326 employ, pay, provide benefits for, promote, discipline, and
327 terminate personnel, including a chief executive officer who
328 shall be responsible for the day-to-day administration,
329 management, and operation of the authority in accordance with
330 policy established by the members of the authority and perform
331 other duties as may be authorized by the members.
332 (f) By policy or resolution, authorize the chief executive
333 officer to perform any of the powers of the authority in whole
334 or in part and with whatever other limitations the authority may

335 impose, provided that said authorization does not result in an
336 invalid exercise of delegated legislative authority as defined
337 in general law.
338 (g) Employ or contract with technical and professional
339 experts necessary to assist the authority in carrying out or
340 exercising any powers granted by this act.
341 (h) Reimburse for all travel expenses incurred while on
342 business for the authority, upon requisition, any member, the
343 authority's attorneys, the chief executive officer, and any
344 employee of the authority traveling under the direction of the
345 chief executive officer or the chief executive officer's
346 designee in accordance with authority policies.
347 (i) Create, appoint, and prescribe the duties of any
348 committee.
349 (j) Sue and be sued.
350 (k) Adopt, use, and alter a corporate seal.
351 (l) Publish advertisements.
352 (m) Waive advertisement when the authority determines an
353 emergency exists and supplies and materials must be immediately
354 acquired by the authority.
355 (n) Negotiate and enter into contracts, agreements,
356 exclusive or limited agreements, and cooperation agreements of
357 any kind necessary for the authority to fulfill the purposes of
358 this act.
359 (o) Include contract specifications maximizing the
360 employment of persons whose protected group has been
361 underutilized in the past.

362 (p) Enter into exclusive or limited agreements with a
363 single operator or a limited number of operators. The authority
364 shall grant exclusive or limited agreements to eliminate
365 business competition by rule or policy whenever the authority
366 determines, in consideration of the factors set forth in this
367 paragraph that any such agreement is necessary to further the
368 purposes of this act. Before entering into any exclusive or
369 limited agreement, the authority shall, under authority
370 expressly delegated by the state, determine the necessity for
371 such an exclusive or limited agreement to further the policies
372 and objectives stated in this act, which include public safety,
373 public convenience, quality of service, the need to conserve
374 airport space, the need to avoid duplication of services, the
375 impact on the environment or facilities of the airport as an
376 essential commercial and tourism service center, and the need to
377 avoid destructive competition that may impair the quality of
378 airport services to the public, lead to uncertainty, disruption,
379 or instability in rendering such services, or detract from the
380 Gainesville-Alachua County area and the state's attractiveness
381 as a center of tourism and commerce. In making its
382 determination, the authority shall take evidence or make
383 findings of fact and establish such policies it deems necessary.
384 Nothing in this paragraph shall excuse the authority from
385 complying with applicable state or local requirements for
386 competitive bidding or public hearings that may be required
387 before awarding or entering into any contract or other
388 agreement.

389 (q) Provide for the manual execution of any instrument on
390 behalf of the authority by the signature of the chair or vice
391 chair and attested to by the secretary or the assistant
392 secretary or, if delegated by the members to do so, the chief
393 executive officer or any other authority personnel to whom
394 authority has been delegated, or by signer's facsimile signature
395 in accordance with the Uniform Facsimile Signature of Public
396 Officials Act.
397 (r) Purchase and sell equipment, supplies, and services
398 required for authority purposes.
399 (s) Sell, lease, transfer, dispose of, or grant a lesser
400 interest in any authority properties.
401 (t) Dispose of tangible personal property in accordance
402 with chapter 274, Florida Statutes.
403 (u) Grant concessions.
404 (v) Advertise, promote, and encourage the use and
405 expansion of facilities under the authority's jurisdiction.
406 (w) Enact airport zoning regulations in accordance with
407 chapter 333, Florida Statutes, to ensure the safe operation of
408 airports under the authority's jurisdiction; however, any such
409 airport zoning regulations may not affect the zoning use
410 regulations imposed by the county or any municipality.
411 (x) Acquire, own, construct, install, maintain, and
412 operate authority facilities and real property by purchase,
413 gift, devise, lease, or any other means, including eminent
414 domain in accordance with chapters 73 and 74, Florida Statutes.
415 For the purposes of making surveys and examinations incidental
416 to any condemnation proceedings, the authority may lawfully

417 enter upon any land, doing no unnecessary damage. The authority
418 may take possession of property to be acquired by condemnation
419 at any time after filing a petition describing the property in
420 condemnation proceedings as provided in general law. The
421 authority is not precluded from abandoning the condemnation of
422 any such property in any case where possession has not been
423 taken.
424 (y) Reimburse the owner of any structure for which the
425 authority may require removal, relocation, or reconstruction
426 located in, on, under, or across any private property, public
427 street, highway, or other public or private places for the
428 estimated or actual expense of the removal, relocation, or
429 reconstruction.
430 (z) Supplement and coordinate in design and operation air
431 navigation facilities with those established and operated by the
432 federal and state governments.
433 (aa) Request the county or any municipality to convey to
434 the authority the fee simple title to any county-owned or
435 municipality-owned airport or other property needed for airport
436 purposes.
437 (bb) Upon determining that any airport or part of any
438 airport under the authority's jurisdiction but owned by a
439 county, municipality, or other governmental agency is no longer
440 required for authority purposes, relinquish jurisdiction,
441 control, supervision, and management over that airport property
442 or that part of any airport property. However, the consent and
443 approval of any revenue bondholders must first be obtained and

444 necessary authorizations or approvals received from federal
445 agencies regulating airports.
446 (cc) Expend revenues for the cost of investigating,
447 surveying, planning, acquiring, establishing, constructing,
448 enlarging, improving, equipping, and erecting authority
449 facilities by appropriation of revenues or wholly or partly from
450 the proceeds of bonds of the authority. The term "cost" includes
451 awards in condemnation proceedings, rentals when an acquisition
452 is by lease, and amounts paid to utility companies for
453 relocation of their wires, poles, and other facilities.
454 (dd) Incur expenses as provided in the authority's annual
455 budget and any amended budget.
456 (ee) Assess against and collect from the owner or operator
457 of each airplane using any authority facility a landing fee or
458 service charge sufficient to cover the cost of the service
459 provided, which cost may include the liquidation of bonds or
460 other indebtedness for construction and improvement.
461 (ff) Accept federal, state, and any other public or
462 private moneys, grants, contributions, or loans for the
463 acquisition, construction, enlargement, improvement,
464 maintenance, equipment, or operation of authority facilities, or
465 for any other lawful purpose.
466 (gg) Fix, alter, charge, establish, and collect rates,
467 fees, rentals, and other charges for the services of authority
468 facilities at reasonable and uniform rates.
469 (hh) Apply for, hold, and periodically transfer alcoholic
470 beverage licenses as provided by this act.

471 (ii) Adopt and amend rules, regulations, and policies
472 reasonably necessary for the implementation of this act.
473 (jj) By resolution, fix and enforce penalties for the
474 violation of this act or a rule, regulation, or policy adopted
475 in accordance with this act.
476 (kk) Amend the budget after its adoption.
477 (ll) Receive, deposit, secure, and pay out moneys as
478 provided by this act.
479 (mm) Designate a depository or depositories that is
480 qualified as a public depository under section 280.04, Florida
481 Statutes, and thereafter establish and open an account or
482 accounts into which revenues collected are deposited and from
483 which expenditures are made.
484 (nn) Establish and deposit into and expend moneys from a
485 surplus fund by using funds that may remain unexpended at the
486 end of the fiscal year and may be set aside in a separate fund
487 to be known as the Capital Improvement Fund and accumulated and
488 expended from year to year solely for the purpose of building
489 and constructing permanent improvements, replacements,
490 alterations, buildings, and other structures, including runways,
491 taxi strips, and aprons.
492 (oo) Except as otherwise provided in this act, by
493 resolution borrow money and issue bonds in the manner and within
494 the limitation prescribed by general law for the issuance and
495 authorization of bonds; however, any bonds issued by the
496 authority shall have a maturity date not exceeding 40 years from
497 the date of issuance, shall be self-liquidating or otherwise
498 payable from revenues of the authority, shall be payable

499 semiannually, and shall not be a lien against the general taxing
500 powers of the county or any municipality.
501 (pp) Enter into any deeds of trust, indentures, or other
502 agreements with any bank or trust company as security for
503 authority bonds, and assign and pledge any or all of the
504 authority's revenues. Such deeds of trust, indentures, or other
505 agreements may contain provisions customary in such instruments
506 or as authorized by the authority.
507 (qq) Secure the payment of bonds or any part thereof by
508 pledging all or any part of authority revenues and provide for
509 the security of the bonds and the rights and remedies of the
510 bondholders.
511 (rr) Pending the preparation of definitive bonds, issue
512 certificates or temporary bonds to the purchaser of bonds.
513 (ss) Transact the business of the authority and exercise
514 all powers necessarily incidental to the exercise of the general
515 and special powers granted in this act and under any other law.
516 (tt) Exercise all powers of a local agency granted
517 pursuant to part II of chapter 159, Florida Statutes, and to a
518 governmental unit granted pursuant to part VII of chapter 159,
519 Florida Statutes.
520 (uu) Do all acts and things necessary or convenient for
521 the promotion of authority business and the general welfare of
522 the authority.
523 Section 9. Budget.--The fiscal year for the authority
524 shall be October 1 through September 30. For each fiscal year
525 after the effective date of this act:
526 (1) Prior to preparation of the annual budget as provided

527 in subsection (2), the authority shall develop an annual
528 proposed budget consisting of the elements described in
529 subsection (2), which shall be presented for a public hearing.
530 The public hearing shall be noticed as a budget hearing.
531 (2) Following the public hearing conducted pursuant to
532 subsection (1), the authority shall prepare an annual budget
533 consisting of an operating revenue and operating expense
534 account, capital outlay account, and capital project account for
535 its operations in the ensuing fiscal year. At the time the
536 authority prepares its annual budget, it shall adopt a
537 resolution determining and finding the estimated amounts to be
538 expended by the authority in the ensuing year in each account,
539 exclusive of any bonds or other indebtedness of the authority,
540 used to acquire, establish, construct, enlarge, operate, and
541 maintain the airport and airport facilities and other facilities
542 related thereto or for any other corporate purpose of the
543 authority.
544 (3) The authority may, at any time within a fiscal year,
545 adopt budget amendments.
546 (4) All anticipated revenues to be derived from the
547 operation of the airport and airport facilities shall be
548 included in the budget, provided that any amounts of money,
549 anticipated or actual, including funds in the authority's budget
550 for the preceding fiscal year that remain unencumbered and
551 unexpended from the revenue derived under the budget for the
552 preceding fiscal year, may, by resolution of the authority, be
553 set aside in a separate fund to be entitled the "Renewal and
554 Replacement Fund" and accumulated in said fund from year to year

555 for the purpose of purchasing real and tangible personal
556 property and for building and constructing permanent
557 improvements, replacements, alterations, buildings, and other
558 structures, including, but not limited to, runways, taxi strips,
559 and aprons. Such funds may be disbursed from time to time out of
560 the Renewal and Replacement Fund upon proper resolution of the
561 authority solely for the payment of the costs of purchasing real
562 and tangible personal property and for building and constructing
563 permanent improvements, replacements, alterations, buildings,
564 and other structures, including, but not limited to, runways,
565 taxi strips, and aprons.
566 (5) The authority shall adopt budget procedures to
567 establish the direct and indirect costs of operating and
568 maintaining the airport and airport facilities, as well as the
569 direct income derived therefrom. However, the budget of the
570 authority shall not include the maintenance and upkeep of
571 navigational aids as performed and funded directly by the
572 Federal Aviation Administration.
573 (6) The city, the county and the county's other political
574 subdivisions may, by loan or grant, fund budget deficits of the
575 authority and all may guarantee bonds issued by the authority.
576 Section 10. Relationship between the authority and the
577 city and county.--The authority shall have the power and
578 responsibility to operate the airport and airport facilities in
579 a manner consistent with applicable federal, state, county, and
580 city law. The city has no power to operate or maintain the
581 airport and airport facilities, but applicable building codes of
582 the city shall apply to all construction upon the airport except

583 to the extent that different state or federal requirements are
584 expressly applicable and except to the extent that the authority
585 or the airport has been made exempt by state or federal law from
586 any requirement of the city. All construction upon the airport
587 shall be subject to inspection by the city on behalf of the
588 state, and the city inspectors may ensure compliance with
589 applicable state regulation of such construction in addition to
590 applicable city regulations.
591 Section 11. Title to airport land.--The city may convey
592 title to the land comprising the Gainesville Regional Airport to
593 the authority for no monetary consideration. Nothing in this act
594 shall be construed to impair the obligations of any original
595 agreements with the Federal Government or of any agreement
596 between the city or any of its agencies and fixed-base operators
597 of the airport entered into as of the effective date of this
598 act.
599 Section 12. Bonds.--
600 (1) Bonds may be issued to finance one or more or a
601 combination of authority facilities. Subject to any prior rights
602 of bondholders, proceeds of such bonds may be pledged and used
603 to pay the costs of the acquisition, construction, or
604 improvement of one or more or a combination of authority
605 facilities or to refund bonds previously issued for such
606 purpose. Revenues of the authority, regardless of the airport
607 project or other source from which they are derived, may be
608 pledged to pay bonds issued to finance the cost of authority
609 facilities and to pay refunding bonds and ancillary costs
610 associated with such financings.

611 (2) Except as otherwise provided by this act, security,
612 payment provisions, contracts, terms, and other attributes of
613 bonds issued by the authority shall be specified by the
614 authority by initial or amendatory resolution, trust agreement,
615 or other bond documentation.
616 (3) The bonds shall be executed by manual or facsimile
617 signature by the officers the authority has designated, provided
618 that such bonds bear at least one signature that is manually
619 executed to the extent required by general law. Any coupons
620 attached to the bonds shall bear the facsimile signature or
621 signatures of the officer or officers designated by the
622 authority. If any member or officer whose manual or facsimile
623 signature appears on any bond or coupon ceases to be a member or
624 an officer before the delivery of the bonds, such signature
625 shall be valid and sufficient for all purposes as if that member
626 or officer had remained in office until delivery. The bonds
627 shall bear the seal of the authority affixed as provided by
628 resolution.
629 (4) Bonds may be sold either at public or private sale at
630 such price or prices determined by the authority.
631 (5) Any bonds issued under this act are negotiable
632 instruments and investment securities under chapter 678, Florida
633 Statutes.
634 (6) The pledge by the authority of its revenues to the
635 payment of its bonds by the terms of a resolution or through any
636 deed of trust, indenture, or other agreement creates a valid and
637 binding lien thereon and a prior perfected security interest
638 therein from the time the pledge is made. Any revenues so

639 pledged are immediately subject to a lien of such pledge without
640 any physical delivery thereof or further act, and the lien of
641 any such pledge shall be valid and binding against all parties
642 having claims of any kind against the authority, irrespective of
643 whether the parties have notice thereof. No resolution, deed of
644 trust, indenture, or other agreement by which a pledge is
645 created need be filed or recorded, except in the records of the
646 authority, and notice is not required to be given to any obligor
647 of such revenues. No filings under the Uniform Commercial Code
648 are required in order to perfect any pledge granted.
649 (7) No approval of the qualified electors or qualified
650 freeholders of the state or of the county may be required for
651 the issuance of any bonds by the authority unless such approval
652 is required by the provisions of the Constitution of the State
653 of Florida.
654 (8) Notwithstanding any other provision of law, bonds
655 issued by the authority are legal investments for banks, savings
656 banks, trustees, executors, all other fiduciaries, and all
657 state, municipal, and other public funds. Any such bonds are
658 securities eligible for deposit for the securing of all state,
659 municipal, and other public funds.
660 Section 13. Bondholder rights and remedies.--
661 (1) The authority may do nothing for the benefit of the
662 authority that will impair the security of the bondholders of
663 the authority or violate any agreement with the bondholders.
664 (a) In addition to any other rights and remedies lawfully
665 granted to bondholders, unless otherwise provided by the
666 resolution or resolutions providing for the issuance of bonds,

667 or by any deed of trust, indenture, or other agreement under
668 which the bonds have been issued, holders of 25 percent or such
669 other percentage as may be specified in any deed of trust,
670 indenture, or other agreement under which the bonds were issued
671 in the aggregate principal amount of the bonds then outstanding
672 are entitled to appoint a trustee, upon notice as provided in
673 this paragraph and for the purpose provided in this act, if the
674 authority defaults in the payment of principal or interest for a
675 period of 30 days after either becomes due, whether at maturity
676 or upon call for redemption, or if the authority fails to comply
677 with the provisions of this act, its resolution or resolutions,
678 or the requirements of any deed of trust, indenture, or other
679 agreement under which the bonds were issued. Any such
680 bondholders must first give written notice of their intention to
681 appoint a trustee to the authority by certified United States
682 mail addressed to the chair of the authority at the principal
683 office of the authority and to the holders of all other bonds
684 then outstanding at their addresses shown on the registration
685 books maintained by the authority or the bond registrar. For
686 purposes of this paragraph, any trustee appointed to serve in
687 that capacity pursuant to a deed of trust, trust agreement,
688 indenture, or other document by which bonds of the authority
689 have been issued is deemed to have been selected by the holders
690 of bonds issued under that instrument. If more than one trustee
691 is designated, either by two or more written instruments or
692 pursuant to the provisions of this paragraph, the group of
693 bondholders owning the highest percentage of bonds outstanding
694 has the right to designate the single trustee to serve in that

695 capacity for purposes of this act.
696 (b) Unless otherwise provided in any instrument under
697 which such bonds were issued, any trustee, whether appointed by
698 bondholders in accordance with the provisions of paragraph (a)
699 or in accordance with the terms of any deed of trust, indenture,
700 or other agreement, may, upon written request of the holders of
701 25 percent or such other percentage as may be specified in any
702 deed of trust, indenture, or other agreement under which the
703 bonds were issued in the aggregate principal amount of the bonds
704 then outstanding, may, in any court of competent jurisdiction,
705 in his, her, or its own name:
706 1. By mandamus or other suit, action, or proceeding at law
707 or in equity, enforce all rights of the bondholders, including
708 the right to require the authority to fix, establish, maintain,
709 collect, and charge rates, fees, rentals, and other charges
710 adequate to carry out any agreement as to, or pledge of, the
711 revenues of the authority, and to require the authority to carry
712 out any other agreements with or for the benefit of the
713 bondholders, and to perform its and their duties under this act.
714 2. Bring suit upon the bonds.
715 3. By action or suit in equity, require the authority to
716 account as if it were the trustee of an express trust for the
717 bondholders.
718 4. By action or suit in equity, enjoin any acts or things
719 which may be unlawful or in violation of the rights of the
720 bondholders.
721 5. By written notice given to the authority in the same
722 manner as provided in paragraph (a), declare all bonds due and

723 payable and, if all defaults are made good and with the consent
724 of the holders of 25 percent or such other percentage as may be
725 specified in any deed of trust, indenture, or other agreement
726 under which the bonds were issued in the aggregate principal
727 amount of the bonds then outstanding, annul such declaration and
728 its consequences.
729 (2) Unless otherwise provided in any bond resolution, deed
730 of trust, indenture, or other agreement under which bonds were
731 issued, if a default continues for more than 60 days after
732 written notice to the authority, any trustee when appointed as
733 provided in paragraph (1)(a), or acting under a deed of trust,
734 indenture, or other agreement, and whether or not all bonds have
735 been declared due and payable, upon the happening of any of the
736 events of default specified in paragraph (1)(a), shall be
737 entitled as of right to appoint a receiver. The receiver may
738 enter and take possession of any of the authority facilities for
739 which the authority is in default as provided in paragraph
740 (1)(a), or any part or parts thereof, and the revenues which are
741 or may be applicable to the payment of the bonds in default and
742 operate and maintain the same for and on behalf of and in the
743 name of the authority and the bondholders. The receiver shall
744 collect revenues in the same manner as the authority might and
745 shall use and apply the funds in accordance with the applicable
746 bond documents or, if not so specified, into a separate account
747 as directed by the court.
748 (3) Nothing in this section or any other section of this
749 act authorizes any receiver appointed to sell, assign, mortgage,
750 or otherwise dispose of any assets of the authority. The powers

751 of such receiver are limited to the operation and maintenance of
752 the authority facilities as the court may direct, in the name of
753 and for and on behalf of the authority and the bondholders. No
754 holder of bonds or any court or any trustee is empowered by this
755 act to sell, assign, mortgage, or otherwise dispose of any
756 assets of whatever kind or character belonging to the authority.
757 Section 14. Covenant of the state.--The State of Florida
758 pledges to, and agrees with, the Federal Government and any
759 person, firm, or corporation subscribing to or acquiring the
760 bonds to be issued by the authority for the construction,
761 acquisition, extension, improvement, or enlargement of projects,
762 or any part thereof, that the state will not limit or alter the
763 rights hereby vested in the authority until all bonds at any
764 time issued, together with the interest therein, are fully paid
765 and discharged or until provision is made therefor. The State of
766 Florida further pledges to, and agrees with, the Federal
767 Government that in the event the Federal Government constructs
768 or contributes any funds for the construction, acquisition,
769 extension, improvement, or enlargement of said projects, or any
770 part thereof, the state will not alter or limit the rights and
771 powers of the authority in any manner that would be inconsistent
772 with the continued maintenance and operation of the projects, or
773 any part thereof, or the improvement thereof, or that would be
774 inconsistent with the due performance of any agreements between
775 the authority and the Federal Government, and the authority
776 shall continue to have and may exercise all powers herein
777 granted, so long as the exercise of the powers are necessary or
778 desirable to carry out the purposes of this act and the purposes

779 of the Federal Government in the construction, acquisition,
780 improvement, or enlargement of said projects or any part
781 thereof.
782 Section 15. Alcoholic beverage license.--
783 (1) One beverage license as provided under section 561.17,
784 Florida Statutes, shall be issued to the authority or other
785 governmental agency operating Gainesville-Alachua County
786 Regional Airport as provided in this section.
787 (a) The beverage license shall be issued upon the written
788 or printed application for licenses to conduct such business,
789 made to the Division of Alcoholic Beverages and Tobacco of the
790 Department of Business Regulation, stating the character of the
791 business to be engaged in, the address of the building in which
792 the establishment sought to be licensed is or will be located,
793 and the kind of license as defined in chapter 561, Florida
794 Statutes, that the applicant desires. The application shall be
795 in the name of the authority or other governmental agency
796 operating Gainesville-Alachua County Regional Airport and when
797 issued shall be issued in the name of such applicant. The
798 applicant shall pay to the division the license fees for the
799 kind of license that is desired.
800 (b) Each license is renewable as provided by general law.
801 Each beverage license shall be for the term and subject to the
802 same privileges or renewal as provided in sections 561.26 and
803 561.27, Florida Statutes.
804 (c) Any business operated under any beverage license shall
805 be operated only by a lessee of the restaurants and cocktail
806 lounge or cocktail lounges or bars in the airlines terminal,

807 administration building, or hotel at the airport to whom the
808 license may be transferred. The authority or governmental agency
809 operating Gainesville-Alachua County Regional Airport and each
810 authorized lessee shall make application to the division for the
811 transfer of the license to the lessee, and the application shall
812 be approved by the division if it meets the applicable
813 requirements of law. Upon termination of a lease for any reason,
814 the lessee shall immediately notify the division to retransfer
815 the beverage licenses to the authority or the governmental
816 agency operating Gainesville-Alachua County Regional Airport.
817 Upon failure of a lessee to notify the division, the authority
818 or the governmental agency operating Gainesville-Alachua County
819 Regional Airport shall immediately request the division in
820 writing to transfer the license back to the authority or other
821 governmental agency operating Gainesville-Alachua County
822 Regional Airport, which may then transfer it to another
823 authorized lessee. Thereafter, the beverage license may be
824 transferred to any new lessee or the restaurants and cocktail
825 lounge, cocktail lounges, or bars upon the same terms and
826 conditions. Any alcoholic beverage license issued in accordance
827 with this section is the property of the authority or the
828 governmental agency operating Gainesville-Alachua County
829 Regional Airport, subject to transfer as provided by this
830 section.
831 (2) The Division of Alcoholic Beverages and Tobacco of the
832 Department of Business and Professional Regulation may issue a
833 special alcoholic beverage license for a mobile home park
834 recreation district operating, within Brevard County, a

835 recreational facilities complex. The license shall be valid only
836 in and for a facility within the complex that is owned and
837 operated by the mobile home park recreation district. The
838 license shall allow the sale and service of alcoholic beverages
839 for consumption only on the licensed premises of the designated
840 facility.
841 (3) This section does not preclude persons operating on
842 property of the authority from acquiring an alcoholic beverage
843 license for use on its premises pursuant to general law and the
844 rules of the division.
845 Section 16. Purchasing and award of contracts.--Purchasing
846 and award of contracts shall be consistent with the authority's
847 purchasing policy and Florida statutes.
848 Section 17. Exemption of property from taxation.--The
849 exercise of the powers by the board conferred in this act
850 constitutes the performance of government functions. Facilities
851 owned or operated by the district under the provisions of this
852 act constitute public property. When such facilities are used
853 for governmental purposes, the board shall not be required to
854 pay any taxes or assessments upon any such facilities or parts
855 thereof.
856 Section 18. Discrimination prohibited.--
857 (1) The authority and its lessees, including successors in
858 interest, shall not because of race, color, sex, religion,
859 national origin, age, disability, or sexual orientation of any
860 individual refuse to hire or employ, or bar or discharge from
861 employment, such individual or to otherwise discriminate against
862 such individual with respect to compensation, hire, tenure,

863 terms, conditions, or privileges of employment.
864 (2) No person on the grounds of race, color, sex,
865 religion, national origin, age, disability, or sexual
866 orientation shall be excluded from the participation in, denied
867 the benefits of, or otherwise subjected to discrimination in the
868 use of leased premises of the authority.
869 (3) In furnishing services or materials, or in the
870 construction of any improvements, no person shall be excluded
871 from participation in, denied the benefits of, or otherwise
872 subjected to discrimination with respect thereto.
873 (4) There is no right to apply to the court for relief on
874 account of any order, requirement, decision, determination, or
875 action of the authority under this section unless there has been
876 an appeal to the authority.
877 Section 19. Litigation.--Nothing herein shall interfere
878 with any legal action filed by or against the city or
879 predecessor or predecessors of the authority. The authority may
880 become a party in any such action as provided by law. Nothing
881 herein shall impair the right of the city or the authority to
882 initiate, pursue, or defend litigation.
883 Section 20. Severability.--If any provision of this act
884 or the application thereof to any person or circumstance is held
885 invalid, the invalidity shall not affect other provisions or
886 applications of the act which can be given effect without the
887 invalid provisions or applications, and to this end the
888 provisions of this act are declared severable.
889 Section 4. This act shall take effect upon becoming a law.

HB 1631

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1631 Village of North Palm Beach, Palm Beach County
SPONSOR(S): Domino
TIED BILLS: **IDEN./SIM. BILLS:** SB 2784

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.J.	Hamby
2) Transportation Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1631 designates a portion of State Road A1A (U.S. 1) beginning at its intersection with PGC Boulevard and ending just west of the Burnt Bridge, Florida Department of Transportation bridge #930361, within the Village of North Palm Beach, Palm Beach County, as "Jack Nicklaus Drive." The bill authorizes the Village of North Palm Beach to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers to reflect the designation.

According to the Economic Impact Statement, there is an $11,000.00 estimated cost for fiscal year 2006-07.

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:

HB 1631 designates a portion of State Road A1A (U.S. 1) beginning at its intersection with PGC Boulevard and ending just west of the Burnt Bridge, Florida Department of Transportation bridge #930361, within the Village of North Palm Beach, Palm Beach County, as "Jack Nicklaus Drive." The bill authorizes the Village of North Palm Beach to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers to reflect the designation.

C. SECTION DIRECTORY:

Section 1. Designates a portion of State Road A1A within the Village of North Palm Beach as Jack Nicklaus Drive; authorizes and directs the Village to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers.

Section 1. Provides for the bill to take effect July 1, 2006.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 13, 2006.

WHERE? *The Palm Beach Post*, West Palm Beach, Palm Beach 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 []

According to the Economic Impact Statement, there is an $11,000.00 estimated cost for fiscal year 2006-07, the Village will be responsible for paying for the new street signs.

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

Not Applicable.

THE PALM BEACH POST

Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice in the matter of Local Legislation was published in said newspaper in the issues of February 11, 2006. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach 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/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.

Sworn to and subscribed before 13th day of February, A.D. 2006

Personally known XX or Produced Identification_____
Type of Identification Produced_____

Karen M. McLinton
Commission # DD359566
Expires: NOV. 15, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

NO. 5191072
NOTICE OF LOCAL LEGISLATION
TO WHOM IT MAY CONCERN:
Notice is hereby given of intent to seek legislation before the 2006 Legislature of the State of Florida and any Special or Extended Sessions for passage of an act relating to the Village of North Palm Beach, Palm Beach County; designating a portion of State Road A1A beginning at its intersection with PGA Boulevard and ending just west of the Burnt Bridge, Florida Department of Transportation bridge number 930361 within the Village of North Palm Beach as Jack Nicklaus Drive; authorizing and directing the Village of North Palm Beach to change street signs and markers, mailing addresses, and 911 emergency telephone system listings and to erect signs and markers accordingly; providing an effective date.
Village of North Palm Beach
501 U.S. Highway 1
North Palm Beach, FL 33408
PUB: The Palm Beach Post
February 11, 2006

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____
SPONSOR(S): Rep. Carl Domino
RELATING TO: Village of North Palm Beach
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Palm Beach County
CONTACT PERSON: Ed Chase, Executive Director
PHONE # and E-MAIL 561/355-2406 echase@pbcgov.com

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: December 13, 2005
Location: West Palm Beach, 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 22, 2005

Where? Palm Beach Post **County:** Palm Beach

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 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.

Carl Domino — Delegation Chair (Original Signature)
3 Feb 2006 — Date

HOUSE COMMITTEE ON LOCAL GOVERNMENT AND VETERANS AFFAIRS

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 #: _____

SPONSOR(S): Representative Carl Domino

RELATING TO: North Palm Beach, Palm Beach County - road renaming
[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:	$11,000	

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State:		
Local:	Village of North Palm Beach	

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	none	

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

Advantages: Because Jack Nicklaus is a well-known and respected public figure, any individual, business, or governmental entity using or referring to an address or location on Jack Nicklaus Drive would have great name recognition.

Disadvantages: If one chooses to change the street name on stationery or other mailpieces from State Road A1A to Jack Nicklaus Drive, the cost for new stationery or other printed material.

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):

sign cost: Signing America Corporation

PREPARED BY: Melissa Teal 11/16/05
Must be signed by Preparer] Date

TITLE: Village Clerk

REPRESENTING: Village of North Palm Beach

PHONE: (561) 841-3355

1 A bill to be entitled
2 An act relating to the Village of North Palm Beach, Palm
3 Beach County; designating a portion of State Road A1A
4 within the village as Jack Nicklaus Drive; authorizing and
5 directing the village to change street signs and markers,
6 mailing addresses, and 911 emergency telephone system
7 listings and to erect signs and markers accordingly;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Jack Nicklaus Drive designated; signs, mailing
13 addresses, listings, and markers.--
14 (1) Notwithstanding ss. 267.062 and 334.071, Florida
15 Statutes, that portion of State Road A1A (U.S. 1) beginning at
16 its intersection with PGA Boulevard and ending just west of the
17 Burnt Bridge, Florida Department of Transportation bridge number
18 930361, in Palm Beach County is designated as "Jack Nicklaus
19 Drive."
20 (2) The Village of North Palm Beach within which the new
21 Jack Nicklaus Drive is located is authorized and directed to
22 change street signs and markers, mailing addresses, and 911
23 emergency telephone number system listings to reflect the
24 designation.
25 (3) The Village of North Palm Beach is authorized and
26 directed to erect the appropriate signs and markers upon Jack
27 Nicklaus Drive as described in subsection (1).
28 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1633 Alachua County Housing Authority
SPONSOR(S): Cretul
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 1633 provides that the Alachua County Board of Commissioners may appoint two alternate members to the Alachua County Housing Authority. The bill also provides that the Alachua County Housing Authority is not a dependent special district.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, this bill has no fiscal impact.

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

Special Districts

Section 189.403, F.S., defines a "special district" as a local unit of special purpose (as opposed to general-purpose) government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers.

"Dependent special district" is defined as a special district that meets at least one of the following criteria:

(a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.

(b) All members of its governing body are appointed by the governing body of a single county or a single municipality.

(c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

An "independent special district" means a special district that is not a dependent special district.

County Housing Authorities

Section 421.27, F.S., creates a housing authority in each Florida county. The area of operation of a housing authority created for a county includes all of the county for which it is created except that portion of the county which lies within the territorial boundaries of any city as defined in the Housing Authorities Law[1], as amended.

These housing authorities may not transact business or exercise their powers until or unless the governing body of the county declares by resolution that there is need for a housing authority in such county. Upon notification of the adoption of such resolution, the commissioners of the housing authority are appointed by the Governor. These appointments are to be made "in the same manner as the commissioners of a housing authority created for a city may be appointed by the mayor...."

Section 421.05, F.S., which provides for such appointments, states that the mayor shall appoint no fewer than five persons, and no more than seven persons,[2] as commissioners of the authority. Three of the commissioners who are first appointed are designated to serve for terms of one, two and three years, respectively; the remaining commissioners are designated to serve for terms of four years each, from the date of their appointment. Thereafter, each commissioner is appointed for a four year term, except that a vacancy is filled for the unexpired term. Each housing authority is required to have at least one commissioner who is a resident who is current in rent in a housing project or a person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy

[1] Part I of ch. 421, F.S.

[2] Notwithstanding this limitation on the number of commissioners of a housing authority, any housing authority that has more than seven commissioners on March 28, 1991, may maintain the same number.

through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority. In the case of an authority does not have a completed project, no tenant-commissioner may be appointed until 10 percent of the units in the first project of the authority have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project or the cessation of rent subsidy removes the tenant-commissioner from office, and another person meeting the qualifications required for the office is appointed for the unexpired portion of the term. After all reasonable efforts have been made and documented, if the commissioners find that no housing project resident or rent subsidy recipient is available to serve as a tenant-commissioner, the existing vacancy then is filled through the normal appointment procedures. However, such normal appointment does not preclude the requirement to exercise diligence in all succeeding vacancies to attempt to first appoint a tenant-commissioner until at least one tenant-commissioner has been appointed. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner holds office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner is filed with the clerk, and such certificate is conclusive evidence of the due and proper appointment of such commissioner. A commissioner receives no compensation for his or her services but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. The requirements of this subsection with respect to the number of commissioners of a housing authority apply without regard to the date on which the housing authority was created.

These commissioners may be removed or suspended in the same manner and for the same reasons as other gubernatorial appointees.

Alachua County Housing Authority

Chapter 71-526, L.O.F., currently provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County in lieu of the method appointment provided for under ch. 421.27, F.S. The Housing Authorities' web site[3] notes that its board of commissioners is comprised of five commissioners. According to the Florida Department of Community Affairs Official List of Special Districts, this entity currently is classified as dependent special district. [4]

Effect of Proposed Changes

HB 1633 amends ch. 71-526, L.O.F. It retains the language which provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County. The bill also corrects a reference to s. 421.27(2), F.S. Additionally, the bill provides that the board of county commissioners may appoint one at-large alternate member and one alternate tenant commissioner.[5]

The bill further states that the Alachua County Housing Authority is an independent authority and not a dependent special district of Alachua County, because the Board of County Commissioners of Alachua County cannot remove housing authority members or control housing authority budgets.

Chapter 189 clearly distinguishes the attributes of an independent vs. dependent special district. The Department of Community Affairs' Florida Special District Handbook (January 2006) notes that "[a]n independent special district does not have *any* dependent characteristics." There may be certain benefits in the classification of a district as independent for a county (for example, the millage of such a district does not count against that of its county when calculating the maximum millage allowable by law[6]). However, a dependent special district must shed its various dependent qualities before declaring

[3] http://fdt.net/~acha/BoardofCommish.htm/
[4] http://floridaspecialdistricts.org/OfficialList/report.asp
[5] While ch. 421, F.S., allows for up to seven commissioners, it does not contemplate the appointment of alternate members.
[6] See, s. 200.001(8)(d), F.S.

its independent status. In this case, the effect could be accomplished by reverting to gubernatorial appointment of housing authority board members. [7]

The bill also provides for severability, and an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ch. 71-526, 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 24, 2006

WHERE? *The Gainesville Sun*, a daily newspaper published in Alachua 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 []

According to the Economic Impact Statement, this bill has no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

[7] Section 189.404 (5), F.S., requires that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement is to be amended to conform with the Department of Community Affairs' determination or declaratory statement regarding the status of the district. Chapter 71-526, L.O.F., does not contain a charter for the Alachua County Housing Authority.

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.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment to the bill which removes the proposed:

- Section 2 of ch. 71-526, L.O.F., which contains language providing that the Alachua County Housing Authority is an independent special district; and
- Section 3 of ch. 71-526, L.O.F., which provides for severability.

1655

0001 LEGALS

NOTICE OF INTENT TO SEEK LEGISLATION

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Alachua County, Florida, intends to apply to the 2006 Regular Session of the Regular Session of the Florida Legislature for passage of an act relating to the Alachua County Housing Authority; providing that the Alachua County Commission may appoint two alternate members to the Alachua County Housing Authority; providing that the Alachua County Housing Authority is not a dependent special district; providing severability; providing an effective date.

By: David W. Wagner
County Attorney
Alachua County, Florida

9425, 1/24/06
A000119855

AFFIDAVIT OF PUBLICATION

The Gainesville Sun
Published – Daily
Gainesville, Alachua County, Florida

ATE OF FLORIDA
UNTY OF ALACHUA

Before the undersigned, a Notary Public of Said County and State, Ernest ke, III, who on oath says that he is Legal Advertising Coordinator of THE GAINESVILLE SUN, a daily newspaper published at Gainesville, in Alachua County, Florida; that the attached copy of advertisement, being a notice in the matter of

NOTICE OF INTENT TO SEEK LEGISLATION NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Alachua County, Florida, intends to apply to the 2006 Regular Session of the Regular Session of the Florida Legislature for passage of an act relating

was published in said newspaper in the issues of:

1/24 1x

Affiant further says that the said THE GAINESVILLE SUN is a daily newspaper published at Gainesville, in said Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said Alachua County, Florida, daily, and has been entered as second class mail matter at the post office in Gainesville in said Alachua 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 has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the person of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 24th day of January, A.D., 20 06

Jeffrey L. Bloodsworth
Notary Public
MY COMMISSION # DD159430 EXPIRES
October 20, 2006
BONDED THRU TROY FAIN INSURANCE, INC.
(Print, Type or Stamp Name of Notary Public)

My commission expires 20 day of Oct, 20 06

Ad #: A000119855

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1633

SPONSOR(S): Cretul

RELATING TO: Alachua County Housing Authority
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Alachua County Delegation

CONTACT PERSON: Richard Mills

PHONE # and E-Mail: 352-384-3148 ~~millsco@alachua.fl.us~~ millsco.alachua.fl.us

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 [✓] NO [ ]

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

Date hearing held: 12/14/05

Location: Santa Fe Community College

(3) Was this bill formally approved by a majority of the delegation members?
YES [ ] 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 [✓] NO [ ] DATE [1/24/06 **]**

Where? Gainesville Sun **County** Alachua

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.

03/06/06

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 1633

SPONSOR(S): Cretul

RELATING TO: Alachua County Housing Authority

[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:	—	

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State:	/	
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	/	

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

Advantages:

—

Disadvantages:

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]: None

PREPARED BY: _____ 3/21/06
[Must be signed by Preparer] Date

TITLE: Legislative Aide

REPRESENTING: Larry Cretul

PHONE: (850-488-0887)

E-Mail Address: michael.preston@myflorida house.gov

1 A bill to be entitled
2 An act relating to the Alachua County Housing Authority;
3 amending chapter 71-526, Laws of Florida; providing that
4 the Alachua County Commission may appoint two alternate
5 members to the Alachua County Housing Authority; providing
6 that the Alachua County Housing Authority is not a
7 dependent special district; providing severability;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Chapter 71-526, Laws of Florida, is amended to
13 read:
14 Section 1. The Commissioners of the Alachua County Housing
15 Authority shall be appointed by the Board of County
16 Commissioners of Alachua County, Florida, in lieu of the method
17 appointment provided for under section ~~Chapter~~ 421.27,
18 subsection (2), Florida Statutes; provided, however, the board
19 of county commissioners may appoint one at-large alternate
20 member and one alternate tenant commissioner.
21 Section 2. The Alachua County Housing Authority is an
22 independent authority and not a dependent special district of
23 Alachua County, because the Board of County Commissioners of
24 Alachua County cannot remove housing authority members or
25 control housing authority budgets.
26 Section 3. If any provision of this act or its application
27 to any person or circumstance is held invalid, such invalidity
28 shall not affect other provisions or applications of the act

29 that can be given effect without the invalid provision of the
30 application, and to this end the provisions of the act are
31 declared severable.
32 ~~Section 2. This act shall take effect on July 1, 1971.~~
33 Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1633

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Local Government
2 Representative Cretul offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Chapter 71-526, Laws of Florida, is amended to
7 read:
8 Section 1. The Commissioners of the Alachua County Housing
9 Authority shall be appointed by the Board of County
10 Commissioners of Alachua County, Florida, in lieu of the method
11 appointment provided for under section ~~Chapter~~ 421.27,
12 subsection (2), Florida Statutes; provided, however, the board
13 of county commissioners may appoint one at-large alternate
14 member and one alternate tenant commissioner.
15 ~~Section 2. This act shall take effect on July 1, 1971.~~
16 Section 2. This act shall take effect upon becoming a law.
17
18
19 ========== T I T L E A M E N D M E N T ==========
20 Remove the entire title and insert:
21 A bill to be entitled

22 An act relating to the Alachua County Housing Authority;
23 amending chapter 71-526, Laws of Florida; providing that
24 the Alachua County Commission may appoint two alternate
25 members to the Alachua County Housing Authority; providing
26 an effective date.
27

Local Government Council

Wednesday, April 5, 2006
1:00 p.m.
404 House Office Building

Addendum A (4/4/2006 3:58 PM)

Amendments for HB 0431
Amendment for HB 1531

Analysis for HB 1245
Analysis for HB 1483

Allan G. Bense
Speaker

Ken Sorensen
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **0431**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Local Government Council
2 Representative(s) Littlefield offered the following:
3
4 **Amendment**
5 Between lines 123 and 124, insert:
6 (6)(a) This subsection shall apply to the proposed
7 placement or construction of a new distribution electric
8 substation within a residential area. Prior to submitting an
9 application for the location of a new distribution substation in
10 residential areas, the utility shall consult with the local
11 government regarding the selection of a site. The utility shall
12 provide information regarding the utility's preferred site and
13 as many as three available sites that are technically and
14 electrically reasonable for the load to be served. The selection
15 of the site for application shall be collaboratively determined
16 by the utility and the local government within 30 days after
17 presentation of the alternative sites.
18 (b) A local government's land development and construction
19 regulations for electrical distribution substations and the
20 local government's review of an application for the placement or
21 construction of a new electrical substation shall only address

22 land development or zoning issues. In such local government
23 regulations or review, a local government may not require
24 information or evaluate a utility's business decisions about its
25 service, customer demand for its service, or quality of its
26 service to or from a particular area or site, unless the utility
27 voluntarily offers this information to the local government.
28 Information or materials directly related to an identified land
29 development or zoning issue may include as many as three
30 alternative locations acceptable to the utility.
31 (c) In the event the utility and the local government are
32 unable to reach agreement under paragraph (a) on an appropriate
33 location, the substation site selection shall be submitted to
34 mediation conducted pursuant to ss. 44.401-44.406 and the
35 mediation shall be concluded within 30 days unless extended by
36 written agreement of the parties. The timeframes under
37 subsection (8) are tolled until the mediation is concluded,
38 terminated, or an impasse is declared.
39
40 (renumber subsequent subsections)

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. **2** (for drafter's use only)

Bill No. **0431**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Local Government Council
2 Representative(s) Littlefield offered the following:
3
4 **Amendment**
5 Remove line(s) 218-223 and insert:
6 regulations, or trees within canopy road protection areas. This
7 section shall not apply if a local government, with input from
8 the utility, has developed and adopted a written plan
9 specifically for vegetation maintenance, tree pruning, tree
10 removal, and tree trimming by the utility within established
11 rights-of-way and the plan is not inconsistent with the National
12 Electrical Safety Code. If a local government's adopted plan
13 requires a maintenance protocol or frequency more demanding than
14 the plan proposed by the utility, the local government shall
15 bear the responsibility to implement its adopted plan.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1531

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

Council/Committee hearing bill:

Representative Brandenburg offered the following:

Amendment

Remove line(s) 70 - 78 and insert:

along said north line, N 88°33'32" W for 215.90 feet to a non-tangent curve, concave to the west, having a radius of 885.00 feet, where a radial line bears S 71°58'11" W; thence southerly, along said curve to the right, through a central angle of 19°56'06" for 307.92 feet to a point of tangency; thence S 01°54'17" W for 2383.63 feet to the said south line of Section 3; thence along said south line, S88°43'44" E for 160.01 feet to the Point of Beginning.

HB 1245

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1245 North Broward Hospital District, Broward County
SPONSOR(S): Sobel
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The North Broward Hospital District (District) is an independent special tax district with the public purpose of providing for the health care needs of the people of the District. The District was created under ch. 27438 (1951), L.O.F., and amended by subsequent acts. The District has the authority to collect ad valorem taxes at a rate not to exceed 2.5 mills and is governed by a seven member Board of Commissioners (Board) appointed by the Governor.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority or superseding the authority of any entity pursuant to law. Neither is reenactment to be construed as modifying, amending, or altering covenants, contracts, or other obligations of the District with respect to bond indebtedness. The bill codifies the provisions of the charter with editorial and organizational changes, except as follows:

- The training school for nurses must be in accordance with state laws and regulations.
- The bonding powers are significantly revised.
- Provides for an additional method of compromising and settling accounts receivable or other claims for money due and owed to the District.
- Provides that each hospital or clinic established under the act be for the use and benefit of the residents of the District, and that such residents be admitted and entitled to hospitalization subject to the rules and regulations provided by the Board effective on the date of admission of the patient. The hospital and clinic may also provide care and treatment, without charge, for patients found to be indigent by the Board. However, the Board may still collect from patients financially able to pay such chargers established by the Board. Additionally, the Board is allowed to exclude any person having a communicable or contagious disease where there may be detriment to the best interests of the hospital, unless the hospital has a separate ward or building for the special treatment of such patients. The Board may also extend privileges and use of the District's hospitals and clinics to non-residents, though residents of the District have first claim to admission.
- Confidentiality of the quasi-judicial functions of the board is amended to be confidential only as provided by law.

This bill would take effect upon becoming law.

No fiscal impact is expected for FY 2005/06 or 2006/07.

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:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

North Broward Hospital District:

The North Broward Hospital District (District) is an independent special tax district with the public purpose of providing for the health care needs of the people of the District. The District has the authority to collect ad valorem taxes at a rate not to exceed 2.5 mills and is governed by a seven member Board of Commissioners (Board) appointed by the Governor. The Board has all the powers of a body corporate, including the power to:

- Sue and be sued;
- Contract;
- Adopt and alter a seal;
- Acquire, purchase, hold, lease, and convey real and personal property;
- Appoint a superintendent and other such agents as deemed advisable;
- Borrow money, incur indebtedness, and issue notes, revenue certificates, bonds, and other evidence of indebtedness;

- Establish and support subsidiary or affiliate organizations to fulfill its public purpose, and to the extent permitted by the State Constitution, to support not-for-profit organizations whose purposes are to provide health care needs to the people of the District;
- Participate as a shareholder in a corporation, or as a joint venturer in a joint venture, that provides health care, or activities related to health care, and to provide equity financing for the activities of the corporation or joint venture and to utilize the assets and resources of the District to the extent not needed for heath care and related activities, to the extent permitted by the State Constitution;
- Invest "surplus funds" as provided for in ch. 218, F.S., and as allowed under s. 218.345, F.S., as amended or superseded;
- Delegate authority to invest surplus funds to a state or national banking organization acting pursuant to a written trust agreement as a trustee of the District's funds;
- Invest any funds in the District's control or possession in accordance with an investment policy, consisting of prudent investment practices, approved by the board and include specific
    - bankers acceptances
    - commercial paper
    - interest-bearing bonds, debentures, and other such evidence of indebtedness
    - negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government
    - options as to engage in bond fide hedging activities
    - equity securities
    - contracts

The Board is authorized and empowered to establish, operate, maintain, and/or construct, when necessary:

- Hospital(s), supportive facilities, and such facilities needed to provide for limited care and treatment for the needs and use of the people in the District.
- A training school for nurses, for which the Board is empowered to set-up rules and regulations for the operation of, and to issue diplomas of completion.
- Clinics, medical training, and medical research programs in connection with the operation of the District's hospital(s).
- Projects and programs of and for medical research, education, and development affecting human physical or mental health and well being.
- Automobile facilities deemed proper and necessary for a hospital facility.

The Board has the power of eminent domain, to be exercised in the manner provided for in general law. The Board is authorized to sell real or personal property of the District only in accordance to the terms and conditions of its charter.

The Board is also authorized to incur a variety of indebtedness in the forms of bonds, notes, certificates, lease participations, guaranties, and any other form of indebtedness payable from the general revenues and other legally available funds of the District. The charter contains extensive provisions regarding the issuance of bonds and refunding bonds by the Board. The Board also has authority to declare accounts receivable uncollectible and write such accounts off, to settle any accounts receivable, and to obligate the District for the payment of hospital and nursing home expenses for patients transferred from the District's hospitals, provided such patients are deemed indigent by the District.

The Board was required to authorize and establish one medical staff for the direction and control of the practitioners and to insure performance of the necessary professional services in the hospitals and facilities operated by the District. The Board is authorized to establish rules and regulations regarding professional duties and responsibilities of the staff and is provided quasi-judicial procedures for which membership on said staff can be granted, refused, revoked, or suspended. The charter provides confidentiality of all documents, testimony, and evidence relevant to these proceedings.

The Board is also authorized to employ professional and nonprofessional personnel necessary for the effective and lawful operation of the hospital and facilities of the District. In doing so, the Board is also authorized to establish rules and regulations to govern the operations and conduct of the District's hospitals, facilities, employees, patients, private duty nurses, guests, visitors, or any other person using the premises and facilities.

The Board is authorized and empowered to create an employees pension fund so as to provide life, disability, and medical insurance for all or any of its employees.

The charter limits the purchase of supplies, equipment, and materials used for the operation and maintenance of hospital and facilities to 1.5 mills of the total annual District revenues. All contracts for construction in excess of said amount must go through a competitive bid process, as established in the charter, before being approved.

The charter of the District also declares the District a "local agency", as defined in s. 159.27, F.S., and gives the District all the powers set forth in ch. 159, part II, F.S. Chapter 159, part II, F.S., is the Florida Industrial Development Act, and is intended to provide financing of projects meeting the legislative findings in the chapter.

The District's charter exempts the District from being declared a "public body" or "taxing authority" as provided for in ch. 163, part III, F.S., the Community Redevelopment Act of 1969.

Effect of Bill and Changes to the North Broward Hospital District's Charter:

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority, or as superseding the authority of any entity pursuant to law. Neither is the bill entitled to modify, amend, or alter any covenants, contracts, or other obligations of the District with respect to bond indebtedness, or affect the ability of the district to levy and collect taxes, assessments, fees, or chargers for the purpose of redeeming and servicing bound indebtedness. The exclusive charter of the District is recreated by this bill.

The bill codifies the provisions of the charter with editorial and organizational changes, except as follows:

- The training school for nurses provided for in section 7 of the proposed codified charter now must be in accordance with state laws and regulations.
- The bonding powers are significantly revised, with section 10 of the proposed codified charter providing only that the District's bonds be issued or sold in a manner and at a rate or rates of interest as authorized by general law and that the bonds may be sold at par or at such premium or discount as the Board determines, in keeping with general law.
- An additional method of compromising and settling accounts receivable or other claim for money due and owed to the District is provided for in section 11 of the proposed codified charter, authorizing and empowering the Board to do such through the acceptance of promissory notes in accordance with the terms and conditions determined by the Board. However, the Board may not assign, sell, or sit over said promissory notes to commercial institutions or private collection agencies for collection.
- In authorizing the treatment of persons at the facilities of the District, section 17 of the proposed codified charter provides that each hospital or clinic established under the act be for the use and benefit of the residents of the District, and that such residents be admitted and entitle to hospitalization subject to the rules and regulations effective on the date of admission of the patient, provided by the Board. The hospital and clinic may also provide care and treatment, without charge, for patients found to be indigent by the Board. However, the Board may still collect from patients financially able to pay, such chargers established by the Board. Additionally, the Board is allowed to exclude any person having a communicable or contagious disease where there may be detriment to the best interests of the hospital, unless the hospital has a separate ward or building

for the special treatment of such patients. The Board may also extend privileges and use of the District's hospitals and clinics to non-residents, though residents of the District have first claim to admission.

- The confidentiality of the quasi-judicial functions of the board is amended in section 18(g) of the proposed codified charter to be confidential as provided by law.

The proposed codified charter contains a severability clause, providing that if any provision of the act be invalid or unenforceable, the remaining portion shall remain valid.

C. SECTION DIRECTORY:

Section 1: Provides limits of the reenactment.

Section 2: Codifies, reenacts, amends, and repeals special laws relating to North Broward Hospital District.

Section 3: Provides for the re-created, reenacted charter of North Broward Hospital District.

Section 1: Provides boundaries.
Section 2: Provides seven subdistricts.
Section 3: Creates the board of commissioners.
Section 4: Provides powers of the board of commissioners.
Section 5: Provides rules of procedure for the board of commissioners.
Section 6: Authorizes the Board to establish and maintain health care facilities.
Section 7: Authorizes the Board to establish and maintain a training school for nurses.
Section 8: Provides the Board power of eminent domain.
Section 9: Provides for indebtedness.
Section 10: Authorizes issuance and sale of bonds by the District.
Section 11: Authorizes the Board to accept promissory notes.
Section 12: Provides for payment of funds.
Section 13: Authorizes the Board to collect property taxes and other lawful taxes to pay and provide for a fund for interest on bonds.
Section 14: Provides for the levy of property tax by resolution.
Section 15: Authorizes the Board to use funds to pay expenses.
Section 16: Requires publication of annual financial statements.
Section 17: Establishes each hospital and clinic is for the use and benefit of residents of the District.
Section 18: Provides for one medical staff for the direction and control of practitioners and authorizes the Board to establish bylaws, rules, and regulations for members of the staff. Provides for and the rules of quasi-judicial proceedings.
Section 19: Authorizes the District to provide a pension plan and insurance benefits for employees.
Section 20: Authorizes the Board to sell or lease property of the District.
Section 21: Allows donations to the District.
Section 22: Authorizes the Board to acquire property from the City of Ft. Lauderdale.
Section 23: Allows for the establishment of hospitals without the issuance of bonds.
Section 24: Provides for a competitive bid procedure and authority to negotiate contracts.
Section 25: Authorizes the Board to write off bad debts.
Section 26: Authorizes the Board to compromise and settle accounts receivable.
Section 27: Authorizes the Board to obligate the District to pay for expenses of indigent patients transferred to other hospitals or nursing homes.
Section 28: Authorizes the Board to construct parking facilities and charge fees for use.
Section 29: Authorizes the Board to establish, maintain, or participate in programs and projects for medical research, education, and development affecting mental and physical health.

Section 30: Provides the fiscal year of July 1 thru June 30.
Section 31: Declares the District a local agency under ch. 159, F.S., the Florida Industrial Development Financing Act.
Section 32: Authorizes the transfer or lease of facilities to not-for-profit corporations.
Section 33: Exempts the District from being deemed a public body or taxing authority under the Community Redevelopment Act of 1969.
Section 34: Provides for liberal construction of the charter.

Section 4: Provides for severability.
Section 5: Repeals special laws in the Laws of Florida.
Section 6: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 31, 2005.

WHERE? *Sun-Sentinel*, Broward County, Palm Beach County, and Miami-Dade 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 []

No fiscal impact is expected for FY 2005/06 or 2006/07.[1]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Board is authorized to establish rules and regulations to govern the operations and conduct of the District's hospitals, facilities, employees, patients, private duty nurses, guests, visitors, or any other person using the premises and facilities. The Board is also authorized to set-up rules and regulations, in accordance with state laws and regulations, for the operation of a nurses training program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[1] 2006 Economic Impact Statement, HB 1245.

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, THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

IN THE MATTER OF:

AN ACT CODIFYING THE CHARTER

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF:

12/31 12653854

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 5, 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 codifying the Charter of the North Broward Hospital District and repealing Laws of Florida, chapters 27438 (1951), 61-1931, 61-1937, 63-1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-449, 75-345, 75-348, 76-338, 77-508, 78-481, 80-464, 80-468, 81-354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-363; and all other laws or portions of laws in conflict with this act; providing 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 1245

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: North Broward Hospital District

[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 3/07/06

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 1245

SPONSOR (S): Rep. Eleanor Sobel

RELATING TO: North Broward Hospital District

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

		FY 05-06	FY 06-07
Expenditures:	**None**		

ANTICIPATED SOURCES (S) OF FUNDING:

		FY 05-06	FY 06-07
Federal	**None**		
State	**None**		
Local	**None**		

III **ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

		FY 05-06	FY 06-07
Revenues	**None**		

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

Advantages: **None**

Disadvantages: **None**

V ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: None

VI DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCES[S] OF DATA): None

Prepared by: Charlotte C. Mather

Charlotte C. Mather

TITLE: VP Government Relations & Public Affairs

REPRESENTING: North Broward Hospital District

PHONE: (954) 355-5180

1 A bill to be entitled
2 An act relating the North Broward Hospital District,
3 Broward County; codifying, amending, reenacting, and
4 repealing chapters 27438 (1951), 61-1931, 61-1937, 63-
5 1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898,
6 69-914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412,
7 73-413, 74-449, 75-347, 75-348, 76-338, 77-508, 78-481,
8 80-464, 80-468, 81-354, 84-399, 86-369, 87-508, 90-485,
9 91-351, 97-372, and 2002-363, Laws of Florida; codifying
10 the district charter; providing severability; providing an
11 effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. (1) The reenactment of existing law in this
16 act shall not be construed as a grant of additional authority to
17 nor to supersede the authority of any entity pursuant to law.
18 Exceptions to law contained in any special act that are
19 reenacted pursuant to this act shall continue to apply.
20 (2) The reenactment of existing law in this act shall not
21 be construed to modify, amend, or alter any covenants,
22 contracts, or other obligations of the district with respect to
23 bonded indebtedness. Nothing pertaining to the reenactment of
24 existing law in this act shall be construed to affect the
25 ability of the district to levy and collect taxes, assessments,
26 fees, or charges for the purpose of redeeming or servicing
27 bonded indebtedness of the district.

28 Section 2. Chapters 27438 (1951), 61-1931, 61-1937, 63-
29 1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-
30 914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-
31 449, 75-347, 75-348, 76-338, 77-508, 78-481, 80-464, 80-468, 81-
32 354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-
33 363, Laws of Florida, are codified, reenacted, amended, and
34 repealed as provided in this act.
35 Section 3. The North Broward Hospital District is re-
36 created and the charter for the district is re-created and
37 reenacted to read:
38 Section 1. Created.--A special tax district is hereby
39 created and incorporated, to be known as the "North Broward
40 Hospital District" in Broward County, which district shall
41 embrace and include the following described property, situate,
42 lying, and being in Broward County:
43 Begin at a point where the North boundary line of
44 Section 25, Township 50 South, Range 42 East,
45 intersects the line of mean low tide of the Atlantic
46 Ocean; thence run westerly along the North boundary
47 line of Sections 25, 26, 27, 28, 29 and 30 in Township
48 50 South, Range 42 East, and continue westerly along
49 the North boundary line of Sections 25, 26, 27, 28, 29
50 and 30 in Township 50 South, Range 41 East, to the
51 westerly boundary of Range 41 East; thence southerly
52 along the westerly boundary line of said Section 30 to
53 a point of intersection with the North boundary line
54 of Section 25, Township 50 South, Range 40 East,
55 extended easterly; thence westerly along the North

56 boundary line of Section 25, Township 50 South, Range
57 40 East, to the northwest corner of said Section;
58 thence southerly along the west boundary line of said
59 Section 25 and Section 36, Township 50 South, Range 40
60 East, and continuing southerly along the west boundary
61 lines of Sections 1, 12, 13, 24, 25 and 36 of Township
62 51 South, Range 40 East, to the southwest corner of
63 said Section 36, the same being the south boundary
64 line of Broward County; thence westerly along the
65 south boundary line of Broward County to the southwest
66 corner of said County; thence northerly along the west
67 boundary line of Broward County, Florida, to the
68 northwest corner of said County; thence easterly along
69 the northern boundary line of Broward County, Florida,
70 to a point where the north boundary line of Broward
71 County intersects the line of mean low tide of the
72 Atlantic Ocean; thence southerly along the mean low
73 tide line of the Atlantic Ocean to the point of
74 beginning, together with all areas within the
75 corporate limits of the City of Fort Lauderdale, lying
76 south of the south boundary line of the above-
77 described property.
78 Section 2. Subdistricts.--The North Broward Hospital
79 District shall be composed of the following subdistricts:
80 (1) Subdistrict No. 1 shall include the areas of Broward
81 County from the north boundary line thereof south to a line
82 running east and west along the boundary line between the City
83 of Pompano Beach and the City of Lighthouse Point and extended

84 east and west along the section lines which comprise said
85 boundary to intersect with the Atlantic Ocean on the east and
86 the western boundary of Broward County on the west.
87 (2) Subdistrict No. 2 shall include that area of Broward
88 County south of the south boundary line of subdistrict No. 1 to
89 a line running east and west along the center of McNab Road and
90 extended east and west along the section lines which bisect the
91 right-of-way of said McNab Road to intersect with the Atlantic
92 Ocean on the east and the western boundary of Broward County on
93 the west.
94 (3) Subdistrict No. 3 shall include that area of Broward
95 County bounded on the north by the south boundary line of
96 subdistrict No. 2, on the south along the center of Sunrise
97 Boulevard, on the west by a line running north and south along
98 the center of U.S. 441 (State Road #7), and on the east by the
99 Atlantic Ocean.
100 (4) Subdistrict No. 4 shall include that area of Broward
101 County bounded on the north by the south boundary line of
102 subdistrict No. 3, on the south by the south boundary line of
103 the North Broward Hospital District, on the west by a line
104 running north and south along the center of U.S. 441 (State Road
105 #7), and on the east by the Atlantic Ocean.
106 (5) Subdistrict No. 5 shall include that area of Broward
107 County bounded on the north by the south boundary line of
108 subdistrict No. 2, on the south by the south boundary line of
109 the North Broward Hospital District, on the west by the western
110 boundary of Broward County, and on the east by a line running
111 north and south along the center of U.S. 441 (State Road #7).

112 (6) Subdistrict No. 6 shall include that area of Broward
113 County which comprises the entire North Broward Hospital
114 District and shall be considered a subdistrict at large.
115 (7) Subdistrict No. 7 shall include that area of Broward
116 County which comprises the entire North Broward Hospital
117 District and shall be considered a subdistrict at large.
118 Section 3. Board of commissioners generally.--The
119 governing body of the North Broward Hospital District shall
120 consist of seven commissioners, one of whom may be a licensed
121 practitioner of the healing arts as defined in chapter 458,
122 Florida Statutes. All commissioners shall serve without
123 compensation. Each subdistrict shall have one representative on
124 the Board of Commissioners of the North Broward Hospital
125 District who has resided in said subdistrict for more than 1
126 year prior to appointment. Said commissioners shall be known and
127 designated as the Board Of Commissioners of North Broward
128 Hospital District. Members of the board of commissioners shall
129 be appointed by the Governor for terms of 4 years each. The
130 Governor shall have the power to remove any member of said board
131 of commissioners for cause and shall fill any vacancies that may
132 at any time occur therein. Each member shall give bond to the
133 Governor for the faithful performance of his or her duties in
134 the sum of $5,000 with a surety company qualified to do business
135 in the state, as surety, which bond shall be approved and kept
136 by the Clerk of the Circuit Court of Broward County. The
137 premiums on said bonds shall be paid as part of the expenses of
138 said district.
139 Section 4. Powers of board of commissioners generally.--

140 (1) The Board of Commissioners of the North Broward
141 Hospital District shall have all the powers of a body corporate,
142 including the power to sue and be sued under the name of the
143 North Broward Hospital District; to contract and be contracted
144 with; to adopt and use a common seal and to alter the same at
145 pleasure; to acquire, purchase, hold, lease as lessee or lessor,
146 and convey such real and personal property as said board may
147 deem proper or expedient to carry out the purposes of this act
148 (any lease of real or personal property entered into by the
149 board of commissioners shall be for such terms as the board of
150 commissioners determines is in the best interest of the
151 district); to appoint and employ a superintendent and such other
152 agents and employees as said board may deem advisable; to borrow
153 money, incur indebtedness, and issue notes, revenue
154 certificates, bonds, and other evidences of indebtedness of said
155 district; to establish and support subsidiary or affiliate
156 organizations to assist the district in fulfilling its declared
157 public purpose of providing for the health care needs of the
158 people of the district and, to the extent permitted by the State
159 Constitution, to support not-for-profit organizations that
160 operate primarily within the district, as well as elsewhere, and
161 that have as their purposes the health care needs of the people
162 of the district by means of nominal interest loans of funds,
163 nominal rent leases of real or personal property, gifts and
164 grants of funds, or guaranties of indebtedness of such
165 subsidiaries, affiliates, and not-for-profit organizations (any
166 such support of a subsidiary or affiliate corporation or
167 nonaffiliated, not-for-profit corporation is hereby found and

168 declared to be a public purpose and necessary for the
169 preservation of the public health and for public use and for the
170 welfare of the district and inhabitants thereof); to the extent
171 permitted by the State Constitution, to participate as a
172 shareholder in a corporation, or as a joint venture in a joint
173 venture, which provides health care or engages in activities
174 related thereto, to provide debt or equity financing for the
175 activities of such corporations or joint ventures, and to
176 utilize, for any lawful purpose, the assets and resources of the
177 district to the extent not needed for health care and related
178 activities; and to carry out the provisions of this charter in
179 the manner hereinafter provided. Said board of commissioners,
180 pursuant to chapter 218, Florida Statutes, is authorized and
181 empowered, as the board of a special tax district of the state,
182 to invest district "surplus funds," as defined in that chapter,
183 in such a manner as allowed under section 218.415 Florida
184 Statutes, or by any general law amending or superseding section
185 218.415, Florida Statutes. The board of commissioners shall also
186 have the power to delegate its authority to invest these surplus
187 funds, as outlined above, to a state or national banking
188 organization acting pursuant to a written trust agreement as a
189 trustee of district funds, provided that such delegation is made
190 in writing by the board of commissioners.
191 (2) In addition to any investment authorized by general
192 law, and to the extent created by the State Constitution, the
193 board of commissioners shall be and is hereby authorized and
194 empowered to invest any funds in its control or possession in
195 accordance with an investment policy approved by the board which

196 mandates prudent investment practices, which shall include,
197 among other items, the investment objectives and permitted
198 securities of the policy. Such investment policy shall be
199 designed to maximize the financial return to the fund consistent
200 with the risks incumbent in each investment and shall be
201 designed to preserve the appropriate diversification of the
202 portfolio. Accordingly, the following instruments are authorized
203 for investment:
204 (a) Bankers' acceptances that are drawn upon and accepted
205 by a commercial bank that is a member bank of the Federal
206 Reserve System, that maintains capital accounts in excess of 7.5
207 percent of total assets, and which member bank or its holding
208 company carries a credit rating that is one of the two highest
209 alphabetical categories from at least two nationally recognized
210 debt-rating agencies.
211 (b) Commercial paper of prime quality rated by at least
212 two nationally recognized debt-rating agencies in the highest
213 letter and numerical rating of each agency. If not rated, such
214 prime quality commercial paper may be purchased if secured by a
215 letter of credit provided by a commercial bank, which bank or
216 its holding company carries a credit rating in one of the two
217 highest alphabetical categories from at least two nationally
218 recognized debt-rating agencies.
219 (c) Interest-bearing bonds, debentures, and any other such
220 evidence of indebtedness with a fixed maturity of any domestic
221 corporation within the United States which is listed on any one
222 or more of the recognized national stock exchanges in the United
223 States and conforms with the periodic reporting requirements

224 under the Securities Exchange Act of 1934. Such obligation shall
225 either carry ratings in one of the two highest classifications
226 of at least two nationally recognized debt-rating agencies or be
227 secured by a letter of credit provided by a commercial bank,
228 which bank or its holding company carries a credit rating in one
229 of the two highest alphabetical categories from at least two
230 nationally recognized debt-rating agencies.
231 (d) Negotiable direct obligations of, or obligations the
232 principal and interest of which are unconditionally guaranteed
233 by, the United States Government at the then-prevailing market
234 rate for such securities; and obligations of the Federal Farm
235 Credit Banks, Federal Home Loan Mortgage Corporation, Federal
236 National Mortgage Association, or Federal Home Loan Bank or its
237 district banks, including Federal Home Loan Mortgage Corporation
238 participation certificates, or obligations guaranteed by the
239 Government National Mortgage Association, which are purchased
240 and sold under repurchase agreements and reverse repurchase
241 agreements. Repurchase agreements and reverse repurchase
242 agreements may be entered into only with a member bank of the
243 Federal Reserve System or primary dealer in United States
244 government securities. Securities purchased or repurchased by
245 the hospital board shall be delivered to the hospital board or
246 its agent versus payment.
247 (e) The purchase of options so as to engage in bona fide
248 hedging activities for the purpose of protecting the asset value
249 of the underlying portfolio, provided the instruments for such
250 purpose are traded on a securities exchange or board of trade

251 regulated by the Securities and Exchange Commission or the
252 Commodities Futures Trading Commission.
253 (f) Equity securities of any corporation that is organized
254 under the laws of the United States, any state, or the District
255 of Columbia and that is listed on any one or more of the
256 recognized national stock exchanges in the United States and
257 conforms with the periodic reporting requirements under the
258 Securities Exchange Act of 1934. Such securities must carry a
259 rating in one of the two highest alphabetical categories from at
260 least two nationally recognized equity ratings agencies.
261 (3) The Board of Commissioners of the North Broward
262 Hospital District shall have the power to enter into and
263 execute:
264 (a) Any contract known or referred to as, or which
265 performs the function of, an interest rate swap agreement,
266 forward payment conversion agreement, or futures contract.
267 (b) Any contract providing for payments based on levels
268 of, or changes or differences in, interest rates.
269 (c) Any contract to exchange cash flows, payments, or
270 series of payments.
271 (d) Any type of contract called or designed to perform the
272 function of interest rate floors or caps, options, puts, or
273 calls to hedge or minimize any type of financial risk,
274 including, without limitation, payment, rate, or other financial
275 risk.
276 (e) Any other type of contract or arrangement that the
277 Board of Commissioners of the North Broward Hospital District
278 determines is to be used, or is intended to be used, to manage

279 or reduce the cost of indebtedness, to convert any element of
280 indebtedness from one form to another, to maximize or increase
281 investment return, to minimize investment return risk, or to
282 protect against any type of financial risk or uncertainty.
283 Section 5. Board of commissioners; rules of
284 procedure.--Four commissioners shall constitute a quorum, and a
285 vote of at least three commissioners shall be necessary to the
286 transaction of any business of the district. The commissioners
287 shall cause true and accurate minutes and records to be kept of
288 all business transacted by them and shall keep full, true, and
289 complete books of account and minutes, which minutes, records,
290 and books of account shall at all reasonable times be open and
291 subject to the inspection of inhabitants of said district, and
292 any person desiring to do so may make or procure copy of said
293 minutes, records, books of account, or such portions thereof as
294 he or she may desire.
295 Section 6. Authority to establish and maintain health care
296 facilities.--The board of commissioners is hereby authorized and
297 empowered to establish, construct, operate, and maintain such
298 hospital or hospitals, supportive facility or facilities,
299 including offices for physicians and other medically related
300 personnel, entities, and activities, and facilities for the care
301 of such persons requiring limited medical care and treatment as
302 in their opinion shall be necessary for the needs and use of the
303 people of said district. Said hospital or hospitals, supportive
304 facility or facilities, and facilities for limited care and
305 treatment shall be established, constructed, operated, and
306 maintained by said board of commissioners for the preservation

307 of the public health, for the public good, and for the use of
308 the public of said district, and the maintenance of said
309 hospital or hospitals, supportive facility or facilities, and
310 facilities for limited care and treatment within said district
311 is hereby found and declared to be a public purpose and
312 necessary for the preservation of the public health and for
313 public use and for the welfare of said district and inhabitants
314 thereof. The location, establishment, operation, and maintenance
315 of such hospital or hospitals, supportive facility or
316 facilities, and facilities for limited care and treatment, as
317 well as the terms, conditions, and consideration for the use
318 thereof, shall be as determined and fixed by said board of
319 commissioners and shall be under the exclusive authority of said
320 board. The provisions and procedures shall be without reference
321 to section 20. The board of commissioners is hereby further
322 authorized and empowered to establish, operate, or support such
323 subsidiaries, either for profit or not for profit, and not-for-
324 profit affiliates for the furtherance and assistance of the
325 district's fulfilling its purpose of provision for the health
326 care needs of the people of the district as in the board's
327 opinion shall be necessary. The board of commissioners is hereby
328 further authorized and empowered, to the extent permitted by the
329 State Constitution, to support nonaffiliated, not-for-profit
330 organizations that operate primarily within the district, as
331 well as elsewhere, and that have as their purpose the
332 furtherance of the district's provision for the health care
333 needs of the people of the district, by such means as in the
334 board's opinion are necessary and appropriate. The board of

335 commissioners is hereby further authorized, to the extent
336 permitted by the State Constitution, to participate in, and to
337 provide debt or equity financing for, a corporation in which the
338 district is a shareholder or a joint venture in which the
339 district is a joint venturer, so long as any such corporation or
340 joint venture provides health care services or engages in
341 activities related thereto that benefit the people of the
342 district, as well as others. The establishment, operation, or
343 support of such subsidiaries or affiliates, the support of such
344 nonaffiliated, not-for-profit organizations, and the
345 participation in and funding of such health care corporations or
346 joint ventures are each hereby found and declared to be a public
347 purpose and necessary for the preservation of the public health
348 and welfare of the district and inhabitants thereof.
349 Notwithstanding the provisions of its charter, the district
350 shall comply with the requirements of section 155.40(2)(a)-(e),
351 Florida Statutes, in implementing the powers provided in this
352 section, section 4, and subsection (4) of section 20.
353 Section 7. Nurse training schools; medical training and
354 research programs.--
355 (1) The board of commissioners is hereby authorized and
356 empowered at any time in its discretion to establish and
357 maintain, in connection with such hospital and as a part
358 thereof, in accordance with state laws and regulations, a
359 training school for nurses and, upon completion of a prescribed
360 course of training, shall give to such nurses who have
361 satisfactorily completed the course a diploma. The board of
362 commissioners is authorized and empowered to set up all rules

363 and regulations necessary for the operation of a nurses training
364 school and to make all necessary expenditures in connection
365 therewith.
366 (2) The board of commissioners is further authorized and
367 empowered to establish and maintain such clinics, medical
368 training, and medical research programs in connection with the
369 operation of district hospitals, including the training of
370 interns and resident physicians, as the board of commissioners,
371 in their discretion, might determine to be necessary or
372 beneficial to the professional services in the district
373 hospitals.
374 Section 8. Eminent domain.--The board shall have the power
375 of eminent domain and may thereby condemn and acquire any real
376 or personal property within the territorial limits of the
377 district which the board may deem necessary for the use of said
378 district. Such power of condemnation shall be exercised in the
379 same manner as is now provided by general law for the exercise
380 of the power of eminent domain by cities and towns of the state.
381 Section 9. Indebtedness generally.--
382 (1) In this act:
383 (a) The term "anticipation notes" means indebtedness
384 authorized pursuant to subsections (2)-(6) which is payable from
385 funds of the district as set forth therein.
386 (b) The term "indebtedness" means any bonds, notes,
387 certificates, lease participations, guaranties, or other forms
388 of indebtedness payable from general revenues and other legally
389 available funds of the district.

390 (2) The district may, in order to provide facilities,
391 including real and personal property, and to carry out,
392 exercise, and perform its powers and duties, and for any other
393 lawful purpose, borrow money from time to time as the board
394 determines is in the best interest of the district and issue and
395 sell the anticipation notes of the district and refund the same
396 by issuing the refunding anticipation notes of the district, all
397 upon such terms and having such maturities, form, and terms as
398 may be determined by the board of commissioners or, if issued in
399 the form of commercial paper, as may be determined by the chair,
400 the vice chair, or the secretary-treasurer within guidelines and
401 limits determined by the board of commissioners as provided in
402 this section. The rate or rates of interest for such borrowing
403 shall be as provided by general law. Further, all indebtedness
404 incurred by the district shall, where required by the State
405 Constitution, be contingent upon voter approval.
406 (3) The district may borrow money and issue bond
407 anticipation notes in anticipation of the issuance of bonds, all
408 as provided in general law; expend the proceeds thereof for the
409 purposes for which such bonds are to be issued; and pledge, by
410 resolution or contract, the proceeds to be derived from the sale
411 of such bonds and other legally available funds of the district
412 for the payment of the principal thereof, premium therefor, if
413 any, and interest thereon.
414 (4) The district may borrow money and issue grant
415 anticipation notes having such maturity as the board may
416 determine in anticipation of the receipt of any federal, state,
417 private, or other grant; expend the proceeds thereof for the

418 purposes for which such grant has been made; and pledge, by
419 resolution or contract, the moneys to be received from such
420 grant and other legally available funds of the district for the
421 payment of the principal thereof, premium therefor, if any, and
422 interest thereon.
423 (5) The district may borrow money and issue revenue
424 anticipation notes having such maturity as the board may
425 determine in anticipation of the receipt of revenues; expend the
426 proceeds thereof for any other lawful purpose; and pledge, by
427 resolution or contract, revenues of the district for the payment
428 of the principal thereof, premium therefor, if any, and interest
429 thereon.
430 (6) The district may borrow money and issue tax
431 anticipation notes having such maturity as the board may
432 determine and levy, appropriate, and pledge, by resolution or
433 contract, ad valorem taxes and other legally available funds of
434 the district in payment of the principal thereof, premium
435 therefor, if any, and interest thereon.
436 (7) The district may issue, from time to time,
437 indebtedness (which may be denominated as notes or bonds) of the
438 district for the purpose of paying all or part of the cost of
439 acquisition, construction, planning, and repairing of,
440 extensions and additions to, and equipping, furnishing, and
441 reconstruction of any hospital or hospitals or related
442 facilities incidental to the foregoing as in the opinion of the
443 board of commissioners are necessary or beneficial for the
444 district, for refinancing any indebtedness incurred to finance
445 any of the foregoing, or for reimbursement of the district for

446 any cost it incurred for any of the foregoing. The indebtedness
447 of each issuance shall be dated, shall mature at such time or
448 times not exceeding 50 years after their date or dates, shall be
449 in such denominations, shall bear interest at such rate or
450 rates, including variable rates, allowed by general law, and may
451 be made redeemable before maturity at the option of the board of
452 commissioners at such price or prices and under such terms and
453 conditions as may be fixed by the board of commissioners prior
454 to the issuance of the indebtedness.
455 (8) The district may issue all forms of indebtedness
456 described in subsections (3)-(7) in the form of commercial paper
457 and, if issued in such form, the resolution authorizing the
458 issuance thereof may provide for the renewal, refunding, or
459 rollover thereof from time to time, having such maturity as the
460 board shall determine. The resolution authorizing the issuance
461 of such indebtedness in the form of commercial paper may set
462 forth guidelines and limits pertaining to the maximum aggregate
463 principal amount of such indebtedness which may be outstanding
464 at any one time, the longest maturity any such indebtedness may
465 bear, the form of such indebtedness, the terms (including
466 redemption provisions, the maximum redemption premium which may
467 be permitted, schedules for the amortization of principal and
468 interest which may be permitted, and such other provisions as
469 the board of commissioners may determine), and the maximum rate
470 of interest authorized by general law and may authorize the
471 chair, the vice chair, the secretary-treasurer, or any one or
472 more of them, from time to time, to determine, within such
473 guidelines and limits, the date or dates on which said

474 indebtedness shall be issued, the aggregate principal amount of
475 indebtedness to be issued at such time, the maturity date or
476 dates of such indebtedness, and the form and terms of such
477 indebtedness (including provisions for redemption thereof, the
478 amount of any redemption premium, the schedule for the
479 amortization of principal and payment of interest, and other
480 provisions as authorized by the board) and to sell, issue, and
481 deliver the same pursuant to such authorization. Any resolution
482 authorizing a negotiated sale of indebtedness in the form of
483 commercial paper to any class of purchaser may likewise
484 authorize the negotiated sale of renewal, refunding, or rollover
485 indebtedness to such class of purchaser and may contain such
486 other provisions as the board may authorize.
487 (9) Any indebtedness authorized pursuant to subsections
488 (3)-(7) may be issued in the form of demand obligations or
489 obligations which the holder thereof may request payment for by
490 the district upon the occurrence of specified events. The board
491 of commissioners shall determine the form of such indebtedness,
492 which shall be executed according to general law, and shall fix
493 the denomination or denominations of indebtedness and the place
494 or places of payment of principal of and interest thereon, which
495 may be at any bank or trust company within or without the state.
496 All forms of indebtedness shall be executed in the name of the
497 district by the chair of the board of commissioners and
498 countersigned and attested by the secretary of the board, and
499 its corporate seal or facsimile shall be attached thereto or
500 reproduced thereon, all in the manner provided by the resolution
501 authorizing such indebtedness. All indebtedness issued under the

502 provisions of this act is hereby declared to have all the
503 qualities and incidents of negotiable instruments under the
504 Uniform Commercial Code and the laws of this state. Such
505 indebtedness shall be issuable in bearer form or shall be
506 registrable in the name of the owner or nominee thereof in the
507 manner provided by general law.
508 (10) The district is hereby authorized to enter into
509 agreements providing for the issuance, repayment, and securing
510 of letters of credit, insurance, or any other credit enhancement
511 device with any financial institution, as the board of
512 commissioners may determine, to further secure any of its
513 indebtedness.
514 Section 10. Bonds.--District bonds shall be issued or sold
515 in such manner and at such rate or rates of interest as
516 authorized by general law. Such bonds may be sold at par or at
517 such premium or discount as the board of commissioners
518 determines, in keeping with general law.
519 Section 11. Acceptance of promissory notes.--The board of
520 commissioners is hereby authorized and empowered, in order to
521 provide for and carry out the purposes of this act, to
522 compromise and settle any accounts receivable or other claim for
523 money due and owing to the district through the acceptance of
524 promissory notes according to such terms and conditions as the
525 board, in its discretion, may determine; however, said board of
526 commissioners is hereby prohibited from assigning, selling, or
527 setting over said promissory note to commercial institutions or
528 private collection agencies for collection.

529 Section 12. Payment of funds.--The funds of the North
530 Broward Hospital District shall be paid out and disbursed
531 according to the manner and procedure established by the board
532 of commissioners of said district. The board of commissioners is
533 hereby authorized and empowered to designate disbursing agents
534 to act on behalf of the North Broward Hospital District for
535 approval of warrants for payment and for the execution of checks
536 and drafts upon district accounts.
537 Section 13. Property tax authorized.--The Board of
538 Commissioners of the North Broward Hospital District is hereby
539 authorized, empowered, and directed annually to levy upon all
540 the real and personal taxable property in said district a
541 sufficient tax, not to exceed 2.5 mills, necessary for the
542 purposes herein granted and to levy other lawful taxes to pay
543 interest and provide and maintain a sinking fund for payment of
544 interest and principal of the bonds provided for and authorized
545 by this act.
546 Section 14. Property tax levy.--The levy by said board of
547 commissioners of the taxes authorized by any provision of this
548 act shall be by resolution of said board duly entered upon the
549 minutes of the board. Certified copies of such resolution
550 executed in the name of the board by its chair, under its
551 corporate seal, shall be made and delivered to the Board of
552 County Commissioners of Broward County and to the Florida Chief
553 Financial Officer not later than 60 days after the millage is
554 certified by the property appraiser or such other time as may be
555 specified by general law. It shall be the duty of the County
556 Commissioners of Broward County to order and require the county

557 property appraiser of said county to assess, and the county tax
558 collector of said county to collect, the amount of taxes so
559 assessed or levied by the board upon the taxable property in
560 said district, not exempt by law, at the rate of taxation
561 adopted by said board of commissioners of said district for said
562 year and included in the warrant of the property appraiser and
563 attached to the assessment roll of taxes for said county each
564 year. The tax collector shall collect such tax so levied by said
565 board in the same manner as other taxes are collected and shall
566 pay the same over to the Board of Commissioners of the North
567 Broward Hospital District within the time and in the manner
568 prescribed by law for the payment by the tax collector of county
569 taxes to the county depository. It shall be the duty of the
570 Florida Chief Financial Officer to assess and levy taxes on all
571 the railroad lines and railroad property and telegraph lines and
572 telegraph property situated or located in said district,
573 including all telephone lines. The taxes shall be assessed by
574 the same officer as are county taxes upon such property, and
575 such taxes shall be remitted by the collecting officer to the
576 Board of Commissioners of the North Broward Hospital District.
577 All such taxes shall be held by said board of commissioners and
578 paid out by them as provided in this act. The board is
579 authorized to pay necessary expenses to the aforenamed officers
580 for the assessment and collection of taxes on a reasonable fee
581 basis.
582 Section 15. Payment of district expenses.--The board of
583 commissioners is authorized to pay from the funds of the
584 district all expenses of the organization of said board, all

585 expenses necessarily incurred with the formation of said
586 district, and all other reasonable and necessary expenses,
587 including the fees and expenses of an attorney in the
588 transaction of the business of the district and in carrying out
589 and accomplishing the purposes of this act. This section,
590 however, shall not be construed to restrict any of the powers
591 vested in said board of commissioners by any other section or
592 provision of this act.
593 Section 16. Publication of annual financial statement.--At
594 least once in each year, the board of commissioners shall
595 publish once in a newspaper published in the district a complete
596 detailed statement of all moneys received and disbursed by them
597 since the creation of the district as to the first published
598 statement and since the last published statement as to any other
599 year. Such statement shall also show the several sources from
600 which said funds were received and shall show the balance on
601 hand at the time of the published statement. It shall show a
602 complete statement of the condition of the district.
603 Section 17. Persons authorized to be treated at
604 facilities.--Each hospital or clinic established under this act
605 shall be for the use and benefit of the residents of the
606 district. Such residents shall be admitted to such hospital or
607 clinic and be entitled to hospitalization, subject, however, to
608 the rules and regulations prescribed by the board of
609 commissioners, which rules and regulations are effective as of
610 the date of admission of a patient or patients to said hospital
611 or clinic. Such hospital or clinic may care for and treat
612 without charge patients who are found by the board of

613 commissioners to be indigent, but such board may collect from
614 patients financially able such charges as the board of
615 commissioners may from time to time establish. The board of
616 commissioners may exclude from treatment and care any person
617 having a communicable or contagious disease, where such disease
618 may be a detriment to the best interests of such hospital or
619 clinic or a source of contagion or infection to the patients in
620 its care, unless such hospital has a separate building or ward
621 for the special treatment of such patients and can properly and
622 with safety to the other patients retain such communicable or
623 contagious case in such separate ward or building. Said board of
624 commissioners may extend the privileges and use of such hospital
625 or clinic to nonresidents of the district upon such terms and
626 conditions as the board may from time to time by its rules and
627 regulations provide; however, the residents of the district
628 wherein such hospital or clinic is located shall have first
629 claim to admission.
630 Section 18. Medical staff generally.--
631 (1) The Board of Commissioners of the North Broward
632 Hospital District shall authorize and establish one medical
633 staff for the direction and control of the practitioners, and to
634 ensure the performance of necessary professional services, in
635 the hospitals and facilities operated by the North Broward
636 Hospital District. The board of commissioners is hereby
637 authorized and empowered to establish reasonable bylaws, rules,
638 and regulations thereof and to prescribe and establish in said
639 bylaws, rules, and regulations reasonable professional duties
640 and responsibilities for members of the staff so that the

641 welfare and health of the patients and the best interest of the
642 hospitals may at all times be served.
643 (2) The board of commissioners is hereby authorized and
644 empowered to grant or refuse, revoke, and suspend membership on
645 the staff and to grant or refuse, revoke, or suspend any
646 privileges attendant to such membership so that the welfare and
647 health of the patients and the best interest of the hospitals
648 may at all times be best served. In addition:
649 (a) The board of commissioners is hereby authorized and
650 empowered to establish such standards of good moral character,
651 professional ethics, professional competency, and professional
652 conduct to be prerequisites for membership on the staff as the
653 board, in its reasonable discretion, shall determine to be
654 necessary for the protection of the health and welfare of the
655 patients and the hospital, but the failure of the board of
656 commissioners to establish such standards by rule or regulation
657 shall not destroy the power of the board to determine membership
658 on the staff according to the authority, requirements, and
659 standards otherwise prescribed by this act. The board of
660 commissioners is further authorized and empowered to require
661 members of the staff to abide by all the rules, regulations, and
662 bylaws established by the board of commissioners under the
663 authorization of this act; to require the performance of those
664 professional duties and responsibilities prescribed by said
665 rules, regulations, and bylaws; and to enforce such requirements
666 by the revocation and suspension of staff membership and
667 privileges. No person shall be eligible for membership on the
668 staff, be eligible for any privilege of the practice of medicine

669 in any hospital or facility operated by said district, or retain
670 or possess any membership upon the staff or any privilege of the
671 practice of medicine in any of said hospitals or facilities
672 unless he or she is a graduate of a medical school recognized
673 and approved by the Florida Board of Medicine with the degree of
674 doctor of medicine and possesses a valid license to practice
675 medicine as prescribed and required by chapter 458, Florida
676 Statutes, or, in the alternative, unless he or she possesses a
677 valid license from the Florida Board of Dentistry to practice
678 dentistry as prescribed and required by chapter 466, Florida
679 Statutes.
680 (b) Whenever the board of commissioners considers the
681 refusal, revocation, or suspension for a period of more than 30
682 days of staff membership of any person, or any privileges
683 attendant to such membership, a hearing shall be held before the
684 board of commissioners, or before such examining board as the
685 board of commissioners might establish for the purpose of taking
686 and hearing testimony and evidence and reporting to the board
687 thereon, upon the objections to such person's membership and
688 privileges.
689 (c) Whenever a hearing upon the staff membership and
690 privileges of any person is required by this act, reasonable
691 notice shall be given to the person concerned by registered mail
692 of the time and place of such hearing, and the nature of the
693 objections to the person's membership and privileges shall be
694 made solely upon the record of such hearing and the findings and
695 conclusions made therefor.

696 (d) The board of commissioners, or such administrative
697 personnel and personnel of the staff and hospitals as the board
698 may authorize and designate, is authorized and empowered to
699 suspend any membership on the staff, and any or all privileges
700 attendant thereto, for a period of less than 31 days without
701 hearing prior to such suspension whenever it appears that delay
702 in such suspension would cause an immediate danger to the
703 hospital or any patient thereof or whenever it appears that the
704 suspended physician has failed to abide by a prescribed rule of
705 administrative or staff procedure in willful or negligent
706 violation of hospital discipline. It is further provided that
707 any staff member suspended for a period of less than 31 days
708 without hearing shall, upon written request to the chair of the
709 board of commissioners, be granted by said chair a speedy
710 hearing in the same manner and according to the same procedure
711 as prescribed for other determinations of staff membership and
712 privileges.
713 (e) A decision of the board of commissioners to refuse,
714 revoke, or suspend membership on the staff or to refuse, revoke,
715 or suspend any privilege attendant to such membership is hereby
716 declared to be a quasi-judicial function of the board, and any
717 hearing held for the purpose set forth in this section shall be
718 held and conducted in accordance with general law relating to
719 quasi-judicial hearings and determinations. Judicial review of
720 such decision shall be by certiorari to the Fourth District
721 Court of Appeal in the time and manner prescribed by the Florida
722 Appellate Rules unless the provisions of such appellate rules
723 confer exclusive jurisdiction upon the Supreme Court of Florida.

724 The board of commissioners shall establish such rules of
725 procedure for hearing required by this act as are reasonably
726 necessary to ensure an orderly, fair, and impartial proceeding
727 in which all facts relevant to the objections to the person's
728 membership and privileges may be heard by the examining
729 authority.
730 (f) The testimony at any hearing required by this section
731 shall be stenographically or mechanically recorded, and such
732 record shall thereafter be transcribed. Such transcription,
733 together with all notices to the person concerned; all
734 documents, exhibits, and demonstrative evidence submitted to the
735 examining authority for consideration at the hearing; all
736 findings and recommendations of the examining authority, if any;
737 and all findings and decisions of the board of commissioners
738 relevant to those proceedings shall be preserved by the district
739 as a permanent record of the proceedings. The physician
740 concerned shall be entitled to a copy or copies of such
741 permanent record, certified by the chair of the board of
742 commissioners to be a true copy thereof, upon written request
743 and payment of a reasonable cost of preparation.
744 (g) All documents, testimony, and evidence relevant to the
745 proceeding or the issues thereof and the official record of such
746 proceeding shall be confidential to the North Broward Hospital
747 District and the physician concerned, or his or her attorneys
748 and agents, as provided by law. After the final decision of the
749 board of commissioners upon the refusal, revocation, or
750 suspension of membership on the staff or the privileges
751 attendant thereto, the official record of such proceeding as

752 required by this act may be made public upon the mutual
753 agreement of the board of commissioners and the physician
754 concerned or may be made public by the filing thereof with a
755 court of law for purposes of judicial review.
756 (3) The Board of Commissioners of the North Broward
757 Hospital District is hereby authorized and empowered to employ
758 professional and nonprofessional personnel necessary to the
759 effective and lawful operation of the hospital and facilities of
760 the district, including, but not limited to:
761 (a) Registered, practical, and student nurses and nurse's
762 aides.
763 (b) Physicians licensed or approved by the Florida Board
764 of Medicine necessary to provide emergency medical care and
765 treatment in the emergency rooms of the district hospitals.
766 (c) Interns and resident physicians who are engaged in an
767 authorized medical training program of the district.
768 (d) Physicians licensed by the Florida Board of Medicine
769 and technicians specially trained in the basic sciences allied
770 with, and necessary to, the practice of medicine who are
771 necessary to an authorized medical training program of the
772 district or who are necessary to provide professional advice and
773 services to medical staff physicians.
774
775 All physicians employed by the North Broward Hospital District
776 as authorized in this subsection shall be members of the medical
777 staff and subject to the medical staff bylaws, rules, and
778 regulations.

779 (4) The Board of Commissioners of the North Broward
780 Hospital District is further authorized and empowered to
781 establish reasonable rules and regulations to govern the
782 operation of district hospitals and facilities and to govern and
783 control the conduct of all employees, patients, private duty
784 nurses, guests, visitors, or any other parties or persons who
785 are in any manner upon or using the premises and facilities of
786 any district hospital or facility so that the health and welfare
787 of the patients and the best interest of the hospital will at
788 all times be served.
789 Section 19. Pension plan and insurance benefits for
790 employees.--The North Broward Hospital District is authorized
791 and empowered to create an employees' pension fund to provide
792 for life, disability, and medical insurance for all or any of
793 its employees or officers on a group insurance or other
794 acceptable plan approved by said Board of Commissioners of North
795 Broward Hospital District; to establish and create by resolution
796 an employees' pension, annuity, and retirement plan for any and
797 all groups of officers and employees employed by the North
798 Broward Hospital District and qualifying for such plan; and to
799 pay all or such portion of the cost of any such employees'
800 pension, annuity, and retirement plan from funds available to
801 the district from its authorized sources, with the employees
802 defraying the balance thereof, if any, as said board of
803 commissioners by resolution may determine for any and all groups
804 of officers and employees employed by said North Broward
805 Hospital District. The Board of Commissioners of the North
806 Broward Hospital District is authorized to invest and reinvest

807 available funds of the pension fund in accordance with the
808 provisions of sections 215.44-215.53, Florida Statutes.
809 Section 20. Sale or lease of property.--The board of
810 commissioners is authorized and empowered to lease or sell any
811 real or personal property owned by the North Broward Hospital
812 District or to otherwise relinquish and dispose of the
813 district's title in such property according to the following
814 terms and conditions:
815 (1) Any real or personal property of a fair value of less
816 than an amount to be determined from time to time by resolution
817 of the board of commissioners may be sold, or the title disposed
818 of, according to the manner and procedure and the terms and
819 conditions the board of commissioners at the time might
820 determine.
821 (2) Any real or personal property of a fair value in
822 excess of the amount established from time to time by resolution
823 of the board of commissioners pursuant to subsection (1) may be
824 sold or disposed of after the board of commissioners has
825 determined by appropriate resolution that such property is
826 surplus to the needs and requirements of the district and after
827 the board of commissioners has submitted the property to the
828 general public for offers by publishing a notice of intent to
829 dispose of property in a newspaper of general circulation in the
830 North Broward Hospital District at least 30 days in advance of
831 such sale or other disposition. Any person desiring such
832 property shall submit his or her offer to buy to the board of
833 commissioners during such 30-day period, or during such longer
834 period as the board might establish, along with the terms and

835 conditions of such offer. The published notice shall be
836 sufficient if it reasonably identifies the property in question
837 and informs any persons interested in such property that the
838 board of commissioners desires to dispose of said property and
839 seeks offers to buy thereon. It is not required that such notice
840 specify the terms or conditions desired by the district, and if
841 such terms and conditions are included in such notice or
842 otherwise provided, they are to be for general information only
843 and shall not prevent the board of commissioners from accepting
844 different terms and conditions which the board might determine
845 to be more beneficial to the district. Offers submitted by the
846 bidders are not required to be sealed or to be kept confidential
847 to the district, unless otherwise specified in the published
848 notice, and any bidder may submit any number of alternate offers
849 at any time during the bidding period.
850 (3) The board of commissioners is hereby authorized and
851 empowered to accept any bid upon surplus property and to sell or
852 otherwise convey said property in accordance with the provisions
853 of this section or to reject all the bids as the board of
854 commissioners might determine to be in the best interests of the
855 district.
856 (4) The board of commissioners is authorized and empowered
857 to convey to Broward County, to any municipality or any other
858 governmental body or agency of the state or of the United States
859 located partially or entirely within the boundaries of the North
860 Broward Hospital District, to any subsidiary, either for profit
861 or not for profit, to any not-for-profit affiliate of the
862 district, or to any not-for-profit organization that operates

863 primarily within the district and that supports the district's
864 provision for the health care needs of the people of the
865 district any property for a nominal consideration and according
866 to those terms and conditions as the board of commissioners may
867 at that time determine, regardless of the value of such
868 property, whenever it appears to the board of commissioners that
869 such conveyance would be in the best interests of the district
870 and the residents thereof; however, such conveyance for nominal
871 consideration to other than such subsidiaries, affiliates, or
872 not-for-profit organizations as described in this subsection
873 shall not be made until at least 30 days after the terms and
874 conditions thereof have been published in a newspaper of general
875 circulation in the North Broward Hospital District or until
876 residents and taxpayers of the district have been afforded an
877 opportunity to be heard upon such conveyance at a regular
878 meeting of the board of commissioners. It is further provided,
879 however, that the board of commissioners is authorized to give,
880 grant, sell, or convey any easements or rights-of-way for the
881 use of the public, for the use of public utilities, or to
882 support in any manner deemed necessary and appropriate by the
883 board of commissioners a subsidiary, affiliate, or not-for-
884 profit organization as described in this subsection without any
885 requirement for advertising or public hearing.
886 Section 21. Donations to district.--Any person or persons,
887 firm, organization, corporation, or society, public or private,
888 desiring to make donations of money, personal property, or real
889 estate for the benefit of such district shall have the right to
890 vest title of the money, personal property, or real estate so

891 donated in said county to be controlled when accepted by the
892 commissioners of said district according to the terms of the
893 deed, gift, devise, or bequest of such property.
894 Section 22. Acquisition of property from the City of Fort
895 Lauderdale.--The Board of Commissioners of the North Broward
896 Hospital District is authorized and empowered to acquire, by
897 gift, purchase, lease, or otherwise, personal or real property
898 for the benefit of such hospital or hospitals; to enter into
899 agreements or contracts in the acquisition of such real estate
900 or personal property; and to pledge, encumber, or mortgage the
901 acquired property as security for the debt incurred in the
902 acquisition or purchase thereof. Notwithstanding the Charter of
903 the City of Fort Lauderdale to the contrary, the Board of
904 Commissioners of the North Broward Hospital District and the
905 City of Fort Lauderdale are authorized and empowered to
906 negotiate for the sale, transfer, acquisition, purchase, or
907 conveyance of the present hospital or hospitals now owned by the
908 City of Fort Lauderdale under such terms, conditions, and
909 agreements as are acceptable to the City of Fort Lauderdale and
910 to the district. All sales, transfers, or conveyances by the
911 City of Fort Lauderdale to the North Broward Hospital District
912 are hereby declared to be valid and binding, and all laws in
913 conflict therewith are hereby declared to be repealed and
914 invalid.
915 Section 23. Establishment of hospitals without issuance of
916 bonds.--If the Board of Commissioners of the North Broward
917 Hospital District, by reason of funds on hand, donations, or
918 otherwise, is able to build and establish a hospital or

919 hospitals without issuing bonds, the board of commissioners is
920 hereby authorized and empowered to establish such hospital or
921 hospitals.
922 Section 24. Competitive bids to be sought; procedure;
923 authority to negotiate contracts; group purchasing.--
924 (1)(a) All purchases of supplies, equipment, and materials
925 for use in the operation and maintenance of a hospital or
926 hospitals in excess of an amount to be determined from time to
927 time by resolution of the board of commissioners not to exceed
928 1.5 mills of the total annual district revenues, and all
929 contracts for construction of improvements authorized under this
930 act at a contract price in excess of said amount, shall be
931 approved only after competitive conditions have been maintained
932 and competitive bids sought from at least three different
933 sources of supply, but this does not necessarily require
934 newspaper advertising. The board of commissioners shall have the
935 authority to modify or negotiate to the extent provided in
936 subsection (2).
937 (b) All purchases of supplies, equipment, and materials
938 for use in the operation and maintenance of a hospital or
939 hospitals in excess of an amount to be established from time to
940 time by resolution of the board of commissioners not to exceed
941 1.5 mills of the total annual district revenues, and all
942 contracts for construction of improvements authorized under this
943 act at a contract price in excess of said amount, shall be made
944 or let only after an advertisement inviting bids upon such
945 purchases or contracts has been published in a newspaper of
946 general circulation in the North Broward Hospital District. The

947 board of commissioners shall have the authority to modify or
948 negotiate to the extent provided in subsection (2).
949 (c) Bids upon such purchases or contracts shall be sealed
950 and shall not be opened by the North Broward Hospital District
951 until after the last bid to be considered has been received by
952 the district.
953 (d) All purchases of supplies, equipment, and materials
954 for use in the operation and maintenance of a hospital or
955 hospitals made by the district may be made through participation
956 in group purchasing plans by or with other governmental or
957 nongovernmental agencies at the discretion of the board of
958 commissioners. The district may purchase in accordance with
959 prices established by such group purchasing plans where it can
960 be demonstrated that savings to the district would be realized.
961 (2) Any plans and specifications provided to prospective
962 bidders shall be solely for the purpose of identifying the
963 purchase or construction desired, and the board of commissioners
964 is hereby authorized and empowered to deviate from such plans,
965 specifications, and instructions in the acceptance of any bid so
966 long as the contract or purchase accepted is substantially
967 similar in function and purpose to that identified. The board of
968 commissioners is further authorized and empowered to agree with
969 the successful bidder for changes and modifications to the
970 successful bid, the total value of changes and modifications not
971 to exceed 20 percent of the agreed price, without voiding the
972 existing contract and without any further bidding procedure.
973 (3) No bidding procedure prescribed in this section shall
974 apply to work performed by regular employees of the district.

975 (4) Whenever it reasonably appears to the board of
976 commissioners that, by reason of an emergency or unusual
977 conditions, compliance with the bidding procedures prescribed by
978 this section would be detrimental to the interests of the North
979 Broward Hospital District, the board of commissioners may by
980 appropriate resolution identify such emergency or unusual
981 condition and authorize the purchase or construction desired
982 without compliance with the prescribed bidding procedures of
983 this section.
984 Section 25. Bad debts.--The board of commissioners is
985 authorized to declare accounts receivable uncollectible and to
986 write such accounts off the active books and financial records
987 of the district as bad debts. The board of commissioners is
988 further authorized to destroy the account records of those
989 accounts declared to be bad debts, but such records shall not be
990 destroyed earlier than 4 years after the annual audit of the
991 district reflecting such writeoff has been sent to the office of
992 the Florida Chief Financial Officer, as required by law.
993 Section 26. Settlement of claims of district against
994 others.--The board of commissioners shall be authorized and
995 empowered to compromise and settle any accounts receivable or
996 other claim on money due and owing to the district according to
997 such terms and conditions as the board of commissioners in its
998 discretion might determine. It is expressly provided that
999 factors which may be considered by the board of commissioners in
1000 such compromise are the ability of the debtors to pay and the
1001 probabilities of collection in full. The board of commissioners
1002 is further authorized and empowered to sell, assign, or convey

1003 to any person the right, title, and interest of the district in
1004 any account receivable or judgment owned by the district by full
1005 or partial payment of such account or judgment as the board of
1006 commissioners in its discretion might determine. The board of
1007 commissioners is further authorized and empowered to subordinate
1008 its interest in any mortgage or judgment lien to the interests
1009 of any third parties according to such terms and conditions as
1010 the board of commissioners in its discretion might determine.
1011 Section 27. Payments to other medical institutions.--The
1012 board of commissioners is authorized and empowered to obligate
1013 the district for the payment of hospital and nursing home
1014 expenses for patients transferred from hospitals of the district
1015 to such other institutions at the district's request, provided
1016 that said patients shall be first certified to be medically
1017 indigent by the North Broward Hospital District, based upon the
1018 definition and standards used by the state. The authority to
1019 obligate the district to such institutions may be delegated by
1020 the board of commissioners to such administrative officers of
1021 the district as the board might believe to be necessary and
1022 proper, and such obligations may be incurred by the district
1023 according to such circumstances, terms, and conditions as the
1024 board of commissioners might determine or specify.
1025 Section 28. Parking facilities.--The board of
1026 commissioners is authorized and empowered to establish,
1027 construct, and maintain such automobile parking facilities upon
1028 district property as the board of commissioners in its
1029 discretion might determine to be necessary and proper to a
1030 hospital facility. The board of commissioners is further

1031 authorized and empowered to charge such fee for the use of such
1032 facilities as it might determine.
1033 Section 29. Medical research.--The board of commissioners
1034 is hereby authorized and empowered at any time in its discretion
1035 to establish, maintain, or participate in such programs and
1036 projects of and for medical research, education, and development
1037 affecting human physical or mental health and well being as it
1038 may deem desirable. In connection with such programs and
1039 projects, the board of commissioners is authorized and empowered
1040 to cooperate with public and private educational or research
1041 institutions, corporations, foundations, or organizations of any
1042 and all types as well as agencies, departments, divisions,
1043 branches, or bodies of government, or created by government,
1044 whether federal, state, county, municipal, or otherwise. In
1045 furtherance of such programs and projects, said board of
1046 commissioners is further authorized and empowered to expend
1047 moneys and utilize assets and property, real or personal, of the
1048 district and to receive donations, grants, or gifts of money or
1049 property, real or personal, from any person or persons, firm,
1050 organization, corporation, society, institution, foundation, or
1051 legal entity of whatever nature, whether private, governmental,
1052 or public.
1053 Section 30. Fiscal year.--Notwithstanding the provisions
1054 of section 218.33, Florida Statutes, the fiscal year of the
1055 North Broward Hospital District shall commence July 1 and end
1056 June 30 of each calendar year.
1057 Section 31. Use of Florida Industrial Development
1058 Financing Act.--The district is hereby declared to be a local

1059 agency as defined in section 159.27, Florida Statutes, and shall
1060 have all additional powers set forth in part II of chapter 159,
1061 Florida Statutes, to be exercised in furtherance of the purposes
1062 of the district.
1063 Section 32. Transfer or lease of facilities to not-for-
1064 profit corporations authorized.--
1065 (1) The district shall have the authority to transfer, by
1066 lease, installment sale agreement, or otherwise, any or all of
1067 its hospitals and other facilities to one or more Florida not-
1068 for-profit corporations for the purpose of operating and
1069 managing such facilities and to enter into leases with one or
1070 more Florida not-for-profit corporations for the operating of
1071 such facilities. The term of any such lease, contract, or
1072 agreement and the conditions, covenants, and agreements to be
1073 contained therein shall be determined by the board.
1074 (2) Any lease, contract, or agreement made pursuant to
1075 subsection (1) shall:
1076 (a) Provide that the articles of incorporation of such
1077 not-for-profit corporations initially be subject to the approval
1078 of the board of commissioners of the district.
1079 (b) Require that the not-for-profit corporations become
1080 qualified under s. 501(c)(3) of the United States Internal
1081 Revenue Code.
1082 (c) Provide for the orderly transition of such facilities
1083 to not-for-profit corporations.
1084 (d) Provide for the return of such facility to the
1085 district upon the termination of such agreement or the
1086 dissolution of such not-for-profit corporations.

1087 Section 33. Community Redevelopment Act of 1969.--
1088 (1) Notwithstanding the provisions of part III of chapter
1089 163, Florida Statutes, the Community Redevelopment Act of 1969,
1090 the North Broward Hospital District shall not be deemed to be a
1091 public body or taxing authority as those terms are used in part
1092 III of chapter 163, Florida Statutes.
1093 (2) This section shall not apply with respect to community
1094 redevelopment agencies established prior to January 1, 2002.
1095 Section 34. Liberal construction of act.--The provisions
1096 of this act shall be liberally construed for accomplishing the
1097 work authorized and provided for or intended to be provided for
1098 in this act, and where strict construction would result in the
1099 defeat of the accomplishment of any part of the work authorized
1100 by this act and a liberal construction would permit or assist in
1101 the accomplishment thereof, the liberal construction shall be
1102 chosen.
1103 Section 4. Severability.--Any provision of this act which
1104 for any reason may be held or declared invalid or unenforceable
1105 may be eliminated, and the remaining portion or portions thereof
1106 shall remain in full force and be valid and enforceable as if
1107 such invalid or unenforceable provision had not been
1108 incorporated therein.
1109 Section 5. Chapters 27438 (1951), 61-1931, 61-1937, 63-
1110 1192, 65-1316, 65-1319, 67-1170, 67-1171, 69-895, 69-898, 69-
1111 914, 70-622, 71-567, 71-576, 71-578, 73-411, 73-412, 73-413, 74-
1112 449, 75-347, 75-348, 76-338, 77-508, 78-481, 80-464, 80-468, 81-
1113 354, 84-399, 86-369, 87-508, 90-485, 91-351, 97-372, and 2002-
1114 363, Laws of Florida, are repealed.

1115 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1483 Grove Community District, Okeechobee County
SPONSOR(S): Attkisson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2766

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

SUMMARY ANALYSIS

This bill creates the Grove Community District (district), which encompasses approximately 6,000 undeveloped acres within Okeechobee County, for the purpose of providing community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill provides the minimum requirements that must be included in the charter when creating an independent special district. The bill authorizes the district to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; emergency medical care; higher education facilities, school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste collection and disposal; impact fee credit agreements; health care facilities; buildings and structures for district offices, maintenance facilities, meeting facilities, community centers, or any other project authorized by this bill. The district may, using its general and special powers, provide any project within or without the boundaries of the district when the project is the subject of an agreement between the district and the Okeechobee County Board of County Commissioners or with any other applicable public or private entity and is not inconsistent with the effective local comprehensive plan.

The district may levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; and special assessments. The district may impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire board is elected by electors of the district.

The bill creates a five-member Board of Supervisors to govern the district. The Board is initially elected on a one-acre/one-vote basis, however, as population in the district increases, members are elected by qualified electors of the district. According to an estimated development schedule, a majority of the board will be elected by qualified electors after approximately 19 years.

The attached Economic Impact Statement does not project any fiscal impact in FY 05-06 and FY 06-07; however, the district is authorized to levy special assessments, fees, non ad-valorem assessments, and ad valorem taxes (upon approval at referendum) but the amount of revenues generated by these assessments is indeterminate. The district is authorized to perform numerous functions and undertake a wide range of projects within the district, therefore, expenditures are expected to be substantial but indeterminate.

This bill appears to provide exemptions from the provisions of general law. Pursuant to House Rule 5.5(b), 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. [Please see p. 20 of this analysis.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates an independent special district that is authorized to perform a wide range of functions within its jurisdictional boundaries and extraterritorially, and that may adopt a wide range of administrative rules pursuant to ch. 120, F.S.

Provide for Lower Taxes: The district is authorized to raise revenues by levying ad valorem taxes up to 3 mills, if approved at referendum; non-ad valorem maintenance taxes; non-ad valorem assessments; benefit special assessments; maintenance special assessments; special assessments; and fees, or service charges.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

The bill specifies that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"[1] within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis.

If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located. As of November 2003, there were 210 active CDDs in Florida.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager; the right

[1] Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

to contract; to borrow money; to adopt administrative rules pursuant to ch. 120, F.S.; and the power of eminent domain.[2]

Election Procedures for Community Development Districts Generally

Section 190.006(3), F.S., provides for the transition of Community Development District (CDD) boards that are elected by landowners to boards elected by qualified electors of the districts. If a CDD wishes to exercise ad valorem taxing power, the district board must call an election at which the members of the board of supervisors will be elected by qualified electors. Each member must be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members are elected for a period of 4 years and two members for a period of 2 years. All elected board members must be qualified electors of the district.

Regardless of whether a district has proposed to levy ad valorem taxes, commencing 10 years after the initial appointment of members, the position of each member whose term has expired must be filled by a qualified elector of the district, elected by the qualified electors of the district. However, if, in the 10th year after initial appointment for districts exceeding 5,000 acres in area, there are not at least 500 qualified electors, members of the board continue to be elected by landowners.

If a district has less than 50 qualified electors when the district is created, after the 10th year and, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring must be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring must be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members must be qualified electors elected by qualified electors of the district for a term of 4 years.

Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November.

EFFECT OF PROPOSED CHANGES

Grove Community District Generally

This bill creates the Grove Community District (district), a "local government and corporate body politic, is limited to its single, narrow, and special legislative purpose herein expressed, with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity its basic systems, facilities, services, improvements, infrastructure, and projects and possessing financing powers to fund its management purpose over the long term." The boundaries of the district encompass approximately 6,000 undeveloped contiguous acres in Okeechobee County. The general purpose of the district is to The limited, single, and specialized purpose of the Grove Community District is to "provide community development systems, facilities, services, projects, improvements, and infrastructure to the new community by exercising its various management powers, with related financing powers, both general and special, as set forth by and limited by this act."

The independent district charter created in this act involves "innovative general and special powers not otherwise available for this unique and highly specialized first ever new community in such a unique area." However, the district must operate and function subject to, and not inconsistent with, the Okeechobee County Comprehensive Plan and Land Development Regulations and any applicable development orders, zoning regulations, or other land development regulations.

[2] *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

On January 12, 2006, the Board of County Commissioners of Okeechobee County adopted Resolution 2006-1, expressing no objection to the creation and establishment of the Grove Community District and finding it consistent with the Okeechobee County Comprehensive Plan.

Referendum Requirement
This bill takes effect upon becoming a law, without a referendum of the voters or landowners in the district; however, the provisions of the bill that authorize the levy of ad valorem assessments take effect only upon express approval by a majority vote of those qualified electors of the district, as required by Section 9 of Article VII of the State Constitution, voting in a referendum to be called by the Supervisor of Elections of Okeechobee County and held by the Board of Supervisors of the Grove Community District. The referendum must be held in accordance with the provisions of law relating to elections in force at the time the referendum is held.

Modification of District Boundaries and Charter
The territorial boundary of the district embraces and includes, without reservation or enclave, all of that certain real property described legally in the district charter. The charter of the district is this act and may be amended, terminated, or repealed only by special act of the Legislature amending or repealing this act.

The board may ask the Legislature through its local legislative delegation in and for Okeechobee County to amend this act to contract or expand the boundaries of the district. The district will remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature; or
2. The district has become inactive pursuant to s. 189.4044, F.S.

The jurisdiction of this district, in the exercise of its general and special powers and in the carrying out of its single, narrow, and special purpose, is both within the external boundaries of the legal description of this district and extraterritorially, when limited to, and as authorized expressly elsewhere in, the charter of the district in this act or applicable general law.

District Governing Board
This bill creates the Board of Supervisors of the Grove Community District, which is the governing board and body of the district. Except as otherwise provided, each member holds office for a term of 4 years and until his or her successor is chosen and qualifies. There are five members of the board who must, in order to be eligible, be residents of the state and citizens of the United States. Three members constitute a quorum.

All members of the board, regardless of how elected, are public officers, known as supervisors, and, upon entering into office, must take and subscribe to the oath of office as prescribed by general law. All members of the board, regardless of how elected, and regardless of whether they are qualified electors themselves, are public officials and subject to ethics and conflict of interest laws of the state that apply to all public officers. They hold office for the terms for which they were elected and until their successors are chosen and qualified.

Any elected member of the board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act. Any vacancies which may occur in such office must be filled by the Governor, as soon as practicable, unless filled by the board.

All governing board members elected by qualified electors must be qualified electors elected at large. Candidates seeking election as qualified electors must conduct their campaigns in accordance with general law requirements.

a. Election of Board by Landowners

Within 45 days after the effective date of this act, a specially noticed meeting of the landowners of the district must be held for the purpose of electing the members to the first board. At the meeting, for the election of each person to be elected, each and every acre of land, or any fraction thereof, within the boundary of the district represents one vote and each owner of that acre or fraction thereof is entitled to one vote for every such acre or fraction thereof. Persons who qualify to serve as board members must be nominated at the noticed meeting and prior to the initial election at the noticed meeting. A landowner may vote in person or by proxy in writing. A landowner who sells land to a bona fide purchaser may by written lawful instrument retain the voting rights for that acreage.

At the landowners' meeting for the election of the members of the board on a one-acre, one-vote basis, the two candidates receiving the highest number of votes must be elected for terms expiring November 30, 2008, and the three candidates receiving the next highest number of votes must be elected for terms expiring November 30, 2010. The members of the first board elected by the landowners must serve their respective 4-year or 2-year terms; however, the next election by the landowners must be held on the first Tuesday in November 2008 to elect members to fill those vacancies to 4-year terms. Thereafter, there must be an election of supervisors for the district every 2 years in November on a date established by the board and subject to public notice.

In case of a vacancy in the office of any member of the board, the remaining members of the board must, by majority vote, elect a person to serve as a member of the board for the unexpired portion of the term.

b. Election of the Board by Qualified Electors

Elections of the members of the board must be conducted on a one-acre, one-vote basis until and unless a referendum is called by the board on the question of whether certain members of the board should be elected by qualified electors, providing each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

1. The district has at least 500 qualified electors based on the most recent state population estimate.
2. A petition signed by 10 percent of the qualified electors of the district has been filed with the board. The petition must be submitted to the Supervisor of Elections of Okeechobee County who must, within 30 days after receipt of the petition, certify to the board the percentage of signatures of qualified electors contained in the petition.

Upon verification by the supervisor of elections that 10 percent of the qualified electors of the district have petitioned the board, a referendum election must be called by the board at the next regularly scheduled election of governing board members occurring at least 60 days after verification.

If the qualified electors approve the election procedure described below, the governing board of the district will remain five members and elections must be held pursuant to the criteria described below, beginning with the next regularly scheduled election of board members or at a special election called within 6 months after the referendum and final unappealed approval of district urban area maps as provided in this section, whichever is earlier. If the qualified electors of the district reject the election procedure, elections of the members of the board continue as described in this act on a one-acre, one-vote basis. No further referendum on the question may be held for a minimum period of 2 years after the referendum.

Within 30 days after approval of the election process by qualified electors of the district, the board must direct district staff to prepare and to present maps of the district describing the extent and location of all urban areas within the district. The determination must be based upon the criteria contained in the definition of urban area in this act. "Urban area" is defined as "a developed and inhabited urban area within the district within a minimum acreage resident population density of least 1.5 persons per acre as

defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the jurisdiction of the district."

Within 60 days after approval of the election process by qualified electors of the district, the maps describing urban areas within the district must be presented to the board.

Any district landowner or elector may contest the accuracy of the urban area maps prepared by district staff within 30 days after submission to the board. Upon notice of objection to the maps, the governing board must request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. The determination must be based exclusively upon the criteria contained in the definition "urban area". Within 30 days after the governing board submits its request, the county engineer must present the maps to the governing board.

Upon presentation of the maps by the county engineer, the governing board must compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and must adopt the official maps at a regularly scheduled board meeting. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board after adoption in accordance with the provision for judicial review as provided in the Administrative Procedure Act. Accuracy must be determined pursuant to the definition of "urban area".

Upon adoption by the board or certification by the court, the district urban area maps must serve as the official maps for determination of the extent of urban area within the district and the number of members of the board to be elected by qualified electors and by one-acre, one-vote at the next regularly scheduled election of governing board members.

Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing board must determine the number of electors in accordance with the percentages pursuant to this paragraph. The maps must be updated and readopted every 5 years or sooner at the discretion of the board.

The five members of the governing board of the district must be elected in accordance with the following determinations of urban area:

- If urban areas constitute 25 percent or less of the district, one governing board member must be elected by the qualified electors and four governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute more than 25 percent but less than 50 percent of the district, two governing board members must be elected by the qualified electors and three governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 50 percent but less than 70 percent of the district, three governing board members must be elected by the qualified electors and two governing board members elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 70 percent but less than 90 percent of the district, four governing board members must be elected by the qualified electors and one governing board member must be elected in accordance with the one-acre, one-vote principle.
- If urban areas constitute at least 90 percent or more of the district, all governing board members must be elected by the qualified electors.

All governing board members elected by qualified electors have a term of 4 years each except for governing board members elected at the first election and the first landowners' meeting following the referendum described above. Governing board members elected at the first election and the first landowners' meeting following the referendum serve as follows:

- If one governing board member is elected by the qualified electors and four are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors are elected for a term of 4 years each. Governing board members elected on a one-acre, one-vote basis are elected for terms as otherwise prescribed in the provisions governing elections by landowners.
- If two governing board members are elected by the qualified electors and three are elected on a one-acre, one-vote basis, the governing board members elected by the qualified electors are elected for a term period of 4 years each. Governing board members elected on a one-acre, one-vote basis must be elected for terms of 1, 2, and 3 years, respectively, as otherwise prescribed in the provisions governing elections by landowners.
- If three governing board members are elected by the qualified electors and two are elected on a one-acre, one-vote basis, two of the governing board members elected by the qualified electors are elected for a term of 4 years and the other governing board member elected by the electors must be elected for a term of 2 years. Governing board members elected on a one-acre, one-vote basis must be elected for periods of 1 year and 2 years, respectively, as otherwise prescribed in the provisions governing elections by landowners.
- If four governing board members are elected by the qualified electors and one is elected on a one-acre, one-vote basis, two of the governing board members elected by the electors are elected for terms of 2 years each and the other two for term of 4 years each. The governing board member elected on a one-acre, one-vote basis are elected for a term of 1 year as otherwise prescribed in the provisions governing elections by landowners.
- If five governing board members are elected by the qualified electors, three must be elected for terms of 4 years each and two for terms of 2 years each.

If any vacancy occurs in a seat occupied by a governing board member elected by the qualified electors, the remaining members of the governing board must, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office for the unexpired term. Each election by qualified electors of members of the board must be conducted in the manner and at a time prescribed by law for holding general elections or prescribed by the Supervisor of Elections in and for the Okeechobee County political subdivision.

An annual landowners' meeting must be held and at least one governing board member must be elected on a one-acre, one-vote basis for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there will be no further landowners' meetings.

At any landowners' meeting called for the purpose of addressing elections issues, 50 percent of the district acreage is not be required to constitute a quorum and each governing board member is elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting. All landowners' meetings of districts operating pursuant to this section must be set by the board within the month preceding the month of the election of the governing board members by the electors.

General Powers of the District

The following broad general powers of the district must be construed liberally in order to carry out effectively the single specialized purpose of this act and to secure for the district its ability to be innovative:

- 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; to acquire by purchase, gift, devise, or otherwise, and to dispose of, real and personal property or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements.
- 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, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt rules and orders pursuant to the provisions of ch.120, F.S., 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 certificates evidencing tax liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.
- To maintain an office at such place or places as the board designates in Okeechobee County and within the district when facilities are available.
- To hold, control, and acquire by donation, purchase, or condemnation, and to dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act other than public easements conveyed to or accepted by Okeechobee County and to make use of such easements, dedications, or reservations for the purpose mandated by this act.
- To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out the purposes mandated by this act.
- To borrow money and issue bonds, certificates, warrants, notes, or other evidences of indebtedness as hereinafter provided; to levy such tax and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
- To exercise within the district, or beyond the district with prior approval by majority vote of a resolution of the governing body of the county if the taking will occur in an unincorporated area, the right and power of eminent domain, pursuant to the provisions of chs. 73 and 74, F.S., over any property within the state, except municipal, county, state, and federal property, for the uses and purpose of the district relating solely to water, sewer, district roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
- To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.
- To assess and impose upon lands in the district ad valorem taxes as provided and limited by this act.
- If and when authorized by general law, to determine, order, levy, impose, collect, and enforce maintenance taxes.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this act, which sets forth a detailed uniform procedure to implement ch. 170, F.S., and as an alternative to determine, order, levy, impose, collect, and enforce assessments under and pursuant to ch.170, F.S., pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law, now or hereinafter enacted, which provide or authorize a supplemental means to impose, levy, and collect special assessments. Such special assessments, in the discretion of the district, as provided in s. 197.3631, F.S., may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this act.

- To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to ch. 163, F.S., or which are required or permitted to be undertaken by the district pursuant to any development order or development of regional impact, including any interlocal service agreement with Okeechobee County for fair-share capital construction funding for any capital facilities or systems required of the developer pursuant to any applicable development order or agreement.
- To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the single purpose of the district authorized by this act.

Special Powers of the District

The district is granted the following special powers to implement its special purpose and to provide pursuant to that purpose basic systems, facilities, and services in the district subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure any or all of the following special powers granted by this act in order to implement the special requirements of this new community within the single special purpose of the district:

- To provide for water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges. In the event that the board assumes the responsibility for providing water management and control for the district which is to be financed by benefit special assessments, the board must adopt plans and assessments pursuant to law or may adopt water management and control plans, assess for benefits, and apportion and levy special assessments in accordance with specified procedures set forth in the bill.
- To provide for water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof and any irrigation systems, facilities, and services; to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or way; and to dispose of any effluent, residue, or other byproducts of such system or sewer system.
- To provide for bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.
- To provide for district roads equal to or exceeding the specifications of the county in which such district roads are located, and streetlights, including conditions of development approval which sometimes may be different specifications than the normal specifications of the county.
- Include as a component thereof roads, parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system in general or as tied to the conditions of development approval for the specific district.
- To plan, implement, construct or reconstruct, enlarge or extend, finance, fund, equip, operate, and maintain parking facilities freestanding or as may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local laws and ordinances.
- To provide for buses, trolleys, transit shelters, ride-sharing facilities and services, parking improvements, and related signage.
- To cover investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district who caused or contributed to the contamination.
- To provide for conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

- Using its general and special powers as set forth in this act, to provide for any other project within or without the boundaries of a district when the project is the subject of an agreement between the district and the Board of County Commissioners of Okeechobee County or with any applicable other public or private entity, including a homeowner association, and is not inconsistent with the Okeechobee County Comprehensive Plan and the Growth Management act which implement the single special purpose of the district.
- To provide for parks and facilities for indoor and outdoor recreational, cultural, and educational uses.
- To provide for fire prevention and control, including fire stations and buildings, water mains and plugs, fire trucks, and other vehicles and equipment, and for emergency medical services, including stations and buildings, vehicles, and equipment.
- To provide for school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board. The district is granted the special power to contract with the Okeechobee County School Board and, as applicable, the Board of County Commissioners of Okeechobee County, and with the applicable landowner developer of the lands within the jurisdiction of the district, to assess the school district educational facilities plan, and to implement a management and financing plan for timely construction, maintenance, and acquisition, at the option of the district, of school facilities, including facilities identified in the facilities work programs or those proposed by charter schools. The district is granted the special power to determine, order, levy, impose, collect, or arrange for the collection and enforcement of assessments, as defined in and pursuant to this act, for such school facilities. The district is eligible for the financial enhancements available to educational facility benefit districts to provide for financing the construction and maintenance of educational facilities pursuant to s. 1013.356, F.S., and, if and when authorized by general law, to acquire such educational facilities.
- To provide for security, including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries. Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.
- To provide for control and elimination of mosquitoes and other arthropods of public health importance.
- To provide for waste collection and disposal.
- To enter into impact fee credit agreements with Okeechobee County and the Okeechobee County School Board. Under such agreements, where the district constructs or makes contributions for public systems, facilities, services, projects, improvements, works, and infrastructures for which impact fee credits would be available to the landowner developer under the Okeechobee County and Okeechobee County School Board applicable impact fee ordinance, the agreement authorized by this act must provide that such impact fee credit must inure to the landowners within the district in portion to assessments or other burdens levied and imposed upon the landowners with respect to assessable improvements giving rise to such impact fee credits, and the district must, from time to time, execute such instruments, such as assignments of impact fee credits, as may be necessary, appropriate, or desirable to accomplish or to confirm the foregoing.
- To establish and create, at noticed meetings, such government departments of the board of the district, as well as committees, task forces, boards, commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise its general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate to such departments, boards, task forces, committees, or other agencies such administrative duties and other powers as the board may

deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board, which must retain its powers.

- So long as not inconsistent with the applicable local government comprehensive plan and development entitlements, to coordinate with the landowner developer on the phasing of the delivery of infrastructure and to create phase entities or units for its charter purpose. Toward this end, and so long as it implements the purpose of the district under this act, the board may designate, therefore, units of development and adopt systems of progressive phased development by units with related management planning, implementation, construction, maintenance, and financing within its phased unit. If the board proceeds to designate such phased units of development, it must adopt at a noticed meeting pursuant to ch. 120, F.S., a rule setting forth detailed procedures and authorizations for such phase unit processes. A committee, department, or agency of the board must be given express duty of oversight with monthly written reports to the board. No such phased units can begin or operate until or unless the required noticed rule has been promulgated. With regard to any phased unit, there must be no bonded indebtedness and no levy of any lienable or nonlienable revenue, whether to amortize bonds or not, within the boundary of a phased unit other than by the board and pursuant to the powers, procedures, and provisions of this act and other applicable laws.
- To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this act upon a showing at a noticed meeting of its efficacy to the specialized single purpose of this district for the new community.
- To plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, maintain, finance, and fund edifices and facilities for the provision of health care when authorized by applicable public or private agencies providing health care and upon a showing of efficacy to carry out the purpose of the district.
- To coordinate, work with, and, as the board deems appropriate, enter into interlocal agreements subject to the provisions of this charter with any public or private institution of higher education, including the Indian River Community College and any public or private university. The purpose of such coordination and agreements is to help sustain high-quality infrastructure in, around, and for the universities as may be appropriate under the law on the basis that the provision of such systems, facilities, and services, including classrooms or other buildings for such institutions, constitutes enhancement of the intrinsic value and marketability of property within the new community and also provides for increased enjoyment and enhanced use of the property. These systems, facilities, and services, including buildings, must be first liens on the property within the community and serve a lawful public purpose upon a showing by the board in a nonarbitrary and informed manner of special and peculiar benefits that flow to the property within the community as a logical connection from the systems, facilities, and services, resulting in added use, enhanced enjoyment, decreased insurance premiums on, or enhanced value in the marketability of the property.
- To adopt and enforce appropriate rules following the procedures of ch. 120, F.S., in connection with the provisions of one or more its systems, facilities, services, projects, improvements, works, and infrastructure.

The enumeration of special powers is not exclusive or restrictive but must be deemed to incorporate all powers, express or implied, necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this special act charter to the district to implement its single purpose.

District Borrowing and Issuance of Bonds

The district is authorized to obtain loans in any amount and on such terms as the board approves at an interest rate not to exceed the maximum rate allowed by general law. The district is also authorized to issue bond anticipation notes, interim certificates, certificates of indebtedness, assessment bonds, revenue bonds, and refunding bonds. Any general obligation bonds, special assessment bonds, or revenue bonds may be authorized by resolution or resolutions of the board, which must be adopted by

a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted.

The district is authorized to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, general obligation bonds may not be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution.

The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

The power of the district to issue bonds under the provisions of this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years must be validated and confirmed, by court decree, under the provisions of ch. 75, F.S.

To the extent allowed by general law, all bonds, interest paid and all fees, charges, and other revenues derived by the district from the projects are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued are not exempt from the tax imposed by ch. 220, F.S. Further, the district is not exempt from the provisions of ch. 212, F.S.

The state pledges to the holders of any bonds issued that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein or to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

A default on the bonds or obligations of a district does not constitute a debt or obligation of the state or any local general-purpose government or the state.

Taxes, Special Assessments, Fees, and Charges

Ad valorem taxes. A board elected by and consisting of qualified electors is authorized to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3 mills. The ad valorem tax is in addition to county and all other ad valorem taxes provided for by law, and is assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum when required by the State Constitution.

Benefit Special Assessments. The board must annually determine, order, and levy the annual installment of the total benefit special assessments for bonds issued for and expenses related to financing assessable improvements. Each annual installment of benefit special assessments is a lien on the property against which assessed until paid and is enforceable in a like manner as county taxes. The amount of the assessment for the exercise of the district's powers must be determined by the board based upon a report by the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

Non-Ad Valorem Maintenance Tax. In order to maintain and preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the district, and to repair and restore any one or more of them, when needed, and for the purpose of defraying the current expenses of the district, including any sum which may be required to pay state and county ad valorem taxes on any lands which may have been purchased and which are held by the district, the board may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a "maintenance tax." This non-ad valorem maintenance tax must be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction.

Maintenance Special Assessments. To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. These maintenance special assessments are a lien on the property against which assessed until paid and are enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers must be determined by the board based upon a report by the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Special Assessments. As an alternative method to the levy and imposition of special assessments pursuant to ch. 170, F.S., pursuant to the authority of s. 197.3631, F.S., or pursuant to other provisions of general law that provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any its powers using the specified uniform procedures.

Fees, Charges, and Rentals. The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges for the systems, facilities, and services furnished by the district within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

Rates, fees, rentals, or other charges for any of the facilities or services of the district may not be fixed until after a public hearing at which all the users of the proposed facility or service or owners, tenants, or occupants served or to be served thereby and all other interested persons have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges adopted under the administrative rulemaking authority of the district do not apply to district leases.

Rates, fees, rentals, and charges must be just, equitable, and uniform for users of the same class and, when appropriate, may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

If any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

If any fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board may, under such reasonable rules and regulations as the board may adopt, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance of or restoration of such water and sewer services, or both, are fully paid; for such purposes, the board may enter on any lands, waters, or

premises of any person, firm, corporation, or body, public or private, within the district limits. Delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance of or restoration of such services and facilities, reasonable attorney's fees, and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Enforcement of Taxes and Assessments
The collection and enforcement of all taxes levied by the district is at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith are applicable to the district. All taxes are subject to the same discounts as county taxes. All taxes provided for in this act become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments; special assessments; and maintenance taxes if authorized by general law, constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes.

Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in ch. 173, F.S. The provisions of that chapter are applicable to such proceedings. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under ch. 173, F.S., may be performed by such officer or agent of the district as the board may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien may be foreclosed against any political subdivision or agency of the state. Other legal remedies remain available.

Competitive Bidding and Public Notice Regarding District Purchases
The board may not execute any contract for goods, supplies, or materials to be purchased when the amount to be paid by the district exceeds $150,000, the amount provided in s. 287.017, F.S., for category four unless notice of bids are advertised once in a newspaper of general circulation in Okeechobee County. If the board seeks to construct or improve a public building or structure or other public works, it must comply with the bidding procedures of s. 255.20, F.S. and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder must be accepted unless all bids are rejected because the bids are too high or because the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. The board may undertake and perform the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

The provisions of the Consultants' Competitive Negotiation Act in s. 287.055, F.S., apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

Contracts for maintenance services for any district facility or project must be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds $150,000, the amount provided in s. 287.017, F.S., for category four. The district must adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services are not subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.

Notice to Purchasers of Property Within the District
Subsequent to the creation of this district, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district must include, immediately

prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE GROVE COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Within 30 days after the election of the first board members, the district must cause to be recorded in the property records in the county in which it is located a "Notice of Creation and Establishment of the Grove Community District." The notice must, at a minimum, include the legal description of the property of the landowners who have consented to establishment of this district and a copy of the disclosure statement specified in subsection (30).

Public Access
Any system, facility, service, works, improvement, project, or other infrastructure owned by the district or funded by federal tax-exempt bonding issued by the district is public; the district by rule may regulate, and may impose reasonable charges or fees for, the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

C. SECTION DIRECTORY:

Section 1. Provides short title of the Act.
Section 2. Provides legislative intent and definitions.
Section 3. Provides minimum charter requirements.
Section 4. Sets forth district boundaries; grants powers; grants bonding authority; grants taxing authority; grants special assessment authority; grants authority to levy fees, rates, charges, and rentals; requires competitive procurement; requires public access;
Section 5. Provides for severability.
Section 6. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 2, 2006

WHERE? The Okeechobee News, Okeechobee County, Florida

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

IF YES, WHEN? This act takes effect upon becoming a law, except that the provisions of the bill that authorize the levy of ad valorem assessments only take effect upon express approval by a majority vote of those qualified electors of the district, as required by Section 9 of Article VII of the State Constitution, voting in a referendum to be called by the Supervisor of Elections of Okeechobee County and held by the Board of Supervisors of the Grove Community District. The election must be held in accordance with the provisions of law relating to elections in force at the time the referendum is held.

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

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Separation of Powers

Sections 2 and 3 of this bill contain approximately 18 pages of legislative findings of fact, ascertainments, determinations, intent statements, and policy statements. On lines 966-968, the bill provides that "[s]ections 2 and 3 of this act are true and correct and are incorporated herein and made a part of this section as dispositive provisions of law."

Article II, section 3 of the State Constitutional provides that "No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." The Legislature has the authority to enact laws that are presumed to be constitutional. The judicial branch makes the dispositive determination that the presumption has or has not been overcome. An attempt by the Legislature to make a "dispositive" determination may be considered an unconstitutional exercise of judicial powers by the Legislature.

One-Acre, One-Vote Election Mechanism

It should be noted that the broad grants of power to the district *may* impact the permissibility of conducting elections on a "one-vote-per-acre" basis. In *State v. Frontier Acres Community Development District Pasco County, Florida*, 472 So.2d 455 (Fla.1985), the Florida Supreme Court upheld one-vote-per-acre voting for community development districts created under ch. 190, F.S., based on the decisions of the United States Supreme Court,[13] the narrow purpose of such districts, and the disproportionate effect district operations have on landowners:

> The powers exercised by these districts must comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments. Moreover, the limited grant of these powers does not constitute sufficient general governmental power so as to invoke the demands of Reynolds. Rather, these districts' powers implement the single, narrow legislative purpose of ensuring that future growth in this State will be complemented by an adequate community infrastructure provided in a manner compatible with all state and local regulations.

Following this case, the Fourth District Court of Appeal reached a similar conclusion with respect to water control districts which are governed by ch. 298, F.S. *Stelzel v. South Indian River Water Control Dist.*, 486 So.2d 65 (Fla. 4th DCA 1986). In reaching its decision, the court evaluated the functions exercised by the water control district and found that the evidence established that the district does not exercise general governmental functions:

> While the record here contains evidence which tends to support appellants' claims that the District exercises municipal functions, it also demonstrates with equal clarity that each of the functions performed by the District directly relate either to its water control function or to its limited road maintenance authority.

These decisions, and the decisions of the United States Supreme Court, suggest a nexus between the nature and number of powers granted to a special district and whether voting may be conducted on a one-vote-per-acre basis. Thus, the more and varied powers a special district has, it seems more likely that one-vote-per acre voting would be unconstitutional, particularly if the district meets any of the following criteria upon which the courts have based their decisions:

- The district does not have to comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments;
- The district has a grant of power that is not limited and which constitutes "sufficient general governmental power;"
- The district does not have a single, narrow legislative purpose; or
- The functions performed by the district do not directly relate to its single, narrow purpose.

B. RULE-MAKING AUTHORITY: The bill authorizes the district to adopt rules under ch. 120, F.S., the Florida Administrative Procedure Act to provide for:

- 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 certificates evidencing tax liens and all other documents and records of the district.
- Any of the projects of the district and define the area to be included therein.
- The operation of guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board.
- The designation of phased units of development. The rule must set forth detailed procedures and authorizations for such phase unit processes. A committee, department, or agency of the board must be given express duty of oversight with monthly written reports to the board. No such phased units can begin or operate until or unless the required noticed rule has been promulgated.
- One or more its systems, facilities, services, projects, improvements, works, and infrastructure.
- Notice, levy, imposition, equalization, and collection of assessments.
- Competitive bidding procedures for maintenance services. Contracts for other services may not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts.
- Rates, fees, rentals, and other charges.
- Discontinuation of both water and sewer services until delinquent fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance of or restoration of such water and sewer services, or both, are fully paid.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- Notwithstanding any provision of general law, the district may operate guardhouses for the limited purpose of providing security for the residents of the district and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the district or other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.
- Notwithstanding the provisions of any other law to the contrary, all bonds issued under the provisions of this act constitutes legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and is a security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.
- Notwithstanding any provision of this act or of ch. 170 or s. 170.09, F.S., which provide that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority, such provision is not applicable to any district assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of Florida law, including, but not limited to, ch.170, F.S.

Broad Powers of the District

The "specialized functions and related prescribed powers," which are a defining characteristic for a special district, are extremely broad for this particular district, including the power to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping,

landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the district; conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements; and provide buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

However, such broad powers, have been upheld by the courts as demonstrated by the leading case on this issue, *State v. Reedy Creek Imp. Dist.*, 216 So.2d 202 (Fla. 1968):

> So long as specific constitutional provisions are not offended, the Legislature in the exercise of its plenary authority may create a special improvement district encompassing more than one county and possessing multi-purpose powers essential to the realization of a valid public purpose. In the present case, the numerous and diverse powers granted to the District by the enabling act appear to be logically related and essential to the realization of the valid public purposes by the District. In reaching this conclusion, we reject the State's argument that the powers granted the District are commensurate in scope with those characteristic of a local municipal government rendering the enabling act a mere subterfuge to avoid the creation of a municipality.

Supremacy Clause
This bill includes the following supremacy clause:

> This single-purpose district is created for all public body corporate, politic, and local government authority and power limited by the charter and subject to the provisions of other general laws, including expressly chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such projects, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein including those necessary and incidental thereto.

Supremacy clauses are provisions that attempt to resolve conflicts between legislative enactments by assigning supremacy or prominence to one provision or set of provisions over another. If a bill includes a general supremacy clause, such as the one contained in this bill, the judiciary determines superiority between general and special law provisions, rather than the Legislature. In addition, general supremacy clauses do not inform interested persons or members of the Legislature of the specific laws containing potential conflicts. Unless the specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

Extraterritorial Services and Projects
This bill provides authority for the district to exercise its powers outside the district boundaries as follows:

> The jurisdiction of this district, in the exercise of its general and special powers and in the carrying out of its single, narrow, and special purpose, is both within the external boundaries of the legal description of this district and extraterritorially, when limited to, and as authorized expressly elsewhere in, the charter of the district in this act or applicable general law.

The district is also authorized to, "[u]sing its general and special powers as set forth in this act, to provide for any other project within *or without the boundaries* of a district when the project is the subject of an agreement between the district and the Board of County Commissioners of Okeechobee County or with any applicable other public or private entity, including a homeowner association, and is not inconsistent with the Okeechobee County Comprehensive Plan and the Growth Management act which implement the single special purpose of the district."

The ability of the district to exercise its general and special powers outside its boundaries may raise questions regarding the levy of special assessments on property owners within the district if proceeds of the special assessments, fees, or non-ad valorem taxes are used to fund projects outside the district. The charter is unclear as to when and under what circumstances the district may exercise its powers extraterritorially or how assessments, taxes, and fees will be apportioned to fund projects outside district boundaries.

New Powers to Community Development Districts
Although the district is created pursuant to chapter 189, Florida Statutes, the bill attempts to give the district future powers that may be included in ch. 190, F.S., relating to Community Development Districts as follows:

> Any amendments to chapter 190, Florida Statutes, after January 1, 2006, which grant additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Grove Community District, except that as to any such additional powers, authorities, or projects, this act shall control if there are any related provisions in such additional powers, authorities, or projects inconsistent with the provisions of this act.

Therefore, if the Legislature amends ch. 190, F.S., to grant community development districts additional authority at any time in the future, that additional authority will be automatically granted to the district without further legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

The Okeechobee News

P.O. Box 639, Okeechobee, Florida 34973

(863) 763-3134

Published Daily

STATE OF FLORIDA
COUNTY OF OKEECHOBEE

Before the undersigned authority personally appeared Judy Kasten, who on oath says she is Publisher of the Okeechobee News, a DAILY Newspaper published at Okeechobee, in Okeechobee County, Florida; that the attached copy of advertisement, being a

Public Notice
112963

in the matter of

Notice of intent to seek legislation

in the 19th Judicial District of the Circuit Court of Okeechobee County, Florida, was published in said newspaper in the issues of

February 2, 2006

Affiant further says that the said Okeechobee News is a newspaper published at Okeechobee, in said Okeechobee County, Florida, and that said newspaper has heretofore been published continuously in said Okeechobee County, Florida each week and has been entered as second class mail matter at the post office in Okeechobee, in said Okeechobee 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.

Judy Kasten

Sworn to and subscribed before me this 2nd day of February A.D. 2006

Karmen R Brown

Notary Public, State of Florida at Large

Karmen R. Brown
Commission #DD272118
Expires: Jan 17, 2008
Bonded Thru

NOTICE OF INTENT TO SEEK LEGISLATION

Pursuant to Section 10, Article III of the Florida Constitution and Section 11.02, Florida Statutes, please be advised that notice is hereby given of an intent to seek legislation before the 2006 Legislature relating to the creation and establishment of the Grove Community District in Okeechobee County. This legislation creates and establishes an independent special district to be known as the Grove Community; provides a charter and all applicable requirements; describes District boundaries; provides for a governing board, board member qualifications, terms of office, election procedures and compensation; provides District powers and revenue-raising capabilities; provides for appropriate referenda in the charter and provides an effective date.
112963 ON 2/2/06

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107 S.W. 17TH ST., SUITE D
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2006 LOCAL BILL CERTIFICATION

BILL #: HB 1483

SPONSOR(S): Representative Frank Attkisson and Senator J.D. Alexander

RELATING TO: Relating to the creation and establishment by Special Act of an Independent Special District under Chapter 189, Fla. Stat., the Grove Community District.
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Okeechobee County Legislative Delegation

CONTACT PERSON: Randel Patterson, Assistant to Representative Attkisson

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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 bills 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 31, 2006

Location: In the chambers of the Okeechobee County Board of County Commissioners

(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 provide 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:** February 2, 2006

Where? The Okeechobee News **County** Okeechobee

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 affects.*

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.

Frank Attkisson 2/19/06

Delegation Chair (Original Signature) **Date**

1-24-06

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 1483

SPONSOR(S): Representative Frank Attkisson and Senator J.D. Alexander

RELATING TO: Relating to the creation and establishment by Special Act of an Independent Special District under Chapter 189, Fla. Stat., the Grove Community District.

[indicate Area Affected (City, County, Special District) and Subject]

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

	FY 07-06	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
Revenue:	0	0

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

Advantages: The District will enhances public revenues that will be generated by the new community for state and local governments through the elimination of the need for state and county funding for basic infrastructure. See section 2 and 4 of the bill.

Disadvantages: None. Landowners, businesses and residents who move into the jurisdiction of the District will pay for special and recreational benefits by user fees or non-ad valorem assessments. See section 2 and 4 of the bill.

* From and as determined by the governing board of the independent district the subject of this Act at noticed meetings if and when appropriate.

1 A bill to be entitled
2 An act relating to the Grove Community District,
3 Okeechobee County; providing a short title; creating the
4 Grove Community District; providing for findings,
5 determinations, ascertainments, intent, purpose,
6 definitions, and policy; providing a charter; providing
7 jurisdiction; providing boundaries; providing powers of
8 the district; creating the district as a special, limited,
9 and single-purpose independent district, an independent
10 local government, and corporate body politic, to provide
11 community development infrastructure; providing for
12 authority, boundaries, jurisdiction, and charter
13 amendment; providing for a governing board and terms of
14 office and duties thereof; providing for elections;
15 providing for a district manager; providing for bonds;
16 providing for borrowing; providing for future transition
17 to ad valorem taxation; providing for special assessments;
18 providing for issuance of certificates of indebtedness;
19 providing for tax liens; providing minimum charter
20 requirements; providing for the applicability of and
21 compliance with provisions of chapter 189, Florida
22 Statutes, and other general laws; providing for
23 severability; providing for a referendum; providing an
24 effective date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Short title.--This act may be known as the
29 "Grove Community District Act."
30 Section 2. Legislative findings, ascertainments,
31 determinations, intent, purpose, definitions, and policy.--
32 (1) LEGISLATIVE FINDINGS.--
33 (a) The northeastern area of Okeechobee County is unique
34 and special.
35 (b) The land area of Okeechobee County is relatively
36 untouched and is predominantly used for agriculture or is
37 undeveloped.
38 (c) The economy of Okeechobee County is dominated by farm
39 and retirement industries and:
40 1. Okeechobee County is beginning to experience the
41 economic growth that substantially large parts of the remainder
42 of the state have already experienced.
43 2. While the influence of the farming industry continues
44 to decline, the retirement industry is a major and growing
45 industry.
46 3. Okeechobee County will experience rapid growth in
47 population over the next 20 years, as more retirees move to the
48 state and find coastal housing too expensive and as more
49 residents from coastal Florida counties move inland to
50 Okeechobee County, including northeastern Okeechobee County.
51 (d) In implementing protection of natural resources,
52 retention of viable agriculture, and promotion of a sound
53 economy, the Okeechobee County Comprehensive Plan promotes
54 compact, efficient, and self-sustaining mixed-use development.

55 (e) Evans Properties, Inc., own or have control over
56 approximately 5,683 acres for the development of an innovative
57 new self-sustaining community that fits the goals, aspirations,
58 and plans for northeastern Okeechobee County.
59 (f) Within and subject to the comprehensive plan and land
60 development regulations, such a community requires appropriate
61 compact, balanced, self-sustaining, and mixed-use development on
62 a human scale with the required innovative balance of such
63 importance to the northeastern Okeechobee County area.
64 (g) In particular:
65 1. Creating a new community in northeastern Okeechobee
66 County requires a critical coinciding of existing and future
67 land use with provision of capital facilities and related
68 systems and services, based upon timely, flexible, and
69 specialized management of critical factors and sequential
70 events, balancing among the interests of private enterprise,
71 agriculture, private citizens, taxpayers, consumers, the
72 environment, the economy, the initial landowners, and all
73 applicable levels of government.
74 2. All the applicable public and private persons and
75 entities have invested and expended substantial time and moneys
76 to generate the county comprehensive plan and the existing and
77 future consistent specific regulatory and comprehensive planning
78 entitlements and consistent land development regulations for the
79 identification, preparation, and development of a new community.
80 3. Creating such a new community using a single-purpose
81 special independent district to provide infrastructure
82 constitutes innovative planning and flexible development

83 strategies pursuant to section 163.3177(11), Florida Statutes,
84 and Rule 9J-5.006(5)(l), Florida Administrative Code, to
85 minimize the conversion of agricultural lands to other uses, to
86 discourage urban sprawl, and to protect environmentally
87 sensitive areas while maintaining the economic viability of
88 agricultural and other predominately rural land uses and
89 providing for the efficient use of public facilities and
90 services as provided expressly in objective L7 of the Okeechobee
91 County Comprehensive Plan, Future Land Use Element.
92 (h) There is in particular a special need to use a
93 specialized and limited single-purpose independent district unit
94 of local government for the new community:
95 1. To prevent urban sprawl by providing self-sustaining
96 and freestanding infrastructure and by preventing needless and
97 counterproductive community development when the existing urban
98 area is not yet developed.
99 2. To prevent the needless duplication, fragmentation, and
100 proliferation of local government services in a proposed land
101 use area.
102 (i) Management of public health, safety, welfare,
103 economic, natural, and historic resources in this area of
104 northeastern Okeechobee County transcends the boundaries and
105 responsibilities of both private landowners and individual units
106 of government, so that no one single public or private entity or
107 person can plan or implement policies to deal with the many
108 issues which attend the provision of basic systems, facilities,
109 and services to the area to be managed in northeastern

110 Okeechobee County in order to provide for a new community in the
111 area.
112 (j) It is the expressed set of findings of the Legislature
113 further that:
114 1. There is a considerably long period of time during
115 which there is an inordinate infrastructure burden on the
116 initial landowners of the agricultural land area for the new
117 community because of the innovative, special, and unique
118 requirements in the Okeechobee County Comprehensive Plan for the
119 northeastern Okeechobee County area, dealing specifically with
120 flexible management and related sequencing, timing, and
121 financing of the various systems, facilities, and services to be
122 provided to the new community, taking into consideration
123 absorption rates, commercial viability, and related factors.
124 2. Even as the community matures, there is continuing need
125 for landowners, both initial and subsequent, to bear burdens to
126 provide important infrastructure that remain relatively
127 inordinate in order to preserve such inordinate benefits for
128 northeastern Okeechobee County as the unique environmental and
129 economic purpose of the new community.
130 3. Longer involvement of the initial landowner with regard
131 to the provision of basic systems, facilities, and services in
132 the new community area, coupled with a severely limited and
133 highly specialized single purpose of the district, is in the
134 public interest.
135 4. Any public or private system to provide basic
136 infrastructure improvements, systems, facilities, and services
137 to this new community in northeastern Okeechobee County must be

138 focused on an unfettered, highly specialized, innovative,
139 responsive, accountable mechanism to provide the components of
140 infrastructure at sustained levels of high quality over the long
141 term only when and as needed for such a unique community in such
142 a unique area.
143 5. There is a critical need to maintain such provision of
144 such systems, facilities, and services to the new community
145 because of the unique location and attributes of the
146 northeastern Okeechobee County area, coupled with the unique
147 purpose and location of this new community, subject to,
148 complying with, and not inconsistent with the state, regional,
149 and local requirements which attend implementation of the state
150 plan and the county comprehensive plan.
151 6. This need is met by coinciding the use and special
152 attributes of various public and private alternatives for the
153 provision of infrastructure to such a community development,
154 including:
155 a. The public policy and related implementing zoning,
156 permitting, and planning expertise, interests, and capabilities
157 of state and regional government and of the Okeechobee County
158 general-purpose local government;
159 b. The flexible, limited, focused, and locally accountable
160 management and related financing capabilities of independent
161 special-purpose local government; and
162 c. The innovative development and marketing private-sector
163 expertise of the initial landowners, developers, and other
164 components of private enterprise.

165 7. The specialized financing and revenue procedures for
166 the levy and imposition of first-lien assessments, by a variety
167 of names, must be disclosed, followed, noticed, fair,
168 nonarbitrary, informed, reasonable, and accountable and must be
169 set forth dispositively.
170 (k) The existence and use of such a limited specialized
171 single-purpose local government for the new community, subject
172 to the Okeechobee County Comprehensive Plan, will result in a
173 high propensity:
174 1. To prevent urban sprawl, to protect and preserve
175 environmental, conservation, and agricultural uses and assets,
176 and to enhance the high-quality use of the applicable area of
177 northeastern Okeechobee County;
178 2. To enhance the market value for both present and future
179 landowners of the property consistent with the need to protect
180 private property rights in the northeastern Okeechobee area;
181 3. To enhance the net economic benefit to the Okeechobee
182 County area, including an enhanced and well-maintained tax base
183 to the benefit of all present and future taxpayers in Okeechobee
184 County; and
185 4. To share the costs for providing such basic systems,
186 facilities, and services in an innovative, sequential, and
187 flexible manner within the new community to be serviced by the
188 Grove Community District.
189 (2) ASCERTAINMENTS.--Based upon these findings, the
190 Legislature has learned and ascertains that:
191 (a) There are two public or governmental alternatives and
192 one private alternative available to plan, construct, maintain,

193 and finance the provision of systems, facilities, and services
194 in the intended new community area of northeastern Okeechobee
195 County:
196 1. One of the public or governmental alternatives for such
197 infrastructure provision is by the board of county commissioners
198 within the Okeechobee County political subdivision which can
199 provide certain basic systems, facilities, and services directly
200 or with management by its staff with financing through either a
201 municipal service taxing unit for ad valorem taxes or municipal
202 service benefit for assessments, or indirectly by nonemergency
203 ordinance use of a dependent district.
204 2. The second public alternative is use of an independent
205 special district.
206 3. The private alternative is the private landowner, a
207 private homeowner association, a private utility, a private
208 business corporation, or a partnership or combination of these
209 various private alternatives.
210 (b) Planning, permitting, and creating the new community
211 and using the independent specialized single-purpose Grove
212 Community District created by this act are consistent with and
213 implement both the Okeechobee County Comprehensive Plan and Land
214 Development Regulations and also the following long-standing and
215 expressed policies of the state:
216 1. To allow the creation of independent special taxing
217 districts which have uniform general law standards and
218 procedures and which do not overburden other local governments
219 and their taxpayers while preventing the proliferation of

220 independent special taxing districts which do not meet the
221 standards set forth in section 187.201(20), Florida Statutes.
222 a. There are two alternatives for the use of independent
223 special districts. One alternative is establishment on the
224 approximately 5,683 acres by rule of the Governor and Cabinet of
225 a uniform community development district; the other is a special
226 independent district meeting the minimum requirements of chapter
227 189, Florida Statutes, the applicable district accountability
228 general law.
229 b. Use of this special act, creating and establishing the
230 district on the approximately 5,683 acres in northeastern
231 Okeechobee County, is the better of the two independent district
232 alternatives because it updates the charter of a community
233 development district under chapter 190, Florida Statutes,
234 eliminates potential for its abuse, clarifies and sets forth
235 certain uniform procedures for liens on property and for access
236 by the public to the property, and makes other substantial
237 reforms to the benefit of the people of Okeechobee County and
238 future landowners, residents, and visitors.
239 2. To encourage the development of local water supplies,
240 pursuant to section 187.201(7)(b)3., Florida Statutes.
241 3. To recognize the existence of legitimate and often
242 competing public and private interests and land use regulations
243 and other government action, pursuant to section 187.201(14)(a),
244 Florida Statutes.
245 4. Consistent with the Okeechobee County Comprehensive
246 Plan, to recognize the importance of preserving natural
247 resources and enhancing quality of life by development in those

248 areas where land and water resources, fiscal abilities, and
249 service capacity can accommodate the land use and growth in a
250 manner that is environmentally acceptable, pursuant to section
251 187.201(15)(a), Florida Statutes.
252 5. To allocate costs of new public facilities on the basis
253 of benefits received by existing and future residents while
254 planning for the management and financing of new facilities to
255 serve residents in a timely, orderly, and efficient manner,
256 pursuant to section 187.201(17)(a) and (b)3., Florida Statutes.
257 6. To encourage local government financial self-
258 sufficiency in providing public facilities and to identify and
259 implement fiscally sound, innovative, and cost-effective
260 techniques to provide and finance public facilities while
261 encouraging development, use, and coordination of capital
262 improvement plans by all levels of government, pursuant to
263 section 187.201(17)(b)5., 6., and 7., Florida Statutes, as
264 provided also in the Okeechobee County Comprehensive Plan.
265 7. To increase, promote, and provide access to cultural,
266 historical, and educational resources and opportunities,
267 pursuant to section 187.201(18)(a) and (b)1., Florida Statutes.
268 8. To enhance and diversify the economy of the Okeechobee
269 County area by promoting partnerships among education, business,
270 industry, agriculture, and the arts, provide opportunities for
271 training skilled employees for new and expanding businesses, and
272 promote self-sufficiency through training and educational
273 programs that result in productive employment, pursuant to
274 section 187.201(21)(a) and (b)6., 7., and 8., Florida Statutes.

275 9. To encourage and enhance cooperation among communities
276 that have unique assets, irrespective of political boundaries,
277 to bring the private and public sectors together for
278 establishing an orderly, environmentally sound, and economically
279 sound plan for current and future needs and growth, pursuant to
280 section 187.201(25)(b)8., Florida Statutes.
281 10. To create independent special districts by or pursuant
282 to general law to ensure long-term management and related
283 financing, to meet the need in the state for timely, efficient,
284 effective, responsive, innovative, accountable, focused, and
285 economic ways to deliver basic services to new communities to
286 solve the state's planning, management, and financing needs for
287 delivery of capital infrastructure in order in turn to provide
288 for projected growth only and to do so without overburdening
289 other governments and their taxpayers, pursuant to section
290 189.402, Florida Statutes, so that providing to the new
291 community basic systems, facilities, and services by independent
292 special districts remains pursuant to uniform general law and
293 section 189.402(3)(a) and (c), Florida Statutes.
294 11. To ensure that those independent districts and the
295 exercise of their powers are consistent and comply with
296 applicable due process, disclosure, accountability, ethics, and
297 government-in-the-sunshine requirements of law, both to the
298 independent districts and to their elected and appointed
299 officials, pursuant to section 189.402(3)(b), Florida Statutes,
300 because independent special districts are a legitimate
301 alternative method available for use by both the public and
302 private sectors to manage, own, operate, construct, and finance

303 basic capital infrastructure systems, facilities, and services,
304 pursuant to section 189.402(4)(a), Florida Statutes.
305 12. To ensure that an independent special district is
306 created to serve a special purpose to cooperate and to
307 coordinate its activities with the applicable general-purpose
308 local government because aspects of growth and development
309 transcend boundaries and responsibilities of individual units of
310 government so that no single unit of government can plan or
311 implement policies to deal with these issues unilaterally as
312 effectively, pursuant to section 189.402(7) and (8), Florida
313 Statutes.
314 (c) Construction, operation, and development of the new
315 community and the use of the special and single-purpose
316 independent district are not inconsistent with the Okeechobee
317 County Comprehensive Plan.
318 (d) This land area for the new community requires an
319 independent, special, and single-purpose local government, in
320 the form of an independent special district as defined in
321 section 189.403(3), Florida Statutes, subject to all substantive
322 and procedural limitations under state law, including this act,
323 in order to constitute itself a highly specialized alternative
324 and viable growth management concurrency mechanism appropriate
325 for this unique area, available to both the private and public
326 sectors.
327 (e) Such a district requires timely, flexible, limited,
328 and specialized management and related financing capabilities
329 under its uniform state charter, created by this act pursuant to
330 general law, in order to produce those flexible, innovative, and

331 highly specialized benefits to the new community property in
332 northeastern Okeechobee County.
333 (f) Such a district must have management capabilities to
334 provide pinpointed, focused, accountable, responsive, limited,
335 specialized, and low-overhead-based capability, authority, and
336 power to provide basic systems, facilities, and services to the
337 new community development with economies of scale but at
338 sustained high levels of quality over the long term.
339 (g) In order to be responsive to the critical timing
340 required through the exercise of its special management
341 functions, an independent district requires financing of those
342 functions, including bondable lienable and nonlienable revenue,
343 with full and continuing public disclosure and accountability,
344 funded by landowners, both present and future, and funded also
345 by users of the systems, facilities, and services provided to
346 the land area by the district, without burdening the taxpayers
347 and citizens of the state or of Okeechobee County or any
348 municipality in Okeechobee County.
349 (h) The provision of services by this independent district
350 must implement, be subject to, and function not inconsistent
351 with any related permitting and planning requirements of
352 Okeechobee County and of the Okeechobee County Comprehensive
353 Plan and Land Development Regulations.
354 (i) The creation, existence, and operation of the Grove
355 Community District, as limited and specialized to its single
356 narrow purpose, will also:

357 1. Constitute a public mechanism to translate the anti-
358 urban-sprawl objective of the Okeechobee County Comprehensive
359 Plan Future Land Use Element into reality.
360 2. Constitute a disincentive for premature or
361 inappropriate municipal incorporation consistent with state law.
362 3. Result in self-contained and self-sustained high-
363 quality infrastructure over the long term.
364 4. Provide a mechanism for full and continuing disclosure
365 of how basic systems, facilities, and services are both managed
366 and financed, including full and continuing disclosure to both
367 prospective purchasers and all residents of public financing
368 related to any burdens of land ownership and any related burdens
369 on existing or future residents.
370 5. Implement the Okeechobee County Comprehensive Plan
371 Future Land Use Element because innovative land techniques that
372 use public facilities efficiently, that meet county needs, and
373 that promote a sense of pride and community for its residents
374 are encouraged where the new community is located.
375 (j) The district is also a mechanism to implement the
376 Okeechobee County Concurrency Management System designed to
377 coincide with, and to implement, both the Okeechobee County
378 future land use element and the capital improvements element for
379 basic systems, facilities, and services consistent with the best
380 interests of the new community.
381 (k) By serving its single specialized purpose and in
382 preventing urban sprawl, the district will not result in
383 needless proliferation, duplication, and fragmentation of local

384 government systems, facilities, and services in this area of
385 northeastern Okeechobee County.
386 (l) Subject to its substantive and procedural limitations,
387 the district will assist directly in public and combined public
388 and private planning and coordination in order to achieve
389 innovative solutions to the needs and requirements in this
390 unique new community located in northeastern Okeechobee County.
391 (m) Management of the timing and phasing of critical
392 sequential events, coordinated by the initial private landowner
393 and the Board of County Commissioners of Okeechobee County, is
394 of fundamental importance and is the basis of the inordinate
395 burden on the initial landowner developer and to enhance the
396 provision of sustained high-quality infrastructure over the long
397 term to enhance the intrinsic value of the new community in
398 order to implement its requirements.
399 (n) The critical single purpose of the district to provide
400 basic infrastructure systems, facilities, services, works,
401 infrastructure, and improvements to the private new community is
402 in the public interest because it:
403 1. Does not pass on taxes or profits to purchasers of
404 property or to landowners and residents within their
405 jurisdictions.
406 2. Results in less tendency for short-term planning,
407 construction, and management considerations because the
408 elections for members of the government board are staggered.
409 3. Is not influenced, guided, or limited by quarterly and
410 annual profit statements.
411 4. Does not have police or regulatory powers.

412 5. Does not have larger general-purpose overhead
413 responsibilities.
414 6. Is not subject to legitimate but counterveiling fiscal,
415 economic, policy, and political considerations to which large
416 general-purpose local governments and large landowners and
417 developers would be subject in the natural course of events.
418 7. Does not constitute needless duplication,
419 proliferation, or fragmentation of local government systems,
420 facilities, and services in Okeechobee County.
421 8. Shall operate and function subject to and not
422 inconsistent with the county comprehensive plan with least
423 overhead cost and with the highest amount of the public
424 disclosure, accountability, responsiveness, and productivity.
425 9. Coincides its functions with the authority and best
426 interests of local general-purpose government, the private
427 landowners, both present and future, the taxpayers, the future
428 residents, and the state in the provision of needed
429 infrastructure to the community at sustained levels of quality
430 over the long term.
431 10. Provides highly accountable innovative systems,
432 facilities, and services close to the land and close to the
433 people.
434 11. Serves a land area that is amenable to separate
435 special district government.
436 12. Serves a land area that is sufficiently compact and of
437 size sufficient for the functionally interrelated new community
438 development.

439 13. Serves a land area in which there is no existing local
440 or regional system, facility, or service with which creation and
441 operation of this district and the provision of its systems,
442 facilities, improvements, and infrastructure would be
443 incompatible.
444 14. Will enhance the intrinsic value of the property and
445 the new community development and be a sustaining source of
446 public revenue.
447 (o) The independent district charter created in this act
448 involves innovative general and special powers not otherwise
449 available for this unique and highly specialized first ever new
450 community in such a unique area.
451 (p) The minimum requirements of general law or creation of
452 this district by special act have been met as confirmed and set
453 forth expressly in section 3(1).
454 (3) DETERMINATIONS.--Based upon its findings and
455 ascertainments, the Legislature states expressly and determines
456 that:
457 (a) This act represents the findings, ascertainments, and
458 determinations of the Legislature that creating the Grove
459 Community District by special act pursuant to general law is the
460 best alternative as required by section 189.404(2)(e)3., Florida
461 Statutes, because it meets affirmatively the findings and
462 ascertainments of this Legislature set forth hereinabove.
463 (b) The creation by this act of the district in the area
464 of northeastern Okeechobee County is consistent affirmatively
465 with the Okeechobee County Comprehensive Plan.

466 (c) The authority for this act is pursuant to section
467 189.404, Florida Statutes, and the State Comprehensive Plan
468 pursuant to section 187.201, Florida Statutes.
469 (d) The Board of County Commissioners of Okeechobee
470 County, on January 12, 2006, adopted Resolution 2006-1,
471 expressing no objection to the creation and establishment of the
472 Grove Community District and finding it consistent with the
473 Okeechobee County Comprehensive Plan as provided in section
474 189.404(2)(e)4., Florida Statutes.
475 (4) INTENT.--Based upon its findings, ascertainments, and
476 determinations, the Legislature expresses its intent:
477 (a) To ensure that the creation and operation of the Grove
478 Community District by and pursuant to this act, exercising its
479 management and related financing powers to implement its
480 limited, single, and special purpose, is not a development order
481 and does not trigger or invoke any development provision within
482 the meaning of chapter 380, Florida Statutes, and all applicable
483 governmental planning, environmental, and land development laws,
484 regulations, rules, policies, and ordinances apply to all
485 development of the land within the jurisdiction of the district
486 created by this act.
487 (b) That the district operate and function subject to, and
488 not inconsistent with, the Okeechobee County Comprehensive Plan
489 and Land Development Regulations and any applicable development
490 orders, zoning regulations, or other land development
491 regulations.
492 (c) That under this act, this special and single-purpose
493 Grove Community District shall not have the power of a general-

494 purpose local government to adopt a comprehensive plan or
495 related land development regulations as those terms are defined
496 in the Local Government Comprehensive Planning and Land
497 Development Regulation Act.
498 (d) That the Grove Community District created by this act
499 constitute an innovative mechanism for long-term, sustained
500 quality public stewardship through the planning, implementation,
501 construction, management, and related financing of basic
502 systems, facilities, services, and infrastructure projects for
503 the self-contained and self-sustained mixed-use new community.
504 (e) That it is in the public interest that this limited,
505 independent, specialized, and single-purpose district local
506 government have perpetual existence subject only to legislative
507 review as provided in its charter in this act so that it is not
508 in a position to outlive its usefulness.
509 (f) That the exercise by this Grove Community District of
510 its powers to carry out its single purpose under its charter as
511 created by this act is consistent with applicable due process,
512 disclosure, accountability, ethics, conflict of interest,
513 government-in-the-sunshine, competitive procurement, including
514 its employees or consultants, competitive negotiation, and
515 competitive bidding requirements, both as to the government
516 entity itself and as to its appointed or elected officials as
517 required in this act.
518 (5) PURPOSE.--The limited, single, and specialized purpose
519 of the Grove Community District is to provide community
520 development systems, facilities, services, projects,
521 improvements, and infrastructure to the new community by

522 exercising its various management powers, with related financing
523 powers, both general and special, as set forth by and limited by
524 this act.
525 (6) DEFINITIONS.--As used in this act:
526 (a) "Ad valorem bonds" means bonds which are payable from
527 the proceeds of ad valorem taxes levied on real and tangible
528 personal property and which are generally referred to as general
529 obligation bonds.
530 (b) "Assessable improvements" means, without limitation,
531 any and all public improvements and community facilities that
532 the district is empowered to provide in accordance with this
533 act, which provide a special benefit to property within the
534 district.
535 (c) "Assessment bonds" means special obligations of the
536 district which are payable solely from proceeds of the special
537 assessments or benefit special assessments levied for assessable
538 improvements; however, in lieu of issuing assessment bonds to
539 fund the costs of assessable improvements, the district may
540 issue revenue bonds for such purposes payable from special
541 assessments.
542 (d) "Assessments" means those nonmillage district
543 assessments which include special assessments, benefit special
544 assessments, and maintenance special assessments and a
545 nonmillage, non-ad valorem maintenance tax if authorized by
546 general law.
547 (e) "Benefit special assessments" are district assessments
548 imposed, levied, and collected pursuant to the provisions of
549 section 4(14)(b).

550 (f) "Board" means the governing board of the district or,
551 if such board has been abolished, the board, body, or commission
552 succeeding to the principal functions thereof or to whom the
553 powers given to the board by this act have been given by law.
554 (g) "Bond" includes "certificate," and the provisions
555 which are applicable to bonds are equally applicable to
556 certificates. The term "bond" includes any general obligation
557 bond, assessment bond, refunding bond, revenue bond, and other
558 such obligation in the nature of a bond as is provided for in
559 this act, as the case may be.
560 (h) "Cost" or "costs," when used with reference to any
561 project, include, but are not limited to:
562 1. The expense of determining the feasibility or
563 practicability of acquisition, construction, or reconstruction.
564 2. The cost of surveys, estimates, plans, and
565 specifications.
566 3. The cost of improvements.
567 4. Engineering, fiscal, and legal expenses and charges.
568 5. The cost of all labor, materials, machinery, and
569 equipment.
570 6. The cost of all lands, properties, rights, easements,
571 and franchises acquired.
572 7. Financing charges.
573 8. The creation of initial reserve and debt service funds.
574 9. Working capital.
575 10. Interest charges incurred or estimated to be incurred
576 on money borrowed prior to and during construction and
577 acquisition and for such reasonable period of time after

578 completion of construction or acquisition as the board may
579 determine.
580 11. The cost of issuance of bonds pursuant to this act,
581 including advertisements and printing.
582 12. The cost of any bond or tax referendum held pursuant
583 to this act and all other expenses of issuance of bonds.
584 13. The discount, if any, on the sale or exchange of
585 bonds.
586 14. Administrative expenses.
587 15. Such other expenses as may be necessary or incidental
588 to the acquisition, construction, or reconstruction of any
589 project or to the financing thereof or to the development of any
590 lands within the district.
591 16. Payments, contributions, dedications, and any other
592 exactions required as a condition to receive any government
593 approval or permit necessary to accomplish any district purpose.
594 (i) "Developed urban area" means any reasonably compact
595 urban area.
596 (j) "District" or "Grove Community District" means the
597 unit of special and single-purpose local government created and
598 chartered by this act, including the creation of its charter,
599 and limited to the performance, in implementing its single
600 purpose, of those general and special powers authorized by its
601 charter under this act; the boundaries of which are set forth by
602 the act; and the governing head of which is created and
603 authorized to operate with legal existence by this act and the
604 purpose of which is as set forth in this act.
605 (k) "District manager" means the manager of the district.

606 (l) "District roads" means highways, streets, roads,
607 alleys, sidewalks, landscaping, storm drains, bridges, and
608 thoroughfares of all kinds of descriptions.
609 (m) "General obligation bonds" means bonds which are
610 secured by, or provide for their payment by, the pledge, in
611 addition to those special taxes levied for their discharge and
612 such other sources as may be provided for their payment or
613 pledged as security under the resolution authorizing their
614 issuance, of the full faith and credit and taxing power of the
615 district and for payment of which recourse may be had against
616 the general fund of the district.
617 (n) "Governing board member" means any member of the
618 board.
619 (o) "Land development regulations" means those regulations
620 of general-purpose local government, adopted under the Local
621 Government Comprehensive Planning and Land Development
622 Regulations Act, the Growth Management Act, and chapter 163,
623 Florida Statutes, to which the district is subject and as to
624 which the district may not doing anything that is inconsistent;
625 but this term does not mean specific management engineering,
626 planning, and other criteria and standards needed in the daily
627 management and implementation by the district of its provision
628 of basic systems, facilities, services, works, improvements,
629 projects, or infrastructure, including design criteria and
630 standards, so long as they remain subject to and are not
631 inconsistent with the Okeechobee County Comprehensive Plan and
632 the applicable land development regulations.

633 (p) "Landowner" means the owner of a freehold estate as
634 appears by the deed record, including a trustee, a private
635 corporation, and an owner of a condominium unit; it does not
636 include a reversioner, remainderman, mortgagee, or any
637 governmental entity, who shall not be counted and need not be
638 notified of proceedings under this act. "Landowner" also means
639 the owner of a ground lease from a governmental entity, which
640 leasehold interest has a remaining term, excluding all renewal
641 options, in excess of 50 years.
642 (q) "Local general-purpose government" means a county,
643 municipality, or consolidated city-county government.
644 (r) "Maintenance special assessments" means assessments
645 imposed, levied, and collected pursuant to the provisions of
646 section 4(14)(d).
647 (s) "Non-ad valorem assessments" means those assessments
648 levied and imposed by the board which are not based upon millage
649 and which constitute, pursuant to the provisions hereof, first
650 liens on the properties subject thereto, coequal with the liens
651 of state, county, municipal, and school board taxes:
652 1. If and when pursuant to general law, those nonmillage
653 and non-ad valorem taxes, limited expressly and only to those
654 certain maintenance taxes provided for expressly in the district
655 charter in this act which are not ad valorem taxes and are not
656 special assessments.
657 2. Assessments which are not taxes and are special
658 assessments levied and imposed by the board pursuant to an
659 informed and nonarbitrary determination by the board that the
660 systems, facilities, and services will provide, as a logical

661 connection to the applicable parcels of property, special
662 benefits peculiar to the property, different in kind and degree
663 than general benefits and that the duty to pay per parcel will
664 be apportioned in a manner that is fair and reasonable; and
665 which may be known and referred to as "assessments," "special
666 assessments," "maintenance assessments," or "benefit
667 assessments" as defined by and as may be applicable in the
668 context of this charter. The levy of maintenance assessments to
669 maintain a system or facility constructed and financed by
670 special assessments levied by the district may be based on the
671 assessment methodology by which the construction special
672 assessments are levied but upon a determination that the
673 maintenance special assessments also provide a special and
674 peculiar benefit to the property and are apportioned in a manner
675 that is fair and reasonable.
676 3. Any assessments which may be levied, imposed, and
677 equalized by the board by rule of the district.
678 (t) "Powers" means powers as used and exercised by the
679 board to accomplish the single, limited, and special purpose of
680 the district, including:
681 1. "General powers," as provided in the act for the
682 district charter, which means those organizational and
683 administrative powers of the district as provided in this act in
684 its charter in order to carry out its single special purpose as
685 a local government public corporate body politic.
686 2. "Special powers," means those powers enumerated by the
687 act in the charter of the district to carry out its specialized
688 systems, facilities, services, projects, improvements, and

689 infrastructure and related functions in order to carry out its
690 single specialized purpose.
691 3. Any other powers, authority, and functions set forth in
692 this act.
693 (u) "Project" means any development, improvement,
694 property, power, utility, facility enterprise, service, system,
695 facility, works, or infrastructure now existing or hereafter
696 undertaken or established under the provisions of this act.
697 (v) "Qualified elector" means any person at least 18 years
698 of age who is a citizen of the United States, is a legal
699 resident of the state and the district, and registers to vote
700 with the supervisor of elections in the county in which the
701 district land is located.
702 (w) "Refunding bonds" means bonds issued to refinance
703 outstanding bonds of any type of the interest and redemption
704 premium thereon. Refunding bonds shall be issuable and payable
705 in the same manner as the refinanced bonds except that no
706 approval by the electorate shall be required unless required by
707 the State Constitution.
708 (x) "Revenue bonds" means obligations of the district
709 which are payable from revenues, including, but not limited to,
710 special assessments and benefit special assessments, derived
711 from sources other than ad valorem taxes on real or tangible
712 personal property and which do not pledge the property, credit,
713 or general tax revenue of the district.
714 (y) "Sewer system" means any plant, system, facility, or
715 property and additions, extensions, and improvements thereto at
716 any future time constructed or acquired as part thereof useful

717 or necessary or having the present capacity for future use in
718 connection with the collection, treatment, purification, or
719 disposal of sewage, including, without limitation, industrial
720 wastes resulting from any process of industry, manufacture,
721 trade, or business or from the development of any natural
722 resource. Without limiting the generality of the foregoing, the
723 term "sewer system" includes treatment plants, pumping stations,
724 lift stations, valves, force mains, intercepting sewers,
725 laterals, pressure lines, mains, and all necessary appurtenances
726 and equipment; all sewer mains, laterals, and other devices for
727 the reception and collection of sewage from premises connected
728 therewith; and all real and personal property and any interest
729 therein, rights, easements, and franchises of any nature
730 relating to any such system and necessary or convenient for
731 operation thereof.
732 (z) "Special assessments" means assessments as imposed,
733 levied, and collected by the district for the costs of
734 assessable improvements pursuant to the provisions of this act,
735 chapter 170, Florida Statutes, the additional authority under
736 section 197.3631, Florida Statutes, or other provisions of
737 general law now or hereinafter enacted which provide or
738 authorize a supplemental means to impose, levy, and collect
739 special assessments.
740 (aa) "Taxes" or "tax" means those levies and impositions
741 by the board which support and pay for government and the
742 administration of law and which may be:

743 1. "Ad valorem" or "property" taxes based upon both the
744 appraised value of property and millage, at a rate uniform
745 within the jurisdiction.
746 2. If and when authorized by general law, "non-ad valorem
747 maintenance taxes" not based on millage which are used to
748 maintain district systems, facilities, and services.
749 (bb) "Urban area" means a developed and inhabited urban
750 area within the district within a minimum acreage resident
751 population density of least 1.5 persons per acre as defined by
752 the latest official census, special census, or population
753 estimate or a minimum density of one single-family home per 2.5
754 acres with access to improved roads or a minimum density of one
755 single-family home per 5 acres within a recorded plat
756 subdivision. Urban areas shall be designated by the board of the
757 district with the assistance of all local general-purpose
758 governments having jurisdiction over the area within the
759 jurisdiction of the district.
760 (cc) "Water system" means any plant, system, facility, or
761 property and additions, extensions, and improvements thereto at
762 any future time constructed or acquired as part thereof useful
763 or necessary or having the present capacity for future use in
764 connection with the development of sources, treatment, or
765 purification and distribution of water. Without limiting the
766 generality of the foregoing, the term "water system" includes
767 dams, reservoirs, storage, tanks, mains, lines, valves, pumping
768 stations, laterals, and pipes for the purpose of carrying water
769 to the premises connected with such system and all rights,

770 easements, and franchises of any nature relating to any such
771 system and necessary or convenient for the operation thereof.
772 (7) POLICY.--Based upon its findings, ascertainments,
773 determinations, intent, purpose, and definitions, the
774 Legislature states its policy expressly:
775 (a) The district and district charter, with its general
776 and special powers, created in this act are essential and the
777 best alternative for the unique location and nature of the new
778 community for residential, commercial, academic, and other
779 community uses, projects, or functions in northeastern
780 Okeechobee County consistent with and designed to enhance the
781 Okeechobee County Comprehensive Plan and to serve a lawful
782 public purpose.
783 (b) This district, a local government and corporate body
784 politic, is limited to its single, narrow, and special
785 legislative purpose herein expressed, with the power to provide,
786 plan, implement, construct, maintain, and finance as a local
787 government management entity its basic systems, facilities,
788 services, improvements, infrastructure, and projects and
789 possessing financing powers to fund its management purpose over
790 the long term.
791 (c) This act may be amended only by special act of the
792 Legislature in whole or in part.
793 Section 3. Minimum general law requirements; creation and
794 establishment; boundaries; jurisdiction; construction; charter
795 with legal description.--
796 (1) MINIMUM CHARTER REQUIREMENTS.--Pursuant to section
797 189.404(3), Florida Statutes, the Legislature sets forth that

798 the minimum requirements in paragraphs (a) through (o) have been
799 met in the identified provisions of the act as follows:
800 (a) The purpose of the district is stated in the act in
801 section 2, subsection (5).
802 (b) The powers, functions, and duties of the district are
803 set forth generally in section 4, subsection (3), paragraphs (g)
804 and (h) and subsections (5)-(16), (18), (19), (21), (25), and
805 (32) as to which:
806 1. Taxation provisions are set forth in section 2,
807 subsection (6), paragraph (aa); section 4, subsection (3),
808 paragraph (h); subsection (14), paragraphs (a), (c), (f), (g),
809 and (i); and subsections (17), (18), and (19).
810 2. Bond issuance provisions are set forth generally in
811 section 2; section 4, subsection (8), paragraph (d); subsections
812 (10)-(13), and subsection (16), paragraphs (b) and (c).
813 3. Provisions regarding the other revenue-raising
814 capabilities are set forth in section 2, subsection (6),
815 paragraphs (b), (d), (r), (s), and (z); and section 4,
816 subsections (10) and (11); subsection (14), paragraphs (b), (d),
817 (e), (h), (i), and (j); and subsections (15) and (16).
818 4. Provisions regarding fees, rentals, and charges are set
819 forth in section 2, subsection (6); section 4, subsection (8),
820 paragraph (i); and subsections (22)-(25).
821 5. Provisions regarding budget preparation and approval
822 are set forth in section 4, subsections (5), (6), and (9).
823 6. Provisions regarding liens and foreclosures of liens
824 are set forth in section 4, subsection (14), paragraphs (f),
825 (g), (h), and (i); and subsections (15), (17), (18), and (19).

826 7. Provisions regarding the use of tax deeds and tax
827 certificates as appropriate for non-ad valorem assessments are
828 set forth in section 4, subsection (8), paragraph (o);
829 subsection (14), paragraphs (b), (c), (d), (e), (f), (h), and
830 (i); and subsection (15).
831 8. Provisions regarding contractual agreements are set
832 forth in section 4, subsection (8), paragraphs (c), (l), (p),
833 (r), and (s); and subsection (9), paragraphs (k), (o), (p), (s),
834 (t), (v), and (w).
835 (c) Provisions for methods for establishing the district
836 are set forth in section 2, subsection (6), paragraph (j) and
837 this section and are effective as provided in section 6.
838 (d) Provisions regarding methods for amending the charter
839 of the district are set forth in section 2 of subsection (7),
840 paragraph (c); subsection (4) of this section; and section 4 of
841 subsection (28).
842 (e) Provisions regarding aspects of the governing board
843 are set forth as follows:
844 1. Provisions regarding the membership of the governing
845 board are set forth in section 4, subsection (3), paragraph (b)
846 and subsection (4), paragraph (c).
847 2. Provisions regarding the organization of the governing
848 board are set forth in section 4, subsection (3), paragraphs
849 (b)-(d) and subsection (4), paragraph (c).
850 3. Provisions regarding the requirement of five board
851 members are set forth in section 4, subsection (3), paragraph
852 (b) and subsection (4), paragraph (c), subparagraph 1.

853 4. Provisions regarding the quorum of the governing board
854 are set forth in section 4, subsection (3), paragraph (b) and
855 subsection (4), paragraph (c), subparagraph 1., sub-subparagraph
856 e.
857 (f) Provisions regarding maximum compensation of each
858 board member are set forth in section 4, subsection (4),
859 paragraph (c), and in particular in subparagraph 1., sub-
860 subparagraph h.
861 (g) Provisions regarding the administrative duties of the
862 governing board are set forth in section 4, subsections (5)-(8).
863 (h) Provisions applicable to financial disclosure,
864 noticing, and reporting requirements for:
865 1. Financial disclosure are set forth in section 4,
866 subsections (6) and (7).
867 2. Voting are set forth in section 4, subsections (3) and
868 (4).
869 3. Reporting requirements are set forth in section 4,
870 subsections (5)-(7) and (31).
871 (i) Provisions regarding procedures and requirements for
872 issuing bonds are set forth in section 4, subsection (12),
873 paragraphs (a)-(q), and subsection (13).
874 (j) Provisions regarding elections or referenda are:
875 1. For procedures for elections, set forth in section 4,
876 subsections (3) and (4), and regarding referenda, set forth in
877 section 4, subsection (14), paragraph (a).
878 2. For qualifications of an elector of the district, a
879 qualified elector, set forth in section 2, subsection (6),

880 paragraph (v) and section 4, subsection (3), paragraphs (b) and
881 (c).
882 3. For referenda, set forth in section 4, subsection (4),
883 paragraph (b).
884 (k) Provisions regarding methods for financing the
885 district are set forth generally in section 4, subsections (10),
886 (11), (14), (15), (16), (17), (18), and (19).
887 (l) Other than taxes levied for the payment of bonds and
888 taxes levied for periods not longer than 2 years when authorized
889 by vote of the electors of the district, provisions for:
890 1. The authority to levy ad valorem taxes are set forth in
891 section 4, subsection (3), paragraph (h) and subsection (14),
892 paragraph (a); and section 2, subsection (6), paragraph (aa),
893 subparagraph 1.
894 2. The authorized millage rate are set forth in section 4,
895 subsection (14), paragraph (a).
896 (m) Provisions for the method or methods of collecting
897 non-ad valorem assessments, fees, or service charges are:
898 1. For collecting non-ad valorem assessments, set forth in
899 section 4, subsection (14), paragraphs (b), (c), (d), (e), (h)
900 and, (i), and subsection (15).
901 2. For collecting fees and service charges, set forth in
902 section 4, subsection (22).
903 (n) Provisions for planning requirements are as limited by
904 the provisions of section 2 and this section and as limited
905 further by section 4, subsections (8) and (9).

906 (o) Provisions for geographic boundary limitations of the
907 district are set forth in subsections (2)-(4) of this section
908 and section 4, subsection (2).
909 (2) CREATION AND ESTABLISHMENT.--The Grove Community
910 District is created and incorporated hereby as a public body,
911 corporate and politic, a political subdivision, an independent,
912 limited, special, and single-purpose local government, and an
913 independent special district under section 189.404, Florida
914 Statutes, and as defined in this act and in section 189.403(3),
915 Florida Statutes, in and for northeastern Okeechobee County. Any
916 amendments to chapter 190, Florida Statutes, after January 1,
917 2006, which grant additional general powers, special powers,
918 authorities, or projects to a community development district by
919 amendment to its uniform charter, sections 190.006-190.041,
920 Florida Statutes, shall constitute a general power, special
921 power, authority, or function of the Grove Community District,
922 except that as to any such additional powers, authorities, or
923 projects, this act shall control if there are any related
924 provisions in such additional powers, authorities, or projects
925 inconsistent with the provisions of this act. Because all
926 notices for the enactment by the Legislature of this special act
927 have been provided pursuant to the State Constitution, the laws
928 of Florida, and the rules of the House of Representatives and
929 the Senate, and because Okeechobee County is not a charter
930 county, no referendum subsequent to the effective date of this
931 act is required. The district, as created by this act, is
932 established on the property pursuant to sections 4(2) and 6.

933 (3) TERRITORIAL BOUNDARIES.--The territorial boundary of
934 the district shall embrace and include, without reservation or
935 enclave, all of that certain real property described legally in
936 section 4(2).
937 (4) JURISDICTION.--The jurisdiction of this district, in
938 the exercise of its general and special powers and in the
939 carrying out of its single, narrow, and special purpose, is both
940 within the external boundaries of the legal description of this
941 district and extraterritorially, when limited to, and as
942 authorized expressly elsewhere in, the charter of the district
943 in this act or applicable general law. This single-purpose
944 district is created for all public body corporate, politic, and
945 local government authority and power limited by the charter and
946 subject to the provisions of other general laws, including
947 expressly chapter 189, Florida Statutes, except that an
948 inconsistent provision in this act shall control and the
949 district has jurisdiction to perform such acts and exercise such
950 projects, functions, and powers as shall be necessary,
951 convenient, incidental, proper, or reasonable for the
952 implementation of its limited, single, and specialized purpose
953 regarding the sound planning, provision, acquisition,
954 development, operation, maintenance, and related financing of
955 those public systems, facilities, services, improvements,
956 projects, and infrastructure works as authorized herein
957 including those necessary and incidental thereto.
958 (5) EXCLUSIVE CHARTER.--The charter of the Grove Community
959 District is this act and may be amended, terminated, or repealed

960 only by special act of the Legislature amending or repealing
961 this act.
962 Section 4. Disposition of sections 2 and 3; legal
963 description; exclusive charter of the Grove Community
964 District.--
965 (1) INCORPORATION AND DISPOSITION OF SECTIONS 2 AND
966 3.--Sections 2 and 3 of this act are true and correct and are
967 incorporated herein and made a part of this section as
968 dispositive provisions of law. This act constitutes the
969 exclusive charter of the Grove Community District.
970 (2) LEGAL DESCRIPTION.--The metes and bounds legal
971 description of the district, within which there are no enclaves
972 or parcels of property owned by those who do not wish their
973 property to be included within the district, is as follows:
974 METES AND BOUNDS DESCRIPTION
975 Grove Community District
976
977 LEGAL DESCRIPTION:
978 (OFFICIAL RECORDS BOOK 230, PAGE 571, PUBLIC RECORDS,
979 OKEECHOBEE COUNTY, FLORIDA)
980
981 ALL OF SECTIONS 1, 2, 3, 10, 11, 12, 13, 14, AND 15,
982 IN TOWNSHIP 34 SOUTH, RANGE 36 EAST, OKEECHOBEE
983 COUNTY, FLORIDA, LESS AND EXCEPT THE FOLLOWING
984 DESCRIBED LANDS:
985
986 BEGINNING AT A CONCRETE MONUMENT MARKING THE SOUTHEAST
987 CORNER OF SAID SECTION 13, RUN NORTH 89°26'05" WEST A

988 DISTANCE OF 5284.42 FEET TO AN IRON PIPE MARKING THE
989 SOUHWEST CORNER OF SAID SECTION 13; THENCE RUN SOUTH
990 89°42'28" WEST A DISTANCE OF 5114.05 FEET ALONG THE
991 SOUTH LINE OF SECTION 14 TO AN IRON PIPE AT THE SW
992 CORNER THEREOF; THENCE RUN NORTH 89°31'14" WEST ALONG
993 THE SOUTH LINE OF SECTION 15 A DISTANCE OF 5302.02
994 FEET TO A CONCRETE MONUMENT MARKING THE SOUTHWEST
995 CORNER OF SAID SECTION 15; THENCE RUN NORTH 00°00'14"
996 EAST ALONG THE WEST LINE OF SECTION 15 A DISTANCE OF
997 174.49 FEET; THENCE RUN SOUTH 89°12'07" EAST ALONG A
998 FENCE LINE A DISTANCE OF 5302.87 FEET TO A POINT WHICH
999 IS 145 FEET NORTH OF THE SOUTHWEST CORNER OF SAID
1000 SECTION 14; THENCE RUN SOUTH 00°12'46" WEST A DISTANCE
1001 OF 20.0 FEET; THENCE RUN NORTH 89°42'28" EAST ALONG A
1002 LINE LYING PARALLEL TO AND 125 FEET NORTH OF THE SOUTH
1003 LINE OF SECTION 14 A DISTANCE OF 5113.88 FEET TO A
1004 POINT WHICH IS 125 FEET NORTH OF THE SOUTHWEST CORNER
1005 OF SECTION 13; THENCE RUN SOUTH 89°26'05" EAST ALONG A
1006 LINE PARALLEL TO AND 125 FEET NORTH OF THE SOUTH LINE
1007 OF SECTION 13 A DISTANCE OF 5149.10 FEET TO A POINT
1008 WHICH IS 135 FEET WEST AND 125 FEET NORTH OF THE
1009 SOUTHEAST CORNER OF SECTION 13; THENCE RUN NORTH
1010 00°00'22" WEST A DISTANCE OF 100 FEET; THENCE RUN
1011 SOUTH 89°26'05" EAST A DISTANCE OF 135 FEET TO THE
1012 EAST LINE OF SAID SECTION 13; THENCE RUN SOUTH
1013 00°00'22" EAST A DISTANCE OF 225 FEET TO THE POINT OF
1014 BEGINNING AT THE SOUTHEAST CORNER OF SECTION 13,

1015 TOWNSHIP 34 SOUTH, RANGE 36 EAST, OKEECHOBEE COUNTY,
1016 FLORIDA, CONTAINING 5683.29 ACRES, MORE OR LESS.
1017
1018 (3) BOARD; MEMBERS AND MEETINGS; ORGANIZATION; POWERS;
1019 DUTIES; TERMS OF OFFICE; RELATED ELECTION REQUIREMENTS.--
1020 (a) The board shall exercise the powers granted to the
1021 district pursuant to this act in order to implement its
1022 specialized single purpose.
1023 (b) There is created the Board of Supervisors of the Grove
1024 Community District, which is the governing board and body of the
1025 district. Except as otherwise provided herein, each member shall
1026 hold office for a term of 4 years and until his or her successor
1027 is chosen and qualifies. There shall be five members of the
1028 board who shall, in order to be eligible, be residents of the
1029 state and citizens of the United States. Three members shall
1030 constitute a quorum.
1031 (c) Within 45 days after the effective date of this act, a
1032 specially noticed meeting of the landowners of the district
1033 shall be held for the purpose of electing the members to the
1034 first board as herein provided. Notice of such special meeting
1035 of the landowners shall be given by causing publication thereof
1036 to be made once a week for 2 consecutive weeks prior to such
1037 meeting in a newspaper of general paid subscription and
1038 circulation in Okeechobee County, the last day of such
1039 publication not to be fewer than 14 or more than 28 days before
1040 the day of the election. Such special meeting of the landowners
1041 shall be held in a public place in Okeechobee County, and the
1042 place, date, and hour of holding such meeting and the purpose

1043 thereof shall be stated expressly in the notice. The landowners,
1044 when assembled, shall organize by electing a chair who shall
1045 preside at the meeting of the landowners and a secretary who
1046 shall record the proceedings. At such meeting, for the election
1047 of each person to be elected, each and every acre of land, or
1048 any fraction thereof, within the boundary of the district shall
1049 represent one vote and each owner of that acre or fraction
1050 thereof shall be entitled to one vote for every such acre or
1051 fraction thereof. Persons who qualify to serve as board members
1052 shall be nominated at the noticed meeting and prior to the
1053 initial election at the noticed meeting. A landowner may vote in
1054 person or by proxy in writing. A landowner who sells land to a
1055 bona fide purchaser may by written lawful instrument retain the
1056 voting rights for that acreage.
1057 (d) At the landowners' meeting for the election of the
1058 members of the board on a one-acre, one-vote basis, the two
1059 candidates receiving the highest number of votes shall be
1060 elected for terms expiring November 30, 2008, and the three
1061 candidates receiving the next highest number of votes shall be
1062 elected for terms expiring November 30, 2010. The members of the
1063 first board elected by the landowners shall serve their
1064 respective 4-year or 2-year terms; however, the next election by
1065 the landowners shall be held on the first Tuesday in November
1066 2008 to elect members to fill those vacancies to 4-year terms.
1067 Thereafter, there shall be an election of supervisors for the
1068 district every 2 years in November on a date established by the
1069 board and noticed pursuant to paragraph (c).

1070 (e) The landowners present at the meeting shall constitute
1071 a quorum.
1072 (f) All vacancies or expirations on the board shall be
1073 filled as provided by this act.
1074 (g) In case of a vacancy in the office of any member of
1075 the board, the remaining members of the board shall by majority
1076 vote elect a person to serve as a member of the board for the
1077 unexpired portion of the term.
1078 (h) If the board proposes to exercise its limited ad
1079 valorem taxing power as provided elsewhere in this charter, the
1080 provisions of section 4(14)(a) shall apply.
1081 (4) ELECTION; POPULAR ELECTIONS, REFERENDUM; DESIGNATION
1082 OF URBAN AREAS.--
1083 (a) Elections of the members of the board shall be
1084 conducted on a one-acre, one-vote basis as provided in paragraph
1085 (3)(c), until and unless the provisions of paragraph (b) apply.
1086 When applicable and required, the appropriate provisions of
1087 section 189.405, Florida Statutes, apply.
1088 (b) A referendum shall be called by the board, each member
1089 elected on a one-acre, one-vote basis, on the question of
1090 whether certain members of the board should be elected by
1091 qualified electors, providing each of the following conditions
1092 has been satisfied at least 60 days prior to the general or
1093 special election at which the referendum is to be held:
1094 1. The district has at least 500 qualified electors based
1095 on the most recent state population estimate.
1096 2. A petition signed by 10 percent of the qualified
1097 electors of the district has been filed with the board. The

1098 petition shall be submitted to the Supervisor of Elections of
1099 Okeechobee County who shall, within 30 days after receipt of the
1100 petition, certify to the board the percentage of signatures of
1101 qualified electors contained in the petition.
1102 (c) Upon verification by the supervisor of elections that
1103 10 percent of the qualified electors of the district have
1104 petitioned the board, a referendum election shall be called by
1105 the board at the next regularly scheduled election of governing
1106 board members occurring at least 60 days after verification.
1107 (d) If the qualified electors approve the election
1108 procedure described in this section, the governing board of the
1109 district shall remain five members and elections shall be held
1110 pursuant to the criteria described in this paragraph, beginning
1111 with the next regularly scheduled election of governing board
1112 members or at a special election called within 6 months after
1113 the referendum and final unappealed approval of district urban
1114 area maps as provided in this section, whichever is earlier.
1115 (e) If the qualified electors of the district reject the
1116 election procedure described in this section, elections of the
1117 members of the board shall continue as described in this act on
1118 a one-acre, one-vote basis. No further referendum on the
1119 question shall be held for a minimum period of 2 years after the
1120 referendum.
1121 (f) Within 30 days after approval of the election process
1122 described in this section by qualified electors of the district,
1123 the board shall direct the district staff to prepare and to
1124 present maps of the district describing the extent and location
1125 of all urban areas within the district. Such determination shall

1126 be based upon the criteria contained in the definition of urban
1127 area in this act.
1128 (g) Within 60 days after approval of the election process
1129 described in this subsection by qualified electors of the
1130 district, the maps describing urban areas within the district
1131 shall be presented to the board.
1132 (h) Any district landowner or elector may contest the
1133 accuracy of the urban area maps prepared by the staff of the
1134 district within 30 days after submission to the board. Upon
1135 notice of objection to the maps, the governing board shall
1136 request the county engineer to prepare and present maps of the
1137 district describing the extent and location of all urban areas
1138 within the district. Such determination shall be based limitedly
1139 and exclusively upon the criteria contained in the definition in
1140 this act of urban area. Within 30 days after the governing board
1141 requests, the county engineer shall present the maps to the
1142 governing board.
1143 (i) Upon presentation of the maps by the county engineer,
1144 the governing board shall compare the maps submitted by both the
1145 district staff and the county engineer and make a determination
1146 as to which set of maps to adopt. Within 60 days after
1147 presentation of all such maps, the governing board may amend and
1148 shall adopt the official maps at a regularly scheduled board
1149 meeting.
1150 (j) Any district landowner or qualified elector may
1151 contest the accuracy of the urban area maps adopted by the board
1152 after adoption in accordance with the provision for judicial
1153 review as provided in the Administrative Procedure Act. Accuracy

1154 shall be determined pursuant to the definition of urban area in
1155 section 2(6)(bb).
1156 (k) Upon adoption by the board or certification by the
1157 court, the district urban area maps shall serve as the official
1158 maps for determination of the extent of urban area within the
1159 district and the number of members of the board to be elected by
1160 qualified electors and by one-acre, one-vote at the next
1161 regularly scheduled election of governing board members.
1162 (l) Upon a determination of the percentage of urban area
1163 within the district as compared with total area within the
1164 district, the governing board shall determine the number of
1165 electors in accordance with the percentages pursuant to this
1166 paragraph. The landowners' meeting date shall be designated by
1167 the board.
1168 (m) The map shall be updated and readopted every 5 years
1169 or sooner at the discretion of the board.
1170 (n)1. The five members of the governing board of the
1171 district shall be elected in accordance with the following
1172 determinations of urban area:
1173 a. If urban areas constitute 25 percent or less of the
1174 district, one governing board member shall be elected by the
1175 qualified electors and four governing board members shall be
1176 elected in accordance with the one-acre, one-vote principle
1177 contained within subsection (3).
1178 b. If urban areas constitute more than 25 percent but less
1179 than 50 percent of the district, two governing board members
1180 shall be elected by the qualified electors and three governing

1181 board members shall be elected in accordance with the one-acre,
1182 one-vote principle contained in subsection (3).
1183 c. If urban areas constitute at least 50 percent but less
1184 than 70 percent of the district, three governing board members
1185 shall be elected by the qualified electors and two governing
1186 board members shall be elected in accordance with the one-acre,
1187 one-vote principle contained in subsection (3).
1188 d. If urban areas constitute at least 70 percent but less
1189 than 90 percent of the district, four governing board members
1190 shall be elected by the qualified electors and one governing
1191 board member shall be elected in accordance with the one-acre,
1192 one-vote principle contained in subsection (3).
1193 e. If urban areas constitute at least 90 percent or more
1194 of the district, all governing board members shall be elected by
1195 the qualified electors.
1196 2. All members of the board, regardless of how elected,
1197 shall be public officers, known as supervisors, and, upon
1198 entering into office, shall take and subscribe to the oath of
1199 office as prescribed by section 876.05, Florida Statutes. All
1200 members of the board, regardless of how elected, and regardless
1201 of whether they are qualified electors themselves, shall be
1202 public officials and subject to ethics and conflict of interest
1203 laws of the state that apply to all public officers. They shall
1204 hold office for the terms for which they were elected and until
1205 their successors are chosen and qualified.
1206 3. Any elected member of the board may be removed by the
1207 Governor for malfeasance, misfeasance, dishonesty, incompetency,
1208 or failure to perform the duties imposed upon him or her by this

1209 act. Any vacancies which may occur in such office shall be
1210 filled by the Governor, as soon as practicable, unless filled by
1211 the board as provided in this act.
1212 4. All governing board members elected by qualified
1213 electors shall be qualified electors elected at large.
1214 Candidates seeking election as qualified electors shall conduct
1215 their campaigns in accordance with the provisions of chapter
1216 106, Florida Statutes, and shall file petitions as required in
1217 section 99.021, Florida Statutes, and take the oath therein
1218 prescribed.
1219 5. All governing board members elected by qualified
1220 electors shall have a term of 4 years each except for governing
1221 board members elected at the first election and the first
1222 landowners' meeting following the referendum prescribed in
1223 paragraph (b). Governing board members elected at the first
1224 election and the first landowners' meeting following the
1225 referendum shall serve as follows:
1226 a. If one governing board member is elected by the
1227 qualified electors and four are elected on a one-acre, one-vote
1228 basis, the governing board members elected by the qualified
1229 electors shall be elected for a term of 4 years each. Governing
1230 board members elected on a one-acre, one-vote basis shall be
1231 elected for terms as prescribed by subsection (3).
1232 b. If two governing board members are elected by the
1233 qualified electors and three are elected on a one-acre, one-vote
1234 basis, the governing board members elected by the qualified
1235 electors shall be elected for a term period of 4 years each.
1236 Governing board members elected on a one-acre, one-vote basis

1237 shall be elected for terms of 1, 2, and 3 years, respectively,
1238 as prescribed by subsection (3).
1239 c. If three governing board members are elected by the
1240 qualified electors and two are elected on a one-acre, one-vote
1241 basis, two of the governing board members elected by the
1242 qualified electors shall be elected for a term of 4 years and
1243 the other governing board member elected by the electors shall
1244 be elected for a term of 2 years. Governing board members
1245 elected on a one-acre, one-vote basis shall be elected for
1246 periods of 1 year and 2 years, respectively, as prescribed by
1247 subsection (3).
1248 d. If four governing board members are elected by the
1249 qualified electors and one is elected on a one-acre, one-vote
1250 basis, two of the governing board members elected by the
1251 electors shall be elected for terms of 2 years each and the
1252 other two for term of 4 years each. The governing board member
1253 elected on a one-acre, one-vote basis shall be elected for a
1254 term of 1 year as prescribed by subsection (3).
1255 e. If five governing board members are elected by the
1256 qualified electors, three shall be elected for terms of 4 years
1257 each and two for terms of 2 years each.
1258 6. If any vacancy occurs in a seat occupied by a governing
1259 board member elected by the qualified electors, the remaining
1260 members of the governing board shall, within 45 days after the
1261 vacancy occurs, appoint a person who would be eligible to hold
1262 the office for the unexpired term.
1263 7. Each and every election by qualified electors of
1264 members of the board pursuant to this act shall be conducted in

1265 the manner and at a time prescribed by law for holding general
1266 elections or prescribed by the Supervisor of Elections in and
1267 for the Okeechobee County political subdivision.
1268 8.a. An annual landowners' meeting shall be held pursuant
1269 to subsection (3) and at least one governing board member shall
1270 be elected on a one-acre, one-vote basis pursuant to subsection
1271 (3) for so long as 10 percent or more of the district is not
1272 contained in an urban area. In the event all district governing
1273 board members are elected by qualified electors, there shall be
1274 no further landowners' meetings.
1275 b. At any landowners' meeting called pursuant to this
1276 section, 50 percent of the district acreage shall not be
1277 required to constitute a quorum and each governing board member
1278 shall be elected by a majority of the acreage represented either
1279 by owner or proxy present and voting at said meeting.
1280 c. All landowners' meetings of districts operating
1281 pursuant to this section shall be set by the board within the
1282 month preceding the month of the election of the governing board
1283 members by the electors.
1284 d. Vacancies on the board shall be filled pursuant to
1285 subsection (3) and this subsection except as otherwise provided
1286 in this section.
1287 9. Three board members shall constitute a quorum for the
1288 purpose of conducting its business and exercising its powers and
1289 for all other related purposes. Action taken by the board
1290 members present shall be upon a vote of the majority of the
1291 members present, unless general law or rule of the district
1292 subsequently promulgated requires a greater number.

1293 10. As soon as practicable after each election or
1294 appointment, the board shall elect one of its members as chair,
1295 elect a secretary who need not be a member of the board, and
1296 elect such other officers as the board may deem necessary.
1297 11. The board shall keep a permanent record book entitled
1298 "Record of Proceedings of Grove Community District," in which
1299 shall be recorded minutes of all meetings, resolutions,
1300 proceedings, certificates, bonds given by all employees, and any
1301 and all corporate acts. The record book shall at reasonable
1302 times be opened to inspection in the same manner as state,
1303 county, and municipal records pursuant to chapter 119, Florida
1304 Statutes. The record book shall be kept at the office or other
1305 regular place of business maintained by the board within
1306 Okeechobee County.
1307 12. Each supervisor shall be entitled to receive for his
1308 or her services an amount not to exceed $200 per meeting of the
1309 board, not to exceed $4,800 per year per supervisor, or an
1310 amount established by the electors at referendum. In addition,
1311 each supervisor shall receive travel and per diem expenses as
1312 set forth in section 112.061, Florida Statutes.
1313 13. All meetings of the board shall be open to the public
1314 and governed by the provisions of chapter 286, Florida Statutes.
1315 (o) The members of the board, whether elected on a one-
1316 acre, one-vote basis or a qualified-elector basis, shall
1317 constitute the members of the governing board of the district
1318 subject to the requirements of this act.
1319 (5) BOARD OF SUPERVISORS; GENERAL DUTIES.--

1320 (a) The board shall employ and fix the compensation of a
1321 district manager. The district manager shall have charge and
1322 supervision of the works of the district and shall be
1323 responsible for preserving and maintaining any improvement or
1324 facility constructed or erected pursuant to the provisions of
1325 this act, for maintaining and operating the equipment owned by
1326 the district, and for performing such other duties as may be
1327 prescribed by the board. It shall not be a conflict of interest
1328 under chapter 112, Florida Statutes, for a board member or the
1329 district manager or another employee of the district to be a
1330 stockholder, officer, or employee of a landowner. The district
1331 manager may hire or otherwise employ and terminate the
1332 employment of such other persons, including, without limitation,
1333 professional, supervisory, and clerical employees, as may be
1334 necessary and authorized by the board. The compensation and
1335 other conditions of employment of the officers and employees of
1336 the district shall be as provided by the board.
1337 (b) The board shall designate a person who is a resident
1338 of the state as treasurer of the district, who shall have charge
1339 of the funds of the district. Such funds shall be disbursed only
1340 upon the order, or pursuant to the resolution, of the board by
1341 warrant or check countersigned by the treasurer and by such
1342 other person as may be authorized by the board. The board may
1343 give the treasurer such other or additional powers and duties as
1344 the board may deem appropriate and may fix his or her
1345 compensation. The board may require the treasurer to give a bond
1346 in such amount, on such terms, and with such sureties as may be
1347 deemed satisfactory to the board to secure the performance by

1348 the treasurer of his or her powers and duties. The financial
1349 records of the board shall be audited by an independent
1350 certified public accountant at least once a year.
1351 (c) The board is authorized to select as a depository for
1352 its funds any qualified public depository as defined in section
1353 280.02, Florida Statutes, which meets all the requirements of
1354 chapter 280, Florida Statutes, and has been designated by the
1355 treasurer as a qualified public depository, upon such terms and
1356 conditions as to the payment of interest by such depository upon
1357 the funds so deposited as the board may deem just and
1358 reasonable.
1359 (6) BUDGET; REPORTS AND REVIEWS.--
1360 (a) The district shall provide financial reports in such
1361 form and such manner as prescribed pursuant to this act and
1362 chapter 218, Florida Statutes.
1363 (b) On or before each July 15, the district manager shall
1364 prepare a proposed budget for the ensuing fiscal year to be
1365 submitted to the board for board approval. The proposed budget
1366 shall include at the direction of the board an estimate of all
1367 necessary expenditures of the district for the ensuing fiscal
1368 year and an estimate of income to the district from the taxes
1369 and assessments provided in this act. The board shall consider
1370 the proposed budget item by item and may either approve the
1371 budget as proposed by the district manager or modify the same in
1372 part or in whole. The board shall indicate its approval of the
1373 budget by resolution, which resolution shall provide for a
1374 hearing on the budget as approved. Notice of the hearing on the
1375 budget shall be published in a newspaper of general circulation

1376 in the area of the district once a week for 2 consecutive weeks,
1377 except that the first publication shall be not fewer than 15
1378 days prior to the date of the hearing. The notice shall further
1379 contain a designation of the day, time, and place of the public
1380 hearing. At the time and place designated in the notice, the
1381 board shall hear all objections to the budget as proposed and
1382 may make such changes as the board deems necessary. At the
1383 conclusion of the budget hearing, the board shall, by
1384 resolution, adopt the budget as finally approved by the board.
1385 The budget shall be adopted prior to October 1 of each year.
1386 (c) At least 60 days prior to adoption, the board shall
1387 submit to the Okeechobee County Board of County Commissioners,
1388 for purposes of disclosure and information only, the proposed
1389 annual budget for the ensuing fiscal year, and the board of
1390 county commissioners may submit written comments to the board
1391 solely for the assistance and information of the board of the
1392 district in adopting its annual district budget.
1393 (d) The board shall submit annually, to the Board of
1394 County Commissioners of Okeechobee County, its district public
1395 facilities report under section 189.415(2), Florida Statutes,
1396 addressing specifically short-term and long-term innovative
1397 systems, facilities, and services consistent with the unique
1398 nature of the new community. The Board of County Commissioners
1399 of Okeechobee County shall use and rely on the district public
1400 facilities report in the preparation or revision of the
1401 Okeechobee County Comprehensive Plan specifically under section
1402 189.415(6), Florida Statutes.

1403 (7) DISCLOSURE OF PUBLIC FINANCING.--The district shall
1404 take affirmative steps to provide for the full disclosure of
1405 information relating to the public financing and maintenance of
1406 improvements to real property undertaken by the district. Such
1407 information shall be made available to all current residents,
1408 and to all prospective residents, of the district. The district
1409 shall furnish each developer of a residential development within
1410 the district with sufficient copies of that information to
1411 provide each prospective initial purchaser of property in that
1412 development with a copy, and any developer of a residential
1413 development within the district, when required by law to provide
1414 a public offering statement, shall include a copy of such
1415 information relating to the public financing and maintenance of
1416 improvements in the public offering statement. The Division of
1417 Florida Land Sales, Condominiums, and Mobile Homes of the
1418 Department of Business and Professional Regulation shall ensure
1419 that disclosures are made by developers pursuant to chapter 498,
1420 Florida Statutes.
1421 (8) GENERAL POWERS.--The district shall have, and the
1422 board may exercise, the following general powers:
1423 (a) To sue and be sued in the name of the district; to
1424 adopt and use a seal and authorize the use of a facsimile
1425 thereof; to acquire by purchase, gift, devise, or otherwise, and
1426 to dispose of, real and personal property or any estate therein;
1427 and to make and execute contracts and other instruments
1428 necessary or convenient to the exercise of its powers.
1429 (b) To apply for coverage of its employees under the state
1430 retirement system in the same manner as if such employees were

1431 state employees, subject to necessary action by the district to
1432 pay employer contributions into the state retirement fund.
1433 (c) To contract for the services of consultants to perform
1434 planning, engineering, legal, or other appropriate services of a
1435 professional nature. Such contracts shall be subject to public
1436 bidding or competitive negotiation requirements as set forth in
1437 section 4(21).
1438 (d) To borrow money and accept gifts; to apply for and use
1439 grants or loans of money or other property from the United
1440 States, the state, a unit of local government, or any person for
1441 any district purposes and enter into agreements required in
1442 connection therewith; and to hold, use, and dispose of such
1443 moneys or property for any district purposes in accordance with
1444 the terms of the gift, grant, loan, or agreement relating
1445 thereto.
1446 (e) To adopt rules and orders pursuant to the provisions
1447 of chapter 120, Florida Statutes, prescribing the powers,
1448 duties, and functions of the officers of the district; the
1449 conduct of the business of the district; the maintenance of
1450 records; and the form of certificates evidencing tax liens and
1451 all other documents and records of the district. The board may
1452 also adopt administrative rules with respect to any of the
1453 projects of the district and define the area to be included
1454 therein. The board may also adopt resolutions which may be
1455 necessary for the conduct of district business.
1456 (f) To maintain an office at such place or places as the
1457 board designates in Okeechobee County and within the district
1458 when facilities are available.

1459 (g) To hold, control, and acquire by donation, purchase,
1460 or condemnation, and to dispose of, any public easements,
1461 dedications to public use, platted reservations for public
1462 purposes, or any reservations for those purposes authorized by
1463 this act other than public easements conveyed to or accepted by
1464 Okeechobee County and to make use of such easements,
1465 dedications, or reservations for the purpose mandated by this
1466 act.
1467 (h) To lease as lessor or lessee to or from any person,
1468 firm, corporation, association, or body, public or private, any
1469 projects of the type that the district is authorized to
1470 undertake and facilities or property of any nature for the use
1471 of the district to carry out the purposes mandated by this act.
1472 (i) To borrow money and issue bonds, certificates,
1473 warrants, notes, or other evidences of indebtedness as
1474 hereinafter provided; to levy such tax and assessments as may be
1475 authorized; and to charge, collect, and enforce fees and other
1476 user charges subject as applicable to section 4(10)-(13).
1477 (j) To raise, by user charges or fees authorized by
1478 resolution of the board, amounts of money which are necessary
1479 for the conduct of the district activities and services and to
1480 enforce their receipt and collection in the manner prescribed by
1481 resolution not inconsistent with law.
1482 (k) To exercise within the district, or beyond the
1483 district with prior approval by majority vote of a resolution of
1484 the governing body of the county if the taking will occur in an
1485 unincorporated area, the right and power of eminent domain,
1486 pursuant to the provisions of chapters 73 and 74, Florida

1487 Statutes, over any property within the state, except municipal,
1488 county, state, and federal property, for the uses and purpose of
1489 the district relating solely to water, sewer, district roads,
1490 and water management, specifically including, without
1491 limitation, the power for the taking of easements for the
1492 drainage of the land of one person over and through the land of
1493 another.
1494 (l) To cooperate with, or contract with, other
1495 governmental agencies as may be necessary, convenient,
1496 incidental, or proper in connection with any of the powers,
1497 duties, or purposes authorized by this act.
1498 (m) To assess and impose upon lands in the district ad
1499 valorem taxes as provided and limited by this act.
1500 (n) If and when authorized by general law, to determine,
1501 order, levy, impose, collect, and enforce maintenance taxes.
1502 (o) To determine, order, levy, impose, collect, and
1503 enforce assessments pursuant to this act, which sets forth a
1504 detailed uniform procedure to implement chapter 170, Florida
1505 Statutes, and as an alternative to determine, order, levy,
1506 impose, collect, and enforce assessments under and pursuant to
1507 chapter 170, Florida Statutes, pursuant to authority granted in
1508 section 197.3631, Florida Statutes, or pursuant to other
1509 provisions of general law, now or hereinafter enacted, which
1510 provide or authorize a supplemental means to impose, levy, and
1511 collect special assessments. Such special assessments, in the
1512 discretion of the district, as provided in section 197.3631,
1513 Florida Statutes, may be collected and enforced pursuant to the
1514 provisions of sections 197.3632 and 197.3635, Florida Statutes,

1515 and chapters 170 and 173, Florida Statutes, or as provided by
1516 this act.
1517 (p) To exercise such special powers and other express
1518 powers as may be authorized and granted by this act in the
1519 charter of the district, including powers as provided in any
1520 interlocal agreement entered into pursuant to chapter 163,
1521 Florida Statutes, or which shall be required or permitted to be
1522 undertaken by the district pursuant to any development order or
1523 development of regional impact, including any interlocal service
1524 agreement with Okeechobee County for fair-share capital
1525 construction funding for any capital facilities or systems
1526 required of the developer pursuant to any applicable development
1527 order or agreement.
1528 (q) To exercise all of the powers necessary, convenient,
1529 incidental, or proper in connection with any other powers or
1530 duties or the single purpose of the district authorized by this
1531 act.
1532
1533 The provisions of this subsection shall be construed liberally
1534 in order to carry out effectively the single specialized purpose
1535 of this act and to secure for the district its ability to be
1536 innovative.
1537 (9) SPECIAL POWERS.--The district shall have the following
1538 special powers to implement its lawful, single, and special
1539 purpose and to provide pursuant to that purpose basic systems,
1540 facilities, services, improvements, projects, works, and
1541 infrastructure in the new community, each of which constitutes a
1542 lawful public purpose when exercised pursuant to this charter,

1543 subject to, and not inconsistent with, the regulatory
1544 jurisdiction and permitting authority of all other applicable
1545 governmental bodies, agencies, and any special districts having
1546 authority with respect to any area included therein, and to
1547 plan, establish, acquire, construct or reconstruct, enlarge or
1548 extend, equip, operate, finance, fund, and maintain
1549 improvements, systems, facilities, services, works, projects,
1550 and infrastructure any or all of the following special powers
1551 granted by this act in order to implement the special
1552 requirements of this new community within the single special
1553 purpose of the district:
1554 (a) To provide for water management and control for the
1555 lands within the district and to connect some or any of such
1556 facilities with roads and bridges. In the event that the board
1557 assumes the responsibility for providing water management and
1558 control for the district which is to be financed by benefit
1559 special assessments, the board shall adapt plans and assessments
1560 pursuant to law or may adopt water management and control plans,
1561 assess for benefits, and apportion and levy special assessments
1562 as follows:
1563 1. The board shall cause to be made by the district's
1564 engineer, or such other engineer or engineers as the board may
1565 employ for that purpose, complete and comprehensive water
1566 management and control plans for the lands located within the
1567 district that will be improved in part or in whole by any system
1568 of facilities that may be outlined and adopted, and the engineer
1569 shall make a report in writing to the board with maps and

1570 profiles of said surveys and an estimate of the cost of carrying
1571 out and completing the plans.
1572 2. Upon the completion of such plans, the board shall hold
1573 a hearing thereon to hear objections thereto, shall give notice
1574 of the time and place fixed for such hearing by publication once
1575 each week for 2 consecutive weeks in a newspaper of general
1576 circulation in the general area of the district, and shall
1577 permit the inspection of the plan at the office of the district
1578 by all persons interested. All objections to the plan shall be
1579 filed at or before the time fixed in the notice for the hearing
1580 and shall be in writing.
1581 3. After the hearing, the board shall consider the
1582 proposed plan and any objections thereto and may modify, reject,
1583 or adopt the plan or continue the hearing to a day certain for
1584 further consideration of the proposed plan or modifications
1585 thereof.
1586 4. When the board approves a plan, a resolution shall be
1587 adopted and a certified copy thereof shall be filed in the
1588 office of the secretary and incorporated by him or her into the
1589 records of the district.
1590 5. The water management and control plan may be altered in
1591 detail from time to time until the appraisal record herein
1592 provided is filed, but not in such manner as to affect
1593 materially the conditions of its adoption. After the appraisal
1594 record has been filed, no alteration of the plan shall be made,
1595 except as provided by this act.

1596 6. Within 20 days after the final adoption of the plan by
1597 the board, the board shall proceed pursuant to section 298.301,
1598 Florida Statutes.
1599 (b) To provide for water supply, sewer, and wastewater
1600 management, reclamation, and reuse or any combination thereof
1601 and any irrigation systems, facilities, and services; to
1602 construct and operate connecting intercepting or outlet sewers
1603 and sewer mains and pipes and water mains, conduits, or
1604 pipelines in, along, and under any street, alley, highway, or
1605 other public place or way; and to dispose of any effluent,
1606 residue, or other byproducts of such system or sewer system.
1607 1. The district may not purchase or sell a water, sewer,
1608 or wastewater reuse utility that provides service to the public
1609 for compensation, or enter into a wastewater facility
1610 privatization contract for a wastewater facility, until the
1611 governing body of the new community district has held a public
1612 hearing on the purchase, sale, or wastewater facility
1613 privatization contract and made a determination that the
1614 purchase, sale, or wastewater facility privatization contract is
1615 in the public interest.
1616 2. In determining if the purchase, sale, or wastewater
1617 facility privatization contract is in the public interest, the
1618 district shall consider, at a minimum, the following:
1619 a. The most recent available income and expense statement
1620 for the utility.
1621 b. The most recent available balance sheet for the
1622 utility, listing assets and liabilities and clearly showing the

1623 amount of contributions in aid of construction and the
1624 accumulated depreciation thereon.
1625 c. A statement of the existing rate base of the utility
1626 for regulatory purposes.
1627 d. The physical condition of the utility facilities being
1628 purchased, sold, or subject to a wastewater facility
1629 privatization contract.
1630 e. The reasonableness of the purchase, sale, or wastewater
1631 facility privatization contract price and terms.
1632 f. The impacts of the purchase, sale, or wastewater
1633 facility privatization contract on utility customers, both
1634 positive and negative.
1635 g. Any additional investment required and the ability and
1636 willingness of the purchaser or the private firm under a
1637 wastewater facility privatization contract to make that
1638 investment, whether the purchaser is the district or the entity
1639 purchasing the utility from the district.
1640 h. In the case of a wastewater facility privatization
1641 contract, the terms and conditions on which the private firm
1642 will provide capital investment and financing or a combination
1643 thereof for contemplated capital replacements, additions,
1644 expansions, and repairs. The district shall give significant
1645 weight to this criterion.
1646 i. The alternatives to the purchase, sale, or wastewater
1647 facility privatization contract and the potential impact on
1648 utility customers if the purchase, sale, or wastewater facility
1649 privatization contract is not made.

1650 j. The ability of the purchaser or the private firm under
1651 a wastewater facility privatization contract to provide and
1652 maintain high-quality and cost-effective utility service,
1653 whether the purchaser is the district or the entity purchasing
1654 the utility from the district.
1655 k. In the case of a wastewater facility privatization
1656 contract, the technical expertise and experience of the private
1657 firm in carrying out the obligations specified in the wastewater
1658 facility privatization contract. The district shall give
1659 significant weight to this criterion.
1660 3. All moneys paid by a private firm to a district
1661 pursuant to a wastewater facility privatization contract shall
1662 be used for the purpose of reducing or offsetting property
1663 taxes, wastewater service rates, or debt reduction or making
1664 infrastructure improvements or capital asset expenditures or
1665 other public purpose; however, nothing herein shall preclude the
1666 district from using all or part of the moneys for the purpose of
1667 the district's qualification for relief from the repayment of
1668 federal grant awards associated with the wastewater system as
1669 may be required by federal law or regulation. The district shall
1670 prepare a statement showing that the purchase, sale, or
1671 wastewater facility privatization contract is in the public
1672 interest, including a summary of the purchaser's or private
1673 firm's experience in water, sewer, or wastewater reuse utility
1674 operation and a showing of financial ability to provide the
1675 service, whether the purchaser or private firm is the district
1676 or the entity purchasing the utility from the district.

1677 (c) To provide for bridges or culverts that may be needed
1678 across any drain, ditch, canal, floodway, holding basin,
1679 excavation, public highway, tract, grade, fill, or cut and
1680 roadways over levees and embankments, and to construct any and
1681 all of such works and improvements across, through, or over any
1682 public right-of-way, highway, grade, fill, or cut.
1683 (d) To provide for district roads equal to or exceeding
1684 the specifications of the county in which such district roads
1685 are located, and streetlights, including conditions of
1686 development approval which sometimes may be different
1687 specifications than the normal specifications of the county.
1688 This special power includes construction, improvement, pavement,
1689 and maintenance of roadways and roads necessary and convenient
1690 for the exercise of the powers or duties of the district to:
1691 1. Implement its single purpose.
1692 2. Include as a component thereof roads, parkways,
1693 bridges, landscaping, irrigation, bicycle and jogging paths,
1694 street lighting, traffic signals, road striping, and all other
1695 customary elements of a modern road system in general or as tied
1696 to the conditions of development approval for the specific
1697 district.
1698 3. Plan, implement, construct or reconstruct, enlarge or
1699 extend, finance, fund, equip, operate, and maintain parking
1700 facilities freestanding or as may be related to any innovative
1701 strategic intermodal system of transportation pursuant to
1702 applicable federal, state, and local laws and ordinances.

1703 (e) To provide for buses, trolleys, transit shelters,
1704 ride-sharing facilities and services, parking improvements, and
1705 related signage.
1706 (f) To cover investigation and remediation costs
1707 associated with the cleanup of actual or perceived environmental
1708 contamination within the district under the supervision or
1709 direction of a competent governmental authority unless the
1710 covered costs benefit any person who is a landowner within the
1711 district who caused or contributed to the contamination.
1712 (g) To provide for conservation areas, mitigation areas,
1713 and wildlife habitat, including the maintenance of any plant or
1714 animal species, and any related interest in real or personal
1715 property.
1716 (h) Using its general and special powers as set forth in
1717 this act, to provide for any other project within or without the
1718 boundaries of a district when the project is the subject of an
1719 agreement between the district and the Board of County
1720 Commissioners of Okeechobee County or with any applicable other
1721 public or private entity, including a homeowner association, and
1722 is not inconsistent with the Okeechobee County Comprehensive
1723 Plan and the Growth Management act which implement the single
1724 special purpose of the district.
1725 (i) To provide for parks and facilities for indoor and
1726 outdoor recreational, cultural, and educational uses.
1727 (j) To provide for fire prevention and control, including
1728 fire stations and buildings, water mains and plugs, fire trucks,
1729 and other vehicles and equipment, and for emergency medical

1730 services, including stations and buildings, vehicles, and
1731 equipment.
1732 (k) To provide for school buildings and related
1733 structures, which may be leased, sold, or donated to the school
1734 district, for use in the educational system when authorized by
1735 the district school board. The district is granted the special
1736 power to contract with the Okeechobee County School Board and,
1737 as applicable, the Board of County Commissioners of Okeechobee
1738 County, and with the applicable landowner developer of the lands
1739 within the jurisdiction of the district, to assess the school
1740 district educational facilities plan, and to implement a
1741 management and financing plan for timely construction,
1742 maintenance, and acquisition, at the option of the district, of
1743 school facilities, including facilities identified in the
1744 facilities work programs or those proposed by charter schools.
1745 The district is granted the special power to determine, order,
1746 levy, impose, collect, or arrange for the collection and
1747 enforcement of assessments, as defined in and pursuant to this
1748 act, for such school facilities. The district is eligible for
1749 the financial enhancements available to educational facility
1750 benefit districts to provide for financing the construction and
1751 maintenance of educational facilities pursuant to section
1752 1013.356, Florida Statutes, and, if and when authorized by
1753 general law, to acquire such educational facilities. This act,
1754 in the place of an educational facilities benefit district,
1755 authorizes the Okeechobee County School Board to designate the
1756 district. The district is authorized to enter into an interlocal
1757 agreement with the Okeechobee County School Board and, as

1758 applicable, the Board of County Commissioners of Okeechobee
1759 County, and applicable private landowners and developers in
1760 order to provide for such construction, maintenance, and
1761 acquisition and in order to receive the applicable financial
1762 enhancements provided by section 1013.356, Florida Statutes. The
1763 interlocal agreement shall consider, among other things,
1764 absorption rates, sales rates, and related data of existing and
1765 projected schools; racial, ethnic, social, and economic balance
1766 within the Okeechobee County School District under applicable
1767 state and federal law; and the provision of school attendance
1768 zones to allow students residing within a reasonable distance of
1769 the facilities constructed and financed through the interlocal
1770 agreement to attend such facilities. Because these facilities
1771 are funded by assessments and not by taxes of any type, the
1772 provision of these facilities may be multiuse and, consistent
1773 with the provisions of this act, shall be first liens on the
1774 property upon a showing of special and peculiar benefits that
1775 flow to the property within the jurisdiction of the district as
1776 a logical connection from the systems, facilities, and services,
1777 resulting in added use, enhanced enjoyment, decreased insurance
1778 premiums, or enhanced value in marketability so that the
1779 Legislature finds that the provisions of the Florida
1780 Constitution for free public schools is implemented and
1781 enhanced.
1782 (l) To provide for security, including, but not limited
1783 to, guardhouses, fences and gates, electronic intrusion
1784 detection systems, and patrol cars, when authorized by proper
1785 governmental agencies, except that the district may not exercise

1786 any powers of a law enforcement agency but may contract with the
1787 appropriate local general-purpose government agencies for an
1788 increased level of such services within the district boundaries.
1789 Notwithstanding any provision of general law, the district may
1790 operate guardhouses for the limited purpose of providing
1791 security for the residents of the district and which serve a
1792 predominate public, as opposed to private, purpose. Such
1793 guardhouses shall be operated by the district or other unit of
1794 local government pursuant to procedures designed to serve such
1795 security purposes as set forth in rules adopted by the board,
1796 from time to time, following the procedures set forth in chapter
1797 120, Florida Statutes.
1798 (m) To provide for control and elimination of mosquitoes
1799 and other arthropods of public health importance.
1800 (n) To provide for waste collection and disposal.
1801 (o) To enter into impact fee credit agreements with
1802 Okeechobee County and the Okeechobee County School Board. Under
1803 such agreements, where the district constructs or makes
1804 contributions for public systems, facilities, services,
1805 projects, improvements, works, and infrastructures for which
1806 impact fee credits would be available to the landowner developer
1807 under the Okeechobee County and Okeechobee County School Board
1808 applicable impact fee ordinance, the agreement authorized by
1809 this act shall provide that such impact fee credit shall inure
1810 to the landowners within the district in portion to assessments
1811 or other burdens levied and imposed upon the landowners with
1812 respect to assessable improvements giving rise to such impact
1813 fee credits, and the district shall, from time to time, execute

1814 such instruments, such as assignments of impact fee credits, as
1815 may be necessary, appropriate, or desirable to accomplish or to
1816 confirm the foregoing.
1817 (p) To establish and create, at noticed meetings, such
1818 government departments of the board of the district, as well as
1819 committees, task forces, boards, commissions, or other agencies
1820 under the supervision and control of the district, as from time
1821 to time the members of the board may deem necessary or desirable
1822 in the performance of the acts or other things necessary to
1823 exercise its general or special powers to implement an
1824 innovative project to carry out the special purpose of the
1825 district as provided in this act and to delegate to such
1826 departments, boards, task forces, committees, or other agencies
1827 such administrative duties and other powers as the board may
1828 deem necessary or desirable, but only if there is a set of
1829 expressed limitations for accountability, notice, and periodic
1830 written reporting to the board, which shall retain its powers.
1831 (q) So long as not inconsistent with the applicable local
1832 government comprehensive plan and development entitlements, to
1833 coordinate with the landowner developer on the phasing of the
1834 delivery of infrastructure and to create phase entities or units
1835 for its charter purpose. Toward this end, and so long as it
1836 implements the purpose of the district under this act, the board
1837 may designate, therefore, units of development and adopt systems
1838 of progressive phased development by units with related
1839 management planning, implementation, construction, maintenance,
1840 and financing within its phased unit. If the board proceeds to
1841 designate such phased units of development, it must adopt at a

1842 noticed meeting pursuant to chapter 120, Florida Statutes, a
1843 rule setting forth detailed procedures and authorizations for
1844 such phase unit processes. A committee, department, or agency of
1845 the board shall be given express duty of oversight with monthly
1846 written reports to the board. No such phased units can begin or
1847 operate until or unless the required noticed rule has been
1848 promulgated. With regard to any phased unit, there shall be no
1849 bonded indebtedness and no levy of any lienable or nonlienable
1850 revenue, whether to amortize bonds or not, within the boundary
1851 of a phased unit other than by the board and pursuant to the
1852 powers, procedures, and provisions of this act and other
1853 applicable laws.
1854 (r) To plan, establish, acquire, construct or reconstruct,
1855 enlarge or extend, equip, operate, maintain, finance, and fund
1856 buildings and structures for district offices, maintenance
1857 facilities, meeting facilities, town centers, or any other
1858 project authorized or granted by this act upon a showing at a
1859 noticed meeting of its efficacy to the specialized single
1860 purpose of this district for the new community.
1861 (s) To plan, establish, acquire, construct or reconstruct,
1862 enlarge or extend, equip, operate, maintain, finance, and fund
1863 edifices and facilities for the provision of health care when
1864 authorized by applicable public or private agencies providing
1865 health care and upon a showing of efficacy to carry out the
1866 purpose of the district.
1867 (t) To coordinate, work with, and, as the board deems
1868 appropriate, enter into interlocal agreements subject to the
1869 provisions of this charter with any public or private

1870 institution of higher education, including the Indian River
1871 Community College and any public or private university. The
1872 purpose of such coordination and agreements is to help sustain
1873 high-quality infrastructure in, around, and for the universities
1874 as may be appropriate under the law on the basis that the
1875 provision of such systems, facilities, and services, including
1876 classrooms or other buildings for such institutions, constitutes
1877 enhancement of the intrinsic value and marketability of property
1878 within the new community and also provides for increased
1879 enjoyment and enhanced use of the property. These systems,
1880 facilities, and services, including buildings, shall be first
1881 liens on the property within the community and serve a lawful
1882 public purpose upon a showing by the board in a nonarbitrary and
1883 informed manner of special and peculiar benefits that flow to
1884 the property within the community as a logical connection from
1885 the systems, facilities, and services, resulting in added use,
1886 enhanced enjoyment, decreased insurance premiums on, or enhanced
1887 value in the marketability of the property.
1888 (u) To adopt and enforce appropriate rules following the
1889 procedures of chapter 120, Florida Statutes, in connection with
1890 the provisions of one or more its systems, facilities, services,
1891 projects, improvements, works, and infrastructure.
1892
1893 The enumeration of special powers in this subsection shall not
1894 be deemed exclusive or restrictive but shall be deemed to
1895 incorporate all powers, express or implied, necessary or
1896 incident to carrying out such enumerated special powers,
1897 including also the general powers provided by this special act

1898 charter to the district to implement its single purpose. The
1899 provisions of this subsection shall be construed liberally in
1900 order to carry out effectively the single purpose of this
1901 district under this act and to secure for the district its
1902 ability to be innovative.
1903 (10) ISSUANCE OF BOND ANTICIPATION NOTES.--In addition to
1904 the other powers provided for in this act, and not in limitation
1905 thereof, the district shall have the power, at any time, and
1906 from time to time after the issuance of any bonds of the
1907 district shall have been authorized, to borrow money for the
1908 purposes for which such bonds are to be issued in anticipation
1909 of the receipt of the proceeds of the sale of such bonds and to
1910 issue bond anticipation notes in a principal sum not in excess
1911 of the authorized maximum amount of such bond issue. Such notes
1912 shall be in such denomination or denominations; bear interest at
1913 such rate, not to exceed the maximum rate allowed by general
1914 law; mature at such time or times not later than 5 years from
1915 the date of issuance; and be in such form and executed in such
1916 manner as the board shall prescribe. Such notes may be sold at
1917 either public or private sale or, if such notes are renewal
1918 notes, may be exchanged for notes then outstanding on such terms
1919 as the board shall determine. Such notes shall be paid from the
1920 proceeds of such bonds when issued. The board may, in its
1921 discretion, in lieu of retiring the notes by means of bonds,
1922 retire them by means of current revenues or from any taxes or
1923 assessments levied for the payment of such bonds, but in such
1924 event, a like amount of the bonds authorized shall not be
1925 issued.

1926 (11) SHORT-TERM BORROWING.--The district may at any time
1927 obtain loans, in such amount and on such terms and conditions as
1928 the board may approve, for the purpose of paying any of the
1929 expenses of the district or any costs incurred or that may be
1930 incurred in connection with any of the projects of the district,
1931 which loans shall bear interest as the board determines as not
1932 to exceed the maximum rate allowed by general law and may be
1933 payable from and secured by a pledge of such funds, revenues,
1934 taxes, and assessments as the board may determine, subject,
1935 however, to the provisions contained in any proceeding under
1936 which bonds were theretofore issued and are then outstanding.
1937 For the purpose of defraying such costs and expenses, the
1938 district may issue negotiable notes, warrants, or other
1939 evidences of debt to be payable at such times and to bear such
1940 interest, not to exceed the maximum rate allowed by general law,
1941 as the board may determine and to be sold or discounted at such
1942 price or prices not less than 95 percent of par value and on
1943 such terms as the board may deem advisable. The board shall have
1944 the right to provide for the payment thereof by pledging the
1945 whole or any part of the funds, revenues, taxes, and assessments
1946 of the district. The approval of the electors residing in the
1947 district shall not be necessary except when required by the
1948 State Constitution.
1949 (12) BONDS.--
1950 (a) Bonds may be sold in blocks or installments at
1951 different times, or an entire issue or series may be sold at one
1952 time. Bonds may be sold at public or private sale after such
1953 advertisement, if any, as the board may deem advisable, but not

1954 in any event at less than 90 percent of the par value thereof,
1955 together with accrued interest thereon. Bonds may be sold or
1956 exchanged for refunding bonds. Special assessment and revenue
1957 bonds may be delivered by the district as payment of the
1958 purchase price of any project or part thereof, or a combination
1959 of projects or parts thereof, or as the purchase price or
1960 exchange for any property, real, personal, or mixed, including
1961 franchises or services rendered by any contractor, engineer, or
1962 other person, all at one time or in blocks from time to time, in
1963 such manner and upon such terms as the board in its discretion
1964 shall determine. The price or prices for any bonds sold,
1965 exchanged, or delivered may be:
1966 1. The money paid for the bonds.
1967 2. The principal amount, plus accrued interest to the date
1968 of redemption or exchange, or outstanding obligations exchanged
1969 for refunding bonds.
1970 3. In the case of special assessment or revenue bonds, the
1971 amount of any indebtedness to contractors or other persons paid
1972 with such bonds, or the fair value of any properties exchanged
1973 for the bonds, as determined by the board.
1974 (b) Any general obligation bonds, special assessment
1975 bonds, or revenue bonds may be authorized by resolution or
1976 resolutions of the board, which shall be adopted by a majority
1977 of all the members thereof then in office. Such resolution or
1978 resolutions may be adopted at the same meeting at which they are
1979 introduced and need not be published or posted. The board may,
1980 by resolution, authorize the issuance of bonds and fix the
1981 aggregate amount of bonds to be issued; the purpose or purposes

1982 for which the moneys derived therefrom shall be expended,
1983 including, but not limited to, payment of costs as defined in
1984 section 2(6)(h); the rate or rates of interest, not to exceed
1985 the maximum rate allowed by general law; the denomination of the
1986 bonds; whether or not the bonds are to be issued in one or more
1987 series; the date or dates of maturity, which shall not exceed 40
1988 years from their respective dates of issuance; the medium of
1989 payment; the place or places within or without the state where
1990 payment shall be made; registration privileges; redemption terms
1991 and privileges, whether with or without premium; the manner of
1992 execution; the form of the bonds, including any interest coupons
1993 to be attached thereto; the manner of execution of bonds and
1994 coupons; and any and all other terms, covenants, and conditions
1995 thereof and the establishment of revenue or other funds. Such
1996 authorizing resolution or resolutions may further provide for
1997 the contracts authorized by section 159.825(1)(f) and (g),
1998 Florida Statutes, regardless of the tax treatment of such bonds
1999 being authorized, subject to the finding by the board of a net
2000 savings to the district resulting by reason thereof. Such
2001 authorizing resolution may further provide that such bonds may
2002 be executed in accordance with the Registered Public Obligations
2003 Act, except that bonds not issued in registered form shall be
2004 valid if manually countersigned by an officer designated by
2005 appropriate resolution of the board. The seal of the district
2006 may be affixed, lithographed, engraved, or otherwise reproduced
2007 in facsimile on such bonds. In case any officer whose signature
2008 appears on any bonds or coupons ceases to be such officer before
2009 the delivery of such bonds, such signature or facsimile shall

2010 nevertheless be valid and sufficient for all purposes as if he
2011 or she had remained in office until such delivery.
2012 (c) Pending the preparation of definitive bonds, the board
2013 may issue interim certificates or receipts or temporary bonds,
2014 in such form and with such provisions as the board may
2015 determine, exchangeable for definitive bonds when such bonds
2016 have been executed and are available for delivery. The board may
2017 also provide for the replacement of any bonds which become
2018 mutilated, lost, or destroyed.
2019 (d) Any bond issued under this act or any temporary bond,
2020 in the absence of an express recital on the face thereof that it
2021 is nonnegotiable, shall be fully negotiable and shall be and
2022 constitute a negotiable instrument within the meaning and for
2023 all purposes of the law merchant and the laws of the state.
2024 (e) The board may make such provision with respect to the
2025 defeasance of the right, title, and interest of the holders of
2026 any of the bonds and obligations of the district in any
2027 revenues, funds, or other properties by which such bonds are
2028 secured as the board deems appropriate and, without limitation
2029 on the foregoing, may provide that when such bonds or
2030 obligations become due and payable or are called for redemption
2031 and the whole amount of the principal and interest and premium,
2032 if any, due and payable upon the bonds or obligations then
2033 outstanding is held in trust for such purpose and provision is
2034 also made for paying all other sums payable in connection with
2035 such bonds or other obligations, then the right, title, and
2036 interest of the holders of the bonds in any revenues, funds, or
2037 other properties by which such bonds are secured shall thereupon

2038 cease, terminate, and become void; and the board may apply any
2039 surplus in any sinking fund established in connection with such
2040 bonds or obligations and all balances remaining in all other
2041 funds or accounts other than money held for the redemption or
2042 payment of the bonds or other obligations to any lawful purpose
2043 of the district as the board shall determine.
2044 (f) If the proceeds of any bonds are less than the cost of
2045 completing the project in connection with which such bonds were
2046 issued, the board may authorize the issuance of additional bonds
2047 upon such terms and conditions as the board may provide in the
2048 resolution authorizing the issuance thereof, but only in
2049 compliance with the resolution or other proceedings authorizing
2050 the issuance of the original bonds.
2051 (g) The district shall have the power to issue bonds to
2052 provide for the retirement or refunding of any bonds or
2053 obligations of the district that, at the time of such issuance,
2054 are or subsequently thereto become due and payable, or that at
2055 the time of issuance have been called or are or will be subject
2056 to call for redemption within 10 years thereafter, or the
2057 surrender of which can be procured from the holders thereof at
2058 prices satisfactory to the board. Refunding bonds may be issued
2059 at any time when, in the judgment of the board, such issuance
2060 will be advantageous to the district. No approval of the
2061 qualified electors residing in the district shall be required
2062 for the issuance of refunding bonds except in cases in which
2063 such approval is required by the State Constitution. The board
2064 may by resolution confer upon the holders of such refunding
2065 bonds all rights, powers, and remedies to which the holders

2066 would be entitled if they continued to be the owners and had
2067 possession of the bonds for the refinancing of which such
2068 refunding bonds are issued, including, but not limited to, the
2069 preservation of the lien of such bonds on the revenues of any
2070 project or on pledged funds, without extinguishment, impairment,
2071 or diminution thereof. The provisions of this act pertaining to
2072 bonds of the district shall, unless the context otherwise
2073 requires, govern the issuance of refunding bonds, the form and
2074 other details thereof, the rights of the holders thereof, and
2075 the duties of the board with respect thereto.
2076 (h)1. The district shall have the power to issue revenue
2077 bonds from time to time without limitation as to amount. Such
2078 revenue bonds may be secured by, or payable from, the gross or
2079 net pledge of the revenues to be derived from any project or
2080 combination of projects; from the rates, fees, or other charges
2081 to be collected from the users of any project or projects; from
2082 any revenue-producing undertaking or activity of the district;
2083 from special assessments; from benefit special assessments; or
2084 from any other source or pledged security. Such bonds shall not
2085 constitute an indebtedness of the district, and the approval of
2086 the qualified electors shall not be required unless such bonds
2087 are additionally secured by the full faith and credit and taxing
2088 power of the district.
2089 2. Any two or more projects may be combined and
2090 consolidated into a single project and may be operated and
2091 maintained as a single project. The revenue bonds authorized
2092 herein may be issued to finance any one or more of such
2093 projects, regardless of whether such projects have been combined

2094 and consolidated into a single project. If the board deems it
2095 advisable, the proceedings authorizing such revenue bonds may
2096 provide that the district may combine the projects then being
2097 financed or theretofore financed with other projects to be
2098 subsequently financed by the district and that revenue bonds to
2099 be thereafter issued by the district shall be on parity with the
2100 revenue bonds then being issued, all on such terms, conditions,
2101 and limitations provided in the proceeding which authorized the
2102 original bonds.
2103 (i)1. Subject to the limitations of this charter, the
2104 district shall have the power from time to time to issue general
2105 obligation bonds to finance or refinance capital projects or to
2106 refund outstanding bonds in an aggregate principal amount of
2107 bonds outstanding at any one time not in excess of 35 percent of
2108 the assessed value of the taxable property within the district
2109 as shown on the pertinent tax records at the time of the
2110 authorization of the general obligation bonds for which the full
2111 faith and credit of the district is pledged. Except for
2112 refunding bonds, no general obligation bonds shall be issued
2113 unless the bonds are issued to finance or refinance a capital
2114 project and the issuance has been approved at an election held
2115 in accordance with the requirements for such election as
2116 prescribed by the State Constitution. Such elections shall be
2117 called to be held in the district by the board of county
2118 commissioners of the county upon the request of the board of the
2119 district. The expenses of calling and holding an election shall
2120 be at the expense of the district, and the district shall

2121 reimburse the county for any expenses incurred in calling or
2122 holding such election.
2123 2. The district may pledge its full faith and credit for
2124 the payment of the principal and interest on such general
2125 obligation bonds and for any reserve funds provided therefor and
2126 may unconditionally and irrevocably pledge itself to levy ad
2127 valorem taxes on all taxable property in the district, to the
2128 extent necessary for the payment thereof, without limitations as
2129 to rate or amount.
2130 3. If the board determines to issue general obligation
2131 bonds for more than one capital project, the approval of the
2132 issuance of the bonds for each and all such projects may be
2133 submitted to the electors on one and the same ballot. The
2134 failure of the electors to approve the issuance of bonds for any
2135 one or more capital projects shall not defeat the approval of
2136 bonds for any capital project which has been approved by the
2137 electors.
2138 4. In arriving at the amount of general obligation bonds
2139 permitted to be outstanding at any one time pursuant to
2140 subparagraph 1., there shall not be included any general
2141 obligation bonds which are additionally secured by the pledge
2142 of:
2143 a. Any assessments levied in an amount sufficient to pay
2144 the principal and interest on the general obligation bonds so
2145 additionally secured, which assessments have been equalized and
2146 confirmed by resolution of the board pursuant to this act or
2147 section 170.08, Florida Statutes.

2148 b. Water revenues, sewer revenues, or water and sewer
2149 revenues of the district to be derived from user fees in an
2150 amount sufficient to pay the principal and interest on the
2151 general obligation bonds so additionally secured.
2152 c. Any combination of assessments and revenues described
2153 in subparagraphs a. and b.
2154 (j)1. Notwithstanding the provisions of any other law to
2155 the contrary, all bonds issued under the provisions of this act
2156 shall constitute legal investments for savings banks, banks,
2157 trust companies, insurance companies, executors, administrators,
2158 trustees, guardians, and other fiduciaries and for any board,
2159 body, agency, instrumentality, county, municipality, or other
2160 political subdivision of the state and shall be and constitute
2161 security which may be deposited by banks or trust companies as
2162 security for deposits of state, county, municipal, or other
2163 public funds or by insurance companies as required or voluntary
2164 statutory deposits.
2165 2. Any bonds issued by the district shall be incontestable
2166 in the hands of bona fide purchasers or holders for value and
2167 shall not be invalid because of any irregularity or defect in
2168 the proceedings for the issue and sale thereof.
2169 (k) Any resolution authorizing the issuance of bonds may
2170 contain such covenants as the board may deem advisable, and all
2171 such covenants shall constitute valid and legally binding and
2172 enforceable contracts between the district and the bondholders,
2173 regardless of the time of issuance thereof. Such covenants may
2174 include, without limitation, covenants concerning the
2175 disposition of the bond proceeds; the use and disposition of

2176 project revenues; the pledging of revenues, taxes, and
2177 assessments; the obligations of the district with respect to the
2178 operation of the project and the maintenance of adequate project
2179 revenues; the issuance of additional bonds; the appointment,
2180 powers, and duties of trustees and receivers; the acquisition of
2181 outstanding bonds and obligations; restrictions on the
2182 establishing of competing projects or facilities; restrictions
2183 on the sale or disposal of the assets and property of the
2184 district; the priority of assessment liens; the priority of
2185 claims by bondholders on the taxing power of the district; the
2186 maintenance of deposits to ensure the payment of revenues by
2187 users of district facilities and services; the discontinuance of
2188 district services by reason of delinquent payments; acceleration
2189 upon default; the execution of necessary instruments; the
2190 procedure for amending or abrogating covenants with the
2191 bondholders; and such other covenants as may be deemed necessary
2192 or desirable for the security of the bondholders.
2193 (l) The power of the district to issue bonds under the
2194 provisions of this act may be determined, and any of the bonds
2195 of the district maturing over a period of more than 5 years
2196 shall be validated and confirmed, by court decree, under the
2197 provisions of chapter 75, Florida Statutes.
2198 (m) To the extent allowed by general law, all bonds issued
2199 hereunder and interest paid thereon and all fees, charges, and
2200 other revenues derived by the district from the projects
2201 provided by this act are exempt from all taxes by the state or
2202 by any political subdivision, agency, or instrumentality
2203 thereof; however, any interest, income, or profits on debt

2204 obligations issued hereunder are not exempt from the tax imposed
2205 by chapter 220, Florida Statutes. Further, the district is not
2206 exempt from the provisions of chapter 212, Florida Statutes.
2207 (n) Bonds issued by the district shall meet the criteria
2208 set forth in section 189.4085, Florida Statutes.
2209 (o) This act constitutes full and complete authority for
2210 the issuance of bonds and the exercise of the powers of the
2211 district provided herein. No procedures or proceedings,
2212 publications, notices, consents, approvals, orders, acts, or
2213 things by the board, or any board, officers, commission,
2214 department, agency, or instrumentality of the district, other
2215 than those required by this act, shall be required to perform
2216 anything under this act, except that the issuance or sale of
2217 bonds pursuant to the provisions of this act shall comply with
2218 the general law requirements applicable to the issuance or sale
2219 of bonds by the district. Nothing in this act shall be construed
2220 to authorize the district to utilize bond proceeds to fund the
2221 ongoing operations of the district.
2222 (p) The state pledges to the holders of any bonds issued
2223 under this act that it will not limit or alter the rights of the
2224 district to own, acquire, construct, reconstruct, improve,
2225 maintain, operate, or furnish the projects or to levy and
2226 collect the taxes, assessments, rentals, rates, fees, and other
2227 charges provided for herein or to fulfill the terms of any
2228 agreement made with the holders of such bonds or other
2229 obligations and that it will not in any way impair the rights or
2230 remedies of such holders.

2231 (q) A default on the bonds or obligations of a district
2232 shall not constitute a debt or obligation of the state or any
2233 local general-purpose government or the state.
2234 (13) TRUST AGREEMENTS.--Any issue of bonds shall be
2235 secured by a trust agreement by and between the district and a
2236 corporate trustee or trustees, which may be any trust company or
2237 bank having the powers of a trust company within or without the
2238 state. The resolution authorizing the issuance of the bonds or
2239 such trust agreement may pledge the revenues to be received from
2240 any projects of the district and may contain such provisions for
2241 protecting and enforcing the rights and remedies of the
2242 bondholders as the board may approve, including, without
2243 limitation, covenants setting forth the duties of the district
2244 in relation to the acquisition, construction, reconstruction,
2245 improvement, maintenance, repair, operation, and insurance of
2246 any projects; the fixing and revising of the rates, fees, and
2247 charges; and the custody, safeguarding, and application of all
2248 moneys and for the employment of consulting engineers in
2249 connection with such acquisition, construction, reconstruction,
2250 improvement, maintenance, repair, or operation. It shall be
2251 lawful for any bank or trust company within or without the state
2252 which may act as a depository of the proceeds of bonds or of
2253 revenues to furnish such indemnifying bonds or to pledge such
2254 securities as may be required by the district. Such resolution
2255 or trust agreement may set forth the rights and remedies of the
2256 bondholders and of the trustee, if any, and may restrict the
2257 individual right of action by bondholders. The board may provide
2258 for the payment of proceeds of the sale of the bonds and the

2259 revenues of any project to such officer, board, or depository as
2260 it may designate for the custody thereof and may provide for the
2261 method of disbursement thereof with such safeguards and
2262 restrictions as it may determine. All expenses incurred in
2263 carrying out the provisions of such resolution or trust
2264 agreement may be treated as part of the cost of operation of the
2265 project to which such trust agreement pertains.
2266 (14) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL
2267 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
2268 ASSESSMENTS; MAINTENANCE TAXES.--
2269 (a) A board elected by and consisting of qualified
2270 electors shall have the power to levy and assess an ad valorem
2271 tax on all the taxable property in the district to construct,
2272 operate, and maintain assessable improvements; to pay the
2273 principal of, and interest on, any general obligation bonds of
2274 the district; and to provide for any sinking or other funds
2275 established in connection with any such bonds. An ad valorem tax
2276 levied by the board for operating purposes, exclusive of debt
2277 service on bonds, shall not exceed 3 mills. The ad valorem tax
2278 provided for herein shall be in addition to county and all other
2279 ad valorem taxes provided for by law. Such tax shall be
2280 assessed, levied, and collected in the same manner and at the
2281 same time as county taxes. The levy of ad valorem taxes shall be
2282 approved by referendum when required by the State Constitution.
2283 (b) The board annually shall determine, order, and levy
2284 the annual installment of the total benefit special assessments
2285 for bonds issued for and expenses related to financing
2286 assessable improvements. These assessments may be due and

2287 collected during each year that county taxes are due and
2288 collected, in which case such annual installment and levy shall
2289 be evidenced and certified to the property appraiser by the
2290 board not later than August 31 of each year. Such assessment
2291 shall be entered by the property appraiser on the county tax
2292 rolls and shall be collected and enforced by the tax collector
2293 in the same manner and at the same time as county taxes, and the
2294 proceeds thereof shall be paid to the district. However, this
2295 subsection shall not prohibit the district in its discretion
2296 from using the method prescribed in either section 197.3632,
2297 Florida Statutes, or chapter 173, Florida Statutes, for
2298 collecting and enforcing these assessments. Each annual
2299 installment of benefit special assessments shall be a lien on
2300 the property against which assessed until paid and shall be
2301 enforceable in a like manner as county taxes. The amount of the
2302 assessment for the exercise of the district's powers under
2303 subsections (8) and (9) shall be determined by the board based
2304 upon a report by the district's engineer and assessed by the
2305 board upon such lands, which may be part or all of the lands
2306 within the district benefited by the improvement, apportioned
2307 between benefited lands in proportion to the benefits received
2308 by each tract of land. The board may, if it determines it is in
2309 the best interests of the district, set forth in the proceedings
2310 initially levying such benefit special assessments or in
2311 subsequent proceedings a formula for the determination of an
2312 amount, which, when paid by a taxpayer with respect to any tax
2313 parcel, shall constitute a prepayment of all future annual
2314 installments of such benefit special assessments and the payment

2315 of which amount with respect to such tax parcel shall relieve
2316 and discharge such tax parcel of the lien of such benefit
2317 special assessments and any subsequent annual installment
2318 thereof. The board may provide further that upon delinquency in
2319 the payment of any annual installment of benefit special
2320 assessments, the prepayment amount of all future annual
2321 installments of benefit special assessments as determined in
2322 this paragraph shall be and become immediately due and payable
2323 together with such delinquent annual installment.
2324 (c) If and when authorized by general law, to maintain and
2325 preserve the physical facilities and services constituting the
2326 works, improvements, or infrastructure provided by the district
2327 pursuant to this act, and to repair and restore any one or more
2328 of them, when needed, and for the purpose of defraying the
2329 current expenses of the district, including any sum which may be
2330 required to pay state and county ad valorem taxes on any lands
2331 which may have been purchased and which are held by the district
2332 under the provisions of this act, the board may, upon the
2333 completion of said systems, facilities, services, works,
2334 improvements, or infrastructure, in whole or in part, as may be
2335 certified to the board by the engineer of the board, levy
2336 annually a non-ad valorem and nonmillage tax upon each tract or
2337 parcel of land within the district, to be known as a
2338 "maintenance tax." This non-ad valorem maintenance tax shall be
2339 apportioned upon the basis of the net assessments of benefits
2340 assessed as accruing from the original construction and shall be
2341 evidenced and certified to the property appraiser by the board
2342 not later than June 1 of each year and shall be entered by the

2343 property appraiser on the tax roll of the property appraiser, as
2344 certified by the property appraiser to the tax collector, and
2345 collected by the tax collector on the merged collection roll of
2346 the tax collector in the same manner and at the same time as
2347 county ad valorem taxes, and the proceeds therefrom shall be
2348 paid to the district. This non-ad valorem maintenance tax shall
2349 be a lien until paid on the property against which assessed and
2350 enforceable in like manner and of the same dignity as county ad
2351 valorem taxes.
2352 (d) To maintain and preserve the facilities and projects
2353 of the district, the board may levy a maintenance special
2354 assessment. This assessment may be evidenced to and certified to
2355 the property appraiser by the board not later than August 31 of
2356 each year and shall be entered by the property appraiser on the
2357 county tax rolls and shall be collected and enforced by the tax
2358 collector in the same manner and at the same time as county
2359 taxes, and the proceeds therefrom shall be paid to the district.
2360 However, this subsection shall not prohibit the district in its
2361 discretion from using the method prescribed in section 197.363,
2362 section 197.3631, or section 197.3632, Florida Statutes, for
2363 collecting and enforcing these assessments. These maintenance
2364 special assessments shall be a lien on the property against
2365 which assessed until paid and shall be enforceable in like
2366 manner as county taxes. The amount of the maintenance special
2367 assessment for the exercise of the district's powers under this
2368 section shall be determined by the board based upon a report by
2369 the district's engineer and assessed by the board upon such
2370 lands, which may be all of the lands within the district

2371 benefited by the maintenance thereof, apportioned between the
2372 benefited lands in proportion to the benefits received by each
2373 tract of land.
2374 (e) The board shall have the power to levy and impose any
2375 special assessments pursuant to subsection (15).
2376 (f) The collection and enforcement of all taxes levied by
2377 the district shall be at the same time and in like manner as
2378 county taxes, and the provisions of the Florida Statutes
2379 relating to the sale of lands for unpaid and delinquent county
2380 taxes; the issuance, sale, and delivery of tax certificates for
2381 such unpaid and delinquent county taxes; the redemption thereof;
2382 the issuance to individuals of tax deeds based thereon; and all
2383 other procedures in connection therewith shall be applicable to
2384 the district to the same extent as if such statutory provisions
2385 were expressly set forth herein. All taxes shall be subject to
2386 the same discounts as county taxes.
2387 (g) All taxes provided for in this act shall become
2388 delinquent and bear penalties on the amount of such taxes in the
2389 same manner as county taxes.
2390 (h) Benefit special assessments, maintenance special
2391 assessments, and special assessments are hereby found and
2392 determined to be non-ad valorem assessments as defined by
2393 section 197.3632, Florida Statutes. Maintenance taxes are non-ad
2394 valorem taxes and are not special assessments.
2395 (i) Any and all assessments, including special
2396 assessments, benefit special assessments, and maintenance
2397 special assessments authorized by this section; special
2398 assessments as defined by section 2(6)(z) and granted and

2399 authorized by this subsection; and maintenance taxes if
2400 authorized by general law, shall constitute a lien on the
2401 property against which assessed from the date of levy and
2402 imposition thereof until paid, coequal with the lien of state,
2403 county, municipal, and school board taxes. These assessments may
2404 be collected, at the district's discretion, under authority of
2405 section 197.3631, Florida Statutes, by the tax collector
2406 pursuant to the provisions of sections 197.3632 and 197.3635,
2407 Florida Statutes, or in accordance with other collection
2408 measures provided by law. In addition to, and not in limitation
2409 of, any powers otherwise set forth herein or in general law,
2410 these assessments may also be enforced pursuant to the
2411 provisions of chapter 173, Florida Statutes.
2412 (j) Except as otherwise provided by law, no levy of ad
2413 valorem taxes or non-ad valorem assessments under this act or
2414 chapter 170 or chapter 197, Florida Statutes, or otherwise by a
2415 board of a district on property of a governmental entity that is
2416 subject to a ground lease as described in section 190.003(13),
2417 Florida Statutes, shall constitute a lien or encumbrance on the
2418 underlying fee interest of such governmental entity.
2419 (15) SPECIAL ASSESSMENTS.--
2420 (a) As an alternative method to the levy and imposition of
2421 special assessments pursuant to chapter 170, Florida Statutes,
2422 pursuant to the authority of section 197.3631, Florida Statutes,
2423 or pursuant to other provisions of general law that provide a
2424 supplemental means or authority to impose, levy, and collect
2425 special assessments as otherwise authorized under this act, the
2426 board may levy and impose special assessments to finance the

2427 exercise of any its powers permitted under this act using the
2428 following uniform procedures:
2429 1. At a noticed meeting, the board shall consider and
2430 review an engineer's report on the costs of the systems,
2431 facilities, and services to be provided, a preliminary
2432 assessment methodology, and a preliminary roll based on acreage
2433 or platted lands, depending upon whether platting has occurred.
2434 2. The assessment methodology shall address and discuss,
2435 and the board shall consider, whether the systems, facilities,
2436 and services being contemplated will result in special benefits
2437 peculiar to the property, different in kind and degree than
2438 general benefits, as a logical connection between the property
2439 and the systems, facilities, and services themselves, and
2440 whether the duty to pay the assessments by the property owners
2441 is apportioned in a manner that is fair and equitable and not in
2442 excess of the special benefit received. It shall be fair and
2443 equitable to designate a fixed proportion of the annual debt
2444 service, together with interest thereon, on the aggregate
2445 principal amount of bonds issued to finance such systems,
2446 facilities, and services which give rise to unique, special, and
2447 peculiar benefits to property of the same or similar
2448 characteristics under the assessment methodology so long as such
2449 fixed proportion does not exceed the unique, special, and
2450 peculiar benefits enjoyed by such property from such systems,
2451 facilities, and services.
2452 3. The engineer's cost report shall identify the nature of
2453 the proposed systems, facilities, and services, their location,
2454 and a cost breakdown plus a total estimated cost, including cost

2455 of construction or reconstruction, labor and materials, lands,
2456 property, rights, easements, franchises or systems, facilities
2457 and services to be acquired, cost of plans and specifications,
2458 surveys of estimates of costs and of revenues, cost of
2459 engineering, legal, and other professional consultation
2460 services, and other expenses or costs necessary or incident to
2461 determining the feasibility or practicability of such
2462 construction, reconstruction, or acquisition, administrative
2463 expenses, relationship to the authority and power of the
2464 district in its charter, and such other expense or costs as may
2465 be necessary or incident to the financing to be authorized by
2466 the board.
2467 4. The preliminary assessment roll will be prepared in
2468 accordance with the method of assessment provided for in the
2469 assessment methodology and as may be adopted by the board. The
2470 assessment roll shall be completed as promptly as possible and
2471 shall show the acreage, lots, lands, or plats assessed and the
2472 amount of the fairly and reasonably apportioned assessment based
2473 on special and peculiar benefit to the property, lot, parcel, or
2474 acreage of land, and if the assessment against each such lot,
2475 parcel, acreage, or portion of land is to be paid in
2476 installments, the number of annual installments in which the
2477 assessment is divided shall be entered into and shown upon the
2478 assessment roll.
2479 5. The board may determine and declare by an initial
2480 assessment resolution to levy and assess the assessments with
2481 respect to assessable improvements stating the nature of the
2482 systems, facilities, and services; improvements, projects, or

2483 infrastructure constituting such assessable improvements; the
2484 information in the engineer's cost report; and the information
2485 in the assessment methodology as determined by the board at the
2486 noticed meeting and referencing and incorporating as part of the
2487 resolution the engineer's cost report, the preliminary
2488 assessment methodology, and the preliminary assessment roll as
2489 referenced exhibits to the resolution by reference. If the board
2490 determines to declare and levy the special assessments by the
2491 initial assessment resolution, the board shall also adopt and
2492 declare a notice resolution, which shall provide and cause the
2493 initial assessment resolution to be published once a week for a
2494 period of 2 weeks in a newspaper of general circulation
2495 published in Okeechobee County. The board shall, by the notice
2496 resolution, fix a time and place at which the owner or owners of
2497 the property to be assessed or any other persons interested
2498 therein may appear before the board and be heard as to the
2499 propriety and advisability of making such improvements, as to
2500 the costs thereof, as to the manner of payment therefor, and as
2501 to the amount thereof to be assessed against each property so
2502 improved. Thirty days' notice in writing of such time and place
2503 shall be given to such property owners. The notice shall include
2504 the amount of the assessment and shall be served by mailing a
2505 copy to each assessed property owner at his or her last known
2506 address, the names and addresses of such property owners to be
2507 obtained from the record of the property appraiser of the county
2508 political subdivision where the land is located or from such
2509 other sources as the district manager or engineer deems
2510 reliable. Proof of such mailing shall be made by the affidavit

2511 of the manager of the district or by the engineer, said proof to
2512 be filed with the manager of the district, provided that failure
2513 to mail said notice or notices shall not invalidate any of the
2514 proceedings hereunder. It is provided further that the last
2515 publication shall be at least 1 week prior to the date of the
2516 hearing on the final assessment resolution. Said notice shall
2517 describe the general areas to be improved and advise all persons
2518 interested that the description of each property to be assessed
2519 and the amount to be assessed to each piece, parcel, lot, or
2520 acre of property may be ascertained at the office of the manager
2521 of the district. Such service by publication shall be verified
2522 by the affidavit of the publisher and filed with the manager of
2523 the district. Moreover, the initial assessment resolution with
2524 its attached, referenced, and incorporated engineer's cost
2525 report, preliminary assessment methodology, and preliminary
2526 assessment roll, along with the notice resolution, shall be
2527 available for public inspection at the office of the manager and
2528 the office of the engineer or any other office designated by the
2529 board in the notice resolution. Notwithstanding the foregoing,
2530 the landowners of all of the property which is proposed to be
2531 assessed may give the district written notice of waiver of any
2532 notice and publication provided for in this subparagraph, and
2533 such notice and publication shall not be required; however, any
2534 meeting of the board to consider such resolution shall be a
2535 publicly noticed meeting.
2536 6. At the time and place named in the noticed resolution
2537 as provided for in subparagraph 5., the board shall meet and
2538 hear testimony from affected property owners as to the propriety

2539 and advisability of providing the systems, facilities, services,
2540 projects, works, improvements, or infrastructure and funding
2541 them with assessments referenced in the initial assessment
2542 resolution on the property. Following the testimony and
2543 questions from the members of the board or any professional
2544 advisors to the district or the preparers of the engineer's cost
2545 report, the assessment methodology, and the assessment roll, the
2546 board shall make a final decision on whether to levy and assess
2547 the particular assessments. Thereafter, the board shall meet as
2548 an equalizing board to hear and consider any and all complaints
2549 as to the particular assessments and shall adjust and equalize
2550 the assessments on the basis of justice and right.
2551 7. When so equalized and approved by resolution or
2552 ordinance by the board, to be called the final assessment
2553 resolution, a final assessment roll shall be filed with the
2554 manager of the board, and such assessment shall stand confirmed
2555 and remain legal, valid, and binding first liens on the property
2556 against which such assessments are made until paid, equal in
2557 dignity to the first liens of ad valorem taxation of county
2558 governments and school boards; however, upon completion of the
2559 systems, facilities, services, projects, improvements, works, or
2560 infrastructure, the district shall credit to each assessment the
2561 difference in the assessment as originally made, approved,
2562 levied, assessed, and confirmed and the proportionate part of
2563 the actual cost of the improvement to be paid by the particular
2564 special assessments as finally determined upon the completion of
2565 the improvement, but in no event shall the final assessment
2566 exceed the amount of the special and peculiar benefits as

2567 apportioned fairly and reasonably to the property from the
2568 system, facility, or service being provided as originally
2569 assessed. Promptly after such confirmation, the assessment shall
2570 be recorded by the manager of the board in the minutes of the
2571 proceedings of the district, and the record of the lien in this
2572 set of minutes shall constitute prima facie evidence of its
2573 validity. The board, in its sole discretion, may by resolution
2574 grant a discount equal to all or a part of the payee's
2575 proportionate share of the cost of the project consisting of
2576 bond financing cost, such as capitalized interest, funded
2577 reserves, and bond discounts included in the estimated cost of
2578 the project, upon payment in full of any assessments during such
2579 period prior to the time such financing costs are incurred as
2580 may be specified by the board in such resolution.
2581 8. District assessments may be made payable in
2582 installments over no more than 30 years from the date of the
2583 payment of the first installment thereof and may bear interest
2584 at fixed or variable rates.
2585 (b) Notwithstanding any provision of this act or of
2586 chapter 170 or section 170.09, Florida Statutes, which provide
2587 that assessments may be paid without interest at any time within
2588 30 days after the improvement is completed and a resolution
2589 accepting the same has been adopted by the governing authority,
2590 such provision shall not be applicable to any district
2591 assessments, whether imposed, levied, and collected pursuant to
2592 the provisions of this act or other provisions of Florida law,
2593 including, but not limited to, chapter 170, Florida Statutes.

2594 (c) In addition, the district is authorized expressly in
2595 the exercise of its rulemaking power to promulgate a rule or
2596 rules providing for notice, levy, imposition, equalization, and
2597 collection of assessments.
2598 (16) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON
2599 ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.--
2600 (a) The board may, after any special assessments or
2601 benefit special assessments for assessable improvements are
2602 made, determined, and confirmed as provided in this act, issue
2603 certificates of indebtedness for the amount so assessed against
2604 the abutting property or property otherwise benefited, as the
2605 case may be. Separate certificates shall be issued against each
2606 part or parcel of land or property assessed, which certificates
2607 shall state the general nature of the improvement for which the
2608 assessment is made. The certificates shall be payable in annual
2609 installments in accordance with the installments of the special
2610 assessment for which they are issued. The board may determine
2611 the interest to be borne by such certificates, not to exceed the
2612 maximum rate allowed by general law, and may sell such
2613 certificates at either private or public sale and determine the
2614 form, manner of execution, and other details of such
2615 certificates. The certificates shall recite that they are
2616 payable only from the special assessments levied and collected
2617 from the part or parcel of land or property against which they
2618 are issued. The proceeds of such certificates may be pledged for
2619 the payment of principal of and interest on any revenue bonds or
2620 general obligation bonds issued to finance in whole or in part
2621 such assessable improvements, or, if not so pledged, may be used

2622 to pay the cost or part of the cost of such assessable
2623 improvements.
2624 (b) The district may also issue assessment bonds, revenue
2625 bonds, or other obligations payable from a special fund into
2626 which such certificates of indebtedness referred to in the
2627 preceding paragraph may be deposited; or, if such certificates
2628 of indebtedness have not been issued, the district may assign to
2629 such special fund for the benefit of the holders of such
2630 assessment bonds or other obligations, or to a trustee for such
2631 bondholders, the assessment liens provided for in this act
2632 unless such certificates of indebtedness or assessment liens
2633 have been theretofore pledged for any bonds or other obligations
2634 authorized hereunder. In the event of the creation of such
2635 special fund and the issuance of such assessment bonds or other
2636 obligations, the proceeds of such certificates of indebtedness
2637 or assessment liens deposited therein shall be used only for the
2638 payment of the assessment bonds or other obligations issued as
2639 provided in this section. The district is authorized to covenant
2640 with the holders of such assessment bonds, revenue bonds, or
2641 other obligations that it will diligently and faithfully enforce
2642 and collect all the special assessments and interest and
2643 penalties thereon for which such certificates of indebtedness or
2644 assessment liens have been deposited in or assigned to such
2645 fund; to foreclose such assessment liens so assigned to such
2646 special fund or represented by the certificates of indebtedness
2647 deposited in the special fund, after such assessment liens have
2648 become delinquent, and deposit the proceeds derived from such
2649 foreclosure, including interest and penalties, in such special

2650 fund; and to make any other covenants deemed necessary or
2651 advisable in order to properly secure the holders of such
2652 assessment bonds or other obligations.
2653 (c) The assessment bonds, revenue bonds, or other
2654 obligations issued pursuant to this section shall have such
2655 dates of issue and maturity as shall be deemed advisable by the
2656 board; however, the maturities of such assessment bonds or other
2657 obligations shall not be more than 2 years after the due date of
2658 the last installment which will be payable on any of the special
2659 assessments for which such assessment liens, or the certificates
2660 of indebtedness representing such assessment liens, are assigned
2661 to or deposited in such special fund.
2662 (d) Such assessment bonds, revenue bonds, or other
2663 obligations issued under this section shall bear such interest
2664 as the board may determine, not to exceed the maximum rate
2665 allowed by general law, and shall be executed, shall have such
2666 provisions for redemption prior to maturity, and shall be sold
2667 in the manner of and be subject to all of the applicable
2668 provisions contained in this act for revenue bonds, except as
2669 the same may be inconsistent with the provisions of this
2670 section.
2671 (e) All assessment bonds, revenue bonds, or other
2672 obligations issued under the provisions of this section shall be
2673 and constitute and shall have all the qualities and incidents of
2674 negotiable instruments under the law merchant and the laws of
2675 the state.
2676 (17) TAX LIENS.--All taxes of the district provided for in
2677 this act, except together with all penalties for default in the

2678 payment of the same and all costs in collecting the same,
2679 including a reasonable attorney's fee fixed by the court and
2680 taxed as a cost in the action brought to enforce payment, shall,
2681 from January 1 for each year the property is liable to
2682 assessment and until paid, constitute a lien of equal dignity
2683 with the liens for state and county taxes and other taxes of
2684 equal dignity with state and county taxes upon all the lands
2685 against which such taxes shall be levied. A sale of any of the
2686 real property within the district for state and county or other
2687 taxes shall not operate to relieve or release the property so
2688 sold from the lien for subsequent district taxes or installments
2689 of district taxes, which lien may be enforced against such
2690 property as though no such sale thereof had been made. In
2691 addition to, and not in limitation of, the preceding sentence,
2692 for purposes of section 197.552, Florida Statutes, the lien of
2693 all special assessments levied by the district shall constitute
2694 a lien of record held by a municipal or county governmental
2695 unit. The provisions of sections 194.171, 197.122, 197.333, and
2696 197.432, Florida Statutes, as each may be amended from time to
2697 time, shall be applicable to district taxes with the same force
2698 and effect as if such provisions were expressly set forth in
2699 this act.
2700 (18) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
2701 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.--
2702 (a) The district shall have the power and right to:
2703 1. Pay any delinquent state, county, district, municipal,
2704 or other tax or assessment upon lands located wholly or
2705 partially within the boundaries of the district; and

2706 2. Redeem or purchase any tax sales certificates issued or
2707 sold on account of any state, county, district, municipal, or
2708 other taxes or assessments upon lands located wholly or
2709 partially within the boundaries of the district.
2710 (b) Delinquent taxes paid, or tax sales certificates
2711 redeemed or purchased, by the district, together with all
2712 penalties for the default in payment of the same, all costs in
2713 collecting the same, and a reasonable attorney's fee, shall
2714 constitute a lien in favor of the district of equal dignity with
2715 the liens of state and county taxes and other taxes of equal
2716 dignity with state and county taxes upon all the real property
2717 against which the taxes were levied. The lien of the district
2718 may be foreclosed in the manner provided in this act.
2719 (c) In any sale of land pursuant to section 197.542,
2720 Florida Statutes, as may be amended from time to time, the
2721 district may certify to the clerk of the circuit court of the
2722 county holding such sale the amount of taxes due to the district
2723 upon the lands sought to be sold, and the district shall share
2724 in the disbursement of the sales proceeds in accordance with the
2725 provisions of this act and under the laws of the state.
2726 (19) FORECLOSURE OF LIENS.--Any lien in favor of the
2727 district arising under this act may be foreclosed by the
2728 district by foreclosure proceedings in the name of the district
2729 in a court of competent jurisdiction as provided by general law
2730 in like manner as is provided in chapter 173, Florida Statutes,
2731 and amendments thereto; the provisions of that chapter shall be
2732 applicable to such proceedings with the same force and effect as
2733 if those provisions were expressly set forth in this act. Any

2734 act required or authorized to be done by or on behalf of a
2735 municipality in foreclosure proceedings under chapter 173,
2736 Florida Statutes, may be performed by such officer or agent of
2737 the district as the board may designate. Such foreclosure
2738 proceedings may be brought at any time after the expiration of 1
2739 year from the date any tax, or installment thereof, becomes
2740 delinquent; however, no lien shall be foreclosed against any
2741 political subdivision or agency of the state. Other legal
2742 remedies shall remain available.
2743 (20) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,
2744 FACILITIES, AND SERVICES.--To the full extent permitted by law,
2745 the district shall require all lands, buildings, premises,
2746 persons, firms, and corporations within the district to use the
2747 water management and control facilities and water and sewer
2748 facilities of the district.
2749 (21) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
2750 PROVISIONS REQUIRED.--
2751 (a) No contract shall be let by the board for any goods,
2752 supplies, or materials to be purchased when the amount thereof
2753 to be paid by the district shall exceed the amount provided in
2754 section 287.017, Florida Statutes, for category four unless
2755 notice of bids shall be advertised once in a newspaper of
2756 general circulation in Okeechobee County. Any board seeking to
2757 construct or improve a public building or structure or other
2758 public works shall comply with the bidding procedures of section
2759 255.20, Florida Statutes, and other applicable general law. In
2760 each case, the bid of the lowest responsive and responsible
2761 bidder shall be accepted unless all bids are rejected because

2762 the bids are too high or because the board determines it is in
2763 the best interests of the district to reject all bids. The board
2764 may require the bidders to furnish bond with a responsible
2765 surety to be approved by the board. Nothing in this section
2766 shall prevent the board from undertaking and performing the
2767 construction, operation, and maintenance of any project or
2768 facility authorized by this act by the employment of labor,
2769 material, and machinery.
2770 (b) The provisions of the Consultants' Competitive
2771 Negotiation Act, section 287.055, Florida Statutes, apply to
2772 contracts for engineering, architecture, landscape architecture,
2773 or registered surveying and mapping services let by the board.
2774 (c) Contracts for maintenance services for any district
2775 facility or project shall be subject to competitive bidding
2776 requirements when the amount thereof to be paid by the district
2777 exceeds the amount provided in section 287.017, Florida
2778 Statutes, for category four. The district shall adopt rules,
2779 policies, or procedures establishing competitive bidding
2780 procedures for maintenance services. Contracts for other
2781 services shall not be subject to competitive bidding unless the
2782 district adopts a rule, policy, or procedure applying
2783 competitive bidding procedures to said contracts.
2784 (22) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
2785 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.--
2786 (a) The district is authorized to prescribe, fix,
2787 establish, and collect rates, fees, rentals, or other charges,
2788 hereinafter sometimes referred to as "revenues," and to revise
2789 the same from time to time, for the systems, facilities, and

2790 services furnished by the district within the limits of the
2791 district, including, but not limited to, recreational
2792 facilities, water management and control facilities, and water
2793 and sewer systems; to recover the costs of making connection
2794 with any district service, facility, or system; and to provide
2795 for reasonable penalties against any user or property for any
2796 such rates, fees, rentals, or other charges that are delinquent.
2797 (b) No such rates, fees, rentals, or other charges for any
2798 of the facilities or services of the district shall be fixed
2799 until after a public hearing at which all the users of the
2800 proposed facility or service or owners, tenants, or occupants
2801 served or to be served thereby and all other interested persons
2802 shall have an opportunity to be heard concerning the proposed
2803 rates, fees, rentals, or other charges. Rates, fees, rentals,
2804 and other charges shall be adopted under the administrative
2805 rulemaking authority of the district but shall not apply to
2806 district leases. Notice of such public hearing setting forth the
2807 proposed schedule or schedules of rates, fees, rentals, and
2808 other charges shall have been published in a newspaper of
2809 general circulation in Okeechobee County at least once and at
2810 least 10 days prior to such public hearing. The rulemaking
2811 hearing may be adjourned from time to time. After such hearing,
2812 such schedule or schedules, either as initially proposed or as
2813 modified or amended, may be finally adopted. A copy of the
2814 schedule or schedules of such rates, fees, rentals, or charges
2815 as finally adopted shall be kept on file in an office designated
2816 by the board and shall be open at all reasonable times to public
2817 inspection. The rates, fees, rentals, or charges so fixed for

2818 any class of users or property served shall be extended to cover
2819 any additional users or properties thereafter served which shall
2820 fall in the same class, without the necessity of any notice or
2821 hearing.
2822 (c) Such rates, fees, rentals, and charges shall be just,
2823 equitable, and uniform for users of the same class and, when
2824 appropriate, may be based or computed either upon the amount of
2825 service furnished, upon the number of average number of persons
2826 residing or working in or otherwise occupying the premises
2827 served, upon any other factor affecting the use of the
2828 facilities furnished, or upon any combination of the foregoing
2829 factors, as may be determined by the board on an equitable
2830 basis.
2831 (d) The rates, fees, rentals, or other charges prescribed
2832 shall be such as will produce revenues, together with any other
2833 assessments, taxes, revenues, or funds available or pledged for
2834 such purpose, at least sufficient to provide for the following
2835 items, but not necessarily in the order stated:
2836 1. All expenses of operation and maintenance of such
2837 facility or service;
2838 2. Payment, when due, of all bonds and interest thereon
2839 for the payment of which such revenues are, or shall have been,
2840 pledged or encumbered, including reserves for such purpose; and
2841 3. Any other funds which may be required under the
2842 resolution or resolutions authorizing the issuance of bonds
2843 pursuant to this act.
2844 (e) The board shall have the power to enter into contracts
2845 for the use of the projects of the district and with respect to

2846 the services, systems, and facilities furnished or to be
2847 furnished by the district.
2848 (23) RECOVERY OF DELINQUENT CHARGES.--In the event that
2849 any rates, fees, rentals, charges, or delinquent penalties are
2850 not paid as and when due and are in default for 60 days or more,
2851 the unpaid balance thereof and all interest accrued thereon,
2852 together with reasonable attorney's fees and costs, may be
2853 recovered by the district in a civil action.
2854 (24) DISCONTINUANCE OF SERVICE.--In the event the fees,
2855 rentals, or other charges for water and sewer services, or
2856 either of them, are not paid when due, the board shall have the
2857 power, under such reasonable rules and regulations as the board
2858 may adopt, to discontinue and shut off both water and sewer
2859 services until such fees, rentals, or other charges, including
2860 interest, penalties, and charges for the shutting off and
2861 discontinuance of or restoration of such water and sewer
2862 services, or both, are fully paid; for such purposes, the board
2863 may enter on any lands, waters, or premises of any person, firm,
2864 corporation, or body, public or private, within the district
2865 limits. Such delinquent fees, rentals, or other charges,
2866 together with interest, penalties, and charges for the shutting
2867 off and discontinuance of or restoration of such services and
2868 facilities, reasonable attorney's fees, and other expenses, may
2869 be recovered by the district, which may also enforce payment of
2870 such delinquent fees, rentals, or other charges by any other
2871 lawful method of enforcement.
2872 (25) ENFORCEMENT AND PENALTIES.--The board or any
2873 aggrieved person may have recourse to such remedies in law and

2874 at equity as may be necessary to ensure compliance with the
2875 provisions of this act, including injunctive relief to enjoin or
2876 restrain any person violating the provisions of this act or any
2877 bylaws, resolutions, regulations, rules, codes, or orders
2878 adopted under this act. In case any building or structure is
2879 erected, constructed, reconstructed, altered, repaired,
2880 converted, or maintained, or any building, structure, land, or
2881 water is used, in violation of this act or of any code, order,
2882 resolution, or other regulation made under authority conferred
2883 by this act or under law, the board or any citizen residing in
2884 the district may institute any appropriate action or proceeding
2885 to prevent such unlawful erection, construction, reconstruction,
2886 alteration, repair, conversion, maintenance, or use; to
2887 restrain, correct, or avoid such violation; to prevent the
2888 occupancy of such building, structure, land, or water; and to
2889 prevent any illegal act, conduct, business, or use in or about
2890 such premises, land, or water.
2891 (26) SUITS AGAINST THE DISTRICT.--Any suit or action
2892 brought or maintained against the district for damages arising
2893 out of tort, including, without limitation, any claim arising
2894 upon account of an act causing an injury or loss of property,
2895 personal injury, or death, shall be subject to the limitations
2896 provided in section 768.28, Florida Statutes.
2897 (27) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All
2898 district property shall be exempt from levy and sale by virtue
2899 of an execution, and no execution or other judicial process
2900 shall issue against such property, nor shall any judgment
2901 against the district be a charge or lien on its property or

2902 revenues; however, nothing contained herein shall apply to or
2903 limit the rights of bondholders to pursue any remedy for the
2904 enforcement of any lien or pledge given by the district in
2905 connection with any of the bonds or obligations of the district.
2906 (28) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.--
2907 (a) The board may ask the Legislature through its local
2908 legislative delegation in and for Okeechobee County to amend
2909 this act to contract or expand the boundaries of the district by
2910 amendment of subsection (2).
2911 (b) The district shall remain in existence until:
2912 1. The district is terminated and dissolved pursuant to
2913 amendment to this act by the Legislature; or
2914 2. The district has become inactive pursuant to section
2915 189.4044, Florida Statutes.
2916 (29) INCLUSION OF TERRITORY.--The inclusion of any or all
2917 territory of the district within a municipality does not change,
2918 alter, or affect the boundary, territory, existence, or
2919 jurisdiction of the district.
2920 (30) SALE OF REAL ESTATE WITHIN A DISTRICT; REQUIRED
2921 DISCLOSURE TO PURCHASER.--Subsequent to the creation of this
2922 district under this act, each contract for the initial sale of a
2923 parcel of real property and each contract for the initial sale
2924 of a residential unit within the district shall include,
2925 immediately prior to the space reserved in the contract for the
2926 signature of the purchaser, the following disclosure statement
2927 in boldfaced and conspicuous type which is larger than the type
2928 in the remaining text of the contract: "THE GROVE COMMUNITY
2929 DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES

2930 AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS
2931 PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF
2932 CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT
2933 AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT.
2934 THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER
2935 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
2936 ASSESSMENTS PROVIDED FOR BY LAW."
2937 (31) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
2938 after the election of the first board members, the district
2939 shall cause to be recorded in the property records in the county
2940 in which it is located a "Notice of Creation and Establishment
2941 of the Grove Community District." The notice shall, at a
2942 minimum, include the legal description of the property of the
2943 landowners who have consented to establishment of this district
2944 and a copy of the disclosure statement specified in subsection
2945 (30).
2946 (32) PUBLIC ACCESS.--Any system, facility, service, works,
2947 improvement, project, or other infrastructure owned by the
2948 district or funded by federal tax-exempt bonding issued by the
2949 district is public; the district by rule may regulate, and may
2950 impose reasonable charges or fees for, the use thereof but not
2951 to the extent that such regulation or imposition of such charges
2952 or fees constitutes denial of reasonable access.
2953 Section 5. Severability.--If any provision of this act is
2954 determined unconstitutional or otherwise determined invalid by a
2955 court of law, all the rest and remainder of the act shall remain
2956 in full force and effect as the law of Florida.

2957 Section 6. This act shall take effect upon becoming a law,
2958 except that the provisions of paragraph (a) of subsection (14)
2959 of section 4 which authorize the levy of ad valorem assessments
2960 shall only take effect upon express approval by a majority vote
2961 of those qualified electors of the district, as required by
2962 Section 9 of Article VII of the State Constitution, voting in a
2963 referendum to be called by the Supervisor of Elections of
2964 Okeechobee County and held by the Board of Supervisors of the
2965 Grove Community District. Such election shall be held in
2966 accordance with the provisions of law relating to elections in
2967 force at the time the referendum is held.