Local Government Council

Tuesday, April 11, 2006
1:00 p.m.
404 House Office Building

Allan G. Bense
Speaker

Ken Sorensen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time:	Tuesday, April 11, 2006 01:00 pm
End Date and Time:	Tuesday, April 11, 2006 03:00 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HJR 353 CS Assessment of Homestead Property by Lopez-Cantera
HB 431 CS Electric Transmission and Distribution by Littlefield
HB 495 Baker County by Bean
HB 759 Hillsborough County by Reagan
HB 917 CS Property Taxes by Needelman
HB 973 South Broward Drainage District, Broward County by Sobel
HB 977 Special Risk Class of the Florida Retirement System by Bogdanoff
HB 1115 CS South Florida Regional Transportation Authority by Greenstein
HB 1127 Broward County by Sobel
HB 1183 Hernando County Special Election Validation by Russell
HB 1217 City of Bradenton Beach, Manatee County by Galvano
HB 1269 CS Local Occupational License Taxes by Cusack
HB 1297 Town of Grant-Valkaria, Brevard County by Poppell
HB 1509 Flagler Estates Road and Water Control District, St. Johns County by Proctor

NOTICE FINALIZED on 04/07/2006 16:21 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 353 CS Increased Homestead Exemption
SPONSOR(S): Lopez-Cantera and others
TIED BILLS: **IDEN./SIM. BILLS:** HB 7261

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

SUMMARY ANALYSIS

This joint resolution proposes amendments to the Florida Constitution to revise the taxable value of homestead property in Florida.

Homestead Exemption - The proposed amendment increases the current homestead exemption from $25,000 to $50,000 phased in over ten years. Thus, the homestead exemption is increased to $27,500 in 2007; $30,000 in 2008; $32,500 in 2009; $35,000 in 2010; $37,500 in 2011; $40,000 in 2012; $42,500 in 2013; $45,000 in 2014; $47,500 in 2015; and $50,000 in 2016. Thereafter, the homestead exemption increases by the percentage change in the Consumer Price Index.

Save Our Homes – Currently, the "Save Our Homes" provision in the Florida Constitution limits annual increases in homestead property values to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. The proposed amendment makes three significant changes to the "Save Our Homes" provision as follows:

- The proposed amendment limits the differential between the assessed and just value of a homesteaded property to $100,000 on January 1, 2007.
- Property owners are allowed to transfer the value of their differential, up to $100,000, to another homestead if the homestead is established within the same county, provided that the new homestead does not have a lower assessed value than the previous homestead.
- For a homestead established before January 1, 2007, the difference between just value and assessed value may not exceed the difference between just value and assessed value that exists on January 1, 2007, plus $100,000.

Schedule – The proposed amendment creates new Section 26 of Article XII, State Constitution, which provides that the revisions take effect January 1, 2007 if the amendment is adopted by the voters.

The Revenue Estimating Conference has not issued an estimate of the fiscal impact of this bill; however, the proposed amendment may have a substantial negative fiscal impact on taxing authorities that levy ad valorem taxes.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Lower Taxes - Taxpayers who have homestead property will benefit from the increase in the homestead exemption and the transferability of the Save Our Homes differential by paying lower taxes. The payment of lower taxes by homestead owners will result in reduced revenues for taxing authorities that levy ad valorem taxes. Therefore, unless these taxing authorities reduce expenditures to reflect the reduction in revenues, the tax burden may be shifted to other tax payers who will pay higher taxes.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Property Taxation in Florida

The ad valorem tax or "property tax" is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials, or exemptions. Tax bills are mailed in November of each year based on the previous January 1st valuation and payment is due by the following March 31.

Ad valorem tax continues to be a major source of revenue for local governments in Florida. In FY 2002-03 (the last year for which certain fiscal information is available) property taxes constituted 31 percent of county governmental revenue ($6.3 billion)[1], and 17 percent of municipal governmental revenue ($2.5 billion), making it the largest single source of tax or general revenue for general purpose governments in Florida. In addition, the property tax is the primary local revenue source for school districts. In FY 2003-04, school districts levied $8.4 billion in property taxes for K-12 education.[2]

The property tax is important not only because of the revenue it generates, but because it is the only taxing authority not preempted by the Florida Constitution to the state.[3] However, the property tax is not an unlimited source of revenue. The Florida Constitution caps the millage rates assessed against the value of the property.[4] In addition, the Florida Constitution grants property tax relief in the form of valuation differentials,[5] assessment limitations,[6] and exemptions,[7] including the homestead exemptions.

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[1] Information provided by the Legislative Committee on Governmental Relations (LCIR), from the LCIR database at http://fcn.state.fl.us/lcir/cntyfiscal/corevprofsw.xls.

[2] *See* 2005 Florida Tax Handbook, p. 135.

[3] *See* Art. VII, s. 1, Fla. Const.

[4] *See* Art. VII, s. 9, Fla. Const. For counties, municipalities, and school districts, the cap is 10 mills. The millage rate for water management districts is capped at 1 mill, except that it is 0.05 mills for the Northwest Florida Water Management District. The millage rate for other special districts is as established by law. A mill is defined as 1/1000 of a dollar, or $1 per $1000 of taxable value.

[5] Article VII, s. 4 of the Florida Constitution, authorizes valuation differentials, which are based on character or use of property, such as agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes. This section also provides that tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities are authorized to assess historical property based solely on the basis of its character or use.

[6] Article VII, s. 4(c) of the Florida Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation. The statutes also provide for differential treatment of specific property, to include pollution control devises (s. 193.621, F.S.) and building renovations for the physically handicapped (s. 193.623, F.S.).

Homestead Exemption

The provision which is commonly referred to as the Homestead Exemption, is contained in Article VII, s. 6(a-d) of the Florida Constitution, which provides a $25,000 homestead exemption for all owners of homestead property provided that the tax roll in their county has been approved. The $25,000 amount was established in 1982. If the amount of the homestead exemption had been increased by the percentage change in the Consumer Price Index since 1982, the current value of the Homestead Exemption would be $50,596.

In addition, Article VII, s. 6(f) of the Florida Constitution, authorizes the Legislature to allow counties or municipalities, by ordinance, for the purpose of their respective tax levies, to grant an additional homestead tax exemption of up to $25,000 to resident homeowners who are 65 years of age whose household income, as defined by general law, does not exceed $20,000, adjusted for inflation. This is typically referred to as the Increased Homestead Exemption for Low Income Seniors.

Finally, Article VII, s. 6(e) of the Florida Constitution authorizes the Legislature to provide renters who are permanent residents ad valorem tax relief on all ad valorem tax levies. However, this provision has been minimally implemented.[8]

In addition, the courts have ruled that property of the federal government, the state, and the counties is immune from, or not subject to, taxation.[9] The courts have further ruled that this immunity extends to property of school districts[10] and certain special districts.[11]

In tax year 2006, the combination of these various forms of property tax relief is estimated to effectively reduce the taxable value of real property in this state by 31.9 percent.[12] For the 2006 tax year, it is estimated that at an aggregate average millage rate of 19.54, the tax revenue loss due to these forms of property tax relief will be $1.1 billion for agricultural and other valuation differentials; $6.7 billion for the "Save Our Homes" assessment limitation; and $2.2 billion for the $25,000 homestead exemption.[13]

Any additional reduction in the property tax base will result in a corresponding shift in property tax burden to other property tax owners.[14]

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[7] Article VII, s. 3 of the Florida Constitution, provides authority for the following property tax exemptions:

- All property owned by a municipality and used exclusively by it for municipal or public purposes;
- Portions of property used predominantly for educational, literary, scientific, religious or charitable purposes, as provided in general law;
- Household goods and personal effects, not less than one thousand dollars;
- Property owned by a widow or widower or person who is blind or totally and permanently disabled, not less than five hundred dollars, as provided in general law;
- Property used for community and economic development, by local option and as defined by general law;
- Certain renewable energy source devices and real property on which the device is installed and operated; and
- Historic properties, by local option and as defined by general law.

The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

[8] This $25,000 exemption is implemented in ss. 196.1975(9)(a) and 196.1977, F.S., for certain units in non-profit homes for the aged and certain proprietary continuing care facilities.

[9] *See Park-N-Shop, Inc. v. Sparkman*, 99 So. 2d 571 (Fla. 1957); *Orlando Utils. Comm'n v. Milligan*, 229 So. 2d 262 (Fla. 4th DCA 1969); and *Dickinson v. City of Tallahassee,* 325 So. 2d 1 (Fla. 1975).

[10] *See Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

[11] *See Sarasota-Manatee Airport Auth. v. Mikos,* 605 So. 2d 132 (Fla. 2d DCA 1992). *Cf. Canaveral Port Auth. V. Department of Revenue*, 690 So. 2d 1226 (Fla. 1996).

[12] 2006 estimates are $ 2,148.5 billion in just value, and $ 1,463.4 billion in taxable value. Revenue Estimating Conference, Ad Valorem Estimating Conference, March 6, 2006. See EDR website at http://edr.state.fl.us/conferences/advalorem/adval0306.pdf

[13] *See* 2005 Florida Tax Handbook, p. 137-8.

[14] Generally, local governments respond to reductions in the property tax base in one of three ways: decrease their budgets, replace the lost revenue with other sources of revenue, or increase the millage rate on the remaining taxable property.

"Save Our Homes" Assessment Limitation
Article VII, s. 4 of the Florida Constitution, requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.[15] However, this provision also provides exceptions to the requirement in the form of valuation differentials and assessment limitations, the most significant of which is the "Save Our Homes" assessment limitation. The annual increase in homestead property values is limited to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. Section 193.155, F.S., implements this assessment limitation.

The "Save Our Homes" assessment limitation has benefited Florida homestead property owners in the form of reduced ad valorem taxes. However, the assessment limitation has had an unforeseen consequence. Rapidly escalating property values in many Florida communities have resulted in an environment where homeowners may be reluctant to sell their property and purchase new homes due to the often substantial increase in property taxes.

EFFECT OF PROPOSED CHANGES

This joint resolution proposes amendments to the Florida Constitution to revise the taxable value of homestead property.

Homestead Exemption - The proposed constitutional amendment increases the current homestead exemption from $25,000 to $50,000, phased in over ten years. Thus, the homestead exemption is increased to $27,500 in 2007; $30,000 in 2008; $32,500 in 2009; $35,000 in 2010; $37,500 in 2011; $40,000 in 2012; $42,500 in 2013; $45,000 in 2014; $47,500 in 2015; and $50,000 in 2016. Thereafter, the homestead exemption increases by the percentage change in the Consumer Price Index.

Save Our Homes –Currently, the "Save Our Homes" provision in the Florida Constitution limits annual increases in homestead property values to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. The proposed amendment makes three significant changes to the "Save Our Homes" provision as follows:

- The proposed amendment limits the differential between the assessed and just value of a homesteaded property to $100,000 on January 1, 2007.
- Property owners are allowed to transfer the value of their differential, up to $100,000, to another homestead if the homestead is established within the same county, provided that the new homestead does not have a lower assessed value than the previous homestead.
- For a homestead established before January 1, 2007, the difference between just value and assessed value may not exceed the difference between just value and assessed value that exists on January 1, 2007, plus $100,000.

Schedule – The proposed amendment creates new Section 26 of Article XII, State Constitution, which provides that the provisions of the proposed amendment take effect January 1, 2007 if approved by the voters.

C. SECTION DIRECTORY: Not Applicable

[15] *See Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None

2. Expenditures:

Non-Recurring	FY 2006-07
Department of State Publications Costs[16]	$50,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill should have a major impact on local revenue sources; however, the bill has yet to be reviewed by the Revenue Estimating Conference.

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: This bill will reduce the property tax burden on owners of homestead property by increasing the amount of the homestead tax exemption; however, this reduction may result in a shift of tax burden from homestead property owners to other taxpayers.

D. FISCAL COMMENTS:

Article XI, s. 5(d) of the State Constitution requires the state to publish the proposed amendment along with notice of the date of the election at which it will be submitted before electors in one newspaper in each county in which a newspaper is published once in the tenth week and once in the sixth week immediately preceding the week the election is held. The Division of Elections estimates this cost to be approximately $50,000 to meet the requirements of this provision.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The mandates provision is not applicable to Joint Resolutions.

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

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 31, 2006, the Committee on Finance and Tax adopted a strike-everything amendment to the bill. This analysis reflects that amendment. As originally drafted, this bill simply raised the homestead exemption from $25,000 to $50,000, without phasing in the exemption.

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[16] *See* Art. XI, Sec. 5(d), Fla. Const.

CHAMBER ACTION

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1 The Finance & Tax Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 House Joint Resolution
6 A joint resolution proposing amendments to Sections 4 and
7 6 of Article VII and the creation of Section 26 of Article
8 XII of the State Constitution to provide for a phased
9 increase in the homestead exemption over 10 years from
10 $25,000 to $50,000 for all levies, limit the difference
11 between the just value and the assessed value for
12 homestead property, provide for assessing newly
13 established homestead property at less than just value
14 subject to a limitation, and schedule the amendments to
15 take effect January 1, 2007, if adopted.
16
17 Be It Resolved by the Legislature of the State of Florida:
18
19 That the following amendments to Sections 4 and 6 of
20 Article VII and the creation of Section 26 of Article XII of the
21 State Constitution are agreed to and shall be submitted to the
22 electors of this state for approval or rejection at the next

23 general election or at an earlier special election specifically
24 authorized by law for that purpose:
25 ARTICLE VII
26 FINANCE AND TAXATION
27 SECTION 4. Taxation; assessments.--By general law
28 regulations shall be prescribed which shall secure a just
29 valuation of all property for ad valorem taxation, provided:
30 (a) Agricultural land, land producing high water recharge
31 to Florida's aquifers, or land used exclusively for
32 noncommercial recreational purposes may be classified by general
33 law and assessed solely on the basis of character or use.
34 (b) Pursuant to general law tangible personal property
35 held for sale as stock in trade and livestock may be valued for
36 taxation at a specified percentage of its value, may be
37 classified for tax purposes, or may be exempted from taxation.
38 (c) All persons entitled to a homestead exemption under
39 Section 6 of this Article shall have their homestead assessed at
40 just value as of January 1 of the year following the effective
41 date of this amendment. This assessment shall change only as
42 provided herein.
43 (1) Assessments subject to this provision shall be changed
44 annually on January 1st of each year; but those changes in
45 assessments shall not exceed the lower of the following:
46 a. Three percent (3%) of the assessment for the prior
47 year.
48 b. The percent change in the Consumer Price Index for all
49 urban consumers, U.S. City Average, all items 1967=100, or
50 successor reports for the preceding calendar year as initially

51 reported by the United States Department of Labor, Bureau of
52 Labor Statistics.
53 (2) No assessment shall exceed just value.
54 (3) The difference between just value and assessed value
55 shall not exceed $100,000 unless the provisions of paragraph
56 (10) apply.
57 (4) ~~(3)~~ After any change of ownership, as provided by
58 general law, homestead property shall be assessed at just value
59 as of January 1 of the following year, unless the provisions of
60 paragraph (9) apply. Thereafter, the homestead shall be assessed
61 as provided herein.
62 (5) ~~(4)~~ New homestead property shall be assessed at just
63 value as of January 1st of the year following the establishment
64 of the homestead, unless the provisions of paragraph (9) apply.
65 That assessment shall only change as provided herein.
66 (6) ~~(5)~~ Changes, additions, reductions, or improvements to
67 homestead property shall be assessed as provided for by general
68 law; provided, however, after the adjustment for any change,
69 addition, reduction, or improvement, the property shall be
70 assessed as provided herein.
71 (7) ~~(6)~~ In the event of a termination of homestead status,
72 the property shall be assessed as provided by general law.
73 (8) ~~(7)~~ The provisions of this amendment are severable. If
74 any of the provisions of this amendment shall be held
75 unconstitutional by any court of competent jurisdiction, the
76 decision of such court shall not affect or impair any remaining
77 provisions of this amendment.

78 (9) When a person sells or transfers his or her homestead
79 within this state and within one year establishes within the
80 same county another property as his or her new homestead, the
81 newly established homestead property shall be initially assessed
82 at less than just value, as provided by general law. The
83 difference between the new homestead property's just value and
84 its assessed value in the first year the homestead is
85 established shall equal the difference between the prior
86 homestead property's just value and its assessed value in the
87 year of sale or transfer, provided the difference does not
88 exceed $100,000. However, in no case shall this adjustment
89 result in the new homestead property having an assessed value
90 less than the assessed value of the previous homestead property.
91 Thereafter, the homestead property shall be assessed as provided
92 herein.
93 (10) For a homestead established before January 1, 2007,
94 the difference between just value and assessed value may not
95 exceed the difference between just value and assessed value that
96 exists on January 1, 2007, plus $100,000.
97 (d) The legislature may, by general law, for assessment
98 purposes and subject to the provisions of this subsection, allow
99 counties and municipalities to authorize by ordinance that
100 historic property may be assessed solely on the basis of
101 character or use. Such character or use assessment shall apply
102 only to the jurisdiction adopting the ordinance. The
103 requirements for eligible properties must be specified by
104 general law.

105 (e) A county may, in the manner prescribed by general law,
106 provide for a reduction in the assessed value of homestead
107 property to the extent of any increase in the assessed value of
108 that property which results from the construction or
109 reconstruction of the property for the purpose of providing
110 living quarters for one or more natural or adoptive grandparents
111 or parents of the owner of the property or of the owner's spouse
112 if at least one of the grandparents or parents for whom the
113 living quarters are provided is 62 years of age or older. Such a
114 reduction may not exceed the lesser of the following:
115 (1) The increase in assessed value resulting from
116 construction or reconstruction of the property.
117 (2) Twenty percent of the total assessed value of the
118 property as improved.
119 SECTION 6. Homestead exemptions.--
120 (a) Every person who has the legal or equitable title to
121 real estate and maintains thereon the permanent residence of the
122 owner, or another legally or naturally dependent upon the owner,
123 shall be exempt from taxation thereon, except assessments for
124 special benefits, up to the assessed valuation of five thousand
125 dollars, upon establishment of right thereto in the manner
126 prescribed by law. The real estate may be held by legal or
127 equitable title, by the entireties, jointly, in common, as a
128 condominium, or indirectly by stock ownership or membership
129 representing the owner's or member's proprietary interest in a
130 corporation owning a fee or a leasehold initially in excess of
131 ninety-eight years.

132 (b) Not more than one exemption shall be allowed any
133 individual or family unit or with respect to any residential
134 unit. No exemption shall exceed the value of the real estate
135 assessable to the owner or, in case of ownership through stock
136 or membership in a corporation, the value of the proportion
137 which the interest in the corporation bears to the assessed
138 value of the property.
139 (c)(1) By general law and subject to conditions specified
140 therein, the exemption shall be increased to a total of the
141 following amounts ~~twenty-five thousand dollars~~ of the assessed
142 value of the real estate for each school district levy: twenty-
143 seven thousand five hundred dollars with respect to 2007
144 assessments; thirty thousand dollars with respect to 2008
145 assessments; thirty-two thousand five hundred dollars with
146 respect to 2009 assessments; thirty-five thousand dollars with
147 respect to 2010 assessments; thirty-seven thousand five hundred
148 dollars with respect to 2011 assessments; forty thousand dollars
149 with respect to 2012 assessments; forty-two thousand five
150 hundred dollars with respect to 2013 assessments; forty-five
151 thousand dollars with respect to 2014 assessments; forty-seven
152 thousand five hundred dollars with respect to 2015 assessments;
153 and fifty thousand dollars with respect to 2016 assessments. In
154 2017 and each year thereafter, the exemption shall increase
155 annually by the percentage change in the Consumer Price Index
156 for all urban consumers, U.S. City Average, all items 1967=100,
157 or successor reports for the preceding calendar year as
158 initially reported by the United States Department of Labor,
159 Bureau of Labor Statistics.

160 (2) By general law and subject to conditions specified
161 therein, the exemption for all other levies may be increased up
162 to an amount not exceeding ten thousand dollars of the assessed
163 value of the real estate if the owner has attained age sixty-
164 five or is totally and permanently disabled and if the owner is
165 not entitled to the exemption provided in subsection (d).
166 (d) By general law and subject to conditions specified
167 therein, the exemption shall be increased to a total of the
168 following amounts of assessed value of real estate for each levy
169 other than those of school districts: twenty-seven ~~fifteen~~
170 thousand five hundred dollars with respect to 2007 ~~1980~~
171 assessments; thirty ~~twenty~~ thousand dollars with respect to 2008
172 ~~1981~~ assessments; thirty-two ~~twenty-five~~ thousand five hundred
173 dollars with respect to 2009 assessments; thirty-five thousand
174 dollars with respect to 2010 assessments; thirty-seven thousand
175 five hundred dollars with respect to 2011 assessments; forty
176 thousand dollars with respect to 2012 assessments; forty-two
177 thousand five hundred dollars with respect to 2013 assessments;
178 forty-five thousand dollars with respect to 2014 assessments;
179 forty-seven thousand five hundred dollars with respect to 2015
180 assessments; and fifty thousand dollars with respect to 2016
181 assessments. In 2017 ~~for 1982~~ and each year thereafter, the
182 exemption shall increase annually by the percentage change in
183 the Consumer Price Index for all urban consumers, U.S. City
184 Average, all items 1967=100, or successor reports for the
185 preceding calendar year as initially reported by the United
186 States Department of Labor, Bureau of Labor Statistics. However,
187 such increase shall not apply with respect to any assessment

188 roll until such roll is first determined to be in compliance
189 with the provisions of section 4 by a state agency designated by
190 general law. This subsection shall stand repealed on the
191 effective date of any amendment to section 4 which provides for
192 the assessment of homestead property at a specified percentage
193 of its just value.
194 (e) By general law and subject to conditions specified
195 therein, the Legislature may provide to renters, who are
196 permanent residents, ad valorem tax relief on all ad valorem tax
197 levies. Such ad valorem tax relief shall be in the form and
198 amount established by general law.
199 (f) The legislature may, by general law, allow counties or
200 municipalities, for the purpose of their respective tax levies
201 and subject to the provisions of general law, to grant an
202 additional homestead tax exemption not exceeding twenty-five
203 thousand dollars to any person who has the legal or equitable
204 title to real estate and maintains thereon the permanent
205 residence of the owner and who has attained age sixty-five and
206 whose household income, as defined by general law, does not
207 exceed twenty thousand dollars. The general law must allow
208 counties and municipalities to grant this additional exemption,
209 within the limits prescribed in this subsection, by ordinance
210 adopted in the manner prescribed by general law, and must
211 provide for the periodic adjustment of the income limitation
212 prescribed in this subsection for changes in the cost of living.
213 ARTICLE XII
214 SCHEDULE

215 SECTION 26. Homestead property assessment limitations;
216 increased homestead exemption.--The amendments to Sections 4 and
217 6 of Article VII, modifying the limitations on the assessment of
218 homestead property and increasing the amount of the homestead
219 exemption, shall take effect January 1, 2007.
220 BE IT FURTHER RESOLVED that the following statement be
221 placed on the ballot:
222 CONSTITUTIONAL AMENDMENT
223 ARTICLE VII, SECTIONS 4 AND 6
224 ARTICLE XII, SECTION 26
225 ASSESSMENT OF HOMESTEAD PROPERTY.--Proposing amendments to
226 the State Constitution to provide for a phased increase in the
227 homestead exemption from $25,000 to $50,000 over 10 years for
228 all levies, school districts or otherwise; provide that
229 homeowners who move from one homestead property to another in
230 the same county would have the new homestead property assessed
231 at up to $100,000 less than just value depending on the
232 differential between the just value and the assessed value of
233 their previous homestead property; limit the difference between
234 the just value and the assessed value of homestead property to
235 $100,000 except property established as homestead property
236 before January 1, 2007, for which the difference between just
237 value and assessed value may not exceed the difference between
238 just value and assessed value existing on January 1, 2007, plus
239 $100,000; and schedule the amendments to take effect January 1,
240 2007, if adopted.

Bill No. **HJR 353**

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: Local Government Council
2 Representative(s) Lopez-Cantera offered the following:
3
4 **Amendment (with ballot statement and title amendments)**
5 Remove everything after the enacting clause and insert:
6 That the following amendments to Section 6 of Article VII
7 and the creation of Section 26 of Article XII of the State
8 Constitution are agreed to and shall be submitted to the
9 electors of this state for approval or rejection at the next
10 general election or at an earlier special election specifically
11 authorized by law for that purpose:
12 ARTICLE VII
13 FINANCE AND TAXATION
14 SECTION 6. Homestead exemptions.--
15 (a) Every person who has the legal or equitable title to
16 real estate and maintains thereon the permanent residence of the
17 owner, or another legally or naturally dependent upon the owner,
18 shall be exempt from taxation thereon, except assessments for
19 special benefits, up to the assessed valuation of five thousand
20 dollars, upon establishment of right thereto in the manner
21 prescribed by law. The real estate may be held by legal or
22 equitable title, by the entireties, jointly, in common, as a

23 condominium, or indirectly by stock ownership or membership
24 representing the owner's or member's proprietary interest in a
25 corporation owning a fee or a leasehold initially in excess of
26 ninety-eight years.
27 (b) Not more than one exemption shall be allowed any
28 individual or family unit or with respect to any residential
29 unit. No exemption shall exceed the value of the real estate
30 assessable to the owner or, in case of ownership through stock
31 or membership in a corporation, the value of the proportion
32 which the interest in the corporation bears to the assessed
33 value of the property.
34 (c)(1) By general law and subject to conditions specified
35 therein, the exemption shall be increased to a total of the
36 following amounts ~~twenty five thousand dollars~~ of the assessed
37 value of the real estate for each school district levy: thirty
38 thousand dollars with respect to 2007 assessments; thirty-five
39 thousand dollars with respect to 2008 assessments; forty
40 thousand five hundred dollars with respect to 2009 assessments;
41 forty-five thousand dollars with respect to 2010 assessments;
42 and fifty thousand dollars with respect to 2011 assessments. In
43 2012 and each year thereafter, the exemption shall increase
44 annually by the percentage change in the Consumer Price Index
45 for all urban consumers, U.S. City Average, all items 1967=100,
46 or successor reports for the preceding calendar year as
47 initially reported by the United States Department of Labor,
48 Bureau of Labor Statistics.
49 (2) By general law and subject to conditions specified
50 therein, the exemption for all other levies may be increased up
51 to an amount not exceeding ten thousand dollars of the assessed
52 value of the real estate if the owner has attained age sixty-

53 five or is totally and permanently disabled and if the owner is
54 not entitled to the exemption provided in subsection (d).
55 (d) By general law and subject to conditions specified
56 therein, the exemption shall be increased to a total of the
57 following amounts of assessed value of real estate for each levy
58 other than those of school districts: thirty ~~fifteen~~ thousand
59 dollars with respect to 2007 ~~1980~~ assessments; thirty-five
60 ~~twenty~~ thousand dollars with respect to 2008 ~~1981~~ assessments;
61 forty ~~twenty-five~~ thousand dollars with respect to 2009
62 assessments; forty-five thousand dollars with respect to 2010
63 assessments; and fifty thousand dollars with respect to 2011
64 assessments. In 2012 ~~for 1982~~ and each year thereafter, the
65 exemption shall increase annually by the percentage change in
66 the Consumer Price Index for all urban consumers, U.S. City
67 Average, all items 1967=100, or successor reports for the
68 preceding calendar year as initially reported by the United
69 States Department of Labor, Bureau of Labor Statistics. However,
70 such increase shall not apply with respect to any assessment
71 roll until such roll is first determined to be in compliance
72 with the provisions of section 4 by a state agency designated by
73 general law. This subsection shall stand repealed on the
74 effective date of any amendment to section 4 which provides for
75 the assessment of homestead property at a specified percentage
76 of its just value.
77 (e) By general law and subject to conditions specified
78 therein, the Legislature may provide to renters, who are
79 permanent residents, ad valorem tax relief on all ad valorem tax
80 levies. Such ad valorem tax relief shall be in the form and
81 amount established by general law.
82 (f) The legislature may, by general law, allow counties or
83 municipalities, for the purpose of their respective tax levies

84 and subject to the provisions of general law, to grant an
85 additional homestead tax exemption not exceeding fifty ~~twenty-~~
86 ~~five~~ thousand dollars to any person who has the legal or
87 equitable title to real estate and maintains thereon the
88 permanent residence of the owner and who has attained age sixty-
89 five and whose household income, as defined by general law, does
90 not exceed twenty thousand dollars. The general law must allow
91 counties and municipalities to grant this additional exemption,
92 within the limits prescribed in this subsection, by ordinance
93 adopted in the manner prescribed by general law, and must
94 provide for the periodic adjustment of the income limitation
95 prescribed in this subsection for changes in the cost of living.
96 ARTICLE XII
97 SCHEDULE
98 SECTION 26. Homestead property assessment limitations;
99 increased homestead exemption.--The amendments to Section 6 of
100 Article VII, increasing the amount of homestead exemptions,
101 shall take effect January 1, 2007.
102
103 ======= B A L L O T S T A T E M E N T A M E N D M E N T ======
104 Remove line(s) 220-240 and insert:
105 BE IT FURTHER RESOLVED that the following statement be
106 placed on the ballot:
107 CONSTITUTIONAL AMENDMENT
108 ARTICLE VII, SECTION 6
109 ARTICLE XII, SECTION 26
110 INCREASED HOMESTEAD EXEMPTIONS.--Proposing an amendment to
111 the State Constitution to provide for a phased increase in the
112 homestead exemption from $25,000 to $50,000 over 5 years for all
113 levies, school districts or otherwise, and to increase the

114 maximum additional homestead exemption for low income seniors
115 from $25,000 to $50,000 effective January 1, 2007.
116
117
118 ========== T I T L E A M E N D M E N T ==========
119 Remove the entire title and insert:
120 House Joint Resolution
121 A joint resolution proposing amendments to Section 6 of Article
122 VII and the creation of Section 26 of Article XII of the State
123 Constitution to provide for a phased increase in the homestead
124 exemption over 5 years from $25,000 to $50,000 for all levies,
125 to increase the maximum additional homestead exemption for low
126 income seniors from $25,000 to $50,000, and schedule the
127 amendments to take effect January 1, 2007, if adopted.

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

1 The Growth Management Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to 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.

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)

Karin G. Thomas
MY COMMISSION EXPIRES
January 13, 2011
#DD183306
Bonded thru Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Personally Known XX or Produced Identification

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 LOCAL BILL STAFF ANALYSIS

BILL #: HB 759 Hillsborough County
SPONSOR(S): Reagan and others
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 759 provides a city charter for the City of Ruskin in Hillsborough County. This charter provides for:

- the creation and establishment of the city;
- the form of government and territorial boundaries of the city;
- the powers of the city, and an administrative code;
- election and terms of office of a city council, including the mayor and vice mayor, and their qualifications, powers and duties;
- circumstances which create vacancies in office, filling of vacancies, and forfeiture of office and recall;
- a procedure for establishing compensation and expense reimbursement for the mayor and city council;
- a city manager, city clerk and city attorney, and the powers and duties of each;
- city boards and committees, and their powers and duties;
- election requirements and guidelines;
- charter amendments and a charter review committee;
- standards of conduct, bonding of certain employees, and assumption of debt in certain circumstances;
- transitional provisions, including an initial election and terms of office, interim adoption of codes, ordinances and resolutions, taxes and fees, first-year expenses, services and compensation, shared revenues, and powers and duties of the city manager and city clerk; and
- severability of provisions.

The bill provides that the act takes effect only upon its approval by a majority vote of qualified electors residing within the corporate limits of the proposed city.

According to the Economic Impact Statement, a tax increase of approximately 3 mills would be required in the fifth year of the municipality's existence to retain the current level of services. The Economic Impact Statement also states that the impact of the incorporation on each individual taxpayer is unknown at this time and cannot be determined until the new city is established.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

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

Ensure Lower Taxes

According to the Economic Impact Statement, a tax increase of approximately 3 mils would be required in the fifth year of the municipality's existence to retain the current level of services.

B. EFFECT OF PROPOSED CHANGES:

Background/Municipal Incorporation

Constitutional Provisions

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

Statutory Provisions

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

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

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

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

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

Requirements and Standards for Municipal Incorporation

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

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

Feasibility Study

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

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

1. The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
2. The major reasons for proposing the boundary change.
3. The following characteristics of the area:
   - a list of the current land use designations applied to the subject area in the county comprehensive plan;
   - a list of the current county zoning designations applied to the subject area;
   - a general statement of present land use characteristics of the area;
   - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
4. A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.
5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.

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

6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
7. The names and addresses of three officers or persons submitting the proposal.
8. Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
   - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
   - a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.
9. Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis.
10. Evaluation of the alternatives available to the area to address its policy concerns.
11. Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

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

Formation Activity In Florida

Municipal Incorporations and Mergers

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

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

1995	PINECREST	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.
1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter

Failed Attempts at Municipal Incorporation

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

- A city in the Halifax area of Volusia County (1985) (ch. 85-504, L.O.F.)

- The City of Fort Myers Beach (1982/1986)
  (chs. 82-295 and 86-413, L.O.F.)

- The City of Spring Hill (1986)
  (ch. 86-463, L.O.F.)

- The City of Deltona Lakes (1987)
  (ch. 87-449, L.O.F.)

- The City of Deltona (1990)
  (ch. 90-410, L.O.F.)

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

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

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

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

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

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

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

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

Municipal Mergers

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

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

Municipal Dissolutions

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

- Bithlo in Orange County by authority of the Secretary of State in January 1977;

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

City of Ruskin

In 1910, Dr. George Miller founded Ruskin College in what would later become the community of Ruskin in Hillsborough County. The college—which closed during World War I—was based on the philosophy of Victorian Englishman John Ruskin, and followed the principle of combining intellectual endeavors with manual labor.

Over the years, vegetable farming became an important industry in Ruskin. Ruskin is famous as the home of the "Ruskin Tomato," and the Ruskin Tomato and Heritage Festival (which dates back to the 1930's Florida Tomato Festival). Ruskin also is known for boating and fishing. Hillsborough County figures indicate that the area is approximately 20.4 square miles. The population of Ruskin as of the 2000 census was 9,565. According to Hillsborough County estimates, the population had increased to 12,473 in 2005.

A feasibility study on the creation of the city, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on October 26, 2005. This study and the proposed charter for the city were reviewed by the Legislative Committee on Intergovernmental Relations, Office of Economic & Demographic Research, Department of Revenue, and Department of Community Affairs.[4] According to the study, community leaders in Ruskin are exploring the viability of incorporation to control future land use, preserve community environment and quality of life, and return a greater share of county tax dollars to the Ruskin community.

Effect of Proposed Changes

Proposed Charter

HB 759 provides a proposed charter for the City of Ruskin as follows:

Section 1: Short title; creation and establishment of city. Provides that the act may be known as the "Charter of the City of Ruskin," and creates and establishes the city effective April 1, 2007.

Section 2: Corporate existence; form of government; boundary and powers.
(1) CORPORATE EXISTENCE: Provides that the City of Ruskin is created pursuant to the State Constitution and laws of the state in order to preserve, protect and enhance the quality of life and residential character of Ruskin.
(2) FORM OF GOVERNMENT: Provides that the city shall operate as a council-manager form of government; provides that the general duties of the council shall be to set policy as the legislative branch, and the general duties of the manager shall be to carry out these policies as the executive branch.
(3) CORPORATE BOUNDARY: Provides for corporate boundaries.
(4) POWERS: Provides that the city is a body corporate and politic and has all the powers of a municipality under the State Constitution and the laws of the state.
(5) CONSTRUCTION: Provides that the charter and the powers of the city shall be construed liberally in favor of the city.

[4] These reviews are on file with the Local Government Council.

Section 3: Council; mayor; vice mayor.
(1) CITY COUNCIL: Provides that there shall be a city council vested with all legislative powers of the city, consisting of four members and the mayor; provides that council members shall occupy seats numbered one through four; provides that unless otherwise stated within the charter, all charter powers and the powers granted by general law to municipalities shall be exercised by the council; provides that the council shall adopt by resolution the policies and procedures by which it is guided in its internal management; provides that no elected city officer shall hold any appointive city office or city employment while in office; provides that no former elected city officer shall hold any compensated appointive city office or city employment until one year after the expiration of his or her term.
(2) MAYOR: Provides that the mayor shall preside at meetings of the council and is a voting member; provides that the mayor is recognized as the head of city government for all ceremonial purposes, for purposes of military law, and for service of process and execution of duly authorized contracts, deeds and other documents and as the city official designated to represent the city when dealing with other governmental entities; provides that if a vacancy occurs in the mayor's office or if the mayor is otherwise suspended from office, the vice mayor shall become acting mayor; provides that if the vacancy is permanent or if the suspension is sustained, and if the remaining term of the mayor is greater than one year, that a special election will be called.
(3) VICE MAYOR: Provides that the vice mayor shall act as mayor in the absence of the mayor; provides that the vice mayor shall be elected from among council members for a period of two years by a majority of the council at the first meeting of the council after each election.
(4) MAYOR PRO TEMPORE: Provides that in the absence of the mayor and vice mayor, the remaining council members shall select a council member to serve as mayor pro tempore; provides that the mayor pro tempore has the same powers and duties as the mayor.
(5) ELECTION AND TERMS OF OFFICE: Provides that each council member and the mayor shall be elected at large for four-year terms by the electors of the city except as otherwise provided in the act; provides that each council member and the mayor shall remain in office until his or her successor is elected and assumes the duties of the position; provides that no council member or mayor shall serve for more than two consecutive four-year terms except that the persons elected to seats one and two and the mayor elected during the initial special election held in March 2007 may serve two consecutive four-year terms plus the limited term from the March 2007 special election until the September 2008 election if subsequently reelected, and the persons elected to seats three and four during the initial special election held in March 2007 may serve a two-year term and a consecutive four-year term plus the limited term from the March 2007 special election until the September 2008 election if subsequently reelected; provides that if a person is initially elected to seat three or four in September 2008, he or she may serve a total of 10 years if subsequently reelected; provides that if a person fills a vacancy on the council, that person may serve two consecutive four-year terms plus the limited term of the vacancy filled if subsequently reelected; provides that if a vacancy occurs for mayor, the vice mayor becomes mayor as provided by the act and may serve two consecutive four-year terms plus the limited term of the vacancy filled if subsequently reelected; provides that any service as acting mayor prior to the permanent filling of a vacancy is excluded from the calculation of term limitations; provides that after one year out of office, a former mayor or council member may qualify and run for mayor or any council seat.
(6) QUALIFICATIONS: Provides that each candidate for office be a qualified elector of the city and qualify in the same manner as provided by general law for nonpartisan elections except as further provided for initial elections; provides that a person may not be a candidate for more than one office in the same election; provides that only electors of the city who have resided continuously in the city for at least one year preceding the date of such filing shall be eligible to hold the office of council member.
(7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES: Provides that vacancies, forfeiture of office, and the filling of vacancies shall be provided for by ordinance unless otherwise provided for in the charter; provides that in the event that all the members of the council are removed by death, disability, recall, forfeiture of office, resignation, or any combination thereof, the Governor shall appoint interim council members who shall call a special election within not fewer than 30 calendar days or more than 60 calendar days after such appointment; provides that such election shall be held in the same manner as the initial elections under the charter; provides that if there are fewer than 180 calendar days remaining in the unexpired terms, the interim council appointed by the

Governor shall serve the remainder of the unexpired terms; provides that appointees must meet all requirements for candidates provided for in this section.
(8) COMPENSATION; REIMBURSEMENT FOR EXPENSES: Provides that compensation of the mayor and council members shall be established by ordinance; however, any such ordinance increasing compensation shall not take effect until the date of commencement of the terms of the council members elected at the next regular election following the adoption of the ordinance; provides that the mayor and council members may be reimbursed for travel and per diem in accordance with general law or as may be otherwise provided by ordinance.
(9) CITY BOARDS AND COMMITTEES: Provides that except as otherwise provided by law, the council may establish or terminate boards that have oversight or control of certain matters or discharge certain functions of a magisterial, representative or fiduciary character, and advisory committees to which the consideration, determination or management of any municipal matter may be committed or referred and for which a written response or recommendation must be made; provides that the members of any such board or committee shall be appointed by the council, and that the parameters of the purpose of each board and committee shall be declared by resolution.

Section 4: City manager; city clerk; city attorney; administrative code: Provides that the executive responsibilities and powers of local self-government of the city not inconsistent with the charter are assigned to and vested in the city manager; provides that all functions of the executive branch may be allotted to not more than 10 departments, and each department shall be administered by a director, who shall be appointed; provides that one or more assistant city administrators and department directors and a city clerk may be appointed by the city manager with the advice and consent of the council and shall serve at the pleasure of the city manager in accordance with the administrative code.
(1) CITY MANAGER: Provides that there shall be a city manager, who shall be the chief administrative officer of the city; provides that the council shall appoint an individual as manager based on accepted competencies and practices of local public management for an indefinite term by an affirmative vote of a super majority of council members; provides that the council may remove the manager at any time by an affirmative vote of a super majority of council members; provides that for voting purposes, the mayor shall be considered as a council member; provides that the manager may be retained full-time, part-time, or as an independent contractor, and that the compensation and benefits of the manager shall be fixed by the council; provides that at the time of appointment, any full-time city manager need not be a resident of the city or state but shall, within 180 calendar days after appointment, become a resident of the city unless otherwise provided by the administrative code; provides that any consideration of the removal of the manager must be an agenda item for which public notice must be given; provides that the city manager is the administrative director of the city, shall execute the laws and administer the government of the city, and is the chief executive officer and head of the administrative branch of city government; provides that the manager is responsible to the city and has the rights, powers and duties as provided by the administrative code and as otherwise provided by the act; provides that vacancies shall be provided for and filled in accordance with the administrative code.
(2) CITY CLERK: Provides that the council may establish the office of city clerk to be appointed by the manager with the confirmation of the council; provides that the clerk shall be responsible to the council for the proper administration of all legislative affairs of the city, has the powers and duties prescribed by the administrative code, and may be required to post bond as provided by the administrative code; provides that if the office of city clerk is not created, the manager shall perform the duties required in this subsection.
(3) CITY ATTORNEY: Provides that the legal affairs of the city are assigned to and vested in the office of the city attorney; provides that the city attorney shall be the director of the office, together with such chief assistants and other assistant city attorneys and legal support personnel as may be required, subject only to budget determinations by the council; provides that all attorneys and employees of the office shall serve at the pleasure of the city attorney; provides that the city may contract for a city attorney on a part-time basis in lieu of establishing the office; provides that the manager shall appoint or contract for, with the advice and consent of the council, a qualified individual who is a member in good standing of The Florida Bar to serve as the city attorney for an indefinite term; provides that the

city attorney shall be a resident of the state but is not required to live in the city; provides that the city attorney shall be responsible for representing, and is authorized to represent, the council as its attorney; provides that the city attorney shall provide legal services, including management and participation in all litigation and other such legal services required to protect the interest of the city, and render legal advice and perform other legal and administrative responsibilities; provides that special attorneys may be contracted with by the council upon the recommendation of the city attorney; provides that bond and disclosure counsel shall be selected by the council from a list of not fewer than three qualified respondents to publicly noticed solicitations for bond and disclosure counsel and upon the recommendation of the county manager and the city attorney; provides that nothing contained in the charter or within the administrative code shall be construed as requiring the city attorney to render legal services in any particular circumstance where, in the professional discretion and judgment of the attorney, the rendering of such legal services would violate the provisions of the code of professional responsibility of The Florida Bar or create a direct conflict of interest between the city and the attorney; provides that the compensation of the city attorney shall be fixed by the city council at a level commensurate with the requirements of the position, and termination shall be as provided in the administrative code.
(4) ADMINISTRATIVE CODE: Provides that the council shall enact and amend by ordinance an administrative code organizing the administration of the city government into departments and setting forth the duties, responsibilities and powers of the city manager, any assistant city managers, and departments of the city government not in conflict with the provisions of the charter; provides that it is the responsibility of the city manager to compile, publish and disseminate the administrative code and to recommend revisions thereof in a continuing program to provide greater efficiency and economy in the operations of government; provides that within 90 calendar days after the first organizational meeting of the council, the city manager shall submit a proposed administrative code to the council; provides that the council shall adopt the proposed code, as submitted or amended, within 90 calendar days after the date submitted; provides that, if not adopted within 90 calendar days, the code, as proposed by the manager, shall govern the operations of the county administrator and departments until such time as one may be adopted formally by the council.

Section 5: Elections.
(1) QUALIFIED ELECTORS: Provides that a "qualified elector" means any person at least 18 years of age who is a citizen of the United States, is a legal resident of Florida and of the city, and has registered to vote with the Supervisor of Elections in Hillsborough County.
(2) NONPARTISAN ELECTIONS: Provides that all elections for the offices of council member and mayor shall be nonpartisan; provides that candidates for mayor and city council shall qualify for election in accordance with general law.
(3) ELECTION IN 2008: Provides for an election to be held in conjunction with the primary election in September 2008 to elect council members and the mayor.
(4) GENERAL ELECTION: Provides that the ballot for the general election shall contain the names of all qualified candidates for mayor, if applicable, and for the two council seats which are to be filled at that election, except as otherwise provided by the act; provides that qualified electors shall cast one vote for mayor, if applicable, and one vote for each council seat, with a maximum of one vote per candidate; provides that the candidate for mayor receiving the most votes shall be the duly elected mayor; provides that the two council candidates receiving the most votes shall be the duly elected council members.
(5) SPECIAL ELECTIONS: Provides that special elections, when required, shall be scheduled by the council at such times and in such manner as is consistent with the charter and state election law.
(6) COMMENCEMENT OF TERMS: Provides that the term of office of any elected official shall commence at the first regularly scheduled council meeting after the election, except as otherwise provided for by the act for initial elections.
(7) OATH: Provides that all elected officials, before entering upon their duties, shall take and subscribe to an oath of office.
(8) RECALL: Provides that the qualified electors of the city shall have the power to recall and to remove from office any elected official of the city as provided by general law.

Section 6: Charter amendments; charter review committee.
(1) CHARTER AMENDMENTS: Provides that the charter may be amended in accordance with general law.
(2) APPOINTMENT OF CHARTER REVIEW COMMITTEE: Provides that by April 1, 2009, and every four years thereafter, the council shall appoint by resolution a charter review committee, which shall contain at least five qualified electors who are residents of the city who shall serve for a term of one year without compensation.

Section 7: General provisions.
(1) CONFLICTS OF INTEREST; ETHICAL STANDARDS: Provides that all council members and employees of the city are subject to the standards of conduct for public employees set by federal, state, county or other applicable law; provides that the council may adopt, by ordinance, more restrictive standards.
(2) BOND: Provides that the city manager and the city clerk, assistant city managers, department directors, and any other employee designated by the administrative code shall furnish a surety bond to be approved by the council and in such amount as the council may fix; provides that the premium of the bond shall be paid by the city.
(3) INDEBTEDNESS: Provides that the city may assume all outstanding indebtedness related to any facility or real property it may acquire from another unit of government.

Section 8: Transition provisions.
(1) INITIAL ELECTION OF COUNCIL MEMBERS; DATES; QUALIFYING PERIOD: Provides that following the adoption of the charter, the board of county commissioners shall call a special election on March 6, 2007, for the mayor and city council: provides that any required runoff election be held on March 27, 2007; provides that any individual wishing to run for mayor or one of the four council seats who is a qualified elector of the city and has resided continuously within the corporate boundaries of the city for one year shall qualify as a candidate with the Hillsborough County Supervisor of Elections between January 15 and January 19, 2007; provides that the county canvassing board shall certify the results of the initial election, and the four candidates for council member receiving the highest number of votes shall be elected; provides that the candidate receiving the highest number of votes shall occupy seat one, the candidate receiving the second highest number shall occupy seat two, the candidate receiving the third highest number shall occupy seat three, and the candidate receiving the fourth highest number shall occupy seat four; provides that at such initial election and each subsequent election, the incumbents shall serve until their successors are elected and assume the duties of the office; provides that at all subsequent elections, council members shall be elected for four-year terms; provides that the mayoral candidate receiving the highest number of votes shall be elected; provides that at the initial election and each subsequent election, the mayor shall be elected to serve until his or her successor is elected and assumes the duties of the office; provides that at all subsequent elections, the mayor shall be elected for a four-year term.
(2) INDUCTION INTO OFFICE: Provides that those candidates who are elected on March 6, 2007, shall take office at the initial council meeting on April 3, 2007, which shall be held at a time and place to be designated by the mayor; provides that if a runoff election is required, the initial council meeting shall be scheduled after certification thereof at a time and place to be designated by the mayor.
(3) TEMPORARY NATURE OF SUBSECTIONS (4)-(10): Provides that these subsections are inserted solely for the purpose of effecting the incorporation of the city and the transition to a new municipal government, and shall automatically, and without further vote or act of the electors of the city, become ineffective and no longer a part of the charter at such time as the implementation of each subsection has been accomplished.
(4) INTERIM ADOPTION OF CODES AND ORDINANCES: Provides that until otherwise modified or replaced by the charter or the council, all codes, ordinances and resolutions of Hillsborough County in effect on April 1, 2007, shall, to the extent applicable to the city, remain in force and effect as municipal codes, ordinances and resolutions of the city; provides that until otherwise determined by the council, such codes, ordinances and resolutions shall be applied, interpreted and implemented by the city in a manner consistent with established policies of Hillsborough County on April 1, 2007.

(5) TAXES AND FEES: Provides that until otherwise modified by the council, all municipal taxes and fees imposed within the city boundaries by the county as the municipal government for unincorporated Hillsborough County, which taxes and fees are in effect on the date of adoption of the charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the city.
(6) FIRST-YEAR EXPENSES: Provides that the council, in order to provide moneys for the expenses and support of the city, has the power to borrow money necessary for the operation of city government until such time as a budget is adopted and revenues are raised; provides that the county shall, by April 5, 2007, provide the city with the share of the unincorporated municipal services taxing unit taxes allocable to the city for the current year prorated from the effective date of the charter.
(7) TRANSITIONAL ORDINANCES AND RESOLUTIONS: Provides that the council shall adopt ordinances and resolutions required to effect the transition; provides that ordinances adopted within 60 calendar days after the first council meeting may be passed as emergency ordinances; provides that these transitional ordinances shall be effective for no longer than 90 calendar days after adoption and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.
(8) TRANSITIONAL SERVICES AND COMPENSATION: Provides that the Hillsborough County Board of County Commissioners shall provide and be compensated for the provision of services to the city as budgeted for in the fiscal year 2006-2007 Hillsborough County budget during the 60-day transition period set forth in subsection (7) or until such earlier time as the city makes other arrangements for the services; provides that the level of services to be provided shall be consistent with the level upon which the fiscal year 2005-2006 expense budget was predicated and in accordance with adopted revenues; provides that the council shall adopt ordinances, resolutions, agreements and other documents as required to ensure the continued collection of budgeted revenues with which to fund services beginning on the date of the initial meeting of the city council following the March 6, 2007, special election; provides that any revenues adopted or received by the city upon which delivery of services was not predicated within the Hillsborough County Commission's fiscal year 2006-2007 adopted budget shall accrue to the city.
(9) STATE-SHARED REVENUES: Provides that the city is entitled to participate in all shared revenue programs of the state, effective April 1, 2007; provides that the provisions of s. 218.23, F.S., shall be waived for the purpose of eligibility to receive revenue sharing from the date of incorporation through the end of state fiscal year 2008-2009; provides that the provisions of s. 218.26(3), F.S., shall be waived through the end of state fiscal year 2008-2009, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to s. 218.245, F.S.; provides that the initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research as of April 1, 2007; provides that should the bureau be unable to provide an appropriate population estimate, the initial population for calculating eligibility for shared revenues shall be established at the level of 8,320.
(10) SHARED REVENUES: Provides that Hillsborough County shall distribute to the city funds from taxes, franchise fees, ad valorem taxes and any other revenues collected within the municipal boundaries of the city, except that the city shall remain within the countywide library service tax system and shall derive no revenues from this tax; provides that the population for the initial distribution is 8,320, which may be adjusted from time to time in accordance with other prescribed procedures; provides that the communication services tax imposed under s. 202.19, F.S., by Hillsborough County will continue within the city boundaries during the period commencing with the date of incorporation through December 31, 2007; provides that revenues from the tax shall be shared by Hillsborough County with the city in proportion to the projected city population of 8,320 compared with the unincorporated population of Hillsborough County before the incorporation.
(11) POWERS AND DUTIES OF THE CITY MANAGER: Provides that until the administrative code is otherwise adopted in accordance with the provisions of the charter, the city manager is empowered to:

- administer and carry out the policies of the council and enforce all ordinances, resolutions and motions of the council, the provisions of the charter, and applicable general laws to ensure their faithful execution;
- supervise, direct and control all city administrative departments;

- prepare and submit in accordance with general law to the council for its consideration and adoption an annual operating budget, a capital budget and a capital program; establish the schedules and procedures to be followed by all city departments, offices and agencies in connection therewith; and supervise and administer all phases of the budget process;
- supervise the care and custody of all city property, institutions and agencies;
- supervise the collection of revenues and the expenditure of city funds;
- on or before May 1 of each year, review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies and report and recommend thereon to the board;
- develop and install, within one year after adoption of the administrative code, and maintain written centralized budgeting, personnel, legal and purchasing procedures as well as procedures for each department to be presented to the council for information and discussion;
- negotiate contracts, bonds or other instruments for the city, subject to council approval; make recommendations concerning the nature and location of city improvements; and execute services in keeping with established policies of the council;
- ensure that all terms and conditions imposed in favor of the city or its inhabitants in any statute, franchise or other contract are faithfully kept and performed;
- order, at the manager's discretion, any department under the manager's jurisdiction as specified in the code to undertake any task for any other department on a temporary basis if it is necessary for the proper and efficient administration of the city government to do so and delegate administrative duties and responsibilities to assistant city administrators and department directors;
- appoint and remove, with the advice and consent of the council, a city attorney, and appoint, with the advice and consent of the board, one or more assistant city administrators and all department directors;
- exercise the exclusive power to appoint and employ persons to fill authorized positions and perform official functions in the city except those excluded under the terms of the charter, such persons to serve at the pleasure of the administrator;
- issue and enforce such administrative orders, rules or guidelines as the manager deems necessary to give appropriate effect to the charter and maintain a complete compilation of all such administrative orders, rules and regulations; and
- designate in writing to each member of the board who shall function as the administrator during the temporary absence of the administrator.

(12) POWERS AND DUTIES OF THE CITY CLERK: Provides that until the administrative code is otherwise adopted in accordance with the provisions of the charter, the city clerk is responsible to the city council for the proper administration of all legislative affairs of the city and to that end shall have the following powers and duties:

- appointment of a deputy city clerk who shall be exempt from any city employee merit system;
- maintenance of the journal of all city council meetings and work sessions and of such other board and committee meetings as shall be required by the city council;
- authentication of all ordinances in a codified manner, resolutions and transcripts of legislative functions;
- publication of all public notices required by the city council or by law;
- service as the legal custodian of all city records, including contracts, deed, title insurance, and other official documents;
- filing of all liens, satisfactions and releases as authorized by the manager;
- service as a notary public on behalf of the city; and
- performance of such other duties as may be required by the city council.

Section 9: Severability. Provides that If any section or part of any section of the charter is held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of the charter or the context in which such section or part of a section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding directly applies.

Section 10: Provides that the act shall take effect as provided herein only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed City of Ruskin voting in a referendum election to be called by the Hillsborough County Commission, to be held on November 3, 2006, and to be held in accordance with provisions of general law relating to elections currently in force, except that this section takes effect upon becoming law.

Charter Review

As noted in the following comments, certain proposed charter provisions may conflict with general law or raise a constitutional issue while other provisions may simply require clarification:[5]

- Section 1(2): This subsection provides for the form of government and specifies that no person belonging to one branch (council or administration) may exercise any powers appertaining to another unless expressly provided for in the charter. It is unclear whether this subsection is clearly defining the responsibilities for legislative and executive functions or is authorizing the sharing or blurring of responsibilities.

- Section 3(1): Subsection (b) authorizes the council to adopt policies and procedures to guide its "internal management." This term is vague and should be defined or otherwise clarified.

- Section 3: This section should provide for regularly scheduled council meetings, special meetings and emergency meetings of the council. It also should include public noticing requirements and advance noticing provisions for council members regarding special and emergency meetings in accordance with general law.

- Sections 3(5) and 5(4): These subsections provide for a four-member council to be elected at-large. An at-large election scheme may be vulnerable to legal challenge under the 1965 U.S. Voting Rights Act,[6] depending upon the area's demographics.

- Section 4: This section provides for the appointment of the city manager and identifies the position's powers and duties. The manager is authorized to appoint certain department heads, assistants, the city clerk and the city attorney with the "advise and consent" of the council. This creates a potentially dysfunctional administrative system and blurs the separation of responsibilities between the city manager and the city council. It may be appropriate to remove the "advise and consent" provision. Alternatively, it is common for the city attorney position, as a charter officer, to be appointed by the council and to report to the council.

- Section 4(3): The language "the code of professional responsibility of The Florida Bar" should be changed to the "Rules of Professional Conduct regulating The Florida Bar."

- Section 4(4): The term "county administrator" should be changed to read "city manager."

- Sections 4 and 8(11): The powers, duties and responsibilities of the city manager identified in Section 4 and the transitional provisions for the city manager provided in subsection 8(11) appear to overlap with the administrative responsibilities of the mayor provided in subsection 3(2) and should be clarified.

- Section 5: This section provides for elections. It should be revised to provide for referendum and initiative. It may be appropriate to specify the governmental entities which have funding and administrative responsibilities for city elections.

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[5] Selected comments are based on the analysis provided by the Legislative Committee on Intergovernmental Relations.

[6] A summary of the Act is provided at the end of this analysis.

- Section 6(1): Subsection (1) provides for the appointment of a charter review committee by April 9, 2009, and every four years thereafter. It may be appropriate to extend the length of time between reviews to 10 years, which is a more common time frame for municipal charter reviews. In addition, it may be appropriate to specify that current council members are ineligible to serve on the charter review committee.

- Section 8(6): This subsection directs Hillsborough County government to provide the city with a prorated share of unincorporated MSTU tax revenues. It may be appropriate to clarify that the city is terminating the operation of this MSTU within the boundaries of the city.

- Section 8(7): This subsection provides for emergency ordinances. It may be appropriate to clarify, pursuant to s. 166.041(3)(b), F.S., that emergency ordinances require a two-thirds vote by the commission, and that zoning ordinances cannot be enacted as emergency ordinances.

- Section 8(9): This subsection authorizes Ruskin to participate in SSR programs and waives the eligibility requirements in s. 218.23(1), F.S., through FY 2008-09. This provision should clarify that Ruskin may participate in all SSR programs applicable to municipal governments. The requested waiver should be limited to the requirements regarding financial reports and audits which the Legislature has temporarily waived in the past until such reports are available. Also, given that it can take up to three years for the required financial reports and audits to become available, it may be appropriate to extend the waiver through FY 2009-10.

- Section 9(10): This subsection directs Hillsborough County government to distribute certain revenues from taxes, franchise fees and ad valorem taxes collected within the municipal boundaries to the city. This provision is vague, inconsistent with the Florida Constitution and general law and should be revised. Hillsborough County reports that it does not collect franchise fees. The Florida Constitution and general law authorize the county to levy and collect ad valorem taxes.

- Section 9(11): This subsection provides for transitional powers and duties of the city manager and city clerk. Subsections (k),(l) and (m) reference a "board" and "administrator." It appears these terms refer to the city council and city manager and should be revised for consistency.

- Section 9(12): This subsection provides for an appointment of a city clerk who is responsible to the council. This subsection appears inconsistent with the powers and responsibilities of the city manager identified in Section 4.

- Section 9(12)(b): The subsection provides for the position of deputy city clerk who is exempt from any city employee merit system. It may be inappropriate to exempt this position.

Feasibility Study Review

With regard to the requirements and standards for municipal incorporation provided by s. 165.061(1), F.S., the reviewers[7] concluded that:

- **The areas proposed for the City of Ruskin are contiguous and compact.** However, it should be noted that the area proposed for incorporation appears to create two enclaves; one on the northwestern boundary adjacent to Tampa Bay and the second on the southwestern boundary adjacent to the Little Manatee River. While standards for incorporation of a new municipality do not prohibit the creation of enclaves, municipal boundary changes that create such enclaves, either through municipal dissolution (s. 165.061, F.S.), or annexation (s. 171.031, F.S.), are prohibited.

[7]These responses are based on the review of Ruskin feasibility study reviews by the Office of Economic and Demographic Research and the Legislative Committee on Intergovernmental Relations.

- **The proposed City of Ruskin meets the minimum population requirement for incorporation (5,000 persons).** To meet the population requirement for the incorporation of a new municipality in a county with a population of 75,000 or less, the municipality must have at least 1,500 persons and in larger counties, the municipality must have at least 5,000 persons. The latest official population estimate for Hillsborough County placed its population at 1,131,546 (official 4/1/2005 estimate from Bureau of Economic and Business Research, University of Florida) so a new municipality would be required to have a minimum population of 5,000. The Office of Economic and Demographic Research analysis of census data for the blocks contained within the proposed boundaries of the City of Ruskin indicated a 2000 population of over 9,000.[8]

- **The proposed City of Ruskin does not meet the required density of 1.5 persons per acre.** A population density requirement of 1.5 persons per acre also is specified in statute. According to the feasibility study, the area being proposed for incorporation contains 11,292.08 acres. Using this acreage and a 2005 population estimate based on growth in the unincorporated part of Hillsborough County since 2000 would indicate that the 2005 density was approximately .97 persons per acre. Alternatively, the statutes provide that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The Study (page 2) suggests that Ruskin is a "suburbanizing" community and that future residential development will increase the population sufficiently to meet the 1.5 density requirement.

- **The proposed City of Ruskin meets the minimum distance requirement.** Based on information in the Study (page 2), the area to be incorporated meets the requirement that the area proposed for incorporation must be at least two miles from the boundaries of an existing municipality in the county or have an extraordinary natural boundary which requires separate municipal government.

With regard to whether the Feasibility Study itself contained the required elements of such a study, it was noted that some requirements were either not clearly identifiable or not addressed:

- **The Study does not appear to meet the requirement to describe proposed development.** However, the Ruskin community has recently completed a comprehensive two-year community planning process, conducted by the Hillsborough County government, that generated detailed zoning and future land use plans for the Ruskin area.

- **The Study appears to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S, but does not provide cost estimates for each of those services.** The Study meets the requirement that it identify proposed services (pages 11-12). The Study (pages 1-12, 14) notes that it will contract certain municipal services including: police protection, fire protection, emergency medical services, surface water management services, street and road maintenance and repair, stormwater, maintenance of right-of-ways, environmental services, animal control, library, human services, recreation, planning and zoning, code enforcement, and certain general administration services from Hillsborough's county government. However, there are no memoranda of understanding or letters of agreement that indicate that Hillsborough County government will provide the services for the amount identified in the Study. To the contrary, preliminary estimates

[8] The feasibility study states that the current permanent population of Ruskin is estimated at 8,321 and total population (with seasonal residents) is estimated to approach 11,000. The growth in population is projected to increase to 12,815 in FY 2011, with a peak population of 13,200. The population growth is based on the projected growth of developments already approved in the study area. The study states that this projection is consistent with previous growth patterns and other unspecified studies of Ruskin. It is noted that these population figures differ from those received from Hillsborough County (see, page 7 of this analysis).

provided by representatives of Hillsborough County Sheriff's Office suggest costs for law enforcement services to the Ruskin community would be approximately three times the amount included in the Study budget. Hillsborough County officials report that other county programs funded annually in excess of $1 million are not included in the Study's proposed budget.

- **The Study does not meet the requirement that it include the name and address of three persons submitting the proposal.**

- **The Study appears to meet some, but not all, elements of the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation.** The Study addresses the majority of tax bases and revenue sources available to the municipality and provides revenue estimates for some of them. The amount of revenues that can be generated by certain revenue sources appear overstated; other revenue sources would not be available to the City of Ruskin. These and other revenue sources included in the Study require clarification. It is noted that the SSR estimates provided in the Study (pages 22-23) are consistent with those estimates calculated by the Office of Research and Analysis, Florida Department of Revenue: $222,300 in Municipal Revenue Sharing Program distributions and $779,474 in Local Half-Cent Sales Tax distributions.

- Although the Charter includes numerous provisions for council member elections, neither the Charter nor the Study specify how such elections will be administered or funded. **Given this concern, the Study may not adequately address the requirement for the five-year operational plan and budget.**

Review of the Financial Elements of the Proposed Incorporation

- **Revenue Sharing:** Since the charter provides that the City of Ruskin will be incorporated on April 1, 2007, the city will not have completed a full local fiscal year by the end of the 2007-2008 state fiscal year, ending June 30, 2008. Thus, the City of Ruskin could not possibly satisfy the revenue sharing criteria contained in s. 218.23(1), F.S., requiring the completion of a full local fiscal year, until after the end of the 2008-2009 state fiscal year, ending June 30, 2009. The charter correctly anticipates this circumstance and provides in Section 8(9) for a waiver of s. 218.23(1), F.S., through the end of the state fiscal year 2008-2009.[9]

- **Gas Tax Revenues:** The charter does not specify a date for the beginning of distribution of gas tax. There is no need to specify this date because s. 336.025(4) (b), F.S., provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which in the case of Ruskin will be 10/1/07. Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the default lane-mile formula unless provided otherwise by the local law providing for the incorporation. Section 336.025(3)(a)1, F.S., requires that interlocal agreements regarding local option gas tax distributions must be executed prior to June 1 of a year and s. 336.025(5)(a), F.S., requires that a certified copy of that interlocal agreement must be provided to the Department by July 1 of the same year, to become effective at the beginning of the next local fiscal year in October 1 of that year. Unless that interlocal agreement is entered into by Hillsborough County and the other municipalities constituting a majority of the municipal population by 6/1/07, the distribution to Ruskin shall be in accordance with the default lane-mile formula specified in s. 336.025(4)(b), F.S.

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[9]The LCIR has noted that in order to be eligible to participate in State Shared Revenue programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The Study (page 17) presents the 2005 taxable value of property within Ruskin at $549,984,818. Based on this projected taxable value, the three-mill equivalency for Ruskin is equal to approximately $1,379,954. The Study's budget projects ad valorem tax revenues at $2,543,144, which is sufficient to meet the three-mill requirement.

- **Local Communications Services Tax:** Pursuant to s. 202.21 F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date. Thus, if Ruskin meets the September 1, 2007, notification date, then it could impose its own communications services tax commencing January 1, 2008. Section 8(10)(b) of the charter provides that the communications services tax imposed by Hillsborough County within the boundaries of Ruskin, beginning with the date of incorporation, April 1, 2007, through December 31, 2007, shall be shared with Ruskin in a ratio equal to the projected population of Ruskin, 8,320, compared to the unincorporated population of Hillsborough County before the incorporation of Ruskin.[10]

- **Discretionary Sales Surtax:** Currently, Hillsborough County imposes a .5 percent Indigent Care Surtax, which by statute cannot be shared with municipalities and a .5 percent Infrastructure Surtax, which is shared with municipalities according to an interlocal agreement entered into by municipalities with more than 50 percent of the incorporated population or if there is no interlocal agreement, according to the formula provided in s. 218.62, F.S. Thus, Ruskin's share of the distribution of the .5 percent infrastructure surtax will be controlled by the interlocal agreement currently in effect unless Hillsborough County and the municipalities with more than 50 percent of the incorporated population enter into a new interlocal agreement.

- **Ad Valorem Revenue Estimates:** The Study (page 35) reports that ad valorem revenue estimates derive from the current millage rate of the Hillsborough County unincorporated municipal service taxing unit (MSTU) at 5.06210 mills and the Hillsborough County Park Bonds-Unincorporated ad valorem tax (0.04550 mills). If the City of Ruskin intends to contract with the county for services currently provided by the county MSTU in the amount currently levied by the MSTU, it is unclear why the Ruskin community would not want the MSTU to continue providing such services. As noted above, it is unclear whether the Hillsborough County government is willing to provide current MSTU services for the amount levied by the MSTU. The feasibility study includes a projected millage rate of 5.1962 for the five year period of 2007-2011 to replace the Hillsborough County ad valorem taxes. If, as is suggested by the Economic Impact Statement for the bill, a tax increase of approximately 3 mills would be required in the fifth year of the city's existence to retain the current level of services, residents could be subjected to a millage rate in excess of 8 mills.

- **Franchise Fees:** The Study (pages 18, 32 and 38) identifies franchise fees as a source of revenues currently collected by the Hillsborough County government which would be transferred to Ruskin upon incorporation in the amount of $364,720. Franchise fees are typically levied through a franchise agreement negotiated between the local government and the utility provider. Representatives of Hillsborough County report that the county does not collect franchise fees on utility services. The City of Ruskin could levy franchise fees, however, it is difficult to estimate the amount of revenue it would generate.

- **County Occupational License Tax:** The Study (pages 23 and 36) suggests that a proportional amount of the County Occupational License Tax will be shared annually from FYs

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[10] The LCIR has noted that the Study (pages 17-18) identifies the Communication Service Tax (referred to as the Public Service Tax) as a potential revenue option which may be levied at 7.0 percent. Pursuant to s. 202.19(1), F.S., a county or municipality may, by ordinance, levy a local communications services tax. The definition of communications services encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium. For municipalities that have chosen to levy permit fees, the tax may be levied at a rate up to 4.98 percent; those municipalities without permit fees may levy the tax at a rate up to 5.1 percent. In accordance with s. 202.19(2)(c), F.S., municipalities may levy an additional rate of up to 0.12 percent if they elect not to require and collect permit fees for right-of-way for utilities authorized pursuant to s. 337.401, F.S. As such, the maximum rate that Ruskin could levy this tax is 5.22 percent, rather than the 7.0 percent suggested in the Study.

2007-2011 with the City of Ruskin based on population ($51,500). Revenues from the County Occupational License Tax are used by the Hillsborough County government and are not shared with municipalities within the county. Municipalities are authorized to levy their own Occupational License Tax.

- **Impact Fees:** It is unclear whether Ruskin intends to impose an impact fee to offset costs associated with new infrastructure that will be needed to service proposed new developments.

- **Investment Income:** The Study estimates investment income in the amount of $50,000 annually from FYs 2007-2011. It is unknown whether such revenues may accrue to Ruskin given the uncertainties of the proposed revenues and expenditures.

- **Five-Year Operational Plan and Budget:** The Study includes a five-year operational plan and budget. However, the revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive. Furthermore, as noted above, the Study includes provisions for other entities to continue providing services or provide under contract or through interlocal agreement without providing evidence that these entities are willing to provide such services for the amount identified in the budget.

- **Bridge Loan:** The Study (pages 32 and 38) includes provisions for a bridge loan. It is unclear whether the loan would be in the amount of $2 million (page 32) or $3 million (page 38). As noted in the five-year budget, the loan is for $3 million and represents approximately 40 percent of total revenues Ruskin would receive in FY 2007. Without this loan, Ruskin's FY 2007 estimated revenues fall short of projected expenditures by $753,000. The accumulative five-year budget shortfall would be approximately $3.7 million. The Study does not identify the loan source, nor does the five-year budget appear to provide for interest payments on the loan. However, it does provide for a lump sum repayment of $3 million in FY 2011 and notes a budget deficit of $3.1 million.

- **Comparison with "Similarly Sized" Municipalities:** The Legislative Committee on Intergovernmental Relations compared the revenue and expenditure estimates for the proposed municipality of Ruskin with "similarly sized" municipalities in Florida. Ten comparison municipalities similar to Ruskin's population of 8,321 residents are presented below. All comparison municipalities reported FY 2002-03 total expenditures greater than those projected for Ruskin. The estimated expenditures projected for Ruskin ($5,188,889) are approximately one-half of the "average" reported expenditures for the 10 comparison municipalities ($11,868,881). Two additional issues should be noted in this comparison. First, the projected expenditures for Ruskin do not include expenditures associated with costs for services that Hillsborough County may continue to provide to the residents of Ruskin under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Ruskin and the comparison municipalities. The second issue regarding the proposed expenditures is that the fiscal data for the 10 comparison municipalities reflects total reported revenues and expenditures for FY 2002-03, while the fiscal estimates for Ruskin are those projected for FY 2007-08. It can be assumed that total expenditures and revenues for these 10 municipalities will have increased during this time period, and as a result, increase the gap between their "average" reported expenditures and those projected for Ruskin.

Comparison of Total Revenues and Expenditures for 10 Municipalities with Populations Similar to the Population Estimate for the Proposed Municipality of Ruskin[11]

Municipality	2003 Pop. Est.[12]	Revenues	Expenditures
Ruskin with bridge loan	8,321	$7,436,098	$5,188,889
Ruskin without loan	8,321	$4,436,098	$5,188,889
Orange City	7,102	$7,441,268	$5,789,752
Minneola	7,124	$4,691,224	$6,529,499
Treasure Island	7,508	$12,353,132	$12,673,460
Longboat Key	7,668	$23,486,080	$23,023,481
Panama City Beach	7,920	$44,489,419	$24,226,002
Florida City	8,466	$13,921,773	$12,497,150
Indian Harbor Beach	8,535	$5,311,894	$4,737,388
Avon Park	8,596	$8,963,498	$10,677,178
Springfield	8,879	$6,812,403	$7,169,661
Orange Park	9,119	$12,604,705	$11,365,242
AVERAGE	**8,092**	**$14,007,540**	**$11,868,881**

- **Distribution of State Shared Revenues and Impacts on Existing Local Governments:** The Legislative Committee on Intergovernmental Relations also analyzed the amount of SSR monies that Ruskin would have received in FY 2005-06 and the impact on SSR distributions to Hillsborough County government and municipalities. While the statutory requirements for a feasibility study do not include identifying fiscal impacts to neighboring units of local government, such information is useful for a local government as it plans for the next budget cycle.[13] A newly created municipality will impact the amount of funds that existing municipalities receive in the two major SSR programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing (MRS) program. The county government within which the new municipality is formed will realize fiscal impacts in two SSR programs: Local Government Half-

[11] FY 2002-2003 reported revenues and expenditures by the 10 comparison municipalities and projected 2007 revenue and expenditure estimate for Ruskin contained within the Ruskin Incorporation Feasibility Study.

[12] 2003 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Ruskin for calendar year 2005 contained within the Ruskin Incorporation Feasibility Study.
Sources: Florida LCIR, using fiscal data submitted by municipalities to the Department of Financial Services; Florida Estimates of Population 2003, Bureau of Economic and Business Research, University of Florida, 2004; information contained within the Ruskin Incorporation Feasibility Study.

[13] A summary of general fiscal impacts on units of local government caused by the formation of the new municipality for major SSR programs and local option taxes is on file with the Local Government Council.

Cent Sales Tax and County Revenue Sharing. If Ruskin had incorporated in 2005, Hillsborough County government would have realized a reduction in 2005-06 SSR distributions totaling an estimated $736,851. The extent to which revenue reductions are offset by reductions in services is not known. Municipalities within the county would have realized estimated SSR reductions ranging from a low of $8,938 (Temple Terrace) to a high of $130,872 (Tampa).

C. SECTION DIRECTORY:

Section 1: Provides a short title; provides for the creation and establishment of the City of Ruskin.

Section 2: Provides for the city's corporate existence; form of government; and boundary and powers.

Section 3: Provides for the city council; mayor; and vice mayor.

Section 4: Provides for the city manager; city clerk; city attorney; and administrative code.

Section 5: Provides for elections.

Section 6: Provides for charter amendments; and a charter review committee.

Section 7: Provides for conflicts of interest; ethical standards; bonds; and indebtedness.

Section 8: Provides transition provisions.

Section 9: Provides for severability.

Section 10: Provides for referendum and an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN?

WHERE?

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

IF YES, WHEN? November 3, 2006.

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

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

According to the Economic Impact Statement, a tax increase of approximately 3 mills would be required in the fifth year of the municipality's existence to retain the current level of services. The Economic Impact Statement also states that the impact of the incorporation on each individual taxpayer is unknown at this time and cannot be determined until the new city is established.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

See, comments under **"Effect of Proposed Changes,"** Charter Review.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Department of Community Affairs

Section 8(4) should be revised to state "Upon the City's incorporation, the City shall use Hillsborough County's comprehensive plan and land development regulations. However, after the City's incorporation, any amendment to the County's comprehensive plan and land development regulations shall not apply to the City unless approved by the City Commission."

Other Comments

Department of Community Affairs

Pursuant to s.163.3167 (4), F.S., a new comprehensive plan must be adopted within three years of incorporation. Approximate cost of a new comprehensive plan for a City of this size is $50,000.

The number of citizen challenges to small scale amendments appears to be increasing, which would indicate that the proposed legislation could generate litigation. Additionally, specific to growth management, creating a new municipality will give that municipality the right to litigate on its own behalf as a party to protect its rights. The lack of provision in the bill for comprehensive planning, land development regulations, and other applicable growth management considerations for the new municipality is of concern.

Legislative Committee on Intergovernmental Relations

Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for a period of five years or the remainder of the contract term, whichever is less. Neither the Study nor the Charter addresses this issue.

Hillsborough County

On December 7, 2005, the Hillsborough County Board of County Commissioners voted to oppose the proposed incorporation of Ruskin. Hillsborough County has indicated that it continues to work to improve the quality of life for the residents of Ruskin. The county argues that Ruskin is primarily a rural area, and may not possess the economic and commercial base necessary to build and maintain essential municipal services.

Exemptions to General Law

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

This bill may create exemptions to the following general laws:

1) Section 165.061(1)(c), F.S., which requires a minimum density of 1.5 persons per acre.

2) Section 218.23(1), F.S., relating to revenue sharing.

Summary of the Voting Rights Act of 1965

The Voting Rights Act of 1965 protects every American against racial discrimination in voting. This law also protects the voting rights of many people who have limited English skills. It stands for the principle that everyone's vote is equal, and that neither race nor language should shut anyone out of the political process. The Voting Rights Act is located in the United States Code at 42 U.S.C. 1973 to 1973aa-6.

The Voting Rights Act is not limited to discrimination that excludes minority voters from the polls. Section 2 of the Act (42 U.S.C. 1973) makes it illegal for any state or local government to use election processes that are not equally open to minority voters, or that give minority voters less opportunity than other voters to participate in the political process and elect representatives of their choice to public office. In particular, Section 2 makes it illegal for state and local governments to "dilute" the votes of racial minority groups, that is, to have an election system that makes minority voters' votes less effective than those of other voters. One of many forms of minority vote dilution is the drawing of district lines that divide minority communities in such a way as to prevent them from putting enough votes together to elect representatives of their choice to public office. **Depending on the circumstances, dilution also can result from at-large voting for governmental bodies**. When coupled with a long-standing pattern of racial discrimination in the community, these and other election schemes can deny minority voters a fair chance to elect their preferred candidates.

Additionally, Section 5 of the Voting Rights Act (42 U.S.C. 1973c) requires state and local governments in certain parts of the country to get federal approval (known as "preclearance") before implementing any changes they want to make in their voting procedures; anything from moving a polling place to changing district lines in the county. Under Section 5, a covered state, county or local government entity must demonstrate to federal authorities that the voting change in question (1) does not have a racially discriminatory purpose; and (2) will not make minority voters worse off than they were prior to the change (i.e., the change will not be "retrogressive"). Section 5 applies to all or parts of the following states: Alabama, Alaska, Arizona, California, **Florida,** Georgia, Louisiana, Michigan, Mississippi, New Hampshire, New York, North Carolina, South Carolina, South Dakota, Texas, and Virginia.

Anyone aggrieved by minority vote dilution can bring a federal lawsuit. If the court decides that the effect of an election system, in combination with all the local circumstances, is to make minority votes less effective than white votes, it can order a change in the election system. For example, courts have ordered states and localities to adopt districting plans to replace at-large voting, or to redraw their election district lines in a way that gives minority voters the same opportunity as other voters to elect representatives of their choice.

This information was obtained from the U.S. Department of Justice's website at http://www.usdoj.gov/crt/voting/misc/faq.htm#faq02. (03/24/06).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE

2006 LOCAL BILL CERTIFICATION

BILL #:
SPONSOR(S): Rep. Ron Reagan
RELATING TO: City of Ruskin municipal incorporation
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Hillsborough County Legislative Delegation
CONTACT PERSON: Candace G. Hundley, Director
SUNCOM or PHONE #: 813-272-5865 SunCom 543-5865 or Hundleyc@hillsboroughcounty.org

I. *House policy requires that, before the House Committee on Local Government & Veterans' Affairs or its subcommittees considers a local bill, three things must occur: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a public hearing must be held in the area affected; and (3) at or after any public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by the legislative delegation.* ***Local bills will not be considered by a subcommittee or the 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 7, 2006

Location: Hillsborough Community College Brandon Campus, 10414 E. Columbus Drive, Tampa, FL

Was this bill formally approved by a majority of the delegation members?
YES [ ] NO [ ] UNIT RULE [ ] UNANIMOUS [ ] The 16-member Hillsborough Delegation requires that a minimum of 4 of its Senators and 8 of its House members vote favorably for the bill to be filed in Tallahassee. This bill was passed with 4 Senators voting "Yes," 11 Representatives voting "Yes," and 1 member absent.

II. *Article VIII, Section 10, of the State Constitution prohibits passage of any special act unless the bill has been advertised in advance (as provided in s. 11.02, F. S.) or 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 [ ] NO [ ]

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

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

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

IV. *House policy requires that economic impact statements for local bills be prepared at the local level.*

Kevin C. Arthur

Delegation Chair (*Original Signature*) Date 01/10/06

Revised 8/05

House Committee on Community 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 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 files.

BILL#: _____

SPONSOR(S): _____

RELATING TO: **Creation of the City of Ruskin – Hillsborough County, Florida**____

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

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

FY 05-06 FY06-07

Expenditures: **According to the "Ruskin Incorporation Feasibility Study", prepared by BJM Consulting, Inc., the new municipality would require an annual budget of approximately $5.2 million to provide the same level of service currently provided in the unincorporated area.**

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY 05-06 FY06-07

Federal: N/A
State: N/A
Local: N/A

According to the "Ruskin Incorporation Feasibility Study", prepared by BJM Consulting, Inc., a tax increase of approximately 3.0 mils would be required in the fifth year of service in order to retain the current level of service. While not spelled out by the study the new city will be in the position of aggressively pursuing other revenue sources, including competitive grants from the Federal and State governments, either independently or as part of some county agreements.

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY 05-06 FY06-07

Revenues: **See Section II above.**

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

Advantages: N/A

Disadvantages N/A

The residents and businesses within the unincorporated community of Ruskin will have the opportunity to determine their own level of service, method of service provision, and tax structure if the area incorporates. Hillsborough County will benefit by reducing their responsibility for municipal level issues in order to focus on regional level issues. Hillsborough County will have a willing administrative partner to help resolve these local issues. The impact of this incorporation on each individual taxpayer is unknown at this time, although the feasibility study gives guidelines as to what taxpayers might expect. The impact on individual taxpayers cannot be determined until the new city is established, and the local voters through their elected officials sets its tax and fee rates.

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

None.

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

The data used in making the estimates in this economic impact statement was drawn from the "Ruskin Incorporation Feasibility Study", prepared by BJM Consulting, Inc.

The city is not expected to generate revenues or expend funds until the city begins to provide services, sometime after FY 06/07.

Wade Clark

PREPARED BY Wade Clark Date: 11/17/05

TITLE: Chairman

REPRESENTING: Ruskin Incorporation Committee

PHONE: (813)641-2748

Revised 8/05 03

Date Received:
Local Bill No. ___

RECEIVED
NOV 17 2005

HILLSBOROUGH COUNTY LEGISLATIVE DELEGATION
EXPLANATORY MEMORANDUM
PROPOSED LOCAL LEGISLATION

Attach a copy of Explanatory Memorandum and Economic Impact Statement form to the face of your local bill, then run and submit 35 copies, including the forms with original signatures. See additional instructions relating to electronic filing at the end of the form.

I. Authority/Individual Submitting Proposed Legislation:

A. Name of Applicant: Ruskin Incorporation Committee
B. Contact: Wade Clark
C. Address: 1426 Deirdre Drive Ruskin, FL 33570
D. Telephone: 813-641-2748
E. Bill Prepared by/Telephone:
F. Explanatory Memorandum Prepared by/Telephone:

II. Signature of Delegation Member Sponsoring Proposal:

Senator:_____ _____District No._____
OR
Representative: _____District No.__67

III. Summary Title: Creation of the City of Ruskin, FL

IV. Current Situation: Ruskin, FL is an unincorporated area of Hillsborough County

V. Effect of Proposed Changes: To create a new municipality in Hillsborough County. To establish "Home Rule" which would allow residents to control future land use and other matters within the community. To preserve the community's traditional lifestyle and quality of life. To take a long range look at what future impacts and outside forces will have on the community. To return a greater share of tax dollars directly to the community. To build a community centered land use plan to maintain the environment and address other community needs, under the sole control of the citizens of Ruskin.

VI. Fiscal Analysis & Economic Impact Statement: Attached as House Local Government Committee Fiscal Impact Statement.

VII. Other

A. Constitutional Issues:

1. Applicability of Municipality/County Mandates Provisions: None

2. Other

B. Rule Making Authority: None

VII. Drafting Issues or Other Comments.

1 A bill to be entitled
2 An act relating to Hillsborough County; creating the City
3 of Ruskin; providing a charter; providing for the
4 corporate name and purpose of the charter; establishing
5 form of government and territorial boundaries of the city;
6 providing powers of the city and construction; providing
7 for election and terms of office of a city council,
8 including the mayor and vice mayor, and providing for
9 qualifications, powers, and duties of and restrictions on
10 its membership; establishing circumstances which create
11 vacancies in office and providing for filling vacancies
12 and for forfeiture and recall; providing a procedure for
13 establishing compensation and expense reimbursement for
14 the mayor and city council; providing for an
15 administrative code; providing for a city manager, city
16 clerk, and city attorney and powers and duties of each;
17 providing for city boards and committees and powers and
18 duties; establishing election requirements and guidelines;
19 providing for charter amendments and a charter review
20 committee; providing for standards of conduct, bonding of
21 certain employees, and assumption of debt in certain
22 circumstances; providing transitional provisions,
23 including initial election and terms, interim adoption of
24 codes and ordinances, taxes and fees, first-year expenses,
25 ordinances and resolutions, services and compensation,
26 shared revenues, and powers and duties of the city manager
27 and city clerk; providing for severability; providing for
28 a referendum; providing an effective date.

29

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

31

32 Section 1. Short title; creation and establishment of
33 city.--
34 (1) This act may be known as the "Charter of the City of
35 Ruskin," hereinafter referred to as the "charter."
36 (2) Effective April 1, 2007, the City of Ruskin is created
37 and established.
38 Section 2. Corporate existence; form of government;
39 boundary and powers.--
40 (1) CORPORATE EXISTENCE.--In order to preserve, protect,
41 and enhance the quality of life and residential character of
42 Ruskin, a municipal corporation known as the City of Ruskin (the
43 "city") is hereby created pursuant to the State Constitution and
44 laws of the state.
45 (2) FORM OF GOVERNMENT.--The city shall operate as a
46 council-manager form of government. The general duties of the
47 council shall be to set policy as the legislative branch, and
48 the general duties of the manager shall be to carry out these
49 policies as the executive branch. No person belonging to one
50 branch shall exercise any powers appertaining to another unless
51 expressly provided for in this charter.
52 (3) CORPORATE BOUNDARY.--The corporate boundary shall be
53 as follows:
54
55 BEGIN at the intersection of the north right-of-way
56 line of 14th Avenue Southeast and the east right-of-

57 way line of 36th Street Southeast; thence South along
58 the east right-of-way line of 36th Street Southeast to
59 the northerly mean high water line of the Little
60 Manatee River; thence Westerly along the northerly
61 mean high water line of the Little Manatee River to
62 the west boundary of the east one half of the west one
63 half of Section 19, Township 32 South, Range 19 East;
64 thence North along west boundary of the east one half
65 of the west one half of Section 19, Township 32 South,
66 Range 19 East to the north boundary of the east one
67 half of the west one half of Section 19, Township 32
68 South, Range 19 East; thence east along the north
69 boundary of the east one half of the west one half of
70 Section 19, Township 32 South, Range 19 East to the
71 mean high water line of Mill Bayou; thence Easterly
72 along the mean high water line of Mill Bayou to its
73 intersection with the easterly mean high water line of
74 the Little Manatee River; thence Northerly along the
75 easterly mean high water line of the Little Manatee
76 River to its intersection with the mean high water
77 line of Tampa Bay; thence Northeasterly along the mean
78 high water line of Tampa Bay to the north boundary of
79 the south half of the south half of Section 2,
80 Township 32 South, Range 18 East; thence Northwesterly
81 to the intersection of the east mean high water line
82 and the south mean high water line of Bahia Beach;
83 thence Northwesterly, Northerly and Easterly along the
84 mean high water line of Bahia Beach to the

85 intersection of the north mean high water line and the
86 east mean high water line of Bahia Beach; thence
87 Northeasterly to the intersection of the mean high
88 water line of Tampa Bay and the north boundary of
89 Section 2, Township 32 South, Range 18 East; thence
90 East along the north boundary of Section 2, Township
91 32 South, Range 18 East to the westerly boundary of
92 land described in Official Record Book 3896, Page
93 1730; thence Northwesterly along the westerly boundary
94 of land described in Official Record Book 3896, Page
95 1730 and the westerly boundary of land described in
96 Official Record Book 624, page 548 to the northwest
97 corner of land described in Official Record Book 624,
98 page 548; thence Northeasterly, Southeasterly and
99 Southwesterly along the boundary of land described in
100 Official Record Book 624, page 548 to the northeast
101 corner of land described in Official Record Book 624,
102 Page 548; thence Southeasterly along the easterly
103 boundary of land described in Official Record Book
104 624, page 548 and the easterly boundary of land
105 described in Official Record Book 3896, Page 1730 to
106 the north right-of-way line of 19th Avenue Northwest;
107 thence East along the north right-of-way line of 19th
108 Avenue Northwest to the west right-of-way line of
109 Villamaire Road; thence North along the west right-of-
110 way line of Villamaire Road to its intersection with
111 the north right-of-way line of the east-west portion
112 of Villamaire Road; thence East along the north right-

113 of-way line of the east-west portion of Villamaire
114 Road to the east boundary of the west half of the west
115 half of Section 32, Township 31 South, Range 19 East;
116 thence South along the east boundary of the west half
117 of the west half of Section 32, Township 31 South,
118 Range 19 East to the north boundary of the south half
119 of the south half of Section 32, Township 31 South,
120 Range 19 East; thence East along the north boundary of
121 the south half of the south half of Section 32,
122 Township 31 South, Range 19 East to the northerly
123 boundary of land described in Official Record Book
124 10543, Page 1214; thence Easterly along the north
125 boundary of land described in Official Record Book
126 10543, Page 1214 to the northwest corner of land
127 described in Official Record Book 5597, Page 326;
128 thence Southeasterly along the northerly boundary of
129 land described in Official Record Book 5597, Page 326
130 and its prolongation to the east right-of-way line of
131 12th Street Northeast; thence South along the east
132 right-of-way line of 12th Street Northeast to the
133 north right-of-way line of 19th Avenue Northeast;
134 thence East along the north right-of-way line of 19th
135 Avenue Northeast and its prolongation east to the east
136 limited access right-of-way line of Interstate Highway
137 75 (State Road 93A); thence South along the east
138 limited access right-of-way line of Interstate Highway
139 75 (State Road 93A) to the north right-of-way line of
140 14th Avenue Southeast; thence East along the north

141 right-of-way line of 14th Avenue Southeast to the
142 POINT OF BEGINNING.
143
144 (4) POWERS.--The city is a body corporate and politic and
145 has all the powers of a municipality under the State
146 Constitution and the laws of the state, as fully and completely
147 as though such powers were specifically enumerated in this
148 charter, unless otherwise prohibited by or contrary to the
149 provisions of this charter.
150 (5) CONSTRUCTION.--This charter and the powers of the city
151 shall be construed liberally in favor of the city.
152 Section 3. Council; mayor; vice mayor.--The legislative
153 responsibilities and powers of local self-government of the city
154 not inconsistent with this charter are assigned to and vested in
155 the city council.
156 (1) CITY COUNCIL.--
157 (a) There shall be a city council (the "council") vested
158 with all legislative powers of the city, consisting of four
159 members ("council members") and the mayor. Council members shall
160 occupy seats numbered 1 through 4. References in this charter to
161 council members shall include the mayor, unless the context
162 dictates otherwise. Unless otherwise stated within this charter,
163 all charter powers and the powers granted by general law to
164 municipalities shall be exercised by the council.
165 (b) The city council shall adopt by resolution the
166 policies and procedures by which the city council is guided in
167 its internal management.
168 (c) No elected city officer shall hold any appointive city

169 office or city employment while in office. No former elected
170 city officer shall hold any compensated appointive city office
171 or city employment until 1 year after the expiration of his or
172 her term.
173 (2) MAYOR.--The mayor shall preside at meetings of the
174 council and is a voting member of the council. The mayor is
175 recognized as the head of city government for all ceremonial
176 purposes, for purposes of military law, and for service of
177 process and execution of duly authorized contracts, deeds, and
178 other documents and as the city official designated to represent
179 the city when dealing with other governmental entities. If a
180 vacancy occurs in the mayor's office or if the mayor is
181 otherwise suspended from office, the vice mayor shall become
182 acting mayor. If the vacancy is permanent or if the suspension
183 is sustained, and if the remaining term of the mayor is greater
184 than 1 year at that time, a special election shall be called to
185 fill the remaining term.
186 (3) VICE MAYOR.--The vice mayor shall act as mayor in the
187 absence of the mayor, as provided in subsection (2). The vice
188 mayor shall be elected from among council members for a period
189 of 2 years by a majority of the council at the first meeting of
190 the council after each election.
191 (4) MAYOR PRO TEMPORE.--In the absence of the mayor and
192 vice mayor, the remaining council members shall select a council
193 member to serve as mayor pro tempore. The mayor pro tempore has
194 the same powers and duties as the mayor for the period of the
195 absence.
196 (5) ELECTION AND TERMS OF OFFICE.--Each council member and

197 the mayor shall be elected at large for 4-year terms by the
198 electors of the city except as otherwise provided in this act.
199 Each council member and the mayor shall remain in office until
200 his or her successor is elected and assumes the duties of the
201 position. No council member or mayor shall serve for more than
202 two consecutive 4-year terms, except that the persons elected to
203 seats 1 and 2 and the mayor elected during the initial special
204 election held in March 2007 may serve two consecutive 4-year
205 terms plus the limited term from the March 2007 special election
206 until the September 2008 election if subsequently reelected, and
207 the persons elected to seats 3 and 4 during the initial special
208 election held in March 2007 may serve a 2-year term and a
209 consecutive 4-year term plus the limited term from the March
210 2007 special election until the September 2008 election if
211 subsequently reelected. If a person is initially elected to seat
212 3 or seat 4 in September 2008, that person may serve a total of
213 10 years if subsequently reelected. If a person fills a vacancy
214 on the council, that person may serve two consecutive 4-year
215 terms plus the limited term of the vacancy filled if
216 subsequently reelected. If a vacancy occurs for mayor, the vice
217 mayor shall become mayor as provided by this act and that person
218 may serve two consecutive 4-year terms plus the limited term of
219 the vacancy filled if subsequently reelected; any service as
220 acting mayor prior to the permanent filling of a vacancy is
221 excluded from the calculation of term limitations. After 1 year
222 out of office, a former mayor or council member may qualify and
223 run for mayor or any council seat.
224 (6) QUALIFICATIONS.--Each candidate for office shall be a

225 qualified elector of the city and shall qualify in the same
226 manner as provided by general law for nonpartisan elections
227 except as further provided for initial elections. A person may
228 not be a candidate for more than one office in the same
229 election. Only electors of the city who have resided
230 continuously in the city for at least 1 year preceding the date
231 of such filing shall be eligible to hold the office of council
232 member.
233 (7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF
234 VACANCIES.--Vacancies, forfeiture of office, and the filling of
235 vacancies shall be provided for by ordinance unless otherwise
236 provided in this charter. In the event that all the members of
237 the council are removed by death, disability, recall, forfeiture
238 of office, resignation, or any combination thereof, the Governor
239 shall appoint interim council members who shall call a special
240 election within not fewer than 30 calendar days or more than 60
241 calendar days after such appointment. Such election shall be
242 held in the same manner as the initial elections under this
243 charter. However, if there are fewer than 180 calendar days
244 remaining in the unexpired terms, the interim council appointed
245 by the Governor shall serve the remainder of the unexpired
246 terms. Appointees must meet all requirements for candidates
247 provided for in this section.
248 (8) COMPENSATION; REIMBURSEMENT FOR
249 EXPENSES.--Compensation of the mayor and council members shall
250 be established by ordinance; however, any such ordinance
251 increasing compensation shall not take effect until the date of
252 commencement of the terms of the council members elected at the

253 next regular election following the adoption of the ordinance.
254 The mayor and council members may be reimbursed for travel and
255 per diem in accordance with general law or as may be otherwise
256 provided by ordinance.
257 (9) CITY BOARDS AND COMMITTEES.--Except as otherwise
258 provided by law, the council may establish or terminate boards
259 that have oversight or control of certain matters or discharge
260 certain functions of a magisterial, representative, or fiduciary
261 character and advisory committees to which the consideration,
262 determination, or management of any municipal matter is
263 committed or referred and for which a written response or
264 recommendation shall be made. The members of any such board or
265 committee shall be appointed by the council, and the parameters
266 of its purpose shall be declared by resolution.
267 Section 4. City manager; city clerk; city attorney;
268 administrative code.--The executive responsibilities and powers
269 of local self-government of the city not inconsistent with this
270 charter are assigned to and vested in the city manager. All
271 functions of the executive branch are allotted to not more than
272 ten departments, and each department shall be administered by a
273 director, who shall be appointed. One or more assistant city
274 administrators and department directors and a city clerk may be
275 appointed by the city manager with the advice and consent of the
276 council and shall serve at the pleasure of the city manager in
277 accordance with the administrative code.
278 (1) CITY MANAGER.--There shall be a city manager (the
279 "manager"), who shall be the chief administrative officer of the
280 city.

281 (a) Appointment; removal; compensation.--The council shall
282 appoint an individual as manager based on accepted competencies
283 and practices of local public management for an indefinite term
284 by an affirmative vote of a super majority of council members.
285 The council may remove the manager at any time by an affirmative
286 vote of a super majority of council members. For voting
287 purposes, the mayor shall be considered as a council member. The
288 manager may be retained full time, part time, or as an
289 independent contractor, and the compensation and benefits of the
290 manager shall be fixed by the council. At the time of
291 appointment, any full-time city manager need not be a resident
292 of the city or state but shall, within 180 calendar days after
293 appointment, become a resident of the city unless otherwise
294 provided by the administrative code. Any consideration of the
295 removal of the manager must be an agenda item for which public
296 notice must be given.
297 (b) Powers and duties.--The city manager is the
298 administrative director of the city, shall execute the laws and
299 administer the government of the city, and is the chief
300 executive officer and head of the administrative branch of the
301 city government. The manager is responsible to the city and has
302 the rights, powers, and duties as provided by the administrative
303 code and as otherwise provided by this act.
304 (c) Vacancy.--Vacancies shall be provided for and filled
305 in accordance with the administrative code.
306 (2) CITY CLERK.--The council may establish the office of
307 city clerk to be appointed by the manager with the confirmation
308 of the council. The clerk shall be responsible to the council

309 for the proper administration of all legislative affairs of the
310 city, has the powers and duties prescribed by administrative
311 code, and may be required to post bond as provided by
312 administrative code. If the office of city clerk is not created,
313 the manager shall perform the duties required in this
314 subsection.
315 (3) CITY ATTORNEY.--The legal affairs of the city are
316 assigned to and vested in the office of the city attorney. The
317 city attorney shall be the director of the office, together with
318 such chief assistants and other assistant city attorneys and
319 legal support personnel as may be required, subject only to
320 budget determinations by the council. All attorneys and
321 employees of the office shall serve at the pleasure of the city
322 attorney. The city may contract for a city attorney on a part-
323 time basis in lieu of establishing the office provided in this
324 subsection.
325 (a) Appointment.--The manager shall appoint or contract
326 for, with the advice and consent of the council, a qualified
327 individual who is a member in good standing of The Florida Bar
328 to serve as the city attorney for an indefinite term as provided
329 by this act. The city attorney shall be a resident of the state
330 but is not required to live in the city.
331 (b) Powers and duties.--The city attorney shall be
332 responsible for representing, and is authorized to represent,
333 the council as its attorney. The city attorney shall provide
334 legal services, including management and participation in all
335 litigation and other such legal services required to protect the
336 interest of the city, and shall render legal advice and perform

337 other legal and administrative responsibilities as described in
338 the administrative code to the council and to all other
339 departments, boards, and committees of city government that the
340 board from time to time authorizes and directs. All attorneys
341 and employees of the office of city attorney, if created, shall
342 serve at the pleasure of the city attorney.
343 (c) Special attorneys.--Special attorneys may be
344 contracted with by the council upon the recommendation of the
345 city attorney regarding the need for any special counsel to
346 provide legal representation in specified matters. Bond and
347 disclosure counsel shall be selected by the council from a list
348 of not fewer than 3 qualified respondents to publicly noticed
349 solicitations for bond and disclosure counsel and upon the
350 recommendation of the county manager and the city attorney.
351 (d) Professional responsibility; conflict of
352 interest.--Nothing herein contained or within the administrative
353 code shall be construed as requiring the city attorney to render
354 legal services in any particular circumstance where, in the
355 professional discretion and judgment of the attorney, the
356 rendering of such legal services would violate the provisions of
357 the code of professional responsibility of The Florida Bar or
358 create a direct conflict of interest between the city and the
359 attorney.
360 (e) Compensation; termination.--The compensation of the
361 city attorney shall be fixed by the city council at a level
362 commensurate with the requirements of the position, and
363 termination shall be as provided in the administrative code.
364 (4) ADMINISTRATIVE CODE.--

365 (a) Enactment; amendments; publishing.--The council shall
366 enact and amend by ordinance an administrative code organizing
367 the administration of the city government into departments and
368 setting forth the duties, responsibilities, and powers of the
369 city manager, any assistant city managers, and departments of
370 the city government not in conflict with the provisions of this
371 charter. It is the responsibility of the city manager to
372 compile, publish, and disseminate the administrative code and to
373 recommend revisions thereof in a continuing program to provide
374 greater efficiency and economy in the operations of government.
375 (b) Adoption.--Within 90 calendar days after the first
376 organizational meeting of the council, the city manager shall
377 submit a proposed administrative code to the council. The
378 council shall adopt the proposed code, as submitted or amended,
379 within 90 calendar days after the date submitted. If not adopted
380 within 90 calendar days, the code, as proposed by the manager,
381 shall govern the operations of the county administrator and
382 departments until such time as one may be adopted formally by
383 the council.
384 Section 5. Elections.--
385 (1) QUALIFIED ELECTORS.--A "qualified elector" means any
386 person at least 18 years of age who is a citizen of the United
387 States, is a legal resident of Florida and of the city, and has
388 registered to vote with the Supervisor of Elections in
389 Hillsborough County in accordance with the Florida Election
390 Code.
391 (2) NONPARTISAN ELECTIONS.--All elections for the offices
392 of council member and mayor shall be nonpartisan. Candidates for

393 mayor and city council shall qualify for election in accordance
394 with general law for nonpartisan elections.
395 (3) ELECTION IN 2008.--An election shall be held in
396 conjunction with the primary election in September 2008 to elect
397 council members and the mayor except that the initial special
398 election for these offices shall be as otherwise provided by
399 this act. Regular elections shall be held every 2 years
400 thereafter in accordance with the provisions of this charter.
401 (4) GENERAL ELECTION.--The ballot for the general election
402 shall contain the names of all qualified candidates for mayor,
403 if applicable, and for the two council seats which are to be
404 filled at that election, except as otherwise provided by this
405 act. Qualified electors shall cast one vote for mayor, if
406 applicable, and one vote for each council seat, with a maximum
407 of one vote per candidate. The candidate for mayor receiving the
408 most votes shall be the duly elected mayor. The two council
409 candidates receiving the most votes shall be the duly elected
410 council members.
411 (5) SPECIAL ELECTIONS.--Special elections, when required,
412 shall be scheduled by the council at such times and in such
413 manner as is consistent with this charter and state election
414 law.
415 (6) COMMENCEMENT OF TERMS.--The term of office of any
416 elected official shall commence at the first regularly scheduled
417 council meeting after the election, except as otherwise provided
418 for by this act for the initial elections following the approval
419 of the referendum in this act.
420 (7) OATH.--All elected officials, before entering upon

421 their duties, shall take and subscribe to the following oath of
422 office:
423 I do solemnly swear (or affirm) that I will support, protect,
424 and defend the Constitution and Government of the United States
425 and of the State of Florida and the charter of the City of
426 Ruskin; that I am duly qualified to hold office under the
427 Constitution of the State of Florida and the charter of the City
428 of Ruskin; and that I will well and faithfully perform the
429 duties of (Mayor or council member) upon which I am now about to
430 enter. (So help me God.)
431 (8) RECALL.--The qualified electors of the city shall have
432 the power to recall and to remove from office any elected
433 official of the city as provided by general law.
434 Section 6. Charter amendments; charter review committee.--
435 (1) CHARTER AMENDMENTS.--This charter may be amended in
436 accordance with the provisions of general law.
437 (2) APPOINTMENT OF CHARTER REVIEW COMMITTEE.--
438 (a) By April 1, 2009, and every 4 years thereafter, the
439 council shall appoint by resolution a charter review committee,
440 which shall contain at least five qualified electors who are
441 residents of the city who shall serve for a term of 1 year
442 without compensation. The committee is empowered to conduct a
443 comprehensive study of any or all phases of city government. The
444 city manager shall provide such professional, technical, and
445 clerical assistance as may be reasonably required by the
446 committee upon submission of an appropriately documented request
447 by the committee.
448 (b) The city attorney shall call the organizational

449 session of the charter review committee within 30 calendar days
450 after appointment thereof and at which time a chair, vice chair,
451 and other officers as may be required shall be elected from
452 among the committee members. The committee shall also establish
453 and publish a meeting schedule.
454 (c) The committee shall make a final, written report of
455 its findings and recommendations to the mayor and council within
456 1 year after the date of its appointment.
457 (d) All recommendations of the charter review committee
458 shall be considered by the council, and the council may by
459 ordinance propose amendments to this charter upon recommendation
460 of the charter review committee. Upon passage of the initiating
461 ordinance, the council shall submit the proposed amendment to a
462 vote of the electors of the city at the next general election
463 held within the city or at a special election called for such
464 purpose.
465 Section 7. General provisions.--
466 (1) CONFLICTS OF INTEREST; ETHICAL STANDARDS.--All council
467 members and employees of the city are subject to the standards
468 of conduct for public employees set by federal, state, county,
469 or other applicable law. The council may adopt, by ordinance,
470 more restrictive standards.
471 (2) BOND.--The city manager and the city clerk, assistant
472 city managers, department directors, and any other employee
473 designated by the administrative code shall furnish a surety
474 bond to be approved by the council and in such amount as the
475 council may fix, such bond to be conditioned on the faithful
476 performance of his or her duties. The premium of the bond shall

477 be paid by the city.
478 (3) INDEBTEDNESS.--The city may assume all outstanding
479 indebtedness related to any facility or real property it may
480 acquire from another unit of government and be liable for
481 payment thereon in accordance with its terms.
482 Section 8. Transition provisions.--
483 (1) INITIAL ELECTION OF COUNCIL MEMBERS; DATES; QUALIFYING
484 PERIOD.--
485 (a) Dates.--Following the adoption of this charter, the
486 board of county commissioners shall call an election on the date
487 of the special election on March 6, 2007, for the mayor and city
488 council, as provided by this act. If a runoff election is
489 required, it shall be held on March 27, 2007.
490 (b) Qualifying period.--Any individual wishing to run for
491 mayor or one of the four council seats who is a qualified
492 elector of the city and has resided continuously within the
493 corporate boundaries described in this act for 1 year shall
494 qualify as a candidate with the Hillsborough County Supervisor
495 of Elections between January 15 and January 19, 2007, in
496 accordance with the provisions of this charter and general law
497 for nonpartisan elections.
498 (c) Certification of election results.--The county
499 canvassing board shall certify the results of the initial
500 election, and the four candidates for council member receiving
501 the highest number of votes shall be elected. The candidate
502 receiving the highest number of votes shall occupy seat 1, the
503 candidate receiving the second highest number shall occupy seat
504 2, the candidate receiving the third highest number shall occupy

505 seat 3, and the candidate receiving the fourth highest number
506 shall occupy seat 4. At such initial election and each
507 subsequent election, the incumbents shall serve until their
508 successors are elected and assume the duties of the office. At
509 all subsequent elections, council members shall be elected for
510 4-year terms. The mayoral candidate receiving the highest number
511 of votes shall be elected. At the initial election and each
512 subsequent election, the mayor shall be elected to serve until
513 his or her successor is elected and assumes the duties of the
514 office. At all subsequent elections, the mayor shall be elected
515 for a 4-year term.
516 (2) INDUCTION INTO OFFICE.--Those candidates who are
517 elected on March 6, 2007, shall take office at the initial
518 council meeting on April 3, 2007, which shall be held at a time
519 and place to be designated by the mayor. It is further provided,
520 however, that if a runoff election is required, the initial
521 council meeting shall be scheduled after certification thereof
522 at a time and place to be designated by the mayor.
523 (3) TEMPORARY NATURE OF SUBSECTIONS (4)-(10).--The
524 following subsections are inserted solely for the purpose of
525 effecting the incorporation of the city and the transition to a
526 new municipal government. Subsections (4)-(10) shall
527 automatically, and without further vote or act of the electors
528 of the city, become ineffective and no longer a part of this
529 charter at such time as the implementation of each subsection
530 has been accomplished.
531 (4) INTERIM ADOPTION OF CODES AND ORDINANCES.--Until
532 otherwise modified or replaced by this charter or the council,

533 all codes, ordinances, and resolutions of Hillsborough County in
534 effect on April 1, 2007, shall, to the extent applicable to the
535 city, remain in force and effect as municipal codes, ordinances,
536 and resolutions of the city. Until otherwise determined by the
537 council, such codes, ordinances, and resolutions shall be
538 applied, interpreted, and implemented by the city in a manner
539 consistent with established policies of Hillsborough County on
540 April 1, 2007.
541 (5) TAXES AND FEES.--Until otherwise modified by the
542 council, all municipal taxes and fees imposed within the city
543 boundaries by the county as the municipal government for
544 unincorporated Hillsborough County, which taxes and fees are in
545 effect on the date of adoption of this charter, shall continue
546 at the same rate and on the same conditions as if those taxes
547 and fees had been adopted and assessed by the city.
548 (6) FIRST-YEAR EXPENSES.--The council, in order to provide
549 moneys for the expenses and support of the city, has the power
550 to borrow money necessary for the operation of city government
551 until such time as a budget is adopted and revenues are raised
552 in accordance with the provisions of this charter. The county
553 shall, by April 5, 2007, provide the city with the share of the
554 unincorporated municipal services taxing unit taxes allocable to
555 the city for the current year prorated from the effective date
556 of this charter.
557 (7) TRANSITIONAL ORDINANCES AND RESOLUTIONS.--The council
558 shall adopt ordinances and resolutions required to effect the
559 transition. Ordinances adopted within 60 calendar days after the
560 first council meeting may be passed as emergency ordinances.

561 These transitional ordinances shall be effective for no longer
562 than 90 calendar days after adoption and thereafter may be
563 readopted, renewed, or otherwise continued only in the manner
564 normally prescribed for ordinances.
565 (8) TRANSITIONAL SERVICES AND COMPENSATION.--
566 (a) The Hillsborough County Board of County Commissioners
567 shall provide and be compensated for the provision of services
568 to the City of Ruskin as budgeted for in the fiscal year 2006-
569 2007 Hillsborough County budget during the 60-day transition
570 period set forth in subsection (7) or until such earlier time as
571 the city makes other arrangements for the services. The level of
572 services to be provided shall be consistent with the level upon
573 which the fiscal year 2005-2006 expense budget was predicated
574 and in accordance with adopted revenues.
575 (b) The council shall adopt ordinances, resolutions,
576 agreements, and other documents as required to ensure the
577 continued collection of budgeted revenues with which to fund
578 services beginning on the date of the initial meeting of the
579 city council following the March 6, 2007, special election. Any
580 revenues adopted or received by the city upon which delivery of
581 services was not predicated within the Hillsborough County
582 Commission's fiscal year 2006-2007 adopted budget shall accrue
583 to the city.
584 (9) STATE-SHARED REVENUES.--The city is entitled to
585 participate in all shared revenue programs of the state,
586 effective April 1, 2007. The provisions of section 218.23,
587 Florida Statutes, shall be waived for the purpose of eligibility
588 to receive revenue sharing from the date of incorporation

589 through the end of state fiscal year 2008-2009. The provisions
590 of section 218.26(3), Florida Statutes, shall be waived through
591 the end of state fiscal year 2008-2009, and the apportionment
592 factors for the municipalities and counties shall be
593 recalculated pursuant to section 218.245, Florida Statutes. The
594 initial population estimates for calculating eligibility for
595 shared revenues shall be determined by the University of Florida
596 Bureau of Economic and Business Research as of April 1, 2007.
597 Should the bureau be unable to provide an appropriate population
598 estimate, the initial population for calculating eligibility for
599 shared revenues shall be established at the level of 8,320.
600 (10) SHARED REVENUES.--
601 (a) Hillsborough County shall distribute to the city funds
602 from taxes, franchise fees, ad valorem taxes, and any other
603 revenues collected within the municipal boundaries of the city,
604 except that the city shall remain within the countywide library
605 service tax system and shall derive no revenues from this tax.
606 The population for the initial distribution is 8,320, which may
607 be adjusted from time to time in accordance with other
608 prescribed procedures.
609 (b) The communication services tax imposed under section
610 202.19, Florida Statutes, by Hillsborough County will continue
611 within the city boundaries during the period commencing with the
612 date of incorporation through December 31, 2007. Revenues from
613 the tax shall be shared by Hillsborough County with the city in
614 proportion to the projected city population of 8,320 compared
615 with the unincorporated population of Hillsborough County before
616 the incorporation.

617 (11) POWERS AND DUTIES OF THE CITY MANAGER.--Until the
618 administrative code is otherwise adopted in accordance with the
619 provisions of this charter, the city manager is empowered to:
620 (a) Administer and carry out the policies of the council
621 and enforce all ordinances, resolutions, and motions of the
622 council, the provisions of the charter, and applicable general
623 laws to ensure that they are faithfully executed.
624 (b) Supervise, direct, and control all city administrative
625 departments.
626 (c) Prepare and submit in accordance with general law to
627 the council for its consideration and adoption an annual
628 operating budget, a capital budget, and a capital program;
629 establish the schedules and procedures to be followed by all
630 city departments, offices, and agencies in connection therewith;
631 and supervise and administer all phases of the budget process.
632 (d) Supervise the care and custody of all city property,
633 institutions, and agencies.
634 (e) Supervise the collection of revenues and the
635 expenditure of city funds.
636 (f) On or before May 1 of each year, review, analyze, and
637 forecast trends of county services and finances and programs of
638 all boards, commissions, agencies, and other county bodies and
639 report and recommend thereon to the board.
640 (g) Develop and install, within 1 year after adoption of
641 the administrative code, and maintain written centralized
642 budgeting, personnel, legal, and purchasing procedures as well
643 as procedures for each department to be presented to the council
644 for information and discussion.

645 (h) Negotiate contracts, bonds, or other instruments for
646 the city, subject to council approval; make recommendations
647 concerning the nature and location of city improvements; and
648 execute services in keeping with established policies of the
649 council.
650 (i) Ensure that all terms and conditions imposed in favor
651 of the city or its inhabitants in any statute, franchise, or
652 other contract are faithfully kept and performed.
653 (j) Order, at the manager's discretion, any department
654 under the manager's jurisdiction as specified in the code to
655 undertake any task for any other department on a temporary basis
656 if it is necessary for the proper and efficient administration
657 of the city government to do so and delegate administrative
658 duties and responsibilities to assistant city administrators and
659 department directors.
660 (k) Appoint and remove, with the advice and consent of the
661 council, a city attorney, and appoint, with the advice and
662 consent of the board, one or more assistant city administrators
663 and all department directors.
664 (l) Exercise the exclusive power to appoint and employ
665 persons to fill authorized positions and perform official
666 functions in the city except those excluded under the terms of
667 this charter, such persons to serve at the pleasure of the
668 administrator.
669 (m) Issue and enforce such administrative orders, rules,
670 or guidelines as the manager deems necessary to give appropriate
671 effect to the charter and maintain a complete compilation of all
672 such administrative orders, rules, and regulations.

673 (n) Designate in writing to each member of the board who
674 shall function as the administrator during the temporary absence
675 of the administrator.
676 (12) POWERS AND DUTIES OF THE CITY CLERK.--Until the
677 administrative code is otherwise adopted in accordance with the
678 provisions of this charter, the city clerk is responsible to the
679 city council for the proper administration of all legislative
680 affairs of the city and to that end shall have the following
681 powers and duties:
682 (a) Appointment of a deputy city clerk who shall be exempt
683 from any city employee merit system.
684 (b) Maintenance of the journal of all city council
685 meetings and work sessions and of such other board and committee
686 meetings as shall be required by the city council.
687 (c) Authentication of all ordinances in a codified manner,
688 resolutions, and transcripts of legislative functions.
689 (d) Publication of all public notices required by the city
690 council or by law.
691 (e) Service as the legal custodian of all city records,
692 including contracts, deed, title insurance, and other official
693 documents.
694 (f) Filing of all liens, satisfactions, and releases as
695 authorized by the manager.
696 (g) Service as a notary public on behalf of the city.
697 (h) Performance of such other duties as may be required by
698 the city council.
699 Section 9. Severability.--If any section or part of any
700 section of this charter is held invalid by a court of competent

701 jurisdiction, such holding shall not affect the remainder of
702 this charter of the context in which such section or part of a
703 section so held invalid may appear, except to the extent that an
704 entire section or part of a section may be inseparably connected
705 in meaning and effect with the section or part of a section to
706 which such holding directly applies.
707 Section 10. This act shall take effect as provided herein
708 only upon its approval by a majority vote of those qualified
709 electors residing within the proposed corporate limits of the
710 proposed City of Ruskin, as described in subsection (3) of
711 section 2, voting in a referendum election to be called by the
712 Hillsborough County Commission, to be held on November 3, 2006,
713 and to be held in accordance with provisions of general law
714 relating to elections currently in force, except that this
715 section shall take effect upon becoming a law.

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

1 The Finance & Tax 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 property taxes; amending s. 200.071,
7 F.S.; authorizing counties to cap annual growth in ad
8 valorem tax revenues by charter; providing requirements
9 and limitations; providing an exception; prohibiting ad
10 valorem tax levies by counties in excess of amounts
11 specified in the county charter; prohibiting ad valorem
12 tax levies by counties through municipal service taxing
13 units in excess of amounts specified in the ordinance
14 establishing the unit; providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Subsections (1) and (3) of section 200.071,
19 Florida Statutes, are amended to read:
20 200.071 Limitation of millage; counties.--
21 (1)(a) Except as otherwise provided herein, no ad valorem
22 tax millage shall be levied against real property and tangible
23 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 LOCAL BILL STAFF ANALYSIS

BILL #: HB 973 South Broward Drainage District, Broward County
SPONSOR(S): Sobel
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

The bill amends the charter of the South Broward Drainage District to authorize the district to levy ad valorem taxes, and to remove authority to levy an administrative tax and maintenance tax upon benefited lands. Commencing with the fiscal year beginning October 1, 2007, the board of supervisors of the district is authorized to levy an ad valorem tax on all taxable property within the district, up to and including 5 mills per dollar of assessed valuation. In the absence of any contrary action of the board of supervisors, the tax rate for each calendar year is automatically set at the maximum of 5 mills. The manner and basis for taxation for the FY 2006-07 is the same as existed for the South Broward Drainage District prior to the enactment of this act, which means the district will continue to levy an administrative tax and a maintenance tax through FY 2006-07.

Before the ad valorem tax may be levied, it must be approved by a majority of the qualified voters voting in a referendum.

Currently, the board may not execute a contract for the construction or maintenance of any improvements, nor may any goods, supplies, or materials be purchased, when the amount to be paid by the district exceeds $10,000 unless the district complies with public notice and competitive bidding requirements in the charter. This bill amends the district charter to increase the threshold from $10,000 to $25,000, the threshold amount provided in s. 287.017(1), F.S. for CATEGORY TWO purchases.

Revenues generated by the maintenance tax and administrative tax currently levied by the district total approximately $1.9 million annually. If this bill passes, and the maximum millage rate of 5 mills is levied, ad valorem tax revenues will total approximately $76.5 million annually.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide for lower taxes: This bill authorizes the district to levy ad valorem tax up to 5 mills and eliminates authority to levy currently maintenance and administrative taxes. Current tax revenues of the district total approximately $1.9 million, while the levy of a 5 mill tax will generate approximately $76.5 million annually. Thus, if the maximum millage rate is levied, tax revenues will increase by approximately 40 times current revenues.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The South Broward Drainage District (district) was originally established by the Legislature in 1967[1] as an independent water control district. In 1998, the Legislature codified the charter of the district.[2] Today, the district operates as a water control district under its special act charter as well as under the provisions of ch. 298, F.S. A water control district operating under ch. 298, F.S., is organized for limited and definite purposes, and its powers are restricted to those deemed essential by the Legislature to affect its purpose. Therefore, these districts have no power or authority other than that conferred by law.

The district is governed by a board consisting of six members elected by the landowners of the district. The board is authorized to exercise any and all other powers conferred upon drainage districts by ch. 298, F.S., including, but not limited to, the power to acquire and construct drainage improvements, to issue bonds to pay the cost thereof, and to levy and collect non-ad valorem taxes upon lands benefited by the improvements.

Current Revenue Sources

Section 23 of the district charter authorizes the board to levy a tax of such portion of benefits of the district's plan of reclamation on all lands in the district to which benefits have been assessed, as may be found necessary by the board of supervisors to pay the costs of the completion of the proposed works and improvements, as shown in said plan of reclamation and in carrying out the objects of said district; and, in addition thereto, 10 percent of said total amount for emergencies. The tax must be apportioned to, and levied on, each tract of land in said district in proportion to the benefits assessed, and not in excess thereof; and, in case bonds are issued, a tax must be levied in a sum not less than an amount 90 percent of which must be equal to the principal of said bonds.

Section 40 of the district charter authorizes to board to levy an annual installment tax. The board must annually determine, order, and levy the annual installment of the total taxes which are levied under section 23 and collected during each year that county taxes are collected. The annual installment and levy must be evidenced to and certified by the board of supervisors each year to the Broward County Property Appraiser. The tax is entered by the county property appraiser on the county tax rolls and collected by the Broward County revenue collector in the same manner and same time as county taxes and the proceeds thereof paid to the district. The tax is a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

Section 41 of the district charter authorizes the board to levy an "operation and administrative tax" to carry on the business of the district and to pay the administrative and operational costs thereof and in

[1] ch. 67-904, L.O.F.
[2] ch. 98-524, L.O.F.

addition to any other tax or assessment authorized to be levied. The tax is levied on all the lands within the district as determined by the board for said purpose.

Section 42 of the district charter authorizes the levy of a "maintenance tax" to maintain and preserve the drainage improvements of the district. The maintenance tax must be evidenced to and certified by the board of supervisors each year to the property appraiser, entered by the property appraiser on the county tax rolls, and collected by the revenue collector in the same manner and time as county taxes and the proceeds therefrom paid to the district. The tax is a lien until paid on the property against which assessed and enforceable in like manner as county taxes. The amount of the maintenance tax is determined by the board based upon a report of the chief engineer or director and assessed by the board upon such lands, which may be all of the lands within the district, benefited by the maintenance thereof. In the alternative, the board may by resolution determine the amount of taxes as provided by s. 298.365, F.S., and thereafter the annual installments are levied, collected, and enforced as provided in ch. 298, F.S.

Section 45 authorizes the board to provide for the construction or reconstruction of assessable improvements and for the levying of special assessments upon benefited property for the payment thereof, under provisions of this section. "Assessable improvements" includes, without limitation, any and all drainage and land reclamation works and facilities, sewer systems, storm sewers and drains, water systems, streets, roads, or other projects of the district, or that portion or portions thereof, local in nature and of special benefit to the premises or lands served thereby, and any and all modifications, improvements, and enlargements thereof.

Procurement of contractual services and purchase of goods, supplies, and materials.

Section 53 of the district charter requires all contracts let by the board for professional architectural, engineering, landscape architectural, or land surveying services for any project authorized by the charter to be in compliance with s. 287.055, F. S. Unless exempt by the charter or s. 287.055, F.S., no contract may be executed by the board for the construction or maintenance of any improvements authorized under the charter, nor may any goods, supplies, or materials be purchased when the amount thereof to be paid by the district exceeds $10,000, unless notice of bids is advertised once a week for 2 consecutive weeks in a newspaper in general circulation in Broward County, and in each case the bid of the lowest responsible bidder must be accepted, unless all bids are rejected because the bids are too high. The board may require the bidders to furnish bond with 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, facility, or improvements authorized under the charter by the employment of labor, material, and machinery.

Notwithstanding the bidding procedure prescribed above, if the board determines, by resolution, that the use of competitive bidding is not practicable, contractual services and purchases of goods, supplies, or materials may be procured by competitive sealed proposals. The request for proposals must include a statement of the services sought or the goods, supplies, or materials requested and all contractual terms and conditions applicable to the procurement of the contractual services or of the goods, supplies, or materials requested. The contract must be awarded to the responsive offeror whose proposal is determined to be the most advantageous to the district, taking into consideration price and other evaluation criteria set forth in the request for proposals.

If the board determines, by resolution, that an immediate danger to the public health or safety or other substantial loss to the district requires emergency action, the board may proceed with the procurement of contractual services necessitated by the immediate danger without competition. However, such emergency procurement must be made with such competition as is practicable under the circumstances.

If no competitive bids or proposals for contractual services or for purchase of goods, supplies, or materials are received, the board may negotiate the best terms and conditions available as determined by the board.

Effect of Proposed Changes

Authorization to levy ad valorem taxes

The bill amends the district charter to authorize the district to levy ad valorem taxes, and to remove authority to levy the administrative tax and maintenance tax upon benefited lands. Commencing with the fiscal year beginning October 1, 2007, the board of supervisors of the district is authorized to levy an ad valorem tax on all taxable property within the district, up to and including 5 mills per dollar of assessed valuation. In the absence of any contrary action of the board of supervisors, the tax rate for each calendar year is automatically set at the maximum of 5 mills.

To carry on the business of the district, to implement capital improvements, to pay the administrative and operational costs thereof, and to maintain and preserve the drainage improvements of the district, and in addition to any other tax or assessment authorized to be levied, the district is authorized to levy an ad valorem tax on all taxable property within the district as determined by the board for said purposes. The ad valorem tax must be evidenced to and certified by the board of supervisors each year to the property appraiser, entered by the property appraiser on the county tax rolls, and collected by the revenue collector in the same manner and time as county taxes and the proceeds therefrom paid to the district. Until paid, the tax is a lien on the property against which assessed and shall be enforceable in like manner as county taxes. The amount of the ad valorem tax is be determined by the board based upon a report of the chief engineer or director and assessed by the board upon such taxable property, which may be all of the taxable property within the district benefited by the operation, administration, and maintenance thereof.

The manner and basis for taxation for the fiscal year 2006-2007 shall be the same as existed for the South Broward Drainage District prior to the enactment of this act.

The ad valorem tax provided for herein is in addition to county and municipal ad valorem taxes provided for by law. The district is not authorized to levy ad valorem taxes unless taxing authority has been approved in a referendum by a majority vote of the electors residing in the district voting on the question.

Referendum

The bill requires the Broward County Supervisor of Elections to place the following ballot question on the November 7, 2006, general election ballot: Shall the South Broward Drainage District's method of taxation be changed from assessment per acre/unit to ad valorem tax upon taxable property, at a rate not to exceed 5 mills?

Procurement of contractual services and purchase of goods, supplies, and materials.

Currently, the board may not execute a contract for the construction or maintenance of any improvements, nor may any goods, supplies, or materials be purchased, when the amount to be paid by the district exceeds $10,000 unless the district complies with public notice and competitive bidding requirements in the charter. This bill amends the district charter to increase the threshold from $10,000 to $25,000, the threshold amount provided in s. 287.017(1), F.S. for CATEGORY TWO purchases.

C. SECTION DIRECTORY:

Section 1. Amends ch. 98-524, L.O.F.; authorizing the board to levy and collect an annual ad valorem tax upon all taxable property within the district and removing authority to collect an administrative taxes;

Section 2. Amends ch. 98-524, L.O.F., changing the amount for which advertisement for bids is required for the procurement by the district of contractual services and purchase of goods, supplies, and materials to comply with state statutory requirements;

Section 3. Repealing section 42 of section 2 of chapter 98-524, L.O.F. relating to the levy of a maintenance tax;
Section 4. Providing for recording of the Act in the public record;
Section 5. Providing for a referendum;
Section 6. Providing severability;
Section 7. Providing an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 31, 2005

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

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

IF YES, WHEN? November 7, 2006

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

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES: See Drafting Issues or Other Comments.

B. RULE-MAKING AUTHORITY: Rule-making is not addressed in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS: As filed, the charter as amended by this bill, appears to be inconsistent with the ballot question included in section 5 of the bill. The ballot question reads as follows: Shall the South Broward Drainage District's method of taxation be changed from assessment per acre/unit to ad valorem tax upon taxable property, at a rate not to exceed 5 mills?" The phrasing of the question may lead voters to assume that the only manner in which the district may raise revenues is the levy of a 5 mill ad valorem tax on all taxable property. However, the charter as amended by the bill continues to allow the district to levy assessments on benefited property under sections 23, 40, and 45. Also, since section 13(19) of the charter authorizes the district "to exercise any and all other powers conferred upon drainage districts by chapter 298", the district will continue to have the power to levy any taxes and assessments authorized by that chapter including maintenance taxes, drainage taxes, and administrative taxes. The ballot question may not be considered constitutionally sufficient in that it may not correctly advise the voters as to the impact of changing the district's charter. According to the Florida Supreme Court, requirements in elections include (1) the voter should not be misled and (2) the voter should have an opportunity to know and be on notice as to the proposition on which he is to case his vote.[3]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[3] *Hill v. Milander*, 72 So.2d 796 (Fla. 1954).

Representative Sobel is expected to offer a strike-all amendment at the meeting of the Local Government Council to:

- Clarify that the administrative tax and maintenance tax will no longer be levied by the district if the ad valorem tax referendum is approved;
- Clarify the ballot question;
- Reduce the ad valorem millage rate from 5 mills to 2 mills; and
- Delete a provision allowing the automatic assessment of the maximum millage rate unless the board takes action otherwise.

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

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IN THE MATTER OF:

Amending chapter 98 524

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

12/31 12653821

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(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: **31-December-2005** , A.D.

Idella M. Johnson
(SIGNATURE OF NOTARY PUBLIC)

NOTARY PUBLIC STATE OF FLORIDA
Idella M. Johnson
Commission # DD325508
Expires June 6, 2008
Bonded Troy Fain - Insurance, Inc. 800-385-7019

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

PERSONALLY KNOWN ✓ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION

Notice is hereby given that the following bill will be presented to the 2006 Legislative Session of the Florida Legislature for consideration and enactment.

A bill to be entitled

An act relating to the South Broward Drainage District, Broward County; amending chapter 98-524, Laws of Florida; authorizing the board to levy and collect an annual ad valorem tax upon all taxable property within the district; repealing s. 42 of chapter 98-524, Laws of Florida, relating to the maintenance tax; providing for a referendum; amending the amount advertisement for bids is required for the procurement by district for contractual services and purchase of goods, supplies and materials to comply with state statutory requirements; providing severability; 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 973

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: South Broward Drainage 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 [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

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 3/06/06
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 973

SPONSOR (S): **Senator Nan Rich** / Rep. Eleanor Sobel

RELATING TO: **South Broward Drainage District**

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

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

ANTICIPATED SOURCES (S) OF FUNDING:

	FY 05-06	FY 06-07
Federal	N/A	N/A
State		
Local		

III **ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	FY 05-06	FY 06-07
Revenues	-0-	-0-

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

AS TO THE ADVALOREM TAX REVISIONS

Advantages: Will result in more equitable distribution of taxes throughout the district; will result in a reduction of taxes for the majority of property owners throughout the district.

Disadvantages: For some property owners, will result in an increase in property taxes.

AS TO THE SECTION 53(1) REVISIONS

Advantages: Will reduce the overall cost of contracts for construction or maintenance of any improvements and for the purchase of goods, supplies or materials which cost between $10,000 and $25,000.

Disadvantages: NONE

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

Proposed legislation will result in no impact on competition in the open market for employment.

VI DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCES[S] OF DATA):

The district's office, district's attorney's files and the Broward County Property Appraiser's Records.

Prepared by: _____
TITLE : Douglas R. Bell, District Counsel

10/13/05

REPRESENTING: South Broward Drainage District

PHONE: (954) 524-8526

1 A bill to be entitled
2 An act relating to the South Broward Drainage District,
3 Broward County; amending chapter 98-524, Laws of Florida;
4 authorizing the board to levy and collect an annual ad
5 valorem tax upon all taxable property within the district;
6 amending the amount for which advertisement for bids is
7 required for the procurement by the district of
8 contractual services and purchase of goods, supplies, and
9 materials to comply with state statutory requirements;
10 repealing section 42 of section 2 of chapter 98-524, Laws
11 of Florida, relating to the maintenance tax; providing for
12 a referendum; providing severability; providing an
13 effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Subsection (10) of section 13 and sections 41,
18 43, and 44 of section 2 of chapter 98-524, Laws of Florida, are
19 amended to read:
20 Section 13. Powers.--The district shall have, and the
21 board may exercise, any or all of the following powers:
22 (10) To levy ~~assess~~ and impose upon all of the taxable
23 property ~~lands~~ in the district ~~an~~ annual ad valorem taxes
24 ~~drainage tax, an administrative tax, and a maintenance tax~~ as
25 hereinafter provided.
26 Section 41. Ad valorem ~~Operation and administrative~~
27 tax.--To carry on the business of the district, to implement
28 capital improvements, ~~and~~ to pay the administrative and

29 operational costs thereof, and to maintain and preserve the
30 drainage improvements of the district, ~~and~~ in addition to any
31 other tax or assessment authorized to be levied, the district is
32 authorized to levy an ad valorem ~~a~~ tax on all taxable property
33 ~~the lands~~ within the district as determined by the board for
34 said purposes ~~purpose~~. Such ad valorem tax shall be evidenced to
35 and certified by the board of supervisors each year to the
36 property appraiser, shall be entered by the property appraiser
37 on the county tax rolls, and shall be collected by the revenue
38 collector in the same manner and time as county taxes and the
39 proceeds therefrom paid to the district. Until paid, the tax
40 shall be a lien on the property against which assessed and shall
41 be enforceable in like manner as county taxes. The amount of
42 said ad valorem tax shall be determined by the board based upon
43 a report of the chief engineer or director and assessed by the
44 board upon such taxable property, which may be all of the
45 taxable property within the district benefited by the operation,
46 administration, and maintenance thereof.
47 Section 43. Taxation and enforcement of taxes.--
48 (1) Commencing with the fiscal year beginning October 1,
49 2007, the board of supervisors of the district is authorized to
50 levy the aforestated ad valorem tax on all taxable property
51 within the district, up to and including 5 mills per dollar of
52 assessed valuation. In the absence of any contrary action of the
53 board of supervisors as herein provided, the tax rate for each
54 calendar year shall be at the maximum provided herein.
55 (2) Such taxes as provided herein and as may be determined
56 necessary by the board of supervisors shall be certified to the

57 property appraiser of Broward County by the board of supervisors
58 of the South Broward Drainage District, shall be placed upon the
59 tax rolls of Broward County by the property appraiser, and shall
60 be collected by the revenue collector of Broward County, as now
61 provided by law, and such taxes so levied shall become a lien
62 under the law against the taxable property within the boundaries
63 of the South Broward Drainage District and shall be enforceable
64 under the laws of this state pertaining to the South Broward
65 Drainage District.
66 (3) The manner and basis for taxation for the fiscal year
67 2006-2007 shall be the same as existed for the South Broward
68 Drainage District prior to the enactment of this act.
69 (4) ~~(1)~~ The collection and enforcement of all taxes levied
70 by the district shall be at the same time and in the like manner
71 as county taxes and the provisions of the Florida Statutes
72 relating to the sale of lands for unpaid and delinquent county
73 taxes, the issuance, sale, and delivery of tax certificates for
74 such unpaid and delinquent county taxes, the redemption thereof,
75 the issuance to individuals of tax deeds based thereon, and all
76 other procedures in connection therewith shall be applicable to
77 the district to the same extent as if said statutory provisions
78 were expressly set forth herein. All taxes shall be subject to
79 the same discounts as county taxes.
80 (5) The ad valorem tax provided for herein shall be in
81 addition to county and municipal ad valorem taxes provided for
82 by law.
83 (6) The district shall have no authority to levy ad
84 valorem taxes as provided herein unless such authority has been

85 approved in a referendum by a majority vote of the electors
86 residing in the district voting on the question.
87 ~~(2) The provisions of subsection (1) shall not be~~
88 ~~applicable if the board has determined to levy and collect taxes~~
89 ~~under section 40(2).~~
90 Section 44. When unpaid tax is delinquent; penalty.--
91 ~~(1)~~ All taxes provided for in this act shall become
92 delinquent and bear penalties on the amount of said taxes in the
93 same manner as county taxes.
94 ~~(2) The provisions of subsection (1) shall not be~~
95 ~~applicable if the board has determined to levy and collect taxes~~
96 ~~under section 40(2).~~
97 Section 2. Subsection (1) of section 53 of section 2 of
98 chapter 98-524, Laws of Florida, is amended to read:
99 Section 53. Procurement of contractual services and
100 purchase of goods, supplies, and materials.--
101 (1) All contracts let by the board for professional
102 architectural, engineering, landscape architectural, or land
103 surveying services for any project authorized by chapter 98-524,
104 Laws of Florida, as amended, ~~this act~~ shall be in compliance
105 with section ~~s.~~ 287.055, Florida Statutes, as amended. Except as
106 stated herein and as provided by section ~~s.~~ 287.055, Florida
107 Statutes, as amended, no contract shall be let by the board for
108 the construction or maintenance of any improvements authorized
109 under chapter 98-524, Laws of Florida, as amended ~~this act~~, nor
110 shall any goods, supplies, or materials be purchased, when the
111 amount thereof to be paid by the district shall exceed the
112 threshold amount provided in section 287.017(1), Florida

113 Statutes, as amended, for CATEGORY TWO ~~$10,000~~, unless notice of
114 bids shall be advertised once a week for 2 consecutive weeks in
115 a newspaper in general circulation in Broward County, and in
116 each case the bid of the lowest responsible bidder shall be
117 accepted, unless all bids are rejected because the bids are too
118 high. The board may require the bidders to furnish bond with
119 responsible surety to be approved by the board. Nothing in this
120 section shall prevent the board from undertaking and performing
121 the construction, operation, and maintenance of any project,
122 facility, or improvements authorized under chapter 98-524, Laws
123 of Florida, as amended, ~~this act~~ by the employment of labor,
124 material, and machinery.
125 Section 3. Section 42 of section 2 of chapter 98-524, Laws
126 of Florida, is repealed.
127 Section 4. A certified copy of this act shall be recorded
128 in the Broward County Public Records by the South Broward
129 Drainage District.
130 Section 5. In accordance with the requirements of section
131 101.161, Florida Statutes, and section 7 of this act, the
132 Broward County Supervisor of Elections shall place the title and
133 substance of the referendum on the ballot as follows:
134
135 CHANGE THE SOUTH BROWARD DRAINAGE DISTRICT'S METHOD OF TAXATION
136 TO AD VALOREM TAX UPON TAXABLE PROPERTY
137
138 Shall the South Broward Drainage District's method of taxation
139 be changed from assessment per acre/unit to ad valorem tax upon
140 taxable property, at a rate not to exceed 5 mills?

141
142 _____ Yes
143 _____ No
144
145 Section 6. If any provision of this act or the application
146 thereof to any person or circumstance is held invalid, the
147 invalidity shall not affect other provisions or applications of
148 the act which can be given effect without the invalid provision
149 or application, and to this end the provisions of this act are
150 declared severable.
151 Section 7. This act shall take effect upon becoming a law,
152 except that sections 1 and 3 shall take effect only upon their
153 approval by a majority vote of those qualified electors of the
154 South Broward Drainage District voting in a referendum held in
155 conjunction with the November 7, 2006, general election by the
156 Broward County Supervisor of Elections in accordance with the
157 provisions of law relating to elections currently in force and
158 this act.

Bill No. **HB 973**

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) Sobel offered the following:
3
4 **Amendment**
5 Remove everything after the enacting clause and insert:
6 Section 1. Subsections (10) and (19) of section 13 and
7 sections 22, 23, 25, 40, 41, 43, and 44 of section 2 of chapter
8 98-524, Laws of Florida, are amended to read:
9 Section 13. Powers.--The district shall have, and the
10 board may exercise, any or all of the following powers:
11 (10) To levy ~~assess~~ and impose upon all of the taxable
12 property ~~lands~~ in the district ~~an~~ annual ad valorem taxes
13 ~~drainage tax, an administrative tax, and a maintenance tax~~ as
14 hereinafter provided.
15 (19) To exercise any and all other powers conferred upon
16 drainage districts by chapter 298, Florida Statutes, including,
17 but not limited to, the power to acquire and construct drainage
18 improvements and ~~,~~ to issue bonds to pay the cost thereof, and
19 to levy and collect ~~drainage~~ taxes upon lands benefited by the
20 improvements. The district shall not, however, exercise the
21 power to impose the maintenance tax as provided in s. 298.54.

22 Section 22. Adoption, revision, and revocation of plan of
23 reclamation.—In addition to and not in limitation of its power
24 to provide for and adopt a plan of reclamation provided in
25 section 21 and under chapter 298, Florida Statutes, and
26 amendments thereto, the board may at any time and from time to
27 time adopt, revoke, or modify in whole or in part, any plan of
28 reclamation or any plan providing for the drainage of lands
29 within the district, and may provide for such new and additional
30 drainage facilities, canals, ditches, levees, and other works as
31 the board may determine. In connection with the revision of any
32 plan of reclamation or the providing of any new or additional
33 drainage facilities, canals, ditches, levees, or other works, or
34 in the event that the total taxes and assessments theretofore
35 levied or the funds derived from the sale of bonds are
36 insufficient to pay the cost of any drainage works, benefits may
37 be reassessed, additional assessments made, and taxes levied in
38 accordance with the procedures provided in this act ~~or in~~
39 ~~chapter 298, Florida Statutes~~. The board may at any time approve
40 and make effective technical changes or modifications in any
41 plan of reclamation or drainage not affecting assessed benefits,
42 levy of taxes, or the security of bondholders.
43 Section 23. Assessing land for reclamation; apportionment
44 of tax; ~~drainage~~ tax record.—The board shall, without any
45 unnecessary delay, levy a tax of such portion of benefits of the
46 district's plan of reclamation on all lands in the district to
47 which benefits have been assessed, as may be found necessary by
48 the board of supervisors to pay the costs of the completion of
49 the proposed works and improvements, as shown in said plan of
50 reclamation and in carrying out the objects of said district;
51 and, in addition thereto, 10 percent of said total amount for
52 emergencies. The said tax shall be apportioned to, and levied

53 on, each tract of land in said district in proportion to the
54 benefits assessed, and not in excess thereof; and, in case bonds
55 are issued, as provided in this act, a tax shall be levied in a
56 sum not less than an amount 90 percent of which shall be equal
57 to the principal of said bonds. The amount of bonds to be issued
58 for paying the cost of the works as set forth in the plan of
59 reclamation shall be ascertained and determined by the board;
60 however, the total amount of all bonds to be issued by the
61 district shall in no case exceed 90 percent of the benefits
62 assessed upon the lands of the district. The amount of the
63 interest, as estimated by said board, which will accrue on such
64 bonds, shall be included and added to the said tax, but the
65 interest to accrue on account of the issuing of said bonds shall
66 not be construed as a part of the costs of construction in
67 determining whether or not the expenses and costs of making said
68 improvements are equal to, or in excess of, the benefits
69 assessed. The secretary of the board of supervisors or the
70 director, as soon as said total tax is levied, shall, at the
71 expense of the district, prepare a list of all taxes levied, in
72 the form of a well bound book, which book shall be endorsed and
73 named "~~DRAINAGE~~ TAX RECORD OF SOUTH BROWARD DRAINAGE DISTRICT,
74 BROWARD COUNTY, FLORIDA," which endorsement shall be printed or
75 written at the top of each page in said book, and shall be
76 signed and certified by the president and secretary of the
77 board, attested by the seal of the district, and the same shall
78 thereafter become a permanent record in the office of said
79 secretary or director. In the alternative, so long as the
80 Broward County property appraiser or revenue collector assesses
81 and collects the taxes and assessments authorized by this
82 section, the records of the Broward County property appraiser

83 shall satisfy the requirements of the ~~drainage~~ tax record of the
84 district.
85 Section 25. Tax liens.—All taxes of the district provided
86 for in this act ~~or chapter 298, Florida Statutes,~~ together with
87 all penalties for default in the payment of the same and all
88 costs in collecting the same including a reasonable attorney's
89 fee fixed by the court and taxed as cost in the action brought
90 to enforce payment, shall, from January 1 for each year the
91 taxable property is liable to assessment and until paid,
92 constitute a lien of equal dignity with the liens for state and
93 county taxes and other taxes of equal dignity with state and
94 county taxes upon all taxable property ~~the lands~~ against which
95 such taxes shall be levied. A sale of any of the taxable ~~real~~
96 property within the district for state and county or other taxes
97 shall not operate to relieve or release the taxable property so
98 sold from the lien for subsequent district taxes or installments
99 of district taxes which lien may be enforced against such
100 property as though no such sale thereof had been made. The
101 provisions of s. 194.171, Florida Statutes, and amendments
102 thereto, shall be applicable to district taxes with the same
103 force and effect as if said provisions were expressly set forth
104 in this act.
105 Section 40. Annual installment taxes.—
106 (1) The board shall annually determine, order, and levy
107 the annual installment of the total taxes which are levied under
108 section 23 ~~or under s. 298.36, Florida Statutes~~, which shall be
109 due and be collected during each year that county taxes are due
110 and collected and said annual installment and levy shall be
111 evidenced to and certified by the board of supervisors each year
112 to the Broward County Property Appraiser. Said tax shall be
113 entered by the county property appraiser on the county tax rolls

114 and shall be collected by the Broward County revenue collector
115 in the same manner and same time as county taxes and the
116 proceeds thereof paid to the district. The tax shall be a lien
117 until paid on the property against which assessed and
118 enforceable in like manner as county taxes.
119 ~~(2) In the alternative, the board may by resolution~~
120 ~~determine the amount of taxes as provided by s. 298.365, Florida~~
121 ~~Statutes, and thereafter the annual installments shall be~~
122 ~~levied, collected, and enforced as provided in chapter 298,~~
123 ~~Florida Statutes.~~
124 Section 41. Ad valorem ~~Operation and administrative~~
125 tax.--To carry on the business of the district, to implement
126 capital improvements, ~~and~~ to pay the administrative and
127 operational costs thereof, and to maintain and preserve the
128 drainage improvements of the district, ~~and~~ in addition to any
129 other tax or assessment authorized to be levied, the district is
130 authorized to levy an ad valorem ~~a~~ tax on all taxable property
131 ~~the lands~~ within the district as determined by the board for
132 said purposes ~~purpose~~. Such ad valorem tax shall be evidenced to
133 and certified by the board of supervisors each year to the
134 property appraiser, shall be entered by the property appraiser
135 on the county tax rolls, and shall be collected by the revenue
136 collector in the same manner and time as county taxes and the
137 proceeds therefrom paid to the district. The amount of said ad
138 valorem tax shall be determined by the board based upon a report
139 of the chief engineer or director and assessed by the board upon
140 such taxable property, which may be all of the taxable property
141 within the district benefited by the operation, administration,
142 and maintenance thereof.
143 Section 43. Taxation and enforcement of taxes.--

144 (1) Commencing with the fiscal year beginning October 1,
145 2007, the board of supervisors of the district is authorized to
146 levy the aforestated ad valorem tax on all taxable property
147 within the district, up to and including 2 mills per dollar of
148 assessed valuation.
149 (2) Such taxes as provided herein and as may be determined
150 necessary by the board of supervisors shall be certified to the
151 property appraiser of Broward County by the board of supervisors
152 of the South Broward Drainage District, shall be placed upon the
153 tax rolls of Broward County by the property appraiser, and shall
154 be collected by the revenue collector of Broward County, as now
155 provided by law.
156 (3) The manner and basis for taxation for the fiscal year
157 2006-2007 shall be the same as existed for the South Broward
158 Drainage District prior to the enactment of this act.
159 (4) ~~(1)~~ The collection and enforcement of all taxes levied
160 by the district shall be at the same time and in the like manner
161 as county taxes and the provisions of the Florida Statutes
162 relating to the sale of lands for unpaid and delinquent county
163 taxes, the issuance, sale, and delivery of tax certificates for
164 such unpaid and delinquent county taxes, the redemption thereof,
165 the issuance to individuals of tax deeds based thereon, and all
166 other procedures in connection therewith shall be applicable to
167 the district to the same extent as if said statutory provisions
168 were expressly set forth herein. All taxes shall be subject to
169 the same discounts as county taxes.
170 (5) The ad valorem tax provided for herein shall be in
171 addition to county and municipal ad valorem taxes provided for
172 by law.
173 (6) The district shall have no authority to levy ad
174 valorem taxes as provided herein unless such authority has been

175 approved in a referendum by a majority vote of the qualified
176 electors residing in the district voting on the question.
177 ~~(2) The provisions of subsection (1) shall not be~~
178 ~~applicable if the board has determined to levy and collect taxes~~
179 ~~under section 40(2).~~
180 Section 44. When unpaid tax is delinquent; penalty.--
181 ~~(1)~~ All taxes provided for in this act shall become
182 delinquent and bear penalties on the amount of said taxes in the
183 same manner as county taxes.
184 ~~(2) The provisions of subsection (1) shall not be~~
185 ~~applicable if the board has determined to levy and collect taxes~~
186 ~~under section 40(2).~~
187 Section 2. Subsection (1) of section 53 of section 2 of
188 chapter 98-524, Laws of Florida, is amended to read:
189 Section 53. Procurement of contractual services and
190 purchase of goods, supplies, and materials.--
191 (1) All contracts let by the board for professional
192 architectural, engineering, landscape architectural, or land
193 surveying services for any project authorized by chapter 98-524,
194 Laws of Florida, as amended, ~~this act~~ shall be in compliance
195 with section ~~s.~~ 287.055, Florida Statutes, as amended. Except as
196 stated herein and as provided by section ~~s.~~ 287.055, Florida
197 Statutes, as amended, no contract shall be let by the board for
198 the construction or maintenance of any improvements authorized
199 under chapter 98-524, Laws of Florida, as amended ~~this act~~, nor
200 shall any goods, supplies, or materials be purchased, when the
201 amount thereof to be paid by the district shall exceed the
202 threshold amount provided in section 287.017(1), Florida
203 Statutes, as amended, for CATEGORY TWO ~~$10,000~~, unless notice of
204 bids shall be advertised once a week for 2 consecutive weeks in
205 a newspaper in general circulation in Broward County, and in

206 each case the bid of the lowest responsible bidder shall be
207 accepted, unless all bids are rejected because the bids are too
208 high. The board may require the bidders to furnish bond with
209 responsible surety to be approved by the board. Nothing in this
210 section shall prevent the board from undertaking and performing
211 the construction, operation, and maintenance of any project,
212 facility, or improvements authorized under chapter 98-524, Laws
213 of Florida, as amended, ~~this act~~ by the employment of labor,
214 material, and machinery.
215 Section 3. Section 42 of section 2 of chapter 98-524, Laws
216 of Florida, is repealed.
217 Section 4. A certified copy of this act shall be recorded
218 in the Broward County Public Records by the South Broward
219 Drainage District.
220 Section 5. In accordance with provisions of law relating
221 to elections currently in force, the South Broward Drainage
222 District shall call and the Broward County Supervisor of
223 Elections shall conduct a referendum in conjunction with a
224 general election held on or before November 30, 2006, of the
225 qualified electors residing within the district for the purpose
226 of determining whether the district shall be authorized to levy
227 an ad valorem tax upon taxable property within the district at a
228 rate not to exceed 2 mills to replace the maintenance tax and
229 operation and administrative tax currently levied. "Qualified
230 elector" means a person who is a registered voter qualified to
231 vote in a general election held in Broward County.
232 Section 6. If any provision of this act or the application
233 thereof to any person or circumstance is held invalid, the
234 invalidity shall not affect other provisions or applications of
235 the act which can be given effect without the invalid provision

236 or application, and to this end the provisions of this act are
237 declared severable.
238 Section 7. This act shall take effect upon becoming a law,
239 except that sections 1 and 3 which authorize the levy of ad
240 valorem taxes shall take effect only upon express approval by a
241 majority vote of those qualified electors of the district voting
242 in a referendum held in accordance with section 5 of this act as
243 required by Section 9 of Article VII of the State Constitution.

HB 0977

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 977 CS Special Risk Class of the Florida Retirement System
SPONSOR(S): Bogdanoff and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2328

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

SUMMARY ANALYSIS

This bill increases, from two percent to three percent, the accrual rate at which Special Risk Class members may upgrade certain past service. The bill also expands qualifying past service to include special risk membership as an emergency medical technician or a paramedic whose employer was a licensed Advanced Life Support or Basic Life Support provider.

The bill increases the contribution rate for the Special Risk Class by 0.07 percentage points for all employers with employees in the Special Risk Class. This increase appears to satisfy the constitutional requirement to fund benefit increases for public retirement or pension systems.

The bill makes legislative findings and declares an important state interest.

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

This bill does not appear to impact state or local government revenues. The bill, however, is expected to have a fiscal impact on state government over the next three fiscal years ($672,000, $699,000 and $727,000) and on local governments over the next three fiscal years ($1,746,000, $1,816,000 and $1,888,000).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government

This bill increases the accrual rate at which Special Risk Class members may upgrade certain past service and expands the qualifying past service.

Empower families

This bill may provide certain Special Risk Class members with increased retirement benefits.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Retirement System

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

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 in 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 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 ch. 121, F. S.[10]

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[1] Section 121.025, F.S.
[2] Florida Department of Management Services, *Division of Retirement Main Page* (visited Jan. 11, 2006) < http://www.frs.state.fl.us/>.
[3] *Id.*
[4] *Id.*
[5] Section 121.021(12), F.S.
[6] Section 121.0515, F.S.
[7] Section 121.0515(7), F.S.
[8] Section 121.055, F.S.
[9] Section 121.052, F.S.
[10] See, *e.g.*, s. 121.055(3)(a)1., F.S.

The Special Risk Class and its Expansion

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] As such, members of the Special Risk Class can retire at age 55 or with 25 years of creditable service.[13] Members of the Special Risk Class also earn a higher normal retirement benefit of three percent of the member's average final compensation.[14] These increased benefits are funded through higher employer contribution rates: 17.37 percent of gross compensation, effective July 1, 2005, and 21.91 percent, effective July 1, 2006.[15]

The only employees originally included in the Special Risk Class were law enforcement officers, correctional officers and firefighters.[16] Starting in 1999, however, the Legislature started dramatically expanding the membership of this class:

1999	Emergency Medical Technicians and Paramedics[17]
2000	Community-Based Correctional Probation Officers[18]
	24 types of employees of correctional or forensic facilities or institutions[19]
2001	Youth Custody Officers[20]
2005	Employees of a law enforcement agency or a medical examiner's office who are employed in a forensic discipline[21]

Retirement Credit for Past Service

Section 121.0515, F.S., sets forth the criteria and procedures for designating members of the Special Risk Class. This section also permits special risk members to purchase retirement credit in the Special Risk Class based upon specified past service:

1. The past service was with a city or special district which is part of the Florida Retirement System where the member was employed at the time it began participating in the Florida Retirement System; or with a participating agency to which a member's governmental unit was transferred,

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[11] Section 121.0515(1), F.S. (work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity).
[12] *Id.*
[13] Section 121.021(29), F.S. (defining normal retirement date; this contrasts with members of the Regular Class who can retire at age 62 or with 30 years of credible service).
[14] Section 121.091(1)(a)2.h., F.S., (compared with 1.60 percent to 1.68 percent for members of the Regular Class).
[15] Section 121.71(3), F.S. (compared with 6.67 percent, effective July 1, 2005, and 9.53 percent, effective July 1, 2006, for members of the Regular Class).
[16] Ch. 78-308, L.O.F.; codified as s. 121.0515, F.S.
[17] Ch. 99-392, L.O.F., s. 23.
[18] Ch. 2000-169, L.O.F., s. 29.
[19] *Id.* (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.)
[20] Ch. 2001-125, L.O.F., s. 43.
[21] Ch. 2005-167, L.O.F., s. 1; codified as s. 121.0515(2)(h), F.S. (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).

merged or consolidated where the member was employed at the time of the transfer, merger or consolidation.[22]

2. The past service qualifies for special risk membership as a law enforcement officer, firefighter or correctional officer.[23]

Special Risk Class members may upgrade the retirement credit for this specified past service, up to two percent of the member's average monthly compensation.[24] The contributions for upgrading this additional special risk credit may be purchased by the member or by the employer on behalf of the member, but must be equal to the difference in the contributions paid and the special risk percentage rate of gross salary in effect at the time of purchase for the period being claimed, plus interest at a rate of 6.5 percent a year until the date of payment.[25] As such, the benefit of being able to purchase this past service is offset because the full retirement benefit must be purchased even thought the retirement benefit received is one percent lower (two percent) than the normal retirement benefit for the Special Risk Class (three percent).

Effect of Proposed Changes

This bill increases, from two percent to three percent, the accrual rate at which Special Risk Class members may upgrade specified past service. This rate is the same as the normal retirement benefit for members of the Special Risk Class.

The bill also expands the qualifying past service which may be purchased to include special risk membership as an emergency medical technician or paramedic whose employer was a licensed Advanced Life Support or Basic Life Support provider.

Additionally, the bill increases the contribution rate for the Special Risk Class by 0.07 percentage points for all employers with employees in the Special Risk Class. Section 14 of Art. X of the State 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.[26] According to the Department of Management Services, an actuarial study determined that the fiscal impact to the Florida Retirement System to fund this bill was a 0.07 percent increase in the Special Risk Class contribution rate.[27] Because the bill requires the contribution rate be increased by 0.07 percentage points, it appears to satisfy this constitutional requirement.

C. SECTION DIRECTORY:

Section 1: Amends s. 121.0515, F.S., to increase the Special Risk Class accrual rate for past service, and to permit work for certain employers as an emergency medical technician or paramedic to qualify as past service.

Section 2: Increases the contribution rate for the Special Risk Class by 0.07 percentage points, effective July 1, 2006.

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[22] Section 121.0515(5)(a), F.S.
[23] *Id.*
[24] Section 121.0515, F.S.
[25] Section 121.0515(5)(b), F.S.
[26] Part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State 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.
[27] Florida Department of Management Services, HB 977 (2006) Substantive Bill Analysis (Feb. 20, 2006) (Actuarial Special Study 2005-L, performed by Milliman, Inc., April 22, 2005).

Section 3: Provides a statement of important state interest.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Florida Retirement System will receive increased Special Risk Class contributions.

2. Expenditures:

   This bill is expected to have a fiscal impact on state government expenditures:[28]

Fiscal Year 2006-2007	$ 672,000
Fiscal Year 2007-2008	$ 699,000
Fiscal Year 2008-2009	$ 727,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

   This bill is expected to have a fiscal impact on local government expenditures:[29]

Fiscal Year 2006-2007	$ 1,746,000
Fiscal Year 2007-2008	$ 1,816,000
Fiscal Year 2008-2009	$ 1,888,000

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 to be paid by the affected members or employers on behalf of their 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 would result in increased contribution rates for all employers with Special Risk Class members. There is an additional cost beyond the estimate if members delay purchasing their service credit until just before retirement. HB 977 provides for a 0.07 percent increase in the Special Risk Class employer contribution rate effective July 1, 2006.[30]

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[28] *Id.*
[29] *Id.*
[30] *Id.*

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 is expected, however, to 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 s. 18 of Art. VII of the State Constitution.[31]

2. Other:

Section 14, Art. X, of the State Constitution

As previously discussed, benefit increases to public retirement or pension systems may not be made unless funding is concurrently provided for the increase. The Department of Management Services concludes that the bill complies with this constitutional requirement.[32]

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[31] Section 18 of Art. VII of the State 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.

[32] *Id.* (although the explanation provided indicates that the member purchase "price" does not cover the total actuarial impact of the benefit improvement to the Florida Retirement System).

1 A bill to be entitled
2 An act relating to the Special Risk Class of the Florida
3 Retirement System; amending s. 121.0515, F.S.; authorizing
4 certain employees to purchase additional retirement credit
5 for past service at a 3-percent Special Risk Class accrual
6 value; providing for contribution rate increases to fund
7 certain benefits; directing the Division of Statutory
8 Revision to adjust certain contribution rates; providing a
9 statement of important state interest; providing an
10 effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsection (5) of section 121.0515, Florida
15 Statutes, is amended to read:
16 121.0515 Special risk membership.--
17 (5) CREDIT FOR PAST SERVICE.--A special risk member may
18 purchase retirement credit in the Special Risk Class based upon
19 past service, and may upgrade retirement credit for such past
20 service, to the extent of 3 ~~2~~ percent of the member's average
21 monthly compensation as specified in s. 121.091(1)(a) for such
22 service as follows:
23 (a) The member may purchase special risk credit for past
24 service with a city or special district which has elected to
25 join the Florida Retirement System, or with a participating
26 agency to which a member's governmental unit was transferred,
27 merged, or consolidated as provided in s. 121.081(1)(f), if the
28 member was employed with the city or special district at the

29 time it commenced participating in the Florida Retirement System
30 or with the governmental unit at the time of its transfer,
31 merger, or consolidation with the participating agency. The
32 service must satisfy the criteria set forth in subsection (2)
33 for special risk membership as a law enforcement officer, a
34 firefighter, ~~or~~ a correctional officer,~~,~~ or an emergency medical
35 technician or a paramedic whose employer was a licensed Advance
36 Life Support (ALS) or Basic Life Support (BLS) provider;
37 however, no certificate or waiver of certificate of compliance
38 with s. 943.1395 or s. 633.35 shall be required for such
39 service.
40 (b) Contributions for upgrading the additional special
41 risk credit pursuant to this subsection shall be equal to the
42 difference in the contributions paid and the special risk
43 percentage rate of gross salary in effect at the time of
44 purchase for the period being claimed, plus interest thereon at
45 the rate of 4 percent a year compounded annually from the date
46 of such service until July 1, 1975, and 6.5 percent a year
47 thereafter until the date of payment. This past service may be
48 purchased by the member or by the employer on behalf of the
49 member.
50 Section 2. Effective July 1, 2006, in order to fund the
51 benefit improvements provided in s. 121.0515, Florida Statutes,
52 as amended by this act, the contribution rate that applies to
53 the Special Risk Class of the defined benefit program of the
54 Florida Retirement System shall be increased by 0.07 percentage
55 points. This increase shall be in addition to all other changes
56 to such contribution rates which may be enacted into law to take

57 effect on that date. The Division of Statutory Revision is
58 directed to adjust accordingly the contribution rates set forth
59 in s. 121.71, Florida Statutes.
60 Section 3. The Legislature finds that a proper and
61 legitimate state purpose is served when employees and retirees
62 of the state and its political subdivisions, and the dependents,
63 survivors, and beneficiaries of such employees and retirees, are
64 extended the basic protections afforded by governmental
65 retirement systems. These persons must be provided benefits that
66 are fair and adequate and that are managed, administered, and
67 funded in an actuarially sound manner, as required by s. 14,
68 Art. X of the State Constitution and part VII of chapter 112,
69 Florida Statutes. Therefore, the Legislature determines and
70 declares that this act fulfills an important state interest.
71 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1115 CS South Florida Regional Transportation Authority
SPONSOR(S): Greenstein
TIED BILLS: HB 1117 **IDEN./SIM. BILLS:** SB 2078 (s)

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

SUMMARY ANALYSIS

The South Florida Regional Transportation Authority (Authority) was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning for Miami-Dade, Broward, and Palm Beach Counties. This bill makes a number of significant changes to the South Florida Regional Transportation Authority Act. Specifically, the bill:

- Provides that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer $2.67 million annually to the Authority for capital funding, as well as $4.2 million annually from each county for operating costs, by specifying that the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing three counties to collect a $2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.
- Specifies that at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade and Palm Beach counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose the local-option funding source.
- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available; however, those local contributions resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to "commuter rail" to reflect the authority's broader transit mission.
- Provides the Authority an additional $7.9 million each year, in total, from Broward, Miami-Dade, and Palm Beach counties to pay operating expenses.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill eliminates the $2 fee on initial and renewal registrations of vehicles, which has not been implemented, in Broward, Miami-Dade, and Palm Beach Counties.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

In an attempt to ease the disruptions created for commuters while six-laning I-95 in the mid-1980s, the Florida Department of Transportation (FDOT) purchased an 81-mile rail corridor from CSX Transportation, Inc., (CSXT) for $264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatches all trains using the tracks--its own, Tri-Rail, and Amtrak trains. In 1989, the Legislature passed the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward, and Palm Beach counties.

In 2003, the Legislature enacted SB 686[1], which amended ch. 343, F.S., to reconfigure the Tri-Rail Commuter Rail Authority as the South Florida Regional Transportation Authority (the Authority). Supporters of the legislation said that a transportation authority, rather than a commuter rail system, would have a better opportunity to draw down federal matching dollars for public transit projects.

The Authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous statutory powers and responsibilities, including the power to acquire, sell, and lease property; to exercise the power of eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The Authority is governed by a nine-member board comprised of:

- A county commissioner from each of the three counties, selected by his or her peers;
- A citizen selected by each county commission who must live within the county he or she is representing, be a registered voter, and, insofar as practicable, represent civic and business interests of the community.
- One of the Florida Department of Transportation (FDOT) district secretaries who is responsible for one or more of the counties within the Authority's boundaries. That could be either the District 4 secretary (whose region includes Broward and Palm Beach counties) or the District 6 secretary (whose region includes Miami-Dade). At this time, the FDOT District 6 secretary serves on the Authority.
- Two citizens appointed by the governor who live in different counties within the Authority's jurisdiction but not the same county as the FDOT district secretary. They also must be registered voters.

The 2003 legislation also required each of the three counties served by the Authority to dedicate funding of $2.67 million annually, no later than August 1, 2003. The potential sources of this dedicated funding include:

- Local-option fuel taxes;
- Each county's share of the local ninth-cent fuel tax;

[1] ch. 2003-159, L.O.F.

- Proceeds of a $2 annual fee for registration or renewal of registration of each vehicle licensed in this state and registered in one of the three counties, if approved by a county referendum; or
- Other non-federal funds.

In addition, each county must provide annual funding of at least $1.565 million for operations. These local funding requirements are repealed if the Authority does not obtain federal matching funds by December 31, 2009. A fiscal analysis of the 2003 legislation indicated the $2 fee new and renewal registration fee would generate an estimated $8 annually for the Authority; however, the fees have not been imposed.

Meanwhile, the Authority is continuing to improve the existing commuter rail system with its 18 stations. Since 1995, the major project has been the $451-million "Double Track Corridor Improvement Program," which makes improvements to the existing 72-mile route and builds a second mainline track parallel to the existing track. About $334 million of the project cost has been funded by the Federal Highway Administration through direct grants; FDOT paid the rest. All but 2 miles of the double-tracking has been completed, and the Authority recently added additional trains and introduced new schedules that have trains leaving the stations every 20 minutes during morning and evening rush hours.

Last year, the commuter train system was averaging about 8,000 riders a day, but the near-completion of the double-tracking, plus better on-time reliability and more scheduled runs, has boosted daily ridership averages in 2006 to nearly 10,000, according to this bill's supporters.

The Authority continues to seek a significant dedicated funding source to complete the commuter train system and to implement its long-range transit plans. Dedicated funding is necessary for the Authority to issue revenue bonds in order to obtain federal transit grants that typically require a 50-50 match. Under the state's participation in the federal "New Starts" transit program, a local match of 25 percent is required, while the state provides the 25 percent and the federal government 50 percent.

EFFECT OF PROPOSED CHANGES

The bill makes a number of significant changes to the South Florida Regional Transportation Authority Act in ch. 343, F.S. These changes are briefly described as follows:

- Clarifies that the three counties must dedicate and transfer not less than $2.67million annually to the Authority for capital expenditures prior to October 31 of each fiscal year.
- Raises from $1.565 million annually to $4.2 million annually the amount of money each of the three counties must contribute to the Authority to pay its operating expenses, generating an additional $7.9 million annually for the Authority in operating funds.
- Deletes the $2 fee on initial and renewal vehicle registrations within the three-county area. The fee, which must be approved by voter referendum, has not been approved in any of county.
- Specifies that at least $45 million of a state-authorized, local-option, recurring funding source available to Broward, Miami-Dade, and Palm Beach Counties must be directed to the Authority to fund capital, operating, and maintenance expenses. This funding may only be dedicated to the Authority if all three counties impose it. A potential source of funding is the local-option rental-car surcharge which is the subject of other currently filed bills (HB 301 CS and SB 2632).
- Eliminates the operating and capital funding contributions from the three counties when the proposed $45 million becomes available, but those local contributions would resume if the new funding ceases.
- Specifies that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged
- Extends by six years, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received. Section 343.58(1) , F.S., which specifies the local capital funding sources, is repealed under that circumstance.

- Deletes obsolete phrases and makes clarifying changes. Key among them is deleting references to "commuter rail," so that the Authority's broader area of responsibility is to plan, develop, operate, and fund a transit system. This reflects the Authority's plans to operate an integrated system of public transportation options.

C. SECTION DIRECTORY:

Section 1: Amends s. 343.54, F.S., to revise obsolete language.

Section 2: Amends s. 343.55, F.S., to provide that that state will not limit or alter this section related to Authority revenue bonds until all the bonds issued under this section are paid off and discharged.

Section 3: Amends s. 343.58, F.S., to modify timing of county contributions to the authority; deletes $2 initial and renewal registration fee for vehicles registered in the three counties; lays groundwork for Authority to receive certain, new local-option funding from the three counties; raises the counties' contributions to the Authority's operating expenses; provides for cessation and resumption of county contributions; extends repeal date to December 31, 2015 for county capital contributions.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: As a state entity, the Authority could receive an additional $7.9 million in operating funds each year because of the proposed increase in the current operating contributions made by the three counties, from $1.565 million annually to $4.2 million. In subsequent years, if HB 301 CS or SB 2632 creating a local-option rental-car surcharge becomes law, and Broward, Miami-Dade, and Palm Beach counties impose it, the Authority could receive at least $45 million a year for all of its expenses. If that occurs, the existing dedicated sources of funding the three counties contribute to the Authority would be repealed.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: This bill increases from $1.565 million annually to $4.2 million annually the amount of money Broward, Miami-Dade, and Palm Beach Counties each must contribute to the Authority to pay its operating expenses. If HB 301 CS or SB 2632, which create a state-authorized local-option recurring funding source, becomes law and is implemented by the three counties, the existing dedicated sources of funding the three counties contribute to the Authority is repealed.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: If the Authority is successful in improving and promoting public transit in the three-county region, motorists and commercial carriers may benefit due to trips being diverted from the highways, and residents who do not drive may have access to more-affordable and dependable transportation.

D. FISCAL COMMENTS: Section 3 of this bill includes a provision specifying, "At least $45 million of a state authorized, local-option recurring funding source available to Broward, Miami-Dade, and Palm Beach counties shall be directed to the authority to fund its capital, operating, and maintenance expenses. The funding source shall be dedicated to the authority only if Broward, Miami-Dade, and

Palm Beach counties each impose the local-option funding source." The bill's supporters say their intent is to tap into revenues from a proposed local-option rental-car surcharge fee that is the subject of different legislation (HB 301 CS and SB 2632). They estimate that the $2-a-day surcharge on most car rentals would generate at least $48 million each year if imposed by the three counties.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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

2. Other: None.

B. RULE-MAKING AUTHORITY: The Authority is subject to ch. 120, F.S., but none of the provisions in the bill as currently drafted appear to require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its April 4, 2006, meeting, the Transportation Committee adopted without objection one amendment that replaced the original $50 million in annual recurring state funds directed to the Authority with the provision for a minimum $45 million, state-authorized, local-option, recurring funding source for the Authority if imposed by Broward, Miami-Dade, and Palm Beach counties. The committee then voted 15-0 in favor of the bill and reported it as a CS.

CHAMBER ACTION

1 The Transportation 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 South Florida Regional
7 Transportation Authority; amending s. 343.54, F.S.;
8 revising language relating to powers and duties of the
9 authority; deleting the term "commuter rail"; amending s.
10 343.55, F.S.; providing pledge to bondholders that the
11 state will not alter certain rights vested in the
12 authority that affect the rights of bondholders while
13 bonds are outstanding; amending s. 343.58, F.S.; revising
14 provisions for funding of the authority; requiring
15 counties served by the authority to annually transfer
16 certain funds before a certain date; removing provisions
17 for sources of that funding; removing authorization for a
18 vehicle registration tax; providing for a certain funding
19 source for capital, operating, and maintenance expenses;
20 revising county funding amounts to fund operations;
21 providing for cessation of specified county funding
22 contributions and providing for certain refunding of the
23 contributions under certain circumstances; revising

24 timeframe for repeal of specified funding provisions under
25 certain circumstances; providing an effective date.
26
27 Be It Enacted by the Legislature of the State of Florida:
28
29 Section 1. Paragraph (b) of subsection (1) of section
30 343.54, Florida Statutes, is amended to read:
31 343.54 Powers and duties.--
32 (1)
33 (b) It is the express intention of this part that the
34 authority be authorized to plan, develop, own, purchase, lease,
35 or otherwise acquire, demolish, construct, improve, relocate,
36 equip, repair, maintain, operate, and manage a transit system
37 and transit facilities; to establish and determine the policies
38 necessary for the best interest of the operation and promotion
39 of a transit system; and to adopt rules necessary to govern the
40 operation of a transit ~~commuter rail~~ system and transit ~~commuter~~
41 ~~rail~~ facilities. It is the intent of the Legislature that the
42 South Florida Regional Transportation Authority shall have
43 overall authority to coordinate, develop, and operate a regional
44 transportation system within the area served.
45 Section 2. Subsection (4) is added to section 343.55,
46 Florida Statutes, to read:
47 343.55 Issuance of revenue bonds.--
48 (4) The state pledges to and agrees with any person, firm,
49 corporation, or federal or state agency subscribing to or
50 acquiring the bonds to be issued by the authority for the
51 purposes of the South Florida Regional Transportation Authority

52 Act that the state will not limit or alter the rights vested in
53 the authority under this section until all bonds at any time
54 issued and secured by revenues remitted to the authority
55 pursuant to s. 343.58, together with the interest thereon, are
56 fully paid and discharged, insofar as the same affects the
57 rights of the holders of bonds issued under this section.
58 Section 3. Section 343.58, Florida Statutes, is amended to
59 read:
60 343.58 County funding for the South Florida Regional
61 Transportation Authority.--
62 (1) Each county served by the South Florida Regional
63 Transportation Authority must dedicate and transfer not less
64 than $2.67 million to the authority annually. The recurring
65 annual $2.67 million must be dedicated by the governing body of
66 each county prior to October 31 of each fiscal year ~~by August 1,~~
67 ~~2003~~. ~~Notwithstanding ss. 206.41 and 206.87, such dedicated~~
68 ~~funding may come from each county's share of the ninth cent fuel~~
69 ~~tax, the local option fuel tax, or any other source of local gas~~
70 ~~taxes or other nonfederal funds available to the counties. In~~
71 ~~addition, the Legislature authorizes the levy of an annual~~
72 ~~license tax in the amount of $2 for the registration or renewal~~
73 ~~of registration of each vehicle taxed under s. 320.08 and~~
74 ~~registered in the area served by the South Florida Regional~~
75 ~~Transportation Authority. The annual license tax shall take~~
76 ~~effect in any county served by the authority upon approval by~~
77 ~~the residents in a county served by the authority. The annual~~
78 ~~license tax shall be levied and the Department of Highway Safety~~

79 ~~and Motor Vehicles shall remit the proceeds each month from the~~
80 ~~tax to the South Florida Regional Transportation Authority.~~
81 (2) At least $45 million of a state-authorized, local-
82 option recurring funding source available to Broward, Miami-
83 Dade, and Palm Beach Counties shall be directed to the authority
84 to fund its capital, operating, and maintenance expenses. The
85 funding source shall be dedicated to the authority only if
86 Broward, Miami-Dade, and Palm Beach Counties each impose the
87 local-option funding source.
88 (3) ~~(2)~~ In addition, each county shall continue to annually
89 fund the operations of the South Florida Regional Transportation
90 Authority in an amount not less than $4.2 ~~$1.565~~ million.
91 Revenue raised ~~Such funds~~ pursuant to this subsection shall also
92 be considered a dedicated funding source.
93 (4) The current funding obligations under subsections (1)
94 and (3) shall cease upon commencement of the collection of
95 funding from the funding source under subsection (2). Should the
96 funding under subsection (2) be discontinued for any reason, the
97 funding obligations under subsections (1) and (3) shall resume
98 when collection from the funding source under subsection (2)
99 ceases. Payment by the counties will be on a pro rata basis the
100 first year following cessation of the funding under subsection
101 (2). The authority shall refund a pro rata share of the payments
102 for the current fiscal year made pursuant to the current funding
103 obligations under subsections (1) and (3) as soon as reasonably
104 practicable after it begins to receive funds under subsection
105 (2).

106 (5) If, by December 31, 2015 ~~2009~~, the South Florida
107 Regional Transportation Authority has not received federal
108 matching funds based upon the dedication of funds under
109 subsection (1), subsection (1) shall be repealed.
110 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1127 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 1127 provides for extending the corporate limits of the Town of Davie in Broward County. The bill provides for annexation of an unincorporated area known as Broadview Park; provides the boundaries for this property; provides for an referendum in which resident electors can choose the effective date of the annexation; provides for an interlocal agreement between the Town of Davie and the Broward County Board of County Commissioners; provides for a continuation of certain Broward County regulations; and provides for the transfer of public roads and rights-of-way.

According to the Economic Impact Statement, the estimated cost to provide municipal-level services within the Broadview Park neighborhood in FY 2006 dollars is $1,678,100.

The act is effective upon becoming law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

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

Ensure Lower Taxes

The Economic Impact Statement indicates that the effect of the bill on the individual taxpayers in the annexed area is unknown.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation[1]

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

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

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

Statutory Requirements for Annexation

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

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

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

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

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

Types of Annexations

Voluntary Annexation

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

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

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

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

Involuntary Annexation

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

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

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

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

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

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

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

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

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

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

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

Effect of Annexation on an Area

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

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

Appeal of Annexation or Contraction

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

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

[9] Section 171.091, F.S.

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 the year 2005.

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

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

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.

[10] Section 171.081, F.S.

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

Broadview Park is an unincorporated area of approximately 1.4 miles in Broward County. The area has a population of approximately 6,974, and includes 2,278 housing units. According to Broward Legislative Delegation staff, the residents of this area have actively sought annexation for some time. Legislation was filed in the year 2000 and again in 2002, but both bills died. In 2004, HB 1393 (ch. 2004-441, L.O.F.) passed and was signed by the Governor. However, this legislation offered Plantation, Fort Lauderdale and the Town of Davie the option of choosing whether or not they wanted be considered for annexation by Broadview Park, and no municipality pursued this possibility. A straw ballot was held in Broadview Park on March 10, 2005, to allow the residents to express their choice for annexation between Plantation and the Town of Davie. The vote was 120 for Plantation and 338 for the Town of Davie.

HB 1127 requires that the Town of Davie and the Broward County Board of County Commissioners enter into an interlocal agreement agreeing to the transition of the annexation of Broadview Park no later than July 1, 2006. When the parties enter into this interlocal agreement, the Broward County

[11] A city engages in cherry-picking when it seeks to annex only areas that will produce a positive tax cash flow.

Board of County Commissioners is required to schedule an election on November 7, 2006. The voters residing in the Broadview Park Area will be given the opportunity to choose, by majority vote of the voters participating in the election, whether to join the Town of Davie on September 15, 2007, or September 15, 2008. Although a mail ballot is prohibited in this election, voters may vote by absentee ballot.

The bill provides that upon annexation into the Town of Davie, the following provisions will govern the Broadview Park Area:

(1) the present land use designations and zoning districts provided for under the Broward County Comprehensive Plan and Code of Ordinances of Broward County will remain the law governing the Broadview Park Area;

(2) any change of zoning districts or land use designations may only be accomplished by a supermajority vote of the full governing body of the Town of Davie; and

(3) any use, building or structure that is legally in existence at the time that the Broadview Park Area is annexed may not be made a prohibited use by the Town of Davie, on the property of said use, for as long as the use continues and is not voluntarily abandoned.

Subsequent to the effective date of the act, no change in land use designation or zoning is effective within the limits of the Broadview Park area, and no city may annex this property.

Subsequent to the effective date of the annexation, any resident in the area to be annexed by the act is deemed to have met residency requirements for candidacy for municipal office.

Nothing in the act is to be construed to affect or abrogate the rights of parties to any contracts, including contracts between nongovernmental entities, that are in effect prior to the effective date of the annexation.

All public roads and the public rights-of-way of the Broward County Road System, lying within the limits of the Broadview Park Area, are transferred from Broward County jurisdiction to the jurisdiction of the City of Davie except for portions of specified roads. All rights, title, interests and responsibilities (including, but not limited to, the ownership, operation, maintenance, planning, design and construction) are transferred from Broward County jurisdiction and ownership to the jurisdiction and ownership of the City of Davie upon the effective date of the annexation.

The act takes effect upon becoming a law

C. SECTION DIRECTORY:

Section 1: Requires an interlocal agreement between the Town of Davie and the Broward County Board of County Commissioners.

Section 2: Provides for an election.

Section 3: Provides a legal description.

Section 4: Provides for the continuation of certain Broward County regulations.

Section 5: Provides for continuation of land use designations and zoning, and suspension of annexation.

Section 6: Provides for residency requirements for candidacy for municipal office.

Section 7: Provides that the act will not affect the rights of parties to prior contracts.

Section 8: Provides for transfer of public roads and the public rights-of-way.

Section 9: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 31, 2005

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward County, Florida.

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

IF YES, WHEN? November 7, 2006.

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

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

According to the Economic Impact Statement, the estimated cost to provide municipal-level services within the Broadview Park neighborhood in FY 2006 dollars is $1,678,100 based on the estimated county cost to provide these services in the unincorporated area. The Economic Impact Statement provides anticipated sources of funding include:

State: Sales Tax, State Revenue Sharing, Franchise Fees, Utility Taxes, Communications Services Tax and Beverage Tax.

Local: Ad Valorem Tax, Non-Ad Valorem Assessments, Local Option Gas Tax, Mobile Home License Fees, Occupational License Fees, Permit Fees, Fire Rescue Fees and other miscellaneous fees.

The impact of this annexation on each individual taxpayer is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create an exemption to s. 171.062(1), F.S., which provides that an area annexed to a municipality shall be subject to all laws, ordinances and regulations in force in that municipality, via

the "continued use" provisions of section 4. The bill additionally may create an exemption to s. 125.01, F.S., which gives counties the authority to prepare and enforce comprehensive plans, and establish and enforce zoning ordinances, as well as the Local Government Comprehensive Planning and Land Development Regulation Act found at part II of ch. 163, F.S., in that section 5 prohibits a county from changing land use designations or zoning in the area proposed for annexation after the effective date of the act.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment which corrects the legal description of the property to be annexed.

1127

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:

Corporate limits of Town of Davie

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

12/31 12653835

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID NEWSPAPER.

_____
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: **31-December-2005** , A.D.

_____
(SIGNATURE OF NOTARY PUBLIC)

NOTARY PUBLIC STATE OF FLORIDA
Idella M. Johnson
Commission # DD326508
Expires June 6, 2008
Bonded Troy Fain - Insurance, Inc. 800-385-7019

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

PERSONALLY KNOWN ✓ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION

Notice is hereby given that the following bill will be presented to the 2006 Legislative Session of the Florida Legislature for consideration and enactment.

A bill to be entitled

An act relating to Broward County; providing for extending the corporate limits of the Town of Davie, providing for annexation of the unincorporated area known as Broadview Park; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing for an effective date.

BROWARD COUNTY LEGISLATIVE DELEGATION
REPRESENTATIVE ELEANOR SOBEL, CHAIR
CONTACT: Sandy Harris (954-357-6555)
December 31, 2005

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1127

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: Broadview Park, Broward County

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

NAME OF DELEGATION: Broward County Legislative Delegation

CONTACT PERSON: Sandy Harris

PHONE # and E-Mail: 922-9833 saharris@broward.org

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

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

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

Date hearing held: 12-15-05

Location: Broward County Governmental Center

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

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

Has this constitutional notice requirement been met?

Notice published: YES [ ] NO [ ] DATE [12-31-05 **]**

Where? Sun Sentinel **County** Broward County

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

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

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

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

Eleanor Sobel 03/07/06

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

House Committee on Local Government

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 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 #: Broadview Park Annexation

SPONSOR (S): HB 1127 - Rep. Eleanor Sobel

RELATING TO: Proposed Annexation of the Broadview Park Neighborhood

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

Expenditures:	FY 06-07	FY 07-08
City Level Services	NA	NA

The estimated cost to provide municipal-level services within the Broadview Park neighborhood in FY 2006 dollars is $1,678,100 based on the estimated County cost to provide generally-funded municipal-level services in the unincorporated area.

ANTICIPATED SOURCES (S) OF FUNDING:	FY 06-07	FY 07-08
Federal	NA	NA

State

Sales Tax, State Revenue Sharing, Franchise Fees, Utility Taxes, Communications Services Tax, Beverage Tax

Local

Ad Valorem Tax, Non-Ad Valorem Assessments, Local Option Gas Tax, Mobile Home License Fees, Occupational License Fees, Permit Fees, Fire Rescue Fees, Misc. Fees

III ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues	NA	NA

It is estimated that annexing this unincorporated area raises sufficient revenues to offset the cost of County provided municipal-level services within the Broadview Park neighborhood based on the County's estimated cost to provide generally-funded municipal-level services in the unincorporated area in FY 2006.

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

Advantages:

City will benefit from increased revenues. Broward County will benefit by reducing their responsibility for municipal-level services in order to focus on regional-level services. The impact of this annexation on each individual taxpayer is unknown at this time. Once the cities to be included on the annexation bill are determined, the impact on individual taxpayer can be estimated.

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):

The estimated cost to provide municipal-level services in Broadview Park was developed based on the County's cost of providing generally-funded municipal-level services throughout the unincorporated area in FY 2006.

This bill was drafted and submitted by Broward County government on behalf of the citizens of the Broadview Park neighborhood. Broward County's estimated

cost to provide municipal-level services and estimated revenues are not necessarily indicative of the cost incurred or the revenues generated by an annexing municipality.

Prepared by: Marc Gelman

TITLE Assistant Budget Director, Broward County

REPRESENTING

PHONE: ( )

954-357-6354

1 A bill to be entitled
2 An act relating to Broward County; providing for extending
3 the corporate limits of the Town of Davie; providing for
4 annexation of the unincorporated area known as Broadview
5 Park; providing for an election; providing boundaries;
6 providing for an effective date of annexation; providing
7 for an interlocal agreement; providing for a continuation
8 of certain Broward County regulations; providing for the
9 transfer of public roads and rights-of-way; providing an
10 effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. No later than July 1, 2006, the Town of Davie
15 and the Broward County Board of County Commissioners shall enter
16 into an interlocal agreement agreeing to the transition of the
17 annexation of Broadview Park, as defined in section 3, into the
18 Town of Davie.
19 Section 2. When the Town of Davie and the Broward County
20 Board of County Commissioners enter into an interlocal agreement
21 as provided in section 1, the Broward County Board of County
22 Commissioners shall schedule an election in accordance with the
23 provisions of the law relating to elections currently in force
24 in Broward County on November 7, 2006. The subject of said
25 election shall be the annexation of the Broadview Park Area. The
26 voters residing in the Broadview Park Area shall, by majority
27 vote of the voters participating in the election, choose whether
28 to join the Town of Davie on September 15, 2007, or September

29 15, 2008. A mail ballot shall not be used in this election.
30 However, voters may vote by absentee ballot as provided by law.
31 Section 3. The Broadview Park Area is described as:
32
33 That portion of Sections 13, 14, 23 and 24, Township 50
34 South, Range 41 East and Section 18, Township 50 South,
35 Range 42 East, Broward County, Florida, described as
36 follows:
37
38 Beginning at a point on the boundary of the City of
39 Plantation established by Chapter 68-101 Laws of Florida,
40 being the Southeast corner of Tract 1, Tier 24, according
41 to Newman's Survey of Section 14, Township 50 South,
42 Range 41 East, as recorded in Plat Book 2, Page 26,
43 Public Records of Dade County, Florida;
44
45 thence continuing along the said boundary of the City of
46 Plantation the following 6 courses;
47
48 thence Northeasterly along the East line of said Tier 24,
49 to the North line of said Section 13;
50
51 thence East along the said North line of Section 13 to a
52 point of intersection with the Northerly extension of the
53 Westerly line of Block 3, as shown by the plat of
54 LAUDERDALE HIGHLANDS as recorded in Plat Book 12, at Page
55 37, Public Records of Broward County, Florida;
56

57 thence Southwesterly along the Westerly line of said
58 Block 3 and its Northerly extension thereof, to the
59 Southwesterly corner of Lot 11 of said Block 3;
60 thence Easterly along the Southerly line of said Lot 11
61 and its Easterly extension thereof, to a point of
62 intersection with the Easterly right-of-way line of
63 Highland Avenue, as shown by said plat of LAUDERDALE
64 HIGHLANDS;
65
66 thence Southwesterly along the Easterly right-of-way line
67 of said Highland Avenue to a point of intersection with
68 the South line of Block 1, as shown by said plat of
69 LAUDERDALE HIGHLANDS;
70
71 thence Easterly along the South line of said Block 1 and
72 its Easterly extension thereof to a point of intersection
73 with the East right-of-way line of State Road No.7, as
74 described in City of Fort Lauderdale annexing Resolution
75 No. 8519;
76
77 thence Southerly along the said east right-of-way line to
78 the North right-of-way line of Riverland Road and the
79 boundary of the Town of Davie as described in Chapter 84-
80 420, Laws of Florida;
81
82 thence continuing along said boundary of the Town of
83 Davie the following 10 courses;
84

85 thence Westerly along the Westerly prolongation of the
86 said North right-of-way line to the West right-of-way
87 line of State Road No.7;
88
89 thence Southerly along said West right-of-way line to a
90 point of intersection with a line 300 feet North of the
91 Southerly line of Tract 2, Tier 4, of said Newman's
92 Survey, as measured along the said Westerly right-of-way
93 line;
94
95 thence Northwesterly to a point on the Easterly right-of-
96 way line of Southwest 41st Avenue, being 298.34 feet
97 Northerly from the Southwest corner of said Tract 2, Tier
98 4;
99
100 thence Westerly to a point of intersection of the West
101 right-of-way line of Southwest 41st Avenue with the North
102 line of said Section 24;
103
104 thence Southwesterly along the said West right-of-way
105 line to the centerline of North New River Canal;
106
107 thence Southeasterly along said centerline to the
108 Westerly right-of-way line of State Road No.7;
109
110 thence Southwesterly along said West right-of-line to the
111 South bank of the North New River Canal;
112

113 thence Northwesterly along said South bank to the
114 Northerly extension of the West line of the East One-Half
115 of Tract 1, Tier 7 of said Newman's Survey;
116
117 thence Southwesterly along said Northerly extension to
118 the Northwest corner of the said East One-Half of Tract
119 1, Tier 7, also being on the South right-of-way line of
120 North New River Canal;
121
122 thence Northwesterly along the said Southerly right-of-
123 way line to the Easterly line of Tier 21 of said Newman's
124 Survey;
125
126 thence Northwesterly, continuing on the boundary of the
127 Town of Davie, along the said Southerly right-of-way line
128 to the intersection with the Southwesterly extension of
129 the East line of the aforesaid Tract 1, Tier 24;
130
131 thence Northeasterly along said Southwesterly extension
132 to the POINT OF BEGINNING.
133
134 Section 4. Upon annexation into the Town of Davie, the
135 following shall govern the Broadview Park Area:
136 (1) The present land use designations and zoning
137 districts provided for under the Broward County Comprehensive
138 Plan and Code of Ordinances of Broward County shall remain in
139 the law governing the Broadview Park Area, notwithstanding the
140 fact that the Broadview Park Area is now a part of the Town of

141 Davie.
142 (2) Any change of zoning districts or land use designations
143 may only be accomplished by enactment of the vote of the majority
144 of the full governing body of the Town of Davie plus one.
145 (3) Notwithstanding subsections (1) and (2), any use,
146 building, or structure that is legally in existence at the time
147 that the Broadview Park Area becomes a part of the Town of
148 Davie shall not be made a prohibited use by the municipality,
149 on the property of said use, for as long as the use shall
150 continue and not be voluntarily abandoned.
151 Section 5. Subsequent to the effective date of this act,
152 no change in land use designation or zoning shall be effective
153 within the limits of the lands subject to annexation herein
154 until the Broadview Park Area has been annexed into the Town of
155 Davie. No annexation within the Broadview Park Area by any
156 municipality shall occur during the time period between the
157 effective date of this act and the effective date of the
158 annexation.
159 Section 6. Subsequent to the effective date of this
160 annexation, any resident in the area to be annexed by this act
161 into the Town of Davie shall be deemed to have met any
162 residency requirements for candidacy for municipal office.
163 Section 7. Nothing in this act shall be construed to
164 affect or abrogate the rights of parties to any contracts,
165 including contracts between nongovernmental entities, which
166 contracts are in effect prior to the effective date of the
167 annexation.
168 Section 8. All public roads and the public rights-of-way

169 associated therewith, on the Broward County Road System,
170 including bridge structures 868303, 864024, 864022, 864096, and
171 864097, lying within the limits of the Broadview Park Area as
172 described in section 3, are transferred from Broward County
173 jurisdiction to the jurisdiction of the annexing municipality,
174 except for those portions of Hiatus Road, Nob Hill Road, Pine
175 Island Road, and Davie Boulevard and that portion of Peters
176 Road west of the Peters Road-Davie Boulevard intersection lying
177 within the annexation area. All rights, title, interests, and
178 responsibilities for any transferred roads, including, but not
179 limited to, the ownership, operation, maintenance, planning,
180 design, and construction of said roads and to the rights-of-way
181 associated therewith shall transfer from Broward County
182 jurisdiction and ownership to the jurisdiction and ownership of
183 the annexing municipality upon the effective date of the
184 annexation.
185 Section 9. 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	____	

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1 Council/Committee hearing bill: Local Government Council
2 Representative Ryan offered the following:
3
4 **Amendment**
5 Remove everything after the enacting clause and insert:
6
7 Section 1. No later than September 1, 2006, the Town of
8 Davie and the Broward County Board of County Commissioners may
9 enter into an interlocal agreement agreeing to the transition of
10 the annexation of Broadview Park, as defined in section 3, into
11 the Town of Davie.
12 Section 2. If the Town of Davie and the Broward County
13 Board of County Commissioners enter into the interlocal
14 agreement as provided in section 1, the Broward County Board of
15 County Commissioners shall schedule an election on November 7,
16 2006,in accordance with the provisions of the law relating to
17 elections currently in force in Broward County. The subject of
18 said election shall be the annexation of the Broadview Park
19 Area. The voters residing in the Broadview Park Area shall, by
20 majority vote of the voters participating in the election,
21 choose whether to be annexed by the Town of Davie on September

22 15, 2008. A mail ballot shall not be used in this election.
23 However, voters may vote by absentee ballot as provided by law.
24 Section 3. The Broadview Park Area is described as:
25
26 That portion of Sections 13, 14, 23 and 24, Township
27 50 South, Range 41 East and Section 18 Township 50 South,
28 Range 42 East, Broward County, Florida, described as
29 follows:
30
31 Beginning at a point on the boundary of the City of
32 Plantation established by Chapter 68-101 Laws of Florida,
33 being the Southeast corner of Tract 1, Tier 24, according
34 to Newman's Survey of Section 14, Township 50 South, Range
35 41 East, as recorded in Plat Book 2, Page 26, Public
36 Records of Dade County, Florida;
37
38 thence continuing along the said boundary of the City of
39 Plantation the following 6 courses;
40
41 thence Northeasterly along the East line of said Tier 24,
42 to the North line of said Section 13;
43
44 thence East along the said North line of Section 13 to a
45 point of intersection with the Northerly extension of the
46 Westerly line of Block 3, as shown by the plat of
47 LAUDERDALE HIGHLANDS as recorded in Plat Book 12, at Page
48 37, Public Records of Broward County, Florida;
49
50 thence Southwesterly along the Westerly line of said Block
51 3 and its Northerly extension thereof, to the
52 Southwesterly corner of Lot 11 of said Block 3;

53
54 thence Easterly along the Southerly line of said Lot 11
55 and its Easterly extension thereof, to a point of
56 intersection with the Easterly right-of-way line of
57 Highland Avenue, as shown by said plat of LAUDERDALE
58 HIGHLANDS;
59
60 thence Southwesterly along the Easterly right-of-way line
61 of said Highland Avenue to a point of intersection with
62 the South line of Block 1, as shown by said plat of
63 LAUDERDALE HIGHLANDS;
64
65 thence Easterly along the South line of said Block 1 and
66 its Easterly extension thereof to a point of intersection
67 with the East right-of-way line of State Road No.7, as
68 described in City of Fort Lauderdale annexing Resolution
69 No. 8519;
70
71 thence Southerly along the said east right-of-way line to
72 the North right-of-way line of Riverland Road and the
73 boundary of the Town of Davie as described in Chapter 84-
74 420, Laws of Florida;
75
76 thence continuing along said boundary of the Town of Davie
77 the following 10 courses;
78
79 thence Westerly along the Westerly prolongation of the
80 said North right-of-way line to the West right-of-way line
81 of State Road No.7;
82

83 thence Southerly along said West right-of-way line to a
84 point of intersection with a line 300 feet North of the
85 Southerly line of Tract 2, Tier 4, of said Newman's
86 Survey, as measured along the said Westerly right-of-way
87 line;
88
89 thence Northwesterly to a point on the Easterly right-of-
90 way line of Southwest 41st Avenue, being 298.34 feet
91 Northerly from the Southwest corner of said Tract 2, Tier
92 4;
93
94 thence Westerly to a point of intersection of the West
95 right-of-way line of Southwest 41st Avenue with the North
96 line of said Section 24;
97
98 thence Southwesterly along the said West right-of-way line
99 to the centerline of North New River Canal;
100
101 thence Southeasterly along said centerline to the Westerly
102 right-of-way line of State Road No.7;
103
104 thence Southwesterly along said West right-of-line to the
105 South bank of the North New River Canal;
106
107 thence Northwesterly along said South bank to the
108 Northerly extension of the West line of the East One-Half
109 of Tract 1, Tier 7 of said Newman's Survey;
110
111 thence Southwesterly along said Northerly extension to the
112 Northwest corner of the said East One-Half of Tract 1,

113 Tier 7, also being on the South right-of-way line of North
114 New River Canal;
115
116 thence Northwesterly along the said Southerly right-of-way
117 line to the Easterly line of Tier 21 of said Newman's
118 Survey;
119
120 thence Northwesterly, continuing on the boundary of the
121 Town of Davie, along the said Southerly right-of-way line
122 to the intersection with the Southwesterly extension of
123 the East line of the aforesaid Tract 1, Tier 24;
124
125 thence Northeasterly along said Southwesterly extension to
126 the Point of Beginning.
127
128
129 TOGETHER WITH:
130
131 That portion of Sections 7, 8, 14, 15, 16 and 17, Township
132 50 South, Range 41 East and Sections 2, 3, 11 and 12,
133 Township 50 South, Range 40 East, Broward County,
134 Florida, described as follows:
135
136 Beginning at a point on the boundary of the City of
137 Plantation established by Chapter 68-101, Laws of Florida,
138 being the Southeast corner of Tract 1, Tier 24, according
139 to Newman's Survey of Section 14, Township 50 South, Range
140 41 East, as recorded in Plat Book 2, Page 26, Public
141 Records of Dade County, Florida;
142

143 thence Northwesterly along the North right of way line of
144 the North New River Canal and along the boundary of the
145 City of Plantation established by said Chapter 68-101 and
146 by Ordinance 1008, Ordinance 568, and Ordinance 543, all
147 as adopted by the City of Plantation, to the intersection
148 with the West line of said Section 2;
149
150 thence continue Northwesterly along the North right of way
151 line of the North New River Canal and along the boundary
152 of the City of Sunrise established by Ordinance 220-X
153 and Ordinance 257-X, as adopted by the City of Sunrise, to
154 the intersection with the West line of said Section 3;
155
156 thence Southerly along said West line and along the
157 boundary of the City of Sunrise established by Ordinance
158 269, as adopted by the City of Sunrise, to the South right
159 of way line of the North New River Canal;
160
161 thence Southeasterly along the said South right of way
162 line and along the boundary of the Town of Davie
163 established by Ordinance 74-44 and Ordinance 85-97 and by
164 Chapter 84-420, as adopted by the Town of Davie, to the
165 intersection with the Southwesterly extension of the East
166 line of Tier 24 of said Newman's Survey;
167
168 thence Northeasterly along the said Southwesterly
169 extension to the point of BEGINNING.
170
171 Section 4. Upon annexation into the Town of Davie, the
172 following shall govern the Broadview Park Area:

173 (1) The present land use designations and zoning
174 districts provided for under the Broward County Comprehensive
175 Plan and Code of Ordinances of Broward County shall remain in
176 the law governing the Broadview Park Area, notwithstanding the
177 fact that the Broadview Park Area is now a part of the Town of
178 Davie.
179 (2) Any change of zoning districts or land use
180 designations may only be accomplished by enactment of the vote
181 of the majority of the full governing body of the Town of Davie
182 plus one.
183 (3) Notwithstanding subsections (1) and (2), any use,
184 building, or structure that is legally in existence at the time
185 that the Broadview Park Area becomes a part of the Town of
186 Davie shall not be made a prohibited use by the municipality,
187 on the property of said use, for as long as the use shall
188 continue and not be voluntarily abandoned.
189 Section 5. Subsequent to the effective date of this act,
190 no change in land use designation or zoning shall be effective
191 within the limits of the lands subject to annexation herein
192 until the Broadview Park Area has been annexed into the Town of
193 Davie. No annexation within the Broadview Park Area by any
194 municipality shall occur during the time period between the
195 effective date of this act and the effective date of the
196 annexation.
197 Section 6. Subsequent to the effective date of this
198 annexation, any resident in the area to be annexed by this act
199 into the Town of Davie shall be deemed to have met any
200 residency requirements for candidacy for municipal office.
201 Section 7. Nothing in this act shall be construed to
202 affect or abrogate the rights of parties to any contracts,
203 including contracts between nongovernmental entities, which

204 contracts are in effect prior to the effective date of the
205 annexation.
206 Section 8. All public roads and the public rights-of-way
207 associated therewith, on the Broward County Road System,
208 including bridge structures 868303, 864024, 864022, 864096, and
209 864097, lying within the limits of the Broadview Park Area as
210 described in section 3, are transferred from Broward County
211 jurisdiction to the jurisdiction of the annexing municipality,
212 except for those portions of Hiatus Road, Nob Hill Road, Pine
213 Island Road, and Davie Boulevard and that portion of Peters
214 Road west of the Peters Road/Davie Boulevard intersection lying
215 within the annexation area. All rights, title, interests, and
216 responsibilities for any transferred roads, including, but not
217 limited to, the ownership, operation, maintenance, planning,
218 design, and construction of said roads and to the rights-of-way
219 associated therewith shall transfer from Broward County
220 jurisdiction and ownership to the jurisdiction and ownership of
221 the annexing municipality upon the effective date of the
222 annexation.
223 Section 9. This act shall take effect upon becoming a law.
224
225

HB 1183

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1183 Hernando County Special Election Validation
SPONSOR(S): Russell
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

On March 9, 2004, voters in Hernando County approved, at a special election referendum, the levy of a half-cent local option discretionary surtax for purposes of constructing school facilities. Public notice prior to the referendum was not provided, however, in accordance with statutory requirements. The county began to collect the surtax after voters approved the levy, but the county has been unable to expend proceeds due to the inconsistency with statutory notice requirements.

This bill ratifies, validates, and confirms all acts and proceedings taken in connection with the special election held in Hernando County on March 9, 2004, including, but not limited to, any acts in connection with the notice of the election to authorize the levy of the one-half-cent local option sales tax on tangible personal property sold in Hernando County for the purpose of providing funds to finance the cost of new facilities consisting of new schools, equipment, and such improvements associated with such schools within the county. The bill also declares the special election valid and legal in all respects.

According to the Economic Impact Statement, this bill does not increase projected revenues of the half-cent local option sales tax approved by voters on March 9, 2004.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

School Capital Outlay Surtax Generally

Section 212.055(6), F.S., authorizes the school board in each county to levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent. The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax; the statement must conform to the referendum requirements of s. 101.161, F.S., and must be placed on the ballot by the governing body of the county.

The resolution providing for the imposition of the surtax must describe a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan must include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by general law, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto may be used for operational expenses.

Any school board imposing the surtax must implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision does not apply to existing debt service or taxes authorized in the General Appropriations Act.

Special Election Notice Requirements

Section 100.342, F.S., provides that, in any special election or referendum not otherwise provided for, there must be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication must be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice must be posted in no less than five places within the territorial limits of the county, district, or municipality.

The Florida Supreme Court has recognized that "[s]pecial elections, and particularly those which might result in requiring the exercise of the power of taxation, must be conducted in substantial compliance with constitutional and statutory requirements." [1] Moreover, in contrast to a general election, the date of a special referendum is determined by a local governing body with the authority to call it, and "the voters cannot be expected to have or take notice thereof unless notice is given.

[1] Special Tax School District of Duval County v. State, 123 So.2d 316, 322 (Fla. 1960).

Accordingly, a requirement for publication...must be considered as mandatory and its performance essential to the validity of the election." [2] Additionally, as the statute requires notice as a prerequisite to the issuance of bonds, "such publication is not merely formal and directory; and the required publication cannot be dispensed with upon the theory that it does not appear that the electors were misled by the failure to make the publication for the statutory period." [3]

However, the notice requirements for a special referendum are procedural in nature and "after-the-fact validating legislation is perfectly proper to cure procedural defects." [4]

In fact, "[e]ven when the [Florida] Supreme Court has prepared an opinion holding an issue of bonds to be invalid...a special act passed as a curative statute pending the appeal has been controlling in sustaining the ultimate validity of the bonds." [5]

The complete failure to publish notice of a bond election may be cured with the passage of curative legislation. [6]

Hernando County School Board Levy of the Surtax

On November 4, 2003, the Hernando County School Board (district) adopted Resolution 04-004 ("Resolution") that ordered and provided for the holding of a referendum for the purpose of determining whether voters approve the levy of a one-half percent sales surtax in order to finance new schools in the district.

The Resolution directed the Superintendent of the district to place a notice of the referendum in a newspaper of general circulation published in the district at least 30 days prior to the referendum and at least four times, once in the fifth week and once a week thereafter for each consecutive week prior to the week in which the referendum is deemed held. The Resolution required the notice of referendum must be substantially in the same form provided in the Resolution.

Due to apparent miscommunications between the district and the county commission, the notices required by the Resolution were not provided prior to the referendum; however, according to the district, the surtax levy was discussed prior to the referendum in 71 newspaper articles prior to the referendum, during 17 meetings with various community groups, during 6 public hearings of the district; and in the sample ballot mailed to all voters in the county. At the referendum, 15,905 voters approved the referendum, while 12,945 disapproved, out of a total of 102,389 registered voters.

EFFECT OF PROPOSED CHANGES

The bill ratifies, validates, and confirms all acts and proceedings previously taken in connection with the special election held in Hernando County on March 9, 2004, including, but not limited to, any acts in connection with the notice of the election to authorize the levy of the one-half-cent local option sales tax on tangible personal property sold in Hernando County for the purpose of providing funds to finance the cost of new facilities consisting of new schools, equipment, and such improvements associated with schools within the county. The bill also declares the special election valid and legal in all respects.

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[2] State v. Shields, 140 So.2d 144, 147 (Fla. 1962).
[3] City of Miami v. Romfh, 63So. 440,442 (Fla. 1913).
[4] County of Palm Beach v. State, 342 So.2d 56,58 (Fla. 1976)(*citing*, Coon v. Board of Public Instruction, 203 So.2d 497 (Fla. 1967).
[5] Coon, 203 So.2d at 498 (*citing*, State v. Florida Inland Nav. Dist., 122 So. 249 (1929)
[6] County of Palm Beach v. State, 342 So.2d 56, 58 (Fla. 1976)(*citing*, Coon v. Board of Public Instruction, 203 So.2d 497 (Fla. 1967).

C. SECTION DIRECTORY:

Section 1. Validates, ratifies, and confirms all acts in connection with the levy of the local option sales tax, and declares the special election valid and legal.

Section 2. Provides for severability.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? March 10, 2006

WHERE? Hernando Times, Brooksville, Florida, Hernando 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: Not applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

In 2003, the Legislature enacted ch. 2003-390, L.O.F., to validate all acts and proceedings taken in connection with a special election held May, 2002 in Manatee County, Florida. The election authorized the levy of one half-cent local option sales tax in Manatee County for the purpose of providing funds for certain capital improvements and educational facilities within the school district. The bill provided a declaration that the special election is valid and legal and approves the issuance of sales tax revenue bonds.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable

001823748

1183

HERNANDO TIMES

An Edition of the St. Petersburg Times
Published Daily
Brooksville, Hernando County, Florida

STATE OF FLORIDA
COUNTY OF HERNANDO:

Before the undersigned authority personally appeared Jessica Attard who on oath says that she is Legal Clerk of the Hernando Times a daily newspaper published at Brooksville, in Hernando County, Florida: that the attached copy of advertisement, being a Legal Notice in the matter of RE: Hernando County Legislative Delegation Meeting

in the Court was published in said newspaper in the issues of January 19, 2006.

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

Jessica Attard
Signature of Affiant

Sworn to and subscribed before me this 19th day of January, 2006.

Mary Ellen Heighton
Commission # DD503972
Expires January 4, 2010
Bonded Troy Fain Insurance Inc 800-385-7019

Mary Ellen Heighton
Signature of Notary Public

Personally known x or produced identification

Type of identification produced

HERNANDO COUNTY LEGISLATIVE DELEGATION MEETING

The Hernando County Legislative Delegation will meet in House Office Building 303 on Wednesday, February 8, 2006 at Noon at 402 So. Monroe St., Tallahassee, Florida.

This meeting has been called for the sole purpose of addressing a local bill relating to Hernando County special election validation, validating all acts and proceedings had and taken in connection with the special election held in the county of March 9, 2004. To authorize the levy of the one half-cent local option sales tax in the county for the purpose of providing funds to finance the new facilities consisting of new schools, equipment, and such improvements associated with such schools with the county; declaring such special election legal and valid; providing severability; providing an effective date on becoming law.

Representative David D. Russell
(001823748) 01/19/06

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #:

SPONSOR(S): Rep. Russell, Rep Dean

RELATING TO: Hernando County

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

NAME OF DELEGATION: Hernando County Legislative Delegation

CONTACT PERSON: Ann Marie Comeau

PHONE # and E-Mail: 352-688-5005 - [redacted] annmarie.comeau@myflorida house.gov

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

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

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

Date hearing held: February 8, 2006

Location: Tallahassee, FL

(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 [1-19-2006 **]**

Where? Times **County** Hernando

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 [ ]

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

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

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of 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 Clark for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #:

SPONSOR(S): Rep. David Russell Rep Charles Dean

RELATING TO: **The School Board of Hernando County**
[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:		

This bill does not contain administration, implementation, or enforcement costs.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State: **One half cent local option sales tax**	**$6.9 million**	**$7.3 million**
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:		

This bill does not increase the revenue projected on the one half-cent local option sales tax approved by voters on March 9, 2004.

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

Advantages:

This bill validates all acts and proceedings in connection with the election held on March 9, 2004 which authorized the levy of one half-cent local option sales tax for the purpose of financing new schools, equipment, and improvements associated with such schools.

Disadvantages:

This bill does not have a disadvantage.

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

This bill will not impact competition or open market employment.

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

The District used actual revenues received on a 5-year one half-cent local option sales tax that expired in December 2003 plus a 6% growth factor in each subsequent year.

PREPARED BY: Deborah Bruggink 1/18/06
[Must be signed by Preparer] Date

TITLE: **Chief Financial Officer**

REPRESENTING: **Hernando County School Board**

PHONE: (**352-797-7004**)

E-Mail Address: **Bruggink_d@hcsb.k12.fl.us**

1 A bill to be entitled
2 An act relating to Hernando County special election
3 validation; validating all acts and proceedings had and
4 taken in connection with the special election held in the
5 county on March 9, 2004, to authorize the levy of the one-
6 half-cent local option sales tax in the county for the
7 purpose of providing funds to finance the cost of new
8 facilities consisting of new schools, equipment, and such
9 improvements associated with such schools within the
10 county; declaring such special election legal and valid;
11 providing severability; providing an effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. All acts and proceedings heretofore had and
16 taken in connection with the special election held in Hernando
17 County on March 9, 2004, including, but not limited to, any acts
18 in connection with the notice of such election to authorize the
19 levy of the one-half-cent local option sales tax on tangible
20 personal property sold in Hernando County for the purpose of
21 providing funds to finance the cost of new facilities consisting
22 of new schools, equipment, and such improvements associated with
23 such schools within the county, are hereby ratified, validated,
24 and confirmed and said special election is hereby declared to be
25 valid and legal in all respects.
26 Section 2. If any provision of this section or the
27 application thereof to any person or circumstance is held
28 invalid, the invalidity shall not affect other provisions or

29 applications of this act which can be given effect without the
30 invalid provisions or application, and to this end the
31 provisions of this section are declared severable.
32 Section 3. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1(for drafter's use only)

Bill No. **HB 1183**

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) Russell offered the following:
3
4 **Amendment**
5 Remove line(s) 19-20 and insert:
6 levy of the discretionary sales surtax in accordance with s.
7 212.055(6) for the purpose of

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1217 City of Bradenton Beach, Manatee County
SPONSOR(S): Galvano
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 1217 amends the charter of the City of Bradenton Beach in Manatee County. The bill updates the city's boundaries to reflect an annexation that took place in 1953, and expands the city's boundaries, upon approval by the city commission, to include an area adjacent and contiguous to the current city boundary within Sarasota Bay where the city intends to create a mooring field.

The bill additionally authorizes the city to exercise its law enforcement authority 500 feet into the waters of the Gulf of Mexico adjacent to its established corporate limits and within Sarasota Bay; clarifies the city's ability to alter its boundaries; and provides 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:

Provide Limited Government

The bill increases the law enforcement authority of the City of Bradenton Beach beyond its current corporate boundaries.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Municipal Annexation and Exercise of Extraterritorial Powers

Section 2(c) of Art. VIII of the State Constitution, provides in pertinent part that "[m]unicipal annexation of unincorporated territory . . . and exercise of extra-territorial powers by municipalities shall be as provided by general or special law." Thus, any annexation or exercise of extraterritorial power must be effected either directly by the Legislature by special law or by a municipality in accordance with the authorization and procedures provided by a general law. Section 166.021, F.S., reflects this provision. The statute in subsection (3)(a) sets forth the home rule powers of municipalities and recognizes the authority of municipalities to enact legislation on any subject matter upon which the Legislature may act except "[t]he subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution."

City of Bradenton Beach

The City of Bradenton Beach, located on Anna Maria Island in Manatee County, was created by HB 561 in 1953 (ch. 28915, L.O.F.). The boundaries of the city were established in that special act, which became law without the Governor's approval and was filed with the Secretary of State on May 14, 1953. The act has never been amended.

On October 13, 1953, the City Commission of the City of Bradenton Beach adopted Ordinance 37. This ordinance proposed to change the territorial boundaries of the city by annexing a portion of the "Ilexhurst Subdivision," after submitting the question of annexation separately to the registered voters of the subdivision and the registered voters of the City of Bradenton Beach. A referendum was held on November 17, 1953. According to the minutes of a November 19, 1953, meeting where "all members of the city government were present," a total of 90 votes were cast in Ilexhurst: 72 approved the annexation while 18 votes disapproved the action. The total number of votes cast in the City of Bradenton Beach was 163 of which 149 votes approved and 14 votes disapproved the annexation.[1]

Effect of Proposed Changes

This bill changes the boundaries of the City of Bradenton Beach, in Manatee County, to reflect the 1953 annexation of the Ilexhurst Subdivision.[2]

Additionally, the bill provides that, upon approval by the city commission, the municipal boundary of the city is expanded to include an area adjacent and contiguous to the current city boundary within

[1] According to the attorney representing the city, the Manatee County Supervisor of Elections did not keep records of county or local elections until the year 1958.

[2] The attorney representing the city has verified in a letter dated March 30, 2006, that the legal description of the land in the proposed bill reflects the addition of this annexed land to the boundaries of the City of Bradenton Beach. This correspondence is on file with the Local Government Council.

Sarasota Bay. The city has indicated that it intends to create a mooring field within this area in order to protect and enhance the environmental resources and water quality within Sarasota Bay and to create an area for the public to safely secure their boats. Currently, there are no mooring fields within the nearby vicinity of Anna Maria Island. Consequently, boaters are "dropping their anchors all along Sarasota Bay." The city has observed boaters dragging their anchors along the seagrass beds, disposing of engine blocks on the floor of the Bay, abandoning vessels, polluting the waterways, dumping human waste into the water, positioning boats in unsafe locations, and operating vessels under the influence of alcohol.

The city has indicated that the expansion of its boundaries to include the submerged lands where it intends to construct the mooring field will allow it to adopt ordinances which apply to that area. It is anticipated that the city will enter into a "sovereignty submerged lands lease" with the Board of Trustees of the Internal Improvement Trust Fund,[3] and acquire the necessary permits for the mooring field.[4]

The bill also authorizes the city to exercise its law enforcement authority 500 feet into the waters of the Gulf of Mexico adjacent to its established corporate limits and within Sarasota Bay from the eastern municipal boundary of the city to the west right-of-way line of the Intracoastal Waterway. The city currently may exercise its police powers and jurisdiction only within its territorial limits pursuant to ch. 166, F.S. [5] The city has indicated that Manatee County shares concurrent jurisdiction with the State of Florida over the waters at issue, and that the city has presented problems with regard to these waters to Manatee County law enforcement and the Board of County Commissioners which remain unresolved.

The Manatee County Board of County Commissioners has stated in a letter dated January 5, 2006, that it has no objection to the city exercising extraterritorial law enforcement powers "over those waters east of the city to the Intracoastal Waterway (specifically the anchorage area south of the city's pier) and those out to 500 feet into the Gulf of Mexico," or to the expansion of the city's boundaries "over only those waters to be included within the proposed mooring field."[6]

Finally, the bill amends original charter language in a section which provided that the city had the power to change its boundaries "in the manner hereinafter" or as authorized otherwise by the laws of the State of Florida provided, to state that such boundary changes will be in accordance with Florida law.

---

[3] The Governor and the Cabinet sit as the Board of Trustees of the Internal Improvement Trust Fund. Pursuant to s. 253.03, F.S., the Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions, excluding certain properties. State lands include all tidal lands and all lands covered by shallow waters of the ocean or gulf, or the bays or lagoons thereof. See, s. 253.03(1)(d) and (e), F.S. Pursuant to s. 253.12, F.S., the title to all sovereignty tidal and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board.

[4] Section 373.118, F.S., provides that the Department of Environmental Protection shall adopt by rule one or more general permits for local governments to construct, operate and maintain…public mooring fields….. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities are required to be consistent with the local government manatee protection plan required pursuant to ch. 370, F.S., and must obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit may not exceed an area of 50,000 square feet over wetlands and other surface waters. All facilities permitted under this section must be constructed, maintained and operated in perpetuity for the exclusive use of the general public.

[5] The Legislature previously has authorized the exercise of limited extraterritorial police powers and jurisdiction (the abatement of nuisances, the enforcement of sanitary laws and regulations, the regulation of zoning laws, and the suppression of crime) into the adjacent waters of at least five municipalities:

- City of Key West, Monroe County; extending 600 feet into adjacent tidal waters; ch. 78-540, L.O.F.
- City of Key Colony Beach, Monroe County; extending 600 feet into adjacent tidal waters; ch. 85-464, L.O.F.
- Islamorada, Village of Islands, Monroe County; extending 1,200 feet into adjacent tidal waters; ch. 2000-408, L. O.F.
- City of Marathon, Monroe County; extending 1,200 feet into adjacent tidal waters; ch. 2001-292, L.O.F.
- Town of Palm Beach Shores, Palm Beach County, extending 1,200 feet into adjacent tidal waters; ch. 2002-336, L.O.F.

[6] An Assistant County Attorney has confirmed via e-mail on April 5, 2006, that the bill, as drafted, addresses the concerns of the Manatee County Board of County Commissioners.

The act takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Amends s. 6 of Art. I of ch. 28915, 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 19, 2006

WHERE? *The Herald*, a daily newspaper published in Manatee 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. The chief of police for the city has indicated in correspondence dated April 5, 2006, that the city has been planning for the mooring field for the past five years. Over the course of this time, the city has acquired all necessary personnel training and equipment for policing the water surrounding the city.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

<u>Drafting Issues</u>

The bill should be amended to remove the language on Line 62 which requires city commission approval of the legislative expansion of boundaries.

Also, the term "automatically" on Line 63 of the bill is unnecessary and should be deleted.

The language on Line 94 "law enforcement authority" should be changed to "police powers." The Sponsor may want to limit this granting of powers, as in previous special acts, to "the abatement of nuisances, the enforcement of sanitary laws and regulations, the regulation of zoning laws, and the suppression of crime."

Other Comments

Staff of the Department of Environmental Protection, Division of State Lands, has indicated that the agency has no objection to the provisions of this bill.

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. Section 166.021, F.S., provides:

> The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution.... However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1217

THE HERALD

WWW.HERALDTODAY.COM
P.O. Box 921
Bradenton, FL 34206-0921
102 Manatee Avenue West
Bradenton, FL 34205-8894
941/748-0411 ext. 7065

The Herald
Published Daily
Bradenton, Manatee, Florida

STATE OF FLORIDA
COUNTY OF MANATEE;

Before the undersigned authority personally appeared Sandy Riley, who on oath says that she is a Legal Advertising Representative of The Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **NOTICE OF INTENT TO SEEK LEGISLATION** in the Court, was published in said newspaper in the issues of, **1/19/06**

Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

NOTICE OF INTENT TO SEEK LEGISLATION

The City of Bradenton Beach, Manatee County, hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2006 Florida Legislature. The legislation will amend the City's boundaries and authorizes the City to exercise its law enforcement authority 500 feet into the waters of the Gulf of Mexico adjacent to its established corporate limits and within Sarasota Bay from the eastern municipal boundary of the City to the west right-of-way of the Intracoastal Waterway.
1/19/06

Sandy Riley
(Signature of Affiant)

Sworn to and subscribed before me this
23rd Day of January 2006

DIANE S. BACRO
Notary Public
State of Florida
My comm. exp. 08-15-2007
Comm. No. DD 206531

Diane S. Bacro
SEAL & Notary Public
Personally Known X OR Produced Identification
Type of Identification Produced

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: House Bill 1217
SPONSOR(S): Rep. Bill Galvano
RELATING TO: City of Bradenton Beach, Manatee County, Florida
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Manatee County
CONTACT PERSON: Jennifer Foster
PHONE # and E-MAIL 941/708-4968 jennifer.foster@myfloridahouse.gov

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

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

Has a public hearing been held? **YES [X] NO [ ]**

Date hearing held: January 10, 2006
Location: Senate Conference Room, Tallahassee, Leon County, Florida

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

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

Has this Constitutional requirement been met?

Notice published: **YES [X] NO [ ]** **Date:** January 19, 2006

Where? Bradenton Herald **County:** Manatee

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.

Les Miller, Jr. 7 MAR 06
Delegation Chair (Original Signature) Date

HOUSE LOCAL GOVERNMENT COUNCIL

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a Council or Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact.

BILL #: _____

SPONSOR(S): Galvano

RELATING TO: City of Bradenton Beach, Manatee County

[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: The bill will allow the City of Bradenton Beach to cooperate with Manatee County and other local governments in the maintenance of adjacent waterbodies and the elimination of nuisances such as derelict vessels.

Disadvantages: None

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

None

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

Review of general and special laws, information from city staff, and prior experience representing special districts.

PREPARED BY: David E. Ramba 3/9/06
[Must be signed by Preparer] Date

TITLE: David E. Ramba, City Special Counsel

REPRESENTING: City of Bradenton Beach

PHONE: (850) 222-5702

Email address: dramba@llw-law.com

1 A bill to be entitled
2 An act relating to the City of Bradenton Beach, Manatee
3 County; amending chapter 28915, Laws of Florida, 1953;
4 amending the city's boundaries; authorizing the city to
5 exercise its law enforcement authority 500 feet into the
6 waters of the Gulf of Mexico adjacent to its established
7 corporate limits and within Sarasota Bay from the eastern
8 municipal boundary of the city to the west right-of-way
9 line of the Intracoastal Waterway; providing an effective
10 date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Section 6 of Article I of chapter 28915, Laws
15 of Florida, 1953, is amended to read:
16 ARTICLE I
17 GENERAL PROVISIONS
18 Section 6. (1)(a) The boundaries of the area which shall
19 be included in the territory of the City of Bradenton Beach, in
20 Manatee County, Florida, shall be as follows:
21
22 All lands on Anna Maria Island lying south of a line
23 with a point of beginning at the intersection of
24 Sarasota Bay (Intracoastal Waterway) and the southerly
25 boundary of Sunrise Park Re-Plat (Plat Book 11, Page
26 94 of the Public Records of Manatee County, Florida)
27 thence continuing westerly along the southerly
28 boundary thereof and its westerly extension and the

29 southerly boundary of Sunrise Park (Plat Book 10, Page
30 31 of the Public Records of Manatee County, Florida)
31 and its westerly extension thereof and along the south
32 line of Block 33, Lots 20 and 1 of Ilexhurst
33 Subdivision (Plat Book 1, Page 154 of the Public
34 Records of Manatee County, Florida) to the west right-
35 of-way line of State Road 789 (also known as Gulf
36 Drive); thence northerly along the west right-of-way
37 line of said State Road 789 (Gulf Drive) approximately
38 50 feet; thence westerly approximately 100 feet along
39 the south line of former Block 34, Lot 19 of Ilexhurst
40 Subdivision (Plat Book 1, Page 154 of the Public
41 Records of Manatee County, Florida); thence northerly
42 approximately 100 feet along the west line of former
43 Block 34, Lots 19 and 18 of said Ilexhurst Subdivision
44 (this portion of Ilexhurst Subdivision is now re-
45 platted as Ocean Park Terrace Condominium Book 12,
46 Page 161 of the Public Records of Manatee County,
47 Florida); thence westerly along the north line of
48 Ocean Park Terrace (Condominium Book 12, Page 161 of
49 the Public Records of Manatee County, Florida) and its
50 westerly extension to the shoreline of the Gulf of
51 Mexico; thence southerly along the shoreline of the
52 Gulf of Mexico to the southern terminus of Anna Maria
53 Island; thence easterly around the southerly tip of
54 Anna Maria Island; thence northerly along the
55 shoreline of Anna Maria Island including United States
56 Government Lot #1, Section 10-35-26 (Coffee Shell

57 Island) to the point of beginning.
58
59 Such property otherwise described as Anna Maria Island
60 lying south of the Holmes Beach city limits.
61
62 (b) Additionally, upon approval by the City Commission,
63 the municipal boundary of the City shall be automatically
64 expanded to include an area adjacent and contiguous to the
65 current city boundary within Sarasota Bay and designated as the
66 Bradenton Beach Mooring Field, more specifically described as:
67
68 Beginning at the intersection of the centerline of 8th
69 Street South and Sarasota Bay (Intracoastal Waterway)
70 thence run east a distance of 1,500.00 feet; thence
71 northerly parallel to the Intracoastal Waterway
72 Channel to a point on the southerly right-of-way line
73 of Cortez Road; thence westerly along said southerly
74 right-of-way line a distance of 1,400.00 feet to the
75 mean high water line of Sarasota Bay (Intracoastal
76 Waterway); thence southerly along the mean high water
77 line of said Sarasota Bay (Intracoastal Waterway) to
78 the point of beginning.
79
80 Lying and being in Sections 3, 4, 9 and 10, Township
81 35 South, Range 16 East, Manatee County, Florida.
82 ~~All lands on Anna Maria Key lying South of the South~~
83 ~~Boundary of the Subdivision of Ilexhurst as recorded~~
84 ~~in Plat Book 1 Page 154 of the Public Records of~~

85 ~~Manatee County, Florida; said line being the Northern~~
86 ~~Boundary line of Township Thirty-five (35) South,~~
87 ~~Range Sixteen (16) East, Manatee County, Florida.~~
88
89 (c) Provided, however, that the said City shall have the
90 power to change its boundaries ~~in the manner hereinafter or~~ as
91 authorized ~~otherwise~~ by the laws of the State of Florida
92 ~~provided~~.
93 (2) The City of Bradenton Beach, Manatee County, is
94 authorized to exercise its law enforcement authority 500 feet
95 into the waters of the Gulf of Mexico adjacent to its
96 established corporate limits and within Sarasota Bay from the
97 eastern municipal boundary of the City to the west right-of-way
98 line of the Intracoastal Waterway.
99 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1269 CS Local Occupational License Taxes
SPONSOR(S): Cusack
TIED BILLS: **IDEN./SIM. BILLS:** SB 2218

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 0 N, w/CS	Rice	Diez-Arguelles
2) Local Government Council		Camechis	Hamby
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

Under current law, a county or municipality may, by resolution or ordinance, impose an occupational license tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction. Although the local occupational license tax is meant to be purely revenue producing in nature without regard to the competency of the licensee, the license has been utilized as proof of competency to perform various repairs and services. This bill specifies that "changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations."

This bill changes the name of the "Local Occupational License Tax Act" to the "Local Business Tax Act" and conforms the name change throughout ch. 205, F.S. The bill does not authorize any new taxes or fees, or increase existing taxes or fees.

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

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:

Current Situation

In 1972, the Florida Legislature delegated authority to local governments to administer occupational license tax programs. Local governments have since been authorized to levy occupational license taxes pursuant to ch. 205, F.S., the Local Occupational License Act (Act). The amount of the tax, and the occupations and businesses upon which the tax is imposed, are determined at the discretion of the local government within limitations established in the Act.

Under current law, a county or municipality may, by resolution or ordinance, impose an occupational license tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction. Licenses are sold by the tax collector beginning on August 1 of each year, are due and payable on or before September 30 of each year, and expire on September 30 of the succeeding year.

Currently, 368 of Florida's 404 municipalities, and 52 of Florida's 67 counties, have implemented some type of local occupational license tax program.[1]

Although the local occupational license tax is intended to be purely revenue-producing in nature without regard to the competency of the person to whom the license is issued, the license has been utilized by some persons as proof of competency to perform various repairs and services. This bill specifies that "changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations."

Licensure Requirements

Section 205.194, F.S., prohibits local governments from issuing occupational licenses for professions regulated by the Department of Business and Professional Regulation (DBPR) without verifying that the person has satisfied DBPR requirements. Applicants are required to submit proof of registration, certification, or licensure issued by DBPR upon initial licensure in the jurisdiction. By August 1 of each year, DBPR is required to supply local officials with a list of the professions it regulates and persons that should not be allowed to renew their occupational license due to suspension, revocation, or inactivation of licensure, certification, or registration. DBPR currently regulates the following:

- certified public accountants and accounting businesses,
- alarm system contractors,
- asbestos consultants and contractors,
- athlete agents,
- auctioneers and their businesses,
- barbers and barber shops,
- building code administrators and inspectors,
- constructing contractors and constructing contracting businesses,
- community association managers,
- cosmetologists and cosmetology salons,
- electrical contractors,

[1] Data provided by the Legislative Committee on Intergovernmental Relations

- employee leasing,
- farm labor,
- geologists and geologist businesses,
- landscape architects and landscape architect businesses,
- pilots (harbor),
- surveyors and mappers and surveyor and mapper businesses,
- talent agencies, and
- veterinarians and veterinary establishments.

Section 205.023, F.S., prohibits the issuance of an occupational license to an applicant that does not provide proof of any applicable fictitious name registrations with the Division of Corporations in the Department of State.

Sections 205.1965, 205.1969, 205.1971, and 205.1973, F.S., require additional verification from pest control businesses, health studios and ballroom dance studios, businesses engaged in the selling of travel, and telemarketing businesses. These businesses must provide verification of licensure, registration, or exemption by the Department of Agriculture and Consumer Services before a local government may issue a local occupational license.

Section 205.196, F.S., requires pharmacies to produce a current permit from the Board of Pharmacy before a local government may issue a local occupational license.

Section 205.1965, F.S., requires that assisted living facilities must provide verification of licensure from the Agency for Health Care Administration before a local government may issue a local occupational license.

Effect of Proposed Changes

This bill changes the name of the Act from the "Local Occupational License Tax Act" to the "Local Business Tax Act", and conforms the name change throughout the Act. The bill specifies that "changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations."

The bill also defines "certificate" to mean the document that is issued by the local governing authority which bears the words "Local Business Tax Certificate" and evidences that the person in whose name the document is issued has complied with the provisions of the Local Business Tax Act.

C. SECTION DIRECTORY:

Section 1: Amends s. 205.013, F.S., to reflect that the "Local Occupational License Tax Act" is renamed as the "Local Business Tax Act".
Section 2: Amends s. 205.022, F.S., to revise and add definitions; and conform name changes.
Section 3: Amends s. 205.023, F.S., to conform name changes.
Section 4: Amends s. 205.0315, F.S., to conform name changes.
Section 5: Amends s. 205.032, F.S., to conform name changes.
Section 6: Amends s. 205.033, F.S., to conform name changes.
Section 7: Amends s. 205.042, F.S., to conform name changes.
Section 8: Amends s. 205.043, F.S., to conform name changes.
Section 9: Amends s. 205.045, F.S., to conform name changes.
Section 10: Amends s. 205.053, F.S., to conform name changes.
Section 11: Amends s. 205.0532, F.S., to conform name changes.
Section 12: Amends s. 205.0535, F.S., to conform name changes.
Section 13: Amends s. 205.0536, F.S., to conform name changes.
Section 14: Amends s. 205.0537, F.S., to conform name changes.
Section 15: Amends s. 205.054, F.S., to conform name changes.
Section 16: Amends s. 205.063, F.S., to conform name changes.

Section 17: Amends s. 205.064, F.S., to conform name changes.
Section 18: Amends s. 205.065, F.S., to conform name changes.
Section 19: Amends s. 205.162, F.S., to conform name changes.
Section 20: Amends s. 205.171, F.S., to conform name changes.
Section 21: Amends s. 205.191, F.S., to conform name changes.
Section 22: Amends s. 205.192, F.S., to conform name changes.
Section 23: Amends s. 205.193, F.S., to conform name changes.
Section 24: Amends s. 205.194, F.S., to conform name changes.
Section 25: Amends s. 205.196, F.S., to conform name changes.
Section 26: Amends s. 205.1965, F.S., to conform name changes.
Section 27: Amends s. 205.1967, F.S., to conform name changes.
Section 28: Amends s. 205.1969, F.S., to conform name changes.
Section 29: Amends s. 205.1971, F.S., to conform name changes.
Section 30: Amends s. 205.1973, F.S., to conform name changes.
Section 31: Provides that the bill takes effect 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: None

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Finance and Tax Committee adopted three amendments on March 31, 2006. The first amendment introduced whereas clauses into the bill to clarify that the intent of this bill is to simply change the name of the act and not to introduce any new taxes or fees. The second amendment changed the definition of certificate to ensure that the certificates issued will bear the words "Local Business Tax Certificate". The third amendment changed the effective date of the bill from July 1, 2006 to January 1, 2007.

CHAMBER ACTION

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1 The Finance & Tax 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 local occupational license taxes;
7 amending ch. 205, F.S., consisting of ss. 205.013-
8 205.1973, F.S.; changing the term "local occupational
9 license tax" to "local business tax"; defining the term
10 "certificate" as it relates to business taxes; amending
11 provisions to conform; providing an effective date.
12
13 WHEREAS, local governments impose an occupational license
14 tax for the privilege of engaging in a business or profession,
15 and
16 WHEREAS, what a particular charge is named by government is
17 not dispositive of its correct characterization, and
18 WHEREAS, local governments have a bona fide interest in
19 protecting their residents from consumer fraud, and
20 WHEREAS, some unscrupulous persons present a local
21 occupational license to consumers as proof of competency to
22 perform various repairs and services, and

23 WHEREAS, local consumers are victimized by these
24 representations, and
25 WHEREAS, changing the name of the item issued by local
26 governments from occupational license tax to local business tax
27 may eliminate some fraudulent misrepresentations, and
28 WHEREAS, the Legislature seeks to change the name of the
29 "Local Occupational License Tax Act" to the "Local Business Tax
30 Act" and make related changes, NOW, THEREFORE,
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Section 205.013, Florida Statutes, is amended
35 to read:
36 205.013 Short title.--This chapter shall be known and may
37 be cited as the "Local Business ~~Occupational License~~ Tax Act."
38 Section 2. Section 205.022, Florida Statutes, is amended
39 to read:
40 205.022 Definitions.--When used in this chapter, the
41 following terms and phrases shall have the meanings ascribed to
42 them in this section, except when the context clearly indicates
43 a different meaning:
44 (1) ~~(6)~~ "Business," "profession," and "occupation" do not
45 include the customary religious, charitable, or educational
46 activities of nonprofit religious, nonprofit charitable, and
47 nonprofit educational institutions in this state, which
48 institutions are more particularly defined and limited as
49 follows:

50 (a) "Religious institutions" means churches and
51 ecclesiastical or denominational organizations or established
52 physical places for worship in this state at which nonprofit
53 religious services and activities are regularly conducted and
54 carried on, and also means church cemeteries.
55 (b) "Educational institutions" means state tax-supported
56 or parochial, church and nonprofit private schools, colleges, or
57 universities conducting regular classes and courses of study
58 required for accreditation by or membership in the Southern
59 Association of Colleges and Schools, the Department of
60 Education, or the Florida Council of Independent Schools.
61 Nonprofit libraries, art galleries, and museums open to the
62 public are defined as educational institutions and eligible for
63 exemption.
64 (c) "Charitable institutions" means only nonprofit
65 corporations operating physical facilities in this state at
66 which are provided charitable services, a reasonable percentage
67 of which are without cost to those unable to pay.
68 (2) "Certificate" means the document that is issued by the
69 local governing authority which bears the words "Local Business
70 Tax Certificate" and evidences that the person in whose name the
71 document is issued has complied with the provisions of this
72 chapter relating to the business tax.
73 (3) ~~(5)~~ "Classification" means the method by which a
74 business or group of businesses is identified by size or type,
75 or both.
76 (4) ~~(7)~~ "Enterprise zone" means an area designated as an
77 enterprise zone pursuant to s. 290.0065. This subsection expires

78 on the date specified in s. 290.016 for the expiration of the
79 Florida Enterprise Zone Act.
80 (5) ~~(1)~~ "Local business tax ~~occupational license~~" means the
81 fees charged and the method by which a local governing authority
82 grants the privilege of engaging in or managing any business,
83 profession, or occupation within its jurisdiction. It does not
84 mean any fees or licenses paid to any board, commission, or
85 officer for permits, registration, examination, or inspection.
86 Unless otherwise provided by law, these are deemed to be
87 regulatory and in addition to, but not in lieu of, any local
88 business tax ~~occupational license~~ imposed under the provisions
89 of this chapter.
90 (6) ~~(2)~~ "Local governing authority" means the governing
91 body of any county or incorporated municipality of this state.
92 (7) ~~(3)~~ "Person" means any individual, firm, partnership,
93 joint adventure, syndicate, or other group or combination acting
94 as a unit, association, corporation, estate, trust, business
95 trust, trustee, executor, administrator, receiver, or other
96 fiduciary, and includes the plural as well as the singular.
97 (8) ~~(4)~~ "Taxpayer" means any person liable for taxes
98 imposed under the provisions of this chapter; any agent required
99 to file and pay any taxes imposed hereunder; and the heirs,
100 successors, assignees, and transferees of any such person or
101 agent.
102 Section 3. Section 205.023, Florida Statutes, is amended
103 to read:
104 205.023 Requirement to report status of fictitious name
105 registration.--As a prerequisite to receiving a local business

106 tax certificate ~~occupational license~~ under this chapter or
107 transferring a business license under s. 205.033(2) or s.
108 205.043(2), the applicant or new owner must present to the
109 county or municipality that has jurisdiction to issue or
110 transfer the certificate ~~license~~ either:
111 (1) A copy of the applicant's or new owner's current
112 fictitious name registration, issued by the Division of
113 Corporations of the Department of State; or
114 (2) A written statement, signed by the applicant or new
115 owner, which sets forth the reason that the applicant or new
116 owner need not comply with the Fictitious Name Act.
117 Section 4. Section 205.0315, Florida Statutes, is amended
118 to read:
119 205.0315 Ordinance adoption after October 1,
120 1995.--Beginning October 1, 1995, a county or municipality that
121 has not adopted a business ~~an occupational license~~ tax ordinance
122 or resolution may adopt a business ~~an occupational license~~ tax
123 ordinance. The business ~~occupational license~~ tax rate structure
124 and classifications in the adopted ordinance must be reasonable
125 and based upon the rate structure and classifications prescribed
126 in ordinances adopted by adjacent local governments that have
127 implemented s. 205.0535. If no adjacent local government has
128 implemented s. 205.0535, or if the governing body of the county
129 or municipality finds that the rate structures or
130 classifications of adjacent local governments are unreasonable,
131 the rate structure or classifications prescribed in its
132 ordinance may be based upon those prescribed in ordinances

133 adopted by local governments that have implemented s. 205.0535
134 in counties or municipalities that have a comparable population.
135 Section 5. Section 205.032, Florida Statutes, is amended
136 to read:
137 205.032 Levy; counties.--The governing body of a county
138 may levy, by appropriate resolution or ordinance, a business ~~an~~
139 ~~occupational license~~ tax for the privilege of engaging in or
140 managing any business, profession, or occupation within its
141 jurisdiction. However, the governing body must first give at
142 least 14 days' public notice between the first and last reading
143 of the resolution or ordinance by publishing a notice in a
144 newspaper of general circulation within its jurisdiction as
145 defined by law. The public notice must contain the proposed
146 classifications and rates applicable to the business
147 ~~occupational license~~ tax.
148 Section 6. Section 205.033, Florida Statutes, is amended
149 to read:
150 205.033 Conditions for levy; counties.--
151 (1) The following conditions are imposed on the authority
152 of a county governing body to levy a business ~~an occupational~~
153 ~~license~~ tax:
154 (a) The tax must be based upon reasonable classifications
155 and must be uniform throughout any class.
156 (b) Unless the county implements s. 205.0535 or adopts a
157 new business ~~occupational license~~ tax ordinance under s.
158 205.0315, a business ~~an occupational license~~ tax levied under
159 this subsection may not exceed the rate provided by this chapter
160 in effect for the year beginning October 1, 1971; however,

161 beginning October 1, 1980, the county governing body may
162 increase business ~~occupational license~~ taxes authorized by this
163 chapter. The amount of the increase above the ~~license~~ tax rate
164 levied on October 1, 1971, for ~~license~~ taxes levied at a flat
165 rate may be up to 100 percent for business ~~occupational license~~
166 taxes that are $100 or less; 50 percent for business
167 ~~occupational license~~ taxes that are between $101 and $300; and
168 25 percent for business ~~occupational license~~ taxes that are more
169 than $300. Beginning October 1, 1982, the increase may not
170 exceed 25 percent for ~~license~~ taxes levied at graduated or per
171 unit rates. Authority to increase business ~~occupational license~~
172 taxes does not apply to licenses or certificates granted to any
173 utility franchised by the county for which a franchise fee is
174 paid.
175 (c) A certificate ~~license~~ is not valid for more than 1
176 year, and all certificates ~~licenses~~ expire on September 30 of
177 each year, except as otherwise provided by law.
178 (2) Any certificate ~~business license~~ may be transferred to
179 a new owner, when there is a bona fide sale of the business,
180 upon payment of a transfer fee of up to 10 percent of the annual
181 business ~~license~~ tax, but not less than $3 nor more than $25,
182 and presentation of the original certificate ~~license~~ and
183 evidence of the sale.
184 (3) Upon written request and presentation of the original
185 certificate ~~license~~, any certificate ~~license~~ may be transferred
186 from one location to another location in the same county upon
187 payment of a transfer fee of up to 10 percent of the annual
188 business ~~license~~ tax, but not less than $3 nor more than $25.

189 (4) The revenues derived from the business ~~occupational~~
190 ~~license~~ tax, exclusive of the costs of collection and any credit
191 given for municipal business ~~license~~ taxes, shall be apportioned
192 between the unincorporated area of the county and the
193 incorporated municipalities located therein by a ratio derived
194 by dividing their respective populations by the population of
195 the county. This subsection does not apply to counties that have
196 established a new rate structure under s. 205.0535.
197 (5) The revenues so apportioned shall be sent to the
198 governing authority of each municipality, according to its
199 ratio, and to the governing authority of the county, according
200 to the ratio of the unincorporated area, within 15 days
201 following the month of receipt. This subsection does not apply
202 to counties that have established a new rate structure under s.
203 205.0535.
204 (6)(a) Each county, as defined in s. 125.011(1), or any
205 county adjacent thereto may levy and collect, by an ordinance
206 enacted by the governing body of the county, an additional
207 business ~~occupational license~~ tax up to 50 percent of the
208 appropriate business ~~license~~ tax imposed under subsection (1).
209 (b) Subsections (4) and (5) do not apply to any revenues
210 derived from the additional tax imposed under this subsection.
211 Proceeds from the additional business ~~license~~ tax must be placed
212 in a separate interest-earning account, and the governing body
213 of the county shall distribute this revenue, plus accrued
214 interest, each fiscal year to an organization or agency
215 designated by the governing body of the county to oversee and
216 implement a comprehensive economic development strategy through

217 advertising, promotional activities, and other sales and
218 marketing techniques.
219 (c) An ordinance that levies an additional business
220 ~~occupational license~~ tax under this subsection may not be
221 adopted after January 1, 1995.
222 (7) Notwithstanding any other provisions of this chapter,
223 the revenue received from a county business ~~occupational license~~
224 tax may be used for overseeing and implementing a comprehensive
225 economic development strategy through advertising, promotional
226 activities, and other sales and marketing techniques.
227 Section 7. Section 205.042, Florida Statutes, is amended
228 to read:
229 205.042 Levy; municipalities.--The governing body of an
230 incorporated municipality may levy, by appropriate resolution or
231 ordinance, a business ~~an occupational license~~ tax for the
232 privilege of engaging in or managing any business, profession,
233 or occupation within its jurisdiction. However, the governing
234 body must first give at least 14 days' public notice between the
235 first and last reading of the resolution or ordinance by
236 publishing the notice in a newspaper of general circulation
237 within its jurisdiction as defined by law. The notice must
238 contain the proposed classifications and rates applicable to the
239 business ~~occupational license~~ tax. The business ~~occupational~~
240 ~~license~~ tax may be levied on:
241 (1) Any person who maintains a permanent business location
242 or branch office within the municipality, for the privilege of
243 engaging in or managing any business within its jurisdiction.

244 (2) Any person who maintains a permanent business location
245 or branch office within the municipality, for the privilege of
246 engaging in or managing any profession or occupation within its
247 jurisdiction.
248 (3) Any person who does not qualify under subsection (1)
249 or subsection (2) and who transacts any business or engages in
250 any occupation or profession in interstate commerce, if the
251 business ~~license~~ tax is not prohibited by s. 8, Art. I of the
252 United States Constitution.
253 Section 8. Section 205.043, Florida Statutes, is amended
254 to read:
255 205.043 Conditions for levy; municipalities.--
256 (1) The following conditions are imposed on the authority
257 of a municipal governing body to levy a business ~~an occupational~~
258 ~~license~~ tax:
259 (a) The tax must be based upon reasonable classifications
260 and must be uniform throughout any class.
261 (b) Unless the municipality implements s. 205.0535 or
262 adopts a new business ~~occupational license~~ tax ordinance under
263 s. 205.0315, a business ~~an occupational license~~ tax levied under
264 this subsection may not exceed the rate in effect in the
265 municipality for the year beginning October 1, 1971; however,
266 beginning October 1, 1980, the municipal governing body may
267 increase business ~~occupational license~~ taxes authorized by this
268 chapter. The amount of the increase above the ~~license~~ tax rate
269 levied on October 1, 1971, for ~~license~~ taxes levied at a flat
270 rate may be up to 100 percent for business ~~occupational license~~
271 taxes that are $100 or less; 50 percent for business

272 ~~occupational license~~ taxes that are between $101 and $300; and
273 25 percent for business ~~occupational license~~ taxes that are more
274 than $300. Beginning October 1, 1982, an increase may not exceed
275 25 percent for ~~license~~ taxes levied at graduated or per unit
276 rates. Authority to increase business ~~occupational license~~ taxes
277 does not apply to certificates or licenses granted to any
278 utility franchised by the municipality for which a franchise fee
279 is paid.
280 (c) A certificate ~~license~~ is not valid for more than 1
281 year and all certificates ~~licenses~~ expire on September 30 of
282 each year, except as otherwise provided by law.
283 (2) Any business certificate ~~license~~ may be transferred to
284 a new owner, when there is a bona fide sale of the business,
285 upon payment of a transfer fee of up to 10 percent of the annual
286 ~~license~~ tax, but not less than $3 nor more than $25, and
287 presentation of the original certificate ~~license~~ and evidence of
288 the sale.
289 (3) Upon written request and presentation of the original
290 certificate ~~license~~, any certificate ~~license~~ may be transferred
291 from one location to another location in the same municipality
292 upon payment of a transfer fee of up to 10 percent of the annual
293 ~~license~~ tax, but not less than $3 nor more than $25.
294 (4) If the governing body of the county in which the
295 municipality is located has levied a business ~~an occupational~~
296 ~~license~~ tax or subsequently levies such a tax, the collector of
297 the county tax may issue the certificate ~~license~~ and collect the
298 tax thereon.

299 Section 9. Section 205.045, Florida Statutes, is amended
300 to read:
301 205.045 Transfer of administrative duties.--The governing
302 body of a municipality that levies a business ~~an occupational~~
303 ~~license~~ tax may request that the county in which the
304 municipality is located issue the municipal certificate ~~license~~
305 and collect the tax thereon. The governing body of a county that
306 levies a business ~~an occupational license~~ tax may request that
307 municipalities within the county issue the county certificate
308 ~~license~~ and collect the tax thereon. Before any local government
309 may issue certificates ~~occupational licenses~~ on behalf of
310 another local government, appropriate agreements must be entered
311 into by the affected local governments.
312 Section 10. Section 205.053, Florida Statutes, is amended
313 to read:
314 205.053 Business tax certificates ~~Occupational licenses~~;
315 dates due and delinquent; penalties.--
316 (1) All business tax certificates ~~licenses~~ shall be sold
317 by the appropriate tax collector beginning August 1 of each
318 year, are due and payable on or before September 30 of each
319 year, and expire on September 30 of the succeeding year. If
320 September 30 falls on a weekend or holiday, the tax is due and
321 payable on or before the first working day following September
322 30. Provisions for partial certificates ~~licenses~~ may be made in
323 the resolution or ordinance authorizing such certificates
324 ~~licenses~~. Certificates ~~Licenses~~ that are not renewed when due
325 and payable are delinquent and subject to a delinquency penalty
326 of 10 percent for the month of October, plus an additional 5

327 percent penalty for each subsequent month of delinquency until
328 paid. However, the total delinquency penalty may not exceed 25
329 percent of the business ~~occupational license~~ tax for the
330 delinquent establishment.
331 (2) Any person who engages in or manages any business,
332 occupation, or profession without first obtaining a local
333 certificate ~~occupational license~~, if required, is subject to a
334 penalty of 25 percent of the tax ~~license~~ due, in addition to any
335 other penalty provided by law or ordinance.
336 (3) Any person who engages in any business, occupation, or
337 profession covered by this chapter, who does not pay the
338 required business ~~occupational license~~ tax within 150 days after
339 the initial notice of tax due, and who does not obtain the
340 required certificate ~~occupational license~~ is subject to civil
341 actions and penalties, including court costs, reasonable
342 attorneys' fees, additional administrative costs incurred as a
343 result of collection efforts, and a penalty of up to $250.
344 Section 11. Section 205.0532, Florida Statutes, is amended
345 to read:
346 205.0532 Revocation or refusal to renew; doing business
347 with Cuba.--Any local governing authority issuing a business tax
348 certificate ~~an occupational license~~ to any individual, business,
349 or entity under this chapter may revoke or refuse to renew such
350 certificate ~~license~~ if the individual, business, or entity, or
351 parent company of such individual, business, or entity, is doing
352 business with Cuba.
353 Section 12. Section 205.0535, Florida Statutes, is amended
354 to read:

355 205.0535 Reclassification and rate structure revisions.--
356 (1) By October 1, 1995, any municipality or county may, by
357 ordinance, reclassify businesses, professions, and occupations
358 and may establish new rate structures, if the conditions
359 specified in subsections (2) and (3) are met. A person who is
360 engaged in the business of providing local exchange telephone
361 service or a pay telephone service in a municipality or in the
362 unincorporated area of a county and who pays the business
363 ~~occupational license~~ tax under the category designated for
364 telephone companies or a pay telephone service provider
365 certified pursuant to s. 364.3375 is deemed to have but one
366 place of business or business location in each municipality or
367 unincorporated area of a county. Pay telephone service providers
368 may not be assessed a business ~~an occupational license~~ tax on a
369 per-instrument basis.
370 (2) Before adopting a reclassification and revision
371 ordinance, the municipality or county must establish an equity
372 study commission and appoint its members. Each member of the
373 study commission must be a representative of the business
374 community within the local government's jurisdiction. Each
375 equity study commission shall recommend to the appropriate local
376 government a classification system and rate structure for
377 business ~~local occupational license~~ taxes.
378 (3)(a) After the reclassification and rate structure
379 revisions have been transmitted to and considered by the
380 appropriate local governing body, it may adopt by majority vote
381 a new business ~~occupational license~~ tax ordinance. Except that a
382 minimum ~~license~~ tax of up to $25 is permitted, the

383 reclassification may ~~shall~~ not increase the ~~occupational license~~
384 tax by more than the following: for certificates ~~licenses~~
385 costing $150 or less, 200 percent; for certificates ~~licenses~~
386 costing more than $150 but not more than $500, 100 percent; for
387 certificates ~~licenses~~ costing more than $500 but not more than
388 $2,500, 75 percent; for certificates ~~licenses~~ costing more than
389 $2,500 but not more than $10,000, 50 percent; and for
390 certificates ~~licenses~~ costing more than $10,000, 10 percent;
391 however, in no case may the tax on any certificate ~~license~~ be
392 increased more than $5,000.
393 (b) The total annual revenue generated by the new rate
394 structure for the fiscal year following the fiscal year during
395 which the rate structure is adopted may not exceed:
396 1. For municipalities, the sum of the revenue base and 10
397 percent of that revenue base. The revenue base is the sum of the
398 business ~~occupational license~~ tax revenue generated by
399 certificates ~~licenses~~ issued for the most recently completed
400 local fiscal year or the amount of revenue that would have been
401 generated from the authorized increases under s. 205.043(1)(b),
402 whichever is greater, plus any revenue received from the county
403 under s. 205.033(4).
404 2. For counties, the sum of the revenue base, 10 percent
405 of that revenue base, and the amount of revenue distributed by
406 the county to the municipalities under s. 205.033(4) during the
407 most recently completed local fiscal year. The revenue base is
408 the business ~~occupational license~~ tax revenue generated by
409 certificates ~~licenses~~ issued for the most recently completed
410 local fiscal year or the amount of revenue that would have been

411 generated from the authorized increases under s. 205.033(1)(b),
412 whichever is greater, but may not include any revenues
413 distributed to municipalities under s. 205.033(4).
414 (c) In addition to the revenue increases authorized by
415 paragraph (b), revenue increases attributed to the increases in
416 the number of certificates ~~licenses~~ issued are authorized.
417 (4) After the conditions specified in subsections (2) and
418 (3) are met, municipalities and counties may, every other year
419 thereafter, increase by ordinance the rates of business ~~local~~
420 ~~occupational license~~ taxes by up to 5 percent. The increase,
421 however, may not be enacted by less than a majority plus one
422 vote of the governing body.
423 (5) A certificate may not ~~No license shall~~ be issued
424 unless the federal employer identification number or social
425 security number is obtained from the person to be taxed
426 ~~licensed~~.
427 Section 13. Section 205.0536, Florida Statutes, is amended
428 to read:
429 205.0536 Distribution of county revenues.--A county that
430 establishes a new rate structure under s. 205.0535 shall retain
431 all business ~~occupational license~~ tax revenues collected from
432 businesses, professions, or occupations whose places of business
433 are located within the unincorporated portions of the county.
434 Any business ~~occupational license~~ tax revenues collected by a
435 county that establishes a new rate structure under s. 205.0535
436 from businesses, professions, or occupations whose places of
437 business are located within a municipality, exclusive of the
438 costs of collection, must be apportioned between the

439 unincorporated area of the county and the incorporated
440 municipalities located therein by a ratio derived by dividing
441 their respective populations by the population of the county. As
442 used in this section, the term "population" means the latest
443 official state estimate of population certified under s.
444 186.901. The revenues so apportioned shall be sent to the
445 governing authority of each municipality, according to its
446 ratio, and to the governing authority of the county, according
447 to the ratio of the unincorporated area, within 15 days after
448 the month of receipt.
449 Section 14. Section 205.0537, Florida Statutes, is amended
450 to read:
451 205.0537 Vending and amusement machines.--The business
452 premises where a coin-operated or token-operated vending machine
453 that dispenses products, merchandise, or services or where an
454 amusement or game machine is operated must assure that any
455 required municipal or county business tax certificate
456 ~~occupational license~~ for the machine is secured. The term
457 "vending machine" does not include coin-operated telephone sets
458 owned by persons who are in the business of providing local
459 exchange telephone service and who pay the business tax
460 ~~occupational license~~ under the category designated for telephone
461 companies in the municipality or county or a pay telephone
462 service provider certified pursuant to s. 364.3375. The business
463 ~~license~~ tax for vending and amusement machines must be assessed
464 based on the highest number of machines located on the business
465 premises on any single day during the previous certification
466 ~~licensing~~ year or, in the case of new businesses, be based on an

467 estimate for the current year. Replacement of one vending
468 machine with another machine during a certification ~~licensing~~
469 year does not affect the tax assessment for that year, unless
470 the replacement machine belongs to a business ~~an occupational~~
471 ~~license~~ tax classification that requires a higher tax rate. For
472 the first year in which a municipality or county assesses a
473 business ~~an occupational license~~ tax on vending machines, each
474 business owning machines located in the municipality or county
475 must notify the municipality or county, upon request, of the
476 location of such machines. Each business owning machines must
477 provide notice of the provisions of this section to each
478 affected business premises where the machines are located. The
479 business premises must secure the certificate ~~license~~ if it is
480 not otherwise secured.
481 Section 15. Section 205.054, Florida Statutes, is amended
482 to read:
483 205.054 Business ~~Occupational license~~ tax; partial
484 exemption for engaging in business or occupation in enterprise
485 zone.--
486 (1) Notwithstanding the provisions of s. 205.033(1)(a) or
487 s. 205.043(1)(a), the governing body of a county or municipality
488 may authorize by appropriate resolution or ordinance, adopted
489 pursuant to the procedure established in s. 205.032 or s.
490 205.042, the exemption of 50 percent of the business
491 ~~occupational license~~ tax levied for the privilege of engaging in
492 or managing any business, profession, or occupation in the
493 respective jurisdiction of the county or municipality when such

494 privilege is exercised at a permanent business location or
495 branch office located in an enterprise zone.
496 (2) Such exemption applies to each classification for
497 which a business tax certificate ~~an occupational license~~ is
498 required in the jurisdiction. Classifications shall be the same
499 in an enterprise zone as elsewhere in the jurisdiction. Each
500 county or municipal business tax certificate ~~occupational~~
501 ~~license~~ issued with the exemption authorized in this section
502 shall be in the same general form as the other county or
503 municipal business tax certificates ~~occupational licenses~~ and
504 shall expire at the same time as those other certificates
505 ~~licenses~~ expire as fixed by law. Any certificate ~~license~~ issued
506 with the exemption authorized in this section is
507 nontransferable. The exemption authorized in this section does
508 not apply to any penalty authorized in s. 205.053.
509 (3) Each tax collecting authority of a county or
510 municipality which provides the exemption authorized in this
511 section shall issue to each person who may be entitled to the
512 exemption a certificate ~~license~~ pursuant to the provisions
513 contained in this section. Before a certificate ~~license~~ with
514 such exemption is issued to an applicant, the tax collecting
515 authority must, in each case, be provided proof that the
516 applicant is entitled to such exemption. Such proof shall be
517 made by means of a statement filed under oath with the tax
518 collecting authority, which statement indicates that the
519 permanent business location or branch office of the applicant is
520 located in an enterprise zone of a jurisdiction which has
521 authorized the exemption permitted in this section.

522 (4) Any certificate ~~license~~ obtained with the exemption
523 authorized in this subsection by the commission of fraud upon
524 the issuing authority is ~~shall be deemed null and~~ void. Any
525 person who has fraudulently obtained such exemption and
526 thereafter engages, under color of the certificate ~~license~~, in
527 any business, profession, or occupation requiring the
528 certificate ~~license~~ is subject to prosecution for engaging in a
529 business, profession, or occupation without having the required
530 certificate ~~license~~ under the laws of the state.
531 (5) If ~~In the event~~ an area nominated as an enterprise
532 zone pursuant to s. 290.0055 has not yet been designated
533 pursuant to s. 290.0065, the governing body of a county or
534 municipality may enact the appropriate ordinance or resolution
535 authorizing the exemption permitted in this section; however,
536 such ordinance or resolution will not be effective until such
537 area is designated pursuant to s. 290.0065.
538 (6) This section expires on the date specified in s.
539 290.016 for the expiration of the Florida Enterprise Zone Act;
540 and a certificate may not ~~no license shall~~ be issued with the
541 exemption authorized in this section for any period beginning on
542 or after that date.
543 Section 16. Section 205.063, Florida Statutes, is amended
544 to read:
545 205.063 Exemptions; motor vehicles.--Vehicles used by any
546 person certified ~~licensed~~ under this chapter for the sale and
547 delivery of tangible personal property at ~~either~~ wholesale or
548 retail from his or her place of business on which a business tax
549 ~~license~~ is paid may ~~shall~~ not be construed to be separate places

550 of business, and a business tax ~~no license~~ may not be levied on
551 such vehicles or the operators thereof as salespersons or
552 otherwise by a county or incorporated municipality, any other
553 law to the contrary notwithstanding.
554 Section 17. Section 205.064, Florida Statutes, is amended
555 to read:
556 205.064 Farm, aquacultural, grove, horticultural,
557 floricultural, tropical piscicultural, and tropical fish farm
558 products; certain exemptions.--
559 (1) A ~~No~~ local business tax certificate is not
560 ~~occupational license shall be~~ required of any natural person for
561 the privilege of engaging in the selling of farm, aquacultural,
562 grove, horticultural, floricultural, tropical piscicultural, or
563 tropical fish farm products, or products manufactured therefrom,
564 except intoxicating liquors, wine, or beer, when such products
565 were grown or produced by such natural person in the state.
566 (2) A wholesale farmers' produce market may ~~shall have the~~
567 ~~right to~~ pay a tax of not more than $200 for a certificate
568 ~~license~~ that will entitle the market's stall tenants to engage
569 in the selling of agricultural and horticultural products
570 therein, in lieu of such tenants being required to obtain
571 individual local certificates ~~occupational licenses~~ to so
572 engage.
573 Section 18. Section 205.065, Florida Statutes, is amended
574 to read:
575 205.065 Exemption; nonresident persons regulated by the
576 Department of Business and Professional Regulation.--If any
577 person engaging in or managing a business, profession, or

578 occupation regulated by the Department of Business and
579 Professional Regulation has paid a business ~~an occupational~~
580 ~~license~~ tax for the current year to the county or municipality
581 in the state where the person's permanent business location or
582 branch office is maintained, no other local governing authority
583 may levy a business ~~an occupational license~~ tax, or any
584 registration or regulatory fee equivalent to the business
585 ~~occupational license~~ tax, on the person for performing work or
586 services on a temporary or transitory basis in another
587 municipality or county. ~~In no event shall any~~ Work or services
588 performed in a place other than the county or municipality where
589 the permanent business location or branch office is maintained
590 may not be construed as creating a separate business location or
591 branch office of that person for the purposes of this chapter.
592 Any properly licensed contractor asserting an exemption under
593 this section who is unlawfully required by the local governing
594 authority to pay a business ~~an occupational license~~ tax, or any
595 registration or regulatory fee equivalent to a business ~~the~~
596 ~~occupational license~~ tax, has ~~shall have~~ standing to challenge
597 the propriety of the local government's actions, and the
598 prevailing party in such a challenge is entitled to recover a
599 reasonable attorney's fee.
600 Section 19. Section 205.162, Florida Statutes, is amended
601 to read:
602 205.162 Exemption allowed certain disabled persons, the
603 aged, and widows with minor dependents.--
604 (1) All disabled persons physically incapable of manual
605 labor, widows with minor dependents, and persons 65 years of age

606 or older, with not more than one employee or helper, and who use
607 their own capital only, not in excess of $1,000, may ~~shall be~~
608 ~~allowed to~~ engage in any business or occupation in counties in
609 which they live without being required to pay for a business tax
610 certificate ~~license~~. The exemption provided by this section
611 shall be allowed only upon the certificate of the county
612 physician, or other reputable physician, that the applicant
613 claiming the exemption is disabled, the nature and extent of the
614 disability being specified therein, and in case the exemption is
615 claimed by a widow with minor dependents, or a person over 65
616 years of age, proof of the right to the exemption shall be made.
617 Any person entitled to the exemption provided by this section
618 shall, upon application and furnishing of the necessary proof as
619 aforesaid, be issued a certificate ~~license~~ which shall have
620 plainly stamped or written across the face thereof the fact that
621 it is issued under this section, and the reason for the
622 exemption shall be written thereon.
623 (2) Neither ~~In no event under~~ this nor ~~or~~ any other law
624 exempts ~~shall~~ any person~~, veteran or otherwise, be allowed any~~
625 ~~exemption whatsoever~~ from the payment of any amount required by
626 law for the issuance of a license to sell intoxicating liquors
627 or malt and vinous beverages.
628 Section 20. Section 205.171, Florida Statutes, is amended
629 to read:
630 205.171 Exemptions allowed disabled veterans of any war or
631 their unremarried spouses.--
632 (1) Any bona fide, permanent resident elector of the state
633 who served as an officer or enlisted person during any of the

634 periods specified in s. 1.01(14) in the Armed Forces of the
635 United States, National Guard, or United States Coast Guard or
636 Coast Guard Reserve, or any temporary member thereof, who has
637 actually been, or may hereafter be, reassigned by the air force,
638 army, navy, coast guard, or marines to active duty during any
639 war, declared or undeclared, armed conflicts, crises, etc., who
640 was honorably discharged from the service of the United States,
641 and who at the time of his or her application for a business tax
642 certificate is ~~license as hereinafter mentioned shall be~~
643 disabled from performing manual labor shall, upon sufficient
644 identification, proof of being a permanent resident elector in
645 the state, and production of an honorable discharge from the
646 service of the United States:
647 (a) Be granted a certificate ~~license~~ to engage in any
648 business or occupation in the state which may be carried on
649 mainly through the personal efforts of the certificateholder
650 ~~licensee~~ as a means of livelihood and for which the state
651 license or~~,~~ county~~,~~ or municipal certificate ~~license~~ does not
652 exceed the sum of $50 for each without payment of any business
653 ~~license~~ tax otherwise provided for by law; or
654 (b) Be entitled to an exemption to the extent of $50 on
655 any certificate ~~license~~ to engage in any business or occupation
656 in the state which may be carried on mainly through the personal
657 efforts of the certificateholder ~~licensee~~ as a means of
658 livelihood when the state license or~~,~~ county~~,~~ or municipal
659 certificate ~~license~~ for such business or occupation is ~~shall be~~
660 more than $50. The exemption ~~heretofore referred to~~ shall extend
661 to and include the right of the certificateholder ~~licensee~~ to

662 operate an automobile-for-hire of not exceeding five-passenger
663 capacity, including the driver, when ~~it shall be made to appear~~
664 ~~that~~ such automobile is ~~bona fide~~ owned or contracted to be
665 purchased by the certificateholder ~~licensee~~ and is being
666 operated by him or her as a means of livelihood and that the
667 proper business ~~license~~ tax for the operation of such motor
668 vehicle for private use has been applied for and attached to the
669 ~~said~~ motor vehicle and the proper fees ~~therefor~~ paid by the
670 certificateholder ~~licensee~~.
671 (2) When ~~any~~ such person applies ~~shall apply~~ for a
672 certificate ~~license~~ to conduct any business or occupation for
673 which ~~either~~ the county or municipal business ~~license~~ tax
674 exceeds ~~as fixed by law shall exceed the sum of~~ $50, the
675 remainder of such ~~license~~ tax in excess of $50 shall be paid in
676 cash.
677 (3) Each ~~and every~~ tax collecting authority of this state
678 and of each county ~~thereof~~ and each municipality ~~therein~~ shall
679 issue to such persons as may be entitled hereunder a certificate
680 ~~license~~ pursuant to the foregoing provision and subject to the
681 conditions thereof. Such certificate ~~license~~ when issued shall
682 be marked across the face ~~thereof~~ "Veterans Exempt
683 License"--"Not Transferable." Before issuing the certificate
684 ~~same~~, proof shall be duly made ~~in each case~~ that the applicant
685 is entitled under ~~the conditions of~~ this law to receive the
686 exemption ~~herein provided for~~. The proof may be made by
687 establishing to the satisfaction of such tax collecting
688 authority by means of certificate of honorable discharge or

689 certified copy thereof that the applicant is a veteran within
690 the purview of this section and by exhibiting:
691 (a) A certificate of government-rated disability to an
692 extent of 10 percent or more;
693 (b) The affidavit or testimony of a reputable physician
694 who personally knows the applicant and who makes oath that the
695 applicant is disabled from performing manual labor as a means of
696 livelihood;
697 (c) The certificate of the veteran's service officer of
698 the county in which applicant lives, duly executed under the
699 hand and seal of the chief officer and secretary thereof,
700 attesting the fact that the applicant is disabled and entitled
701 to receive a certificate ~~license~~ within the meaning and intent
702 of this section;
703 (d) A pension certificate issued to him or her by the
704 United States by reason of such disability; or
705 (e) Such other reasonable proof as may be required by the
706 tax collecting authority to establish the fact that such
707 applicant is ~~so~~ disabled.
708
709 All certificates ~~licenses~~ issued under this section shall be in
710 the same general form as other state, county, and municipal
711 licenses and shall expire at the same time as such other
712 licenses are fixed by law to expire.
713 (4) Certificates ~~All licenses~~ obtained ~~under the~~
714 ~~provisions of this section~~ by the commission of fraud upon any
715 issuing authority are ~~shall be deemed null and~~ void. Any person
716 who has fraudulently obtained a certificate ~~any such license~~, or

717 who has fraudulently received any transfer of a certificate
718 ~~license~~ issued to another, and has thereafter engaged in any
719 business or occupation requiring a certificate ~~license~~ under
720 color thereof is ~~shall be~~ subject to prosecution ~~as~~ for engaging
721 in a business or occupation without having the required
722 certificate ~~license~~ under the laws of the state. Such
723 certificate may ~~license shall~~ not be issued in any county other
724 than the county where the ~~wherein said~~ veteran is a ~~bona fide~~
725 resident citizen elector, unless such veteran produces ~~applying~~
726 ~~therefor shall produce to the tax collecting authority in such~~
727 ~~county~~ a certificate of the tax collector of his or her home
728 county to the effect that no exemption from certification
729 ~~license~~ has been granted to such veteran in his or her home
730 county under ~~the authority of~~ this section.
731 (5) Neither ~~In no event, under~~ this nor ~~or~~ any other law
732 exempts~~, shall~~ any person~~, veteran or otherwise, be allowed any~~
733 ~~exemption whatsoever~~ from the payment of any amount required by
734 law for the issuance of a license to sell intoxicating liquors
735 or malt and vinous beverages.
736 (6) The unremarried spouse of a ~~the~~ deceased disabled
737 veteran of any war in which the United States Armed Forces
738 participated is ~~will be~~ entitled to the same exemptions as the
739 disabled veteran.
740 Section 21. Section 205.191, Florida Statutes, is amended
741 to read:
742 205.191 Religious tenets; exemption.--~~Nothing in~~ This
743 chapter does not ~~shall be construed to~~ require a business tax

744 certificate ~~license~~ for practicing the religious tenets of any
745 church.
746 Section 22. Section 205.192, Florida Statutes, is amended
747 to read:
748 205.192 Charitable, etc., organizations; occasional sales,
749 fundraising; exemption.--A business tax certificate is not ~~No~~
750 ~~occupational license shall be~~ required of any charitable,
751 religious, fraternal, youth, civic, service, or other similar
752 ~~such~~ organization that ~~when the organization~~ makes occasional
753 sales or engages in fundraising projects that ~~when the projects~~
754 are performed exclusively by the members, ~~thereof~~ and ~~when~~ the
755 proceeds derived from the activities are used exclusively in the
756 charitable, religious, fraternal, youth, civic, and service
757 activities of the organization.
758 Section 23. Section 205.193, Florida Statutes, is amended
759 to read:
760 205.193 Mobile home setup operations; local business tax
761 certificate ~~license~~ prohibited; exception.--A ~~No~~ county,
762 municipality, or other unit of local government may not require
763 a ~~duly~~ licensed mobile home dealer or a ~~duly~~ licensed mobile
764 home manufacturer, or an employee of a ~~such~~ dealer or
765 manufacturer, who performs setup operations as defined in s.
766 320.822 to be a certificateholder ~~licensed~~ to engage in such
767 operations. However, such dealer or manufacturer must ~~shall be~~
768 ~~required to~~ obtain a local certificate ~~occupational license~~ for
769 his or her permanent business location or branch office, which
770 certificate ~~license~~ shall not require for its issuance any
771 conditions other than those required by chapter 320.

772 Section 24. Section 205.194, Florida Statutes, is amended
773 to read:
774 205.194 Prohibition of local business tax certificate
775 ~~occupational licensure~~ without exhibition of state license or
776 registration.--
777 (1) Any person applying for or renewing a local business
778 tax certificate ~~occupational license~~ for the ~~licensing~~ period
779 beginning October 1, 1985, to practice any profession regulated
780 by the Department of Business and Professional Regulation, or
781 any board or commission thereof, must exhibit an active state
782 certificate, registration, or license, or proof of copy of the
783 same, before such local certificate ~~occupational license~~ may be
784 issued. Thereafter, only persons applying for the first time for
785 a certificate ~~local occupational license~~ must exhibit such
786 certification, registration, or license.
787 (2) The Department of Business and Professional Regulation
788 shall, by August 1 of each year, supply to the local official
789 who issues local certificates ~~occupational licenses~~ a current
790 list of professions it regulates and information regarding those
791 persons for whom certificates ~~local occupational licenses~~ should
792 not be renewed due to the suspension, revocation, or
793 inactivation of such person's state license, certificate, or
794 registration. The official who issues local certificates
795 ~~occupational licenses~~ shall not renew such license unless such
796 person can exhibit an active state certificate, registration, or
797 license.

798 (3) This section shall not apply to s. 489.113, s.
799 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
800 489.521, or s. 489.537.
801 Section 25. Section 205.196, Florida Statutes, is amended
802 to read:
803 205.196 Pharmacies and pharmacists.--A ~~No~~ state, county,
804 or municipal licensing agency may not ~~shall~~ issue a business tax
805 certificate ~~an occupational license~~ to operate a pharmacy unless
806 the applicant produces ~~shall first exhibit~~ a current permit
807 issued by the Board of Pharmacy; however, no such certificate is
808 ~~occupational license shall be~~ required ~~in order~~ to practice the
809 profession of pharmacy.
810 Section 26. Section 205.1965, Florida Statutes, is amended
811 to read:
812 205.1965 Assisted living facilities.--A county or
813 municipality may not issue a business tax certificate ~~an~~
814 ~~occupational license~~ for the operation of an assisted living
815 facility pursuant to part III of chapter 400 without first
816 ascertaining that the applicant has been licensed by the Agency
817 for Health Care Administration to operate such facility at the
818 specified location or locations. The Agency for Health Care
819 Administration shall furnish to local agencies responsible for
820 issuing certificates ~~occupational licenses~~ sufficient
821 instructions for making the ~~above~~ required determinations.
822 Section 27. Section 205.1967, Florida Statutes, is amended
823 to read:
824 205.1967 Prerequisite for issuance of pest control
825 business tax certificate ~~occupational license~~.--A municipality

826 or county may not issue a business tax certificate ~~an~~
827 ~~occupational license~~ to any pest control business regulated
828 ~~coming~~ under chapter 482~~,~~ unless a current license has been
829 procured from the Department of Agriculture and Consumer
830 Services for each of its business locations in that municipality
831 or county. Upon presentation of the requisite licenses from the
832 department and the required fee, a business tax certificate ~~an~~
833 ~~occupational license~~ shall be issued by the municipality or
834 county in which application is made.
835 Section 28. Section 205.1969, Florida Statutes, is amended
836 to read:
837 205.1969 Health studios; consumer protection.--A ~~No~~ county
838 or municipality may not ~~shall~~ issue or renew a business tax
839 certificate ~~an occupational license~~ for the operation of a
840 health studio pursuant to ss. 501.012-501.019 or ballroom dance
841 studio pursuant to s. 501.143, unless such business exhibits a
842 current license, registration, or letter of exemption from the
843 Department of Agriculture and Consumer Services.
844 Section 29. Section 205.1971, Florida Statutes, is amended
845 to read:
846 205.1971 Sellers of travel; consumer protection.--A ~~No~~
847 county or municipality may not ~~shall~~ issue or renew a business
848 tax certificate ~~an occupational license~~ to engage in business as
849 a seller of travel pursuant to part XI of chapter 559 unless
850 such business exhibits a current registration or letter of
851 exemption from the Department of Agriculture and Consumer
852 Services.

853 Section 30. Section 205.1973, Florida Statutes, is amended
854 to read:
855 205.1973 Telemarketing businesses; consumer protection.--A
856 county or municipality may not issue or renew a business tax
857 certificate ~~an occupational license~~ for the operation of a
858 telemarketing business under ss. 501.604 and 501.608, unless
859 such business exhibits a current license or registration from
860 the Department of Agriculture and Consumer Services or a current
861 affidavit of exemption.
862 Section 31. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1297 Town of Grant-Valkaria, Brevard County
SPONSOR(S): Poppell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1914

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

SUMMARY ANALYSIS

HB 1297 provides a charter for the Town of Grant-Valkaria in Brevard County. This charter provides for:

- the creation and establishment of the town, and the amendment of the charter;
- corporate boundaries, powers of the town, and a town council-administrator form of government;
- a town council and its powers and duties, compensation, membership and meetings;
- a mayor and vice mayor, their powers and duties, and the filling of vacancies;
- ordinances, and restrictions on the use of eminent domain;
- a town administrator and his or her powers and duties, appointment, qualifications, compensation, removal and absence;
- the establishment of departments, offices and agencies and their administration under the direction of the town administrator; a personnel system; and a town attorney;
- land use, development and environmental planning;
- accounting procedures; the fiscal year; an annual audit; availability of financial records; public deposits; requirements for purchase or sale of real property; an annual budget; the levy of taxes; a prohibition on the issuance of certain bonds or entering into certain types of contracts; emergency appropriations;
- town elections;
- appointment and removal of town administrative officers and employees;
- regulation of campaign financing;
- a long-range plan, and a five-year financial plan;
- emergency operations;
- transitional provisions, including an interim council, sources of revenue and continuity of services.

The bill provides that the act takes effect only upon its approval by a majority vote of qualified electors residing within the corporate limits of the proposed city.

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.

According to the Economic Impact Statement, the projected cost of funding the town government and municipal services of Grant-Valkaria will be $1,641,575 for FY 06-07 and $1,777,937 for FY 07-08. Anticipated sources of funding are projected to be $1,796,298 in FY 06-07 and $1,891,519 in FY 07-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

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

B. EFFECT OF PROPOSED CHANGES:

Background/Municipal Incorporation

Constitutional Provisions

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

Statutory Provisions

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

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

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

Requirements and Standards for Municipal Incorporation

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

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

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

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

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

Feasibility Study

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

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

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

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

- existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
- a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.

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

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

Formation Activity In Florida

Municipal Incorporations and Mergers

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

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

1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.
1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter

Failed Attempts at Municipal Incorporation

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

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

(ch. 86-463, L.O.F.)

- The City of Deltona Lakes (1987)
  (ch. 87-449, L.O.F.)

- The City of Deltona (1990)
  (ch. 90-410, L.O.F.)

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

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

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

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

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

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

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

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

Municipal Mergers

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

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

Municipal Dissolutions

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

- Bithlo in Orange County by authority of the Secretary of State in January 1977;
- Bayview in Bay County by ch. 77-501, L.O.F.;
- Munson Island in Monroe County by ch. 81-438, L.O.F.;
- Painters Hill in Flagler County by ch. 81-453, L.O.F.;
- Hacienda Village in Broward County by ch. 84-420, L.O.F.;

- Pennsuco in Miami-Dade County under authority of the Miami-Dade County Charter;
- Golfview in Palm Beach County by ch. 97-329, L.O.F.; and
- North Key Largo by ch. 2003-318, L.O.F.

Town of Grant-Valkaria

The communities of Grant and Valkaria are located in the southeastern quadrant of Brevard County. Originally settled as fishing villages, Grant and Valkaria have been identifiable as independent communities since the late 19th century. The contiguous communities are bounded by the Town of Malabar on the north, the Indian River Lagoon on the east, the City of Palm Bay to the west, and the unincorporated community of Micco to the south.

In November of 2004, in response to growing concerns over encroaching development and annexations of large tracks of adjacent properties, groups of Grant and Valkaria residents began exploring the options available to preserve their community. Among the alternatives considered were petitioning for annexation to an adjoining municipality, establishing a "Preservation District," seeking designation as a special district, or investigating the possibility of municipal incorporation.[4]

A feasibility study on the creation of the town, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on December 5, 2005. This study and the charter were reviewed by the Legislative Committee on Intergovernmental Relations, Office of Economic & Demographic Research, Department of Revenue and Department of Community Affairs.[5]

Effect of Proposed Changes

Proposed Charter

HB 1297 provides a proposed charter for the Town of Grant-Valkaria:

Section 1: Town of Grant-Valkaria; charter; creation; powers; construction; form of government; boundaries; intergovernmental relations.
(1) CHARTER; CREATION: Provides for the charter of the Town of Grant-Valkaria, and creates and establishes the town.
(2) POWERS OF THE TOWN: Provides that the town retain claim to all power and legal rights granted to municipalities under the Constitution and laws of the State of Florida.
(3) CONSTRUCTION: Provides for the liberal construction of the powers of the town.
(4) FORM OF GOVERNMENT: Provides that the town shall have a town council-administrator form of government.
(5) CORPORATE BOUNDARIES: Provides a legal description for the town.
(6) INTERGOVERNMENTAL RELATIONS: Provides that the town may participate by contract or otherwise with any governmental entity of the state, or any other state, in the performance of any activity that one or more of such entities has the authority to undertake.

Section 2: Town council; mayor; vice mayor; ordinances; eminent domain.
(1) TOWN COUNCIL: Provides that the town council shall consist of six council members and one mayor, for a total of seven members, all of whom are elected at large; provides that four or more members of the town council will constitute a majority, and five or more members of the town council will constitute a supermajority; provides that a majority of the town council shall constitute a quorum; provides that all powers of the town shall be vested in the elected town council, except as otherwise provided by law or the charter.
(2) MAYOR: Provides that the mayor shall preside at meetings of the town council, and be a regular voting member of the town council; provides that the mayor shall be recognized as the head of town

[4] See, the Grant/Valkaria Incorporation Feasibility Study as presented to the Brevard County Commission on November 2, 2005.
[5] These reviews are on file with the Local Government Council.

government for all ceremonial purposes, for purposes of military law, and for service of process and execution of town council authorized contracts, deeds and other documents.
(3) VICE MAYOR: Provides that the vice mayor shall act as mayor in the absence of the mayor; provides that the vice mayor shall be elected from among council members for a term of one year or until his or her successor is elected; provides that a council member shall not serve consecutive terms as vice mayor unless no other council member is willing to serve as vice mayor.
(4) VACANCIES: Provides that the office of a town council member will become vacant upon the incumbent's death, resignation or removal from office in any manner authorized by law or by forfeiture of his or her office; provides that a town council member shall forfeit his or her seat if he or she ceases to maintain a permanent residence in the town or otherwise ceases to be a qualified elector of the town; provides that any member of the town council shall be subject to forfeiture of his or her office if absent without good cause from any three consecutive regular meetings of the council or any four regular meetings of the council within any 12-month period; provides that the town council shall be the sole judge of the qualifications of its members.
(5) FILLING OF VACANCIES: Provides that a vacancy on the town council shall be filled by a majority vote of the remaining members of the town council, unless at the time of the vacancy there are fewer than six months remaining before the next regular election, in which case the town council shall have the discretion to leave the seat vacant until the election; provides that in the event that all the members of the town council are removed by death, disability, recall, forfeiture of office, resignation or any combination thereof, the Governor shall appoint an interim town council; provides that the interim town council shall call a special election within not fewer than 60 days or more than 90 days after such appointment; provides that if there are fewer than six months remaining in the unexpired terms, the interim town council appointed by the Governor shall serve out the unexpired terms.
(6) COMPENSATION; REIMBURSEMENT FOR EXPENSES: Provides that council members shall serve as town volunteers and not be compensated; provides that council members shall receive reimbursement for council-approved expenses in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized travel and per diem expenses incurred in the performance of their official duties; provides that an ordinance establishing, increasing or decreasing reimbursement for expenses of the council members may be adopted at any time.
(7) INVESTIGATIONS: Provides that the town council may make investigations into the affairs of the town and the conduct of any town department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.
(8) MEETINGS: Provides that the town council shall hold a minimum of 11 monthly meetings in each fiscal year at such times and places as the town council may prescribe by rule; provides that special meetings may be held on the call of the mayor or four or more members and, whenever feasible, upon no less than 24 hours' notice to each member; provides that except as otherwise provided by general law, all meetings shall be public; provides that the town council shall determine its own rules and order of business and procedure or use the latest edition of Robert's Rules of Order; provides that the town council shall provide for keeping a journal of its proceedings; provides that such journal shall be a public record except as otherwise provided by general law; provides that all town council votes shall be recorded in the journal; provides that no action of the town council, except as otherwise provided in the charter, shall be valid or binding unless adopted by a majority decision; provides that except as otherwise provided in the charter, all land use and quasi-judicial items shall require a supermajority decision.
(9) ORDINANCES: Provides that acts which accomplish the following (in addition to other acts required by law or by specific provision of the charter) must be ordinances:

- adopt or amend an administrative code or establish, alter, or abolish any town department, office or agency;
- regulate land use and development;
- levy taxes;
- grant, renew or extend a franchise;
- regulate the rate charged by a public utility for its services;
- authorize the borrowing of money;
- convey or lease, or authorize the conveyance or lease of, any lands of the town;

- provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- amend or repeal any ordinance previously adopted; or
- adopt, with or without amendment, ordinances proposed under the initiative power.

(10) EMINENT DOMAIN: Provides that the town council may not exercise its powers of eminent domain or condemnation to acquire property for private development purposes, regardless of the public good such eminent domain or condemnation might support.
(11) ORDINANCES IN GENERAL: Provides that every proposed ordinance shall be introduced in writing and in the form required for final adoption; provides that no ordinance shall contain more than one subject, which shall be clearly expressed in its title; provides for ordinances that repeal or amend an existing ordinance or part of the town code; provides that any member of the town council at any regular or special meeting of the town council may introduce an ordinance; provides other procedural rules for ordinances; provides that except as otherwise provided in the charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein; provides for the adoption and repeal of emergency ordinances; provides that the town council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance; provides that the town clerk shall authenticate by signing and recording in full in a properly indexed document kept for that purpose all ordinances and resolutions adopted by the town council; provides that within three years after adoption of the charter and at least every 10 years thereafter, the town council shall provide for the preparation of a general codification of all town ordinances and resolutions having the force and effect of law; provides for the publication and distribution of town ordinances.

Section 3: Town administrator.
(1) APPOINTMENT; QUALIFICATIONS; COMPENSATION: Provides that the town council, by majority vote, shall appoint a town administrator for an indefinite term and set his or her compensation; provides for qualifications and residency; provides that the town administrator is responsible to the town council.
(2) REMOVAL: Provides that the town council may request the resignation of the town administrator; provides that the town council may suspend and remove the town administrator.
(3) ABSENCE OR DISABILITY: Provides that to perform his or her duties during a temporary absence or disability, the town administrator may designate, by letter filed with the town clerk, an interim town administrator: provides in the event of failure or inability of the town administrator to make such designation, or should the person so designated by the town administrator be unsatisfactory to the town council, that the town council may by resolution appoint an interim town administrator.
(4) POWERS AND DUTIES: Provides that the town administrator shall be the chief executive officer of the town; provides that the town administrator shall:

- hire or fill existing positions, suspend or remove town employees, and may serve as town clerk;
- direct and supervise the administration of all departments and offices, but not town boards or agencies, except as otherwise directed by the town council or provided by the charter;
- attend all town council meetings;
- ensure that all laws, provisions of the charter, and acts of the town council, subject to enforcement by the town administrator or by officers subject to the town administrator's direction and supervision, are faithfully executed;
- prepare and submit the annual budget and capital program to the town council and implement the final budget approved by the town council to achieve the goals of the town;
- submit to the town council, and make available to the public, a complete report on the financial and administrative activities of the town as of the end of each fiscal year;
- prepare such other reports as the town council may require concerning the operations of town departments, offices, boards and agencies;
- keep the town council fully advised as to the financial condition and current and future needs of the town;

- assist the town council in developing long-term goals for the town and strategies to implement these goals;
- make recommendations to the town council concerning the affairs of the town and facilitate the work of the town council in developing policy;
- provide staff support services for the mayor and council members;
- encourage and provide staff support for regional and intergovernmental cooperation;
- promote partnerships among the town council, staff and citizens in developing public policy and building a sense of community; and
- perform all such other duties as are specified in the charter or that may be required by the town council.

(5) BOND: Provides that the town administrator and, where applicable, an interim town administrator shall furnish a security bond to be approved by the town council, in such amount as the town council may specify, such bond to be conditioned on the faithful performance of his or her duties; provides that the premium of the bond shall be paid by the town.

Section 4: Departments, offices, and agencies; town attorney; land use.
(1) CREATION OF DEPARTMENTS, OFFICES, AND AGENCIES: Provides that the town council may establish town departments, offices and agencies and prescribe their functions.
(2) DIRECTION BY TOWN ADMINISTRATOR: Provides that all departments, offices and agencies under the direction and supervision of the town administrator shall be administered by an officer appointed by and subject to the direction and supervision of the town administrator; provides that with the consent of the town council, the town administrator may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.
(3) PERSONNEL SYSTEM: Provides that all appointments and promotions of town officers and employees shall be made primarily on the basis of merit or other evidence of competence; provides that consistent with all applicable federal and state laws, the town council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the town's departments, offices and agencies.
(4) TOWN ATTORNEY: Provides that the town council shall appoint the town attorney by an affirmative vote of a majority of the town council; provides that the town council shall establish a contract term for the town attorney that includes scheduled reviews; provides that the town attorney shall report to the town council to serve as chief legal adviser to the town council, the town administrator, and all town departments, offices and agencies; provides that compensation and benefits of the town attorney shall be set by the town council; provides that the town attorney shall be a member in good standing of The Florida Bar; provides that the town council may remove the town attorney at any time by an affirmative vote of a majority of the town council; provides that the town attorney shall take office immediately on appointment, and that the terms and conditions of his or her appointment shall be reduced to a written contract; provides that the town council shall have the authority to engage such additional legal counsel as it deems advisable and necessary.
(5) LAND USE, DEVELOPMENT AND ENVIRONMENTAL PLANNING: Provides that, consistent with all applicable federal and state laws with respect to land use, development and environmental planning, the town council shall:

- designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance or in section 9;
- adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
- determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plans; and
- adopt development regulations, to be specified by ordinance, to implement the plan.

Provides that the designated agency, the town administrator and the town council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

Section 5: Finances.
(1) ACCOUNTING PROCEDURES: Provides that the town administrator shall prescribe and require, except as may be prescribed and required by law, the use of plain and uniform systems of keeping books of accounts by all town departments, officers or employees who are charged with the receipt or disbursements of any of the funds of the town or who may be authorized to purchase materials and supplies or to employ labor for the town.
(2) FISCAL YEAR: Provides that the fiscal year of the town shall begin with the first day of October in each year and end on the last day of September of the following year, as set forth in s.166.241, F.S.
(3) ANNUAL AUDIT: Provides that the town council shall retain a certified public accountant to be the independent auditor of accounts of the town; provides that it shall be the duty of the auditor to audit the accounts of the town and all its officers whose duty involves the collection, custody and payment of moneys to or by the town; provides that the auditor shall, on or before April 15 of each year, make and deliver a detailed report of any and all accounts, records and books from the previous fiscal year examined and audited by him or her.
(4) PUBLIC FINANCIAL RECORDS: Provides that the town administrator shall regularly make available as public records at a suitable location all major revenues and expenditures of the town for a given fiscal year; provides that this information shall be made available, at a minimum, quarterly.
(5) PUBLIC DEPOSITS: Provides that all public deposits shall be made in qualified public depositories and secured as provided by state law.
(6) PURCHASE, SALE, AND LEASE OF REAL PROPERTY: Provides that all purchases or sales of real property by the town or leases of town-owned property are subject to public notice and hearing before action is taken by the town council; provides that such action shall require a supermajority vote of the town council; provides that the public notice shall be of the same extent and nature as that required by general law for rezoning.
(7) ANNUAL BUDGET: Provides for submission of annual budget; provides that on or before July 15 of each year, the town administrator shall submit a budget in accordance with state law; provides that the town council shall adopt a budget for the ensuing fiscal year by resolution on or before September 30 of each year; provides that the town council shall not authorize or allow to be authorized a budget that exceeds the reasonably expected revenue for the ensuing fiscal year; provides that if at any time during the fiscal year it appears probable to the town administrator that the revenues available will be insufficient to meet the amount appropriated in the budget, the town administrator shall report to the town council without delay; provides that the town council shall then take action to prevent or minimize any deficit and for that purpose may, by resolution, reduce one or more appropriations; provides that the town administrator shall have full authority to transfer unencumbered funds between different programs within a department, office or agency; provides that the town administrator shall not have the authority to transfer funds between departments, offices or agencies; provides that the town council may, by resolution, transfer or otherwise allocate or reallocate part or all of any unencumbered balance within a department, office or agency to any other department, office or agency; provides that copies of the budget as adopted shall be public record and shall be made available to the public at a suitable location in the town.
(8) TAXATION AND REVENUE: Provides that all property, real or personal, in the town not expressly exempt by state law shall be subject to taxation by the town within the limits set forth by the State Constitution and general law; provides that the town council shall have the right to raise, by taxation on the taxable property within the corporate limits of the town and on licenses, such amounts as may be necessary to carry on the government of the town, within the limits set forth by the State Constitution and general law; provides that the town council shall have the right to levy such additional taxes, within the limits set forth by the State Constitution and general law, as may be necessary to pay the interest on, and to provide a sinking fund for the ultimate redemption of, the outstanding bonds of the town as may from time to time be issued in accordance with law and to pay any lawful judgment that the town may be compelled to satisfy; provides that unless authorized by the electors of the town at a duly held referendum election, the town council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multiyear contracts for the purchase of real property or the construction of capital improvements the repayment of which extends beyond the end of any fiscal year.

(9) EMERGENCY APPROPRIATIONS: Provides that to address a public emergency affecting life, health, property or the public peace, the town council may make emergency appropriations; provides that such appropriations may be made by emergency ordinance in accordance with the provisions of section 2; provides that to the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the town council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Section 6: Town elections.
(1) CONDUCT OF ELECTIONS: Provides that the provisions of the general election laws of the state shall apply to all elections held under the charter; provides that the town council may, by ordinance, make all regulations it considers needful or desirable, not inconsistent with the charter, for the conduct of municipal elections and for the prevention of fraud therein; provides that nothing in the charter shall preclude the town council from authorizing the administration of town elections by the county supervisor of elections; provides that regular town elections shall be held every two years beginning on November 7, 2006, coincident with county, state and national elections; provides that poll workers and clerks of elections, if required, shall be appointed by the Brevard County Supervisor of Elections; provides for special elections; provides that any person who is a resident of the town, is qualified as an elector of the state, and is registered to vote in the manner prescribed by law shall be an elector of the town; provides for nonpartisan elections.
(2) COMMENCEMENT OF TERMS: Provides that the term of office of any elected official shall commence two weeks after the election.
(3) OATH OF OFFICE: Provides for an oath of office.
(4) METHOD OF ELECTING COUNCIL MEMBERS: Provides that the ballot for the general election shall contain the names of all qualified candidates for council members and the number of seats up for election; provides that the ballot shall instruct electors to cast one vote for each open council seat; provides that the candidates who receive the largest number of votes shall be the duly elected council members and shall be designated as holding a specific council seat number; provides that council seat numbers shall be assigned such that the lowest seat number available is given to the candidate who receives the largest number of votes.
(5) METHOD OF ELECTING THE MAYOR: Provides that if the mayor's term is expiring, the ballot for the general election shall contain the names of all qualified candidates for mayor and shall instruct electors to cast one vote for mayor; provides that the candidate for mayor receiving the largest number of votes shall be the duly elected mayor.
(6) TIE VOTES: Provides that in the event of a tie for the office of council member or mayor, the winner shall be determined by lot.
(7) CANDIDATE FORUMS: Provides that the town shall sponsor and budget for a minimum of three candidate forums; provides that each candidate for mayor or council seat shall participate in a minimum of two candidate forums.
(8) QUALIFYING OF CANDIDATES FOR OFFICE OF COUNCIL MEMBER OR MAYOR: Provides that only electors of the town who have resided in the town for the two years preceding the date of filing for candidacy shall be eligible to hold the office of council member or mayor; provides that candidates for council member or mayor shall qualify for election by the filing of a written notice of candidacy with the clerk of the town at such time and in such manner as may be prescribed by ordinance, plus payment of any fees required by general law as a qualifying fee; provides that the candidate shall submit a qualifying statement, as prescribed by ordinance, with the signatures of at least one percent of the total number of electors at the last general election, and pay any required filing fee; provides for a qualifying period of not be less than 45 days and not more than 60 days prior to the election.
(9) INITIATIVE, CITIZEN REFERENDUM, AND RECALL: Provides that the electors of the town shall have power to propose ordinances to the town council; provides that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, or salaries of town employees; provides that if the town council fails to adopt the proposed ordinance or a modification thereof, the electors shall have the power to adopt or reject it at a town election; provides

that the electors of the town shall have the power to require reconsideration by the town council of any adopted ordinance; provides that the electors of the town shall have the power to remove from office any elected official of the town in accordance with general law.
(10) INITIATIVE AND REFERENDUM PROCEEDINGS: Provides that any five electors may commence initiative or referendum proceedings by filing with the town clerk an affidavit stating that they will constitute the petitioners' committee, stating that they will be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the petitioners' committee are to be sent, and setting out in full the proposed initiative ordinance or the proposed amendment or repeal action relating to an existing ordinance.
(11) RESULTS OF INITIATIVE OR REFERENDUM: Provides that if a majority of the electors voting in a referendum on a proposed initiative ordinance votes in favor of such ordinance, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the town council; provides that if a majority of the electors voting in a referendum on a request to repeal an existing ordinance votes in favor of repeal, the ordinance shall be considered repealed upon certification of the election results.

Section 7: General provisions.
(1) CONDUCT OF OFFICIALS IN OFFICE: Provides that all town council members, town officials and town employees shall be subject to the code of ethics for public officers and employees set forth in part III of ch.112, F.S., as required by law; provides that the use of public office for private gain is prohibited and for the town council to implement this prohibition by ordinance.
(2) PROHIBITIONS: Provides that except where authorized by law, neither the mayor nor any council member shall hold any other elected public office during the term for which the mayor or council member is elected; provides that no elected town official shall hold any appointive town office or town employment while in office; provides that no former elected town official shall hold any compensated appointive town office or town employment until 12 months after the expiration of his or her term.
(3) APPOINTMENTS AND REMOVALS: Provides that neither the council members nor the mayor shall in any manner control or demand the appointment or removal of any town administrative officer or employee whom the town administrator or any subordinate of the town administrator is empowered to appoint.
(4) INTERFERENCE WITH ADMINISTRATION: Provides that except for the purpose of inquiries and investigations, the town council and its members shall deal with the town officers and employees who are subject to the direction of the town administrator solely through the town administrator, and neither the town council nor its members shall give orders to any such officer or employee either publicly or privately.
(5) CAMPAIGN FINANCE: Provides that the town council shall adopt ordinances to protect the ability of citizens to be informed of financing used in campaigns for local office; provide that the town council may adopt ordinances that limit contributions, time limits on fundraising, and public financing.
(6) LONG-RANGE PLAN: Provides that the town council shall meet to discuss long-range goals and objectives that, when achieved, will sustain town operations and continued quality of life for inhabitants of the town.
(7) FIVE-YEAR FINANCIAL PLAN: Provides that in accordance with the five-year goals and objectives established in the long-range plan by the town council, the town council shall prepare a five-year financial plan.
(8) EMERGENCY OPERATIONS: Provides that the town council shall establish an emergency preparedness plan, and review it annually.
9) DISSOLUTION: Provides that the charter of the town may not be revoked except in accordance with the dissolution procedures of ch. 165, F. S.

Section 8: Charter amendment.
(1) PROCEDURE TO AMEND THE CHARTER: Provides that the town council may, by ordinance, propose amendments to the charter; provides that upon approval of the initiating ordinance by majority of the town council, the proposed amendment shall be placed on the ballot at the next regularly scheduled election, unless the amendment calls for placement on the ballot at a special election;

provides that the electors of the town may propose amendments to the charter by petition signed by 20 percent of the registered electors as of the last general election.
(2) CHARTER REVIEW: Provides that the charter shall be reviewed no later than three years from the date the town was established; provides that after the initial review, the charter be reviewed no more than once every 10 years.
(3) RESULTS OF ELECTION: Provides that if a majority of the electors voting on the proposed amendment passes the item, it shall be considered adopted upon certification of the election results; provides that the town council shall have the amendment incorporated into the charter and file the revised charter with the Department of State.

Section 9: Land use, zoning, and development.
(1) RURAL CHARACTER OF TOWN: Provides for maintaining the existing rural character of the town.
(2) LAND USE, ZONING AND DEVELOPMENT REQUIREMENTS: Provides that in order to preserve and promote the existing rural elements, it is incumbent upon all future development to:

- continue the use of private wells as sources of potable water and the use of private septic recycling;
- promote and preserve public lands and parks for community enjoyment;
- protect and promote the wildlife and the wildlife habitat that coexist within the town; and
- preserve the natural view and existing scenic highway designation of U.S. Highway 1 through careful management of development along and within these natural assets.

Provides that the land development regulations and ordinances of the town shall uphold and enforce the goals and overall spirit of this section; provides that all zoning in effect at the time of incorporation shall remain unchanged after incorporation (i.e., "grandfathered in"); provides that all present county zoning classifications and land use designation terminology shall continue in effect until the town is established and the town's long-range comprehensive plan and future land use map are completed and adopted; provides that a new long-range comprehensive plan and future land use map shall be completed and adopted within one year after incorporation.
(3) PROPOSED CHANGE; PRIOR NOTICE; VOTE REQUIRED: Provides that prior to voting on a proposed increase in development intensity, including, but not limited to, density levels, building heights and traffic impacts, the town council shall notify all property owners inside the town whose property is within 1,500 feet of the proposed change; provides that an affirmative vote of six or more members of the town council shall be required to enact any such proposed change.

Section 10: Transition.
(1) CREATION AND ESTABLISHMENT OF THE TOWN: Provide for the purpose of the assessment and collection of ad valorem taxes, the town is hereby created and established effective when approved by the electors at the August 1, 2006, special election and filed with the Secretary of State in the manner prescribed by law; provides that as a first act of home rule and to ensure community participation, residents will have the opportunity to select their town name.
(2) TEMPORAL NATURE OF TRANSITION SECTIONS OF CHARTER: Provides that each of the following subsections of this section shall automatically, and without further vote or act of the electors of the town, become ineffective and no longer a part of the charter at such time as the implementation of such subsection has been accomplished.
(3) FIRST TRANSITION PERIOD; CHARTER ACCEPTANCE TO FIRST ELECTION: Provides that since upon approval of the charter a governmental unit equivalent to the town does not exist to provide people with positions accredited to effect a transition, an interim council committed to the charter and the transition to town government shall be identified and authorized; provides that based on prior commitment to and involvement in the incorporation process, the Grant-Valkaria Preservation Committee-Steering Committee is recognized as the appropriate body to select a five member interim council; provides that such positions shall be voluntary and receive no compensation; provides that powers of the interim council shall include:

- preparing and adopting temporary regulations that are applicable only to the first town council election and designed to ensure its proper conduct, to prevent fraud, and to provide for recount of ballots in cases of doubt or fraud;
- providing a method for certification of candidates for the first town council election;

- scheduling the three community candidate forums as described in section 6 in preparation for the first town council election;
- coordinating with the Brevard County Supervisor of Elections with regard to the first town council election and to effect the timely receipt by the interim council of the official certification results for the town council election;
- scheduling the first town council meeting;
- enacting emergency ordinances as may be warranted to protect public safety;
- identifying and managing funds;
- filing applicable forms and requests for revenue sharing and other funding sources; and
- disbursing funds for the purpose of conducting town business to include the funding of the first election of the town council.

Provides that until otherwise modified or replaced by the charter or the council, all codes, ordinances and resolutions of Brevard County in effect on the day of adoption of the charter shall, to the extent applicable to the town, remain in force and effect as municipal codes, ordinances and resolutions of the town; provides that until otherwise determined by the council, said codes, ordinances and resolutions shall be applied, interpreted and implemented by the town in a manner consistent with established policies of Brevard County on the date of the adoption of the charter.

(4) FIRST ELECTION; TERMS OF COUNCIL MEMBERS AND MAYOR: Provides that for the first election, only electors who have resided within the proposed town boundaries for the two years preceding the date of the first election shall be eligible to hold the office of council member or mayor; provides that at the first election under the charter, all six council members and the mayor shall be elected; provides that the three council candidates receiving the greatest number of votes shall be duly elected council members and shall be designated as holding seats 1, 3 and 5, respectively; provides that the three council candidates receiving the next greatest number of votes shall be duly elected council members and shall be designated as holding seats 2, 4 and 6, respectively; provides that the candidate for mayor receiving the greatest number of votes shall be the duly elected mayor; provides that notwithstanding the date of the first election, the terms of the mayor and council seats 1, 3 and 5 shall end two weeks after the general election in 2010, and the terms of council seats 2, 4 and 6 shall end two weeks after the general election in 2008; provides that division of council seats into four-year and two-year terms is required in order to allow staggered terms of office.

(5) INITIAL EXPENSES: Provides that the initial expenses of the town council, including the expense of recruiting a town administrator, shall be paid by the town on vouchers signed by the mayor; provides that the town council, in order to provide moneys for the expenses and support of the town, shall have the power to borrow money, if necessary, for the operation of town government until such time as a budget is adopted and revenues accrue in accordance with the provisions of the charter; provides that the amount borrowed shall be in accordance with and shall not exceed the projected revenues of the incorporation feasibility study for the town for fiscal year 2006-2007.

(6) TRANSITIONAL ORDINANCES AND RESOLUTIONS: Provides that the town council shall adopt ordinances and resolutions required to effect the transition; provides that ordinances adopted within 60 days after the first regular council meeting may be passed as emergency ordinances.

(7) REVENUE SOURCE TRANSITION: Provides that until otherwise modified by the council, all municipal taxes and fees imposed within the town boundaries by the county as the municipal government for unincorporated Brevard County, which taxes and fees are in effect on the date of adoption of the charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the town.

(8) TRANSITION CONTINUITY OF SERVICES: Provides that to ensure that there is no discontinuity in the provision, level or quality of municipal service delivery to the proposed town, and until such time as the town may enter into interlocal agreements with Brevard County regarding the provision of municipal services, all municipal services currently provided by Brevard County will continue to be provided by Brevard County at the service levels existing at the time of municipal incorporation; provides that all federal, state, grant and other funding sources existing prior to the time the town is incorporated shall continue to be applied in the manner and at the level anticipated and projected by the Brevard County budget prior to the incorporation of the town; provides that the future cost and level of municipal service delivery provided to the town by Brevard County beyond fiscal year 2006-2007

shall be negotiated and determined through interlocal agreement between the town and appropriate representatives of Brevard County.
(9) STATE-SHARED REVENUES: Provides that the town shall be entitled to participate in all shared revenue programs of the state, effective immediately on the date of incorporation; provides that the provisions of s. 218.23, F.S., shall be waived for the purpose of eligibility to receive revenue-sharing funds from the date of incorporation through the end of state fiscal year 2005-2006; provides that the provisions of s. 218.26(3), F.S., shall be waived for state fiscal year 2005-2006, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to s. 218.245, F.S.; provides that the initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research as of the effective date of the charter; provides that should the Bureau be unable to provide an appropriate population estimate, the initial population for calculating eligibility for shared revenues shall be established at the level of 3,907 as projected in the incorporation feasibility study.
(10) GAS TAX REVENUES: Provides that notwithstanding the requirements of s. 336.025, F.S., to the contrary, the town shall be entitled to receive local option gas tax revenues beginning the first day of the month following the charter referendum; provides that these revenues shall be distributed to the town as a fully eligible incorporated municipality of Brevard County in accordance with the distribution formula initially established and adopted on October 18, 1988, as part of the "Brevard County Local Option Gasoline Tax Revenue Distribution, Interlocal Agreement" and as amended by the Board of County Commissioners of Brevard County through Ordinance No. 99-40 as ratified on October 12, 1999, extending the Local Option Gas Tax Interlocal Agreement through August 31, 2021.
(11) SHARED REVENUES: Provides that Brevard County shall distribute to the town, from taxes, franchise fees, and ad valorem taxes, revenues collected within the municipal boundaries of the town; provides that this calculation shall be based upon a population projection of 3,907 residents for the town as estimated for the feasibility study in anticipation of the year 2008 census.

Section 11: Severability. Provides that if any section or part of a section of the charter is held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of the charter nor the context in which such section or partial section so held invalid may appear, except to the extent that an entire section or a partial section may be inseparably connected in meaning and effect with the section or partial section to which such holding shall directly apply.

Section 12: Provides that the act shall only take effect upon approval by a majority vote of those qualified electors of the area voting in a referendum to be called by the Brevard County Supervisor of Elections on or before August 1, 2006, except for this section, which takes effect upon becoming a law.

Charter Review

Provisions within the Charter meet the statutory requirement for proposed charters in regards to prescribing the form of government and clearly defining the responsibilities for legislative and executive functions in accordance with s. 165.061(1)(e), F.S. As noted in the following comments, certain provisions may conflict with general law while other provisions may simply require clarification.[6]

Section 1(6): This subsection authorizes Grant-Valkaria to enter into contracts or agreements with other governmental agencies. Such authority is provided in s. 163.01, F.S., "The Interlocal Cooperation Act of 1969." As such, this subsection is redundant and could be deleted.

Section 2(1)(a): Subsection (a) calls for a six-member council, and one mayor, to be elected at-large. An at-large election scheme may be vulnerable to legal challenge under the 1965 U.S. Voting Rights Act, depending upon the area's demographics.[7]

[6] Selected comments are based on the Legislative Committee on Intergovernmental Relations' analysis.
[7] A summary of the relevant sections of the Act is provided at the end of this analysis.

Section 2(1)(b): Subsection (b) authorizes the council to establish procedures to compel attendance at meetings of absent members in a manner and subject to penalties prescribed by rules adopted by the council. This provision is vague and may be inconsistent with provisions in subsection 2(4) regarding vacancies, forfeiture of office and excused absences. In addition, the term "compel" requires clarification to ensure the action does not conflict with civil and criminal law.

Section 2(3): This subsection establishes the position of the vice mayor and sets the term at one year, "unless no other council member is willing to serve as vice mayor." This phrase is vague and should be deleted. Alternatively, term limits could be removed and the vice mayor would serve at the pleasure of the council.

Section 2(8): Subsection (a) provides for regular monthly council meetings. A provision providing for advance public notice should be included.

Section 2(8): Subsection (c) provides that all land use and quasi-judicial items be approved by a supermajority, defined as five or more members, decision of the council. Such a provision may be overly restrictive and could result in a situation where a minority imposes its will over the majority.

Section 2(11): Subsection (d) authorizes the adoption of emergency ordinances by majority vote. It may be appropriate to clarify, pursuant to s. 166.041(3)(b), F.S., that emergency ordinances require a two-thirds vote by the commission, and that zoning ordinances cannot be enacted as emergency ordinances.

Section 2(11): Subsection (h) provides that ordinances and other documents be made available to the public "at reasonable prices" as fixed by the council. It may be appropriate to include the phrase "in accordance with or provided by general law."

Section 3(1): This subsection provides for the appointment of a town administrator and notes that the administrator is "continuously responsible to the town council, the elected representatives of the people." It may be appropriate to further clarify that the administrator is responsible to the council, as the governing body, and avoid confusion that the administrator may be responsible to individual council members.

Section 3(3): This subsection provides for the appointment of an interim town administrator during the temporary absence or disability of the town administrator. The term disability should be defined or deleted.

Section 3(4): This subsection provides for the powers and duties of the town administrator. It may be appropriate to clarify how the administrator's responsibilities differ from those duties of the mayor provided for in Section 2(2).

Section 3(4): Subsections (k) and (m) require the administrator to "provide staff support services to mayor and council members" and "promote partnerships...," respectively. These provisions are overly vague and require clarification or deletion.

Section 4(3): Subsection (a) calls for a personnel system under which all personnel appointments and promotions are made "primarily" on the basis of merit and competency. It may be appropriate to either define or delete the qualifier "primarily" in order to avoid misinterpretation.

Section 5(7): Subsection (c)3 authorizes the transfer or reallocation of unencumbered funds. It may be appropriate to include a provision that such transfers should be in accordance with general law.

Sections 6(8) and 10(4): These subsections include a two-year residency requirement for council member and mayoral candidates. Such a provision may be vulnerable to legal challenge.

Section 6(10): Subsection (a) provides that five electors may commence initiative or referendum proceedings and have the proposal placed on the agenda of the next council meeting. It may be appropriate to increase the number of electors required to have a proposal placed before the council. This subsection also allows the proposal to be submitted to referendum by petition if the council fails to consider or act for reasons that "fail to satisfy" its sponsors. Such a phrase is vague and should be clarified.

Section 7(8): This section provides for an emergency preparedness plan. It may be appropriate to require that the plan be prepared in accordance with general law and in cooperation and coordination with such plans established by Brevard County government.

Section 8(1): Subsection (b) calls for a charter amendment to be placed on a ballot at the next regularly scheduled "ballot" or at a special "ballot." It may be appropriate to replace this term with the term "elections."

Section 8(2): This subsection provides for the establishment of a charter review commission. It may be appropriate to clarify that a sitting council member is ineligible to serve on the commission.

Section 9(1): This subsection defines the term "rural" as it pertains to land use zoning and development. Subsection (a) includes the terms "low development intensity" and "abundance" of agricultural lands as elements of "rural." These terms are vague and should be defined or otherwise clarified. Similarly, subsection (d) includes the terms "predominant and viable wildlife..." which requires clarification.

Section 9(2): Subsection (a) includes the requirement to continue the use of private septic recycling as a condition of future development in order to protect the rural elements of the town. The Study reported that the community will pursue eco-friendly industries in order to utilize its existing natural resources as a basis for its future economy. This requirement may restrict the type of development necessary to promote nature-based tourism. For example, certain tourist related facilities such as restaurants, hotels and hostels are not permitted to operate on septic systems.

Section 9(3): This subsection requires an affirmative vote of six or more members for the approval of certain types of developments. Such a voting requirement is greater than a supermajority (five or more votes) and as such may be overly restrictive. In addition, the types of development and development impacts are vague and require clarification.

Section 10(3): Subsection (b) provides for an interim council to be selected by the "Grant-Valkaria Preservation Committee Steering Committee." It may be appropriate to prohibit a member of the Steering Committee from serving as a member on the interim council.

Section 10(3): Subsection (e) provides for the election of council members. It is unclear what election responsibilities reside with the interim council and what responsibilities are assumed by the Brevard County Office of the Supervisor of Elections.

Section 10(9): This subsection authorizes Grant-Valkaria to participate in all shared revenue programs of the state. This should be revised to limit participation to all programs appropriate to municipalities. This subsection also waives state revenue sharing eligibility requirements in s. 218.23, F.S., until FY 2005-06. This waiver should be limited to only those eligibility requirements pertaining to financial reporting and audits and extend the waiver until FY 2008-09

Section 10: This section should include a provision honoring existing solid-waste contracts within the boundaries of Grant-Valkaria for a period of five years or the remainder of the contract term, whichever is less, in accordance with s. 165.061(1)(f), F.S., and provided for in the Study.

Feasibility Study

With regard to the requirements and standards for municipal incorporation provided by s. 165.061(1), F.S., the reviewers concluded that:[8]

The area proposed for the Town of Grant-Valkaria is contiguous and compact. According to the information provided by the Brevard County Department of Planning and Zoning and as reported in the Study (pages 1-4 and 13-14), the area being considered for incorporation is compact and contiguous as required by s. 165.061(1)(a), F.S.

The proposed Town of Grant –Valkaria does not meet the minimum population requirement for incorporation (5,000 persons). Section 165.061(1), F.S., establishes population requirements for the incorporation of new municipalities. In counties with a population of 75,000 or less, the municipality must have at least 1,500 persons and in larger counties, the municipality must have at least 5,000 persons. The latest official population estimate for Brevard County placed its population at 531,970 (official 4/1/2005 estimate from Bureau of Economic and Business Research, University of Florida) so a new municipality would be required to have a minimum population of 5,000. The feasibility study indicated that the area proposed for incorporation has a population of 3,907. The Office of Economic and Demographic Research analysis of census data for the blocks contained within the proposed boundaries of the Town of Grant-Valkaria indicated a 2000 population of about 3,300. Assuming that this area has grown since the 2000 Census at the same rate of growth as the entire unincorporated portion of Brevard County would suggest that the area now has approximately 3,700 persons.

The proposed Town of Grant-Valkaria does not meet the required density of 1.5 persons per acre. A population density requirement of 1.5 persons per acre is specified by s. 165.061(1)(c), F.S. According to the feasibility study, the area being proposed for incorporation encompasses 16,626 acres implying a population density of .23 persons per acre. Alternatively, the statute provides that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The Study (pages 1-9 and 17-18) suggests that the following circumstances: 1) extensive designation of Environmental Endangered Lands and government owned conservation properties reduce the area available for residential use to less than 9,000 acres in Grant-Valkaria; and 2) its historical character as a rural residential and fishing hamlet, serve to meet this statutory condition. The Study provides additional information substantiating the historic identity of the community. In addition, the Study notes that the resident population will soon increase as a result of current residential developments totaling 800 homes within Grant-Valkaria's boundaries.

The proposed Town of Grant-Valkaria does not meet the minimum distance requirement. Pursuant to s. 165.061(1)(d), F.S., an area proposed for incorporation must be at least two miles from the boundaries of an existing municipality in the county or have an extraordinary natural boundary which requires separate municipal government. As noted in the feasibility study, the area proposed for incorporation is bordered by the town of Malabar on the north and the town of Palm Bay on the west. The study also notes that Grant-Valkaria is an identifiable cohesive community, with qualities, characteristics and attributes that differentiate its lands and residents from adjacent municipalities. While these characteristics may serve as reasons for pursuing incorporation, it is unclear how they might be considered as an extraordinary natural boundary, which requires a separate municipal government.

With regard to whether the Feasibility Study itself contained the required elements of such a study:

- **The Study (pages 1-3) meets the requirement that it provide the general location for the proposed municipality.** The Study (page 4) includes maps of the area proposed for incorporation, and as such, meets this requirement. (s. 165.041(b)1., F.S.)

[8] These responses are based on the review of Ruskin feasibility study reviews by the Office of Economic and Demographic Research and the Legislative Committee on Intergovernmental Relations.

- **The Study (pages 1-9) meets the requirement that it provide reasons for pursuing incorporation.** The Study provides that two major reasons for incorporation are to ensure the preservation of the historical characteristics as a rural fishing community from overdevelopment and to assume control over its future land uses. The Study proposes, however, that Brevard County government would continue providing many essential services. Thus, it is unclear how the Grant-Valkaria would preserve the environmental and historic character of their community if Brevard County government retains authority for these quality of life functions. (s. 165.041(b)2., F.S.)

- **The Study meets the requirement that it include a list of current land use designations applied to the area as currently contained in the county comprehensive plan.** (s. 165.041(b)3.a., F.S.)

- **The Study meets the requirement that it include a list of current zoning designations.** (s. 165.041(b)3.b., F.S.)

- **The Study meets the requirement that it include a general statement of present land use characteristics of the area.** (s. 165.041(b)3.c., F.S.)

- **The Study appears to meet the requirement to describe proposed development.** (s. 165.041(b)3.d., F.S.)

- **The Study appears to identify all local public agencies with boundaries lying within the territory proposed for incorporation.** (s. 165.041(b)4., F.S.)

- **The Study appears to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S., and cost estimates for each of those services.**

- **The Study appears to meet the requirement that it identify proposed services (pages 29-32) and estimated costs for these services.** However, costs associated with each of the majority of basic services, which are currently provided by Brevard County government through existing municipal service taxing units (MSTUs), are reported as millage rates. Upon incorporation, Grant-Valkaria will cease to participate in these MSTUs and instead, enter into an interlocal agreement with Brevard County for provision of those services in an amount equal to that generated at these millage rates. It should be noted that total estimates for these "municipal" services are presented in the FY 2006-07 budget as $1,405,250 (page 49), although the amount generated by total millage is estimated at $1,488,774 for FY 2006-07 (page 48). The Study includes a letter of agreement, signed December 6, 2005, by the Brevard County Administrator, which provides that the county is willing to enter into contract to provide services to Grant-Valkaria were it to incorporate. (s. 165.041(b)6., F.S.)

- **The Study meets the requirement that it include the name and address of three persons submitting the proposal**. (s. 165.041(b)., F.S.)

- **The Study appears to meet the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation with the following caveats:** The Study addresses basic tax bases and revenue sources available to a municipality and provides revenue estimates for some of them. Other revenue sources available to municipalities, however, are not identified. These and other revenue sources included in the Study require some clarification. **The Study does include a five-year operational plan and budget.** The revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive as noted above.

- **The Study appears to address the requirement that it provide data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations.** Concerns regarding methodology used in the analysis and estimated revenues are addressed elsewhere in this analysis. (s. 165.041(b)9., F.S.) (s. 165.041(b)8., F.S.)

- **The Study meets the requirement for evaluating alternatives available to the area regarding the policy concerns.** (s. 165.041(b)10., F.S.)

- Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for five years or the remainder of the contract term, whichever is less. The Study (page 29) meets this criterion.

Review of the Financial Elements of the Proposed Incorporation

- **Revenue Sharing:** Section 10(11) of proposed charter provides that the town shall be entitled to participate in all state shared revenue programs effective on the date of incorporation. That date is determined in Section 10(1)(a) to be the day the referendum results are filed with the Secretary of State, presumably soon after 8/1/06. Section 218.21(3), F.S., requires in order to be eligible for revenue sharing, a municipality "must have held an election for its legislative body pursuant to law and established such a legislative body, which meets pursuant to law." The Charter provides in Section 10(3)(b) that the Grant-Valkaria Steering Committee will "identify" five electors as the interim town council. No date certain is stated for the election of the town council. Thus, revenue sharing cannot occur until after that election. **It is recommended that the charter language be amended to state a date certain for the election of the town council. It is further recommended that the charter language be amended to state that the initial date for revenue sharing participation be the first day of a month occurring after the first meeting of the council.**

  Section 10(11) provides that the provisions of ss. 218.23 and 218.26(3), F.S., be waived through the end of the state fiscal year 2005-2006. Since the charter provides that Grant-Valkaria will be incorporated soon after 8/1/06, the town will not complete its first full local fiscal year (10/1/06-9/30/07) until after the end of the state fiscal year 2007-2008, ending June 30, 2008. **It is recommended that the waiver of ss. 218.23 and 218.26(3), F.S., in the charter be extended through the state fiscal year 2007-2008.**[9]

- **Gas Tax Revenues:** Section 336.025(4)(b), F.S., provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which in the instance of Grant-Valkaria would be 10/1/07. Section 10(10) of the charter provides for a waiver of s. 336.025, F.S. regarding the entitlement to receive local option gas tax revenue.

  Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the default lane-mile formula unless provided otherwise by the local law providing for the incorporation. Section 10(10) of the charter provides that the

[9] The Legislative Committee on Intergovernmental Relations has noted that in order to be eligible to participate in State Shared Revenue programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The Study presents the 2005 taxable value of property within Grant-Valkaria at $338,569,800. Based on this projected taxable value, the three-mill equivalency for Grant-Valkaria is equal to approximately $1,015,709. The Study budget meets this requirement using revenues currently generated through five MSTUs which collectively generate an estimated $1,567,130 in ad valorem tax revenue. SSR estimates provided in the Study (pages 34, 35 and 48) are less than those estimates calculated by the Office of Research and Analysis, Florida Department of Revenue. The Study provides no estimate for Grant-Valkaria's Municipal Revenue Sharing distribution, but does estimate its One-Half Cent Sales Tax distribution at $233,036. The Office of Research and Analysis estimated Grant-Valkaria's FY 2005-06 Municipal Revenue Sharing and One-Half Cent Sales Tax distributions at $75,236 and $232,761, respectively. The Office of Research and Analysis' estimated revenue from these two programs is approximately $74,000 more than that proposed in the Study.

distribution be in accord with the October 18, 1998 "Brevard County Local Option Gasoline Tax Revenue Distribution, Interlocal Agreement" as amended. It appears that even with the incorporation of Grant-Valkaria, the existing interlocal will continue to represent the agreement of the majority of the incorporated population of Brevard County. Thus, the distribution as set forth in that current interlocal will determine the distribution to Grant-Valkaria.

- **Local Communications Services Tax (CST)**

  The draft charter does not address the CST. The feasibility study on page 48 includes the CST as revenue, but there is no explanation of the source of this tax—whether it is a share of the CST currently imposed by Brevard County or whether it is a CST imposed by Grant-Valkaria or some combination. Pursuant to s. 202.21, F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date. Thus, if Grant-Valkaria meets the September 1 deadline in 2006 or 2007, then participation in this revenue source could commence January 1, 2007, or January 1, 2008, respectively.**The charter language also could be amended to provide for a sharing of the CST imposed by Brevard County within the boundaries of Grant-Valkaria, beginning with the date of incorporation, April 1, 2007, through December 31 of some future year. The proportion could be based on the population of Grant-Valkaria compared to unincorporated population of Brevard County before the incorporation of Grant Valkaria.**

- **Discretionary Sales Surtax:** Currently, Brevard County does not impose a discretionary sales surtax.

  The Legislative Committee on Intergovernmental Relations has noted that several major revenue sources available to municipalities are not identified or discussed in the Study. These include the following: 1) pursuant to s. 166.231(1), F.S., municipalities are authorized to levy, by ordinance, a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas, manufactured gas and water service; and 2) Grant-Valkaria is authorized to impose impact fees to offset costs associated with new infrastructure that will be needed to service current and proposed new developments. Furthermore, occupational license fees are not identified or discussed as source of revenues in the Study. However, the Study does note that only revenues sources sufficient to demonstrate feasibility are provided in the five-year budget.

- **Comparison with "Similarly Sized" Municipalities:** The Legislative Committee on Intergovernmental Relations compared the revenue and expenditure estimates for the proposed municipality of Grant-Valkaria with "similarly sized" municipalities in Florida. The 10 comparison municipalities are similar to Grant-Valkaria's population of 3,907 residents, and are presented below. All comparison municipalities reported FY 2002-03 total expenditures greater than those projected for Grant-Valkaria. The estimated expenditures projected for Grant-Valkaria ($1,641,575) are approximately one-third of the "average" reported expenditures for the 10 comparison municipalities ($5,459,610). Two additional issues should be noted in this comparison. First, the projected expenditures for Grant-Valkaria do not include expenditures associated with costs for services that Brevard County may continue to provide to the residents of Grant-Valkaria under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Grant-Valkaria and the comparison municipalities. The second issue regarding the proposed expenditures is that the fiscal data for the 10 comparison municipalities reflects total reported revenues and expenditures for FY 2002-03, while the fiscal estimates for Grant-Valkaria are those projected for FY 2006-07. It can be assumed that total expenditures and revenues for

these 10 municipalities will have increased during this time period, and as a result, increased the gap between their "average" reported expenditures and those projected for Grant-Valkaria.

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

Municipality	2003 Pop. Est.[11]	Revenues	Expenditures
Grant-Valkaria	3,907	$1,796,298	$1,641,575
Mascotte	3,469	$2,845,059	$2,903,845
Belleview	3,612	$3,455,758	$3,520,443
Newberry	3,757	$6,003,054	$5,526,577
Wildwood	3,948	$7,422,792	$8,827,097
Chattahoochee	3,966	$5,267,155	$5,631,029
Lake Alfred	3,981	$4,318,627	$4,782,587
Highland Beach	3,994	$8,818,450	$8,167,232
Mary Esther	4,078	$4,022,239	$4,234,558
South Bay	4,087	$3,412,227	$4,504,393
Bellaire	4,100	$6,812,457	$6,498,340
AVERAGE	**3,899**	**$5,237,781**	**$5,459,610**

[10] FY 2002-2003 reported revenues and expenditures by the 10 comparison municipalities and projected 2006 revenue and expenditure estimate for Grant-Valkaria contained within the Grant-Valkaria Incorporation Feasibility Study.

[11] 2003 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Grant-Valkaria for calendar year 2005 contained within the Grant-Valkaria Incorporation Feasibility Study.

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

- **Distribution of SSR and Impacts on Existing Local Governments:** The LCIR also analyzed the amount of SSR monies that Grant-Valkaria would have received in FY 2005-06 and the impact on SSR distributions to Brevard County government and municipalities for that year. While the statutory requirements for a feasibility study do not include identifying fiscal impacts to neighboring units of local government, such information is useful for a local government as it plans for the next budget cycle. A newly created municipality will impact the amount of funds that existing municipalities receive in the two major SSR programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing (MRS). The county government within which the new municipality is formed will realize fiscal impacts in two SSR programs: Local Government Half-Cent Sales Tax and County Revenue Sharing. The Office of Research and Analysis, Department of Revenue, prepared SSR estimates for the proposed Town of Grant-Valkaria and estimates on the impact from such incorporation to SSR distribution to other units of local government within Brevard County. As noted, if Grant-Valkaria had incorporated in 2005, Brevard County government would have realized a reduction in FY 2005-06 SSR distributions totaling an estimated $216,527. The extent to which revenue reductions are offset by reductions in services is not known. Municipalities within the county would realize estimated SSR reductions ranging from a low of $162 (Melbourne Village) to a high of $20,729 (Palm Bay).

C. SECTION DIRECTORY:

Section 1: Creates the Town of Grant-Valkaria; provides for a charter, powers, form of government, boundaries and intergovernmental relations.

Section 2: Provides for town council, mayor, vice mayor, ordinances and eminent domain.

Section 3: Provides for town administrator.

Section 4: Provides for departments, offices, agencies, a town attorney and land use.

Section 5: Provides for finances.

Section 6: Provides for town elections.

Section 7: Provides general provisions.

Section 8: Provides for charter amendments.

Section 9: Provides for land use, zoning and development.

Section 10: Provides for transition.

Section 11: Provides for severability.

Section 12: Provides for a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? November 17, 2005.

WHERE? *Florida Today*, a daily newspaper published in Brevard County, Florida.

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

IF YES, WHEN? On or before August 1, 2006.

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 projected cost of funding the town government and municipal services of Grant-Valkaria will be $1,641,575 for FY 06-07 and $1,777,937 for FY 07-08. Anticipated sources of funding are projected to be $1,796,298 in FY 06-07 and $1,891,519 in FY 07-08.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Department of Community Affairs

Based on Brevard County's Comprehensive Plan, the subject area for incorporation consists of a variety of land use classifications, including residential use, commercial use, industrial use, parks and recreational uses, agriculture use, public-quasi public uses (i.e., governmental, institutional and educational), as well as a rights-of-way, and transportation, communication and utilities. There are some existing vacant lands within the proposed jurisdictional boundaries. Much of the public-quasi public and single-family residential land uses are dispersed throughout the area.

Pursuant to ch.163, F.S., a new incorporated community is required to prepare a comprehensive plan within three years of incorporation. Until the new city adopts its own comprehensive plan, the land use designations and applicable goals, objectives and policies adopted by Brevard County for the area would apply. Once the city adopts its comprehensive plan, it is possible that the city may proceed with future annexations south of the proposed area. Approximate cost of a new comprehensive plan for a city of this size is $100,000. Pursuant to s. 163.3202(1), F.S., within one year of an adopted comprehensive plan, a new municipality must adopt land development regulations. Approximate cost of new land development regulations for a city of this size is $200,000. In addition, new cities typically become responsible for providing and maintaining certain types of infrastructure and services.

Exemptions to General Law

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

The bill may create exemptions to the following general laws:

- s. 165.061(1)(b), F.S., regarding minimum population requirements;
- s. 165.061(1)(c), F.S., regarding density requirements;
- s. 165.061(1)(d), F.S., regarding minimum distance requirements;
- ss. 218.23 and 218.26(3), F.S., regarding state revenue sharing eligibility requirements; and
- s. 336.025, F.S., regarding the entitlement to receive local option gas tax revenue.

Summary of the Voting Rights Act of 1965

The Voting Rights Act of 1965 protects every American against racial discrimination in voting. This law also protects the voting rights of many people who have limited English skills. It stands for the principle that everyone's vote is equal, and that neither race nor language should shut anyone out of the political process. The Voting Rights Act is located in the United States Code at 42 U.S.C. 1973 to 1973aa-6.

The Voting Rights Act is not limited to discrimination that excludes minority voters from the polls. Section 2 of the Act (42 U.S.C. 1973) makes it illegal for any state or local government to use election processes that are not equally open to minority voters, or that give minority voters less opportunity than other voters to participate in the political process and elect representatives of their choice to public office. In particular, Section 2 makes it illegal for state and local governments to "dilute" the votes of racial minority groups, that is, to have an election system that makes minority voters' votes less effective than those of other voters. One of many forms of minority vote dilution is the drawing of district lines that divide minority communities in such a way as to prevent them from putting enough votes together to elect representatives of their choice to public office. **Depending on the circumstances, dilution also can result from at-large voting for governmental bodies**. When coupled with a long-standing pattern of racial discrimination in the community, these and other election schemes can deny minority voters a fair chance to elect their preferred candidates.

Additionally, Section 5 of the Voting Rights Act (42 U.S.C. 1973c) requires state and local governments in certain parts of the country to get federal approval (known as "preclearance") before implementing any changes they want to make in their voting procedures; anything from moving a polling place to changing district lines in the county. Under Section 5, a covered state, county or local government entity must demonstrate to federal authorities that the voting change in question (1) does not have a racially discriminatory purpose; and (2) will not make minority voters worse off than they were prior to the change (i.e., the change will not be "retrogressive"). Section 5 applies to all or parts of the following states: Alabama, Alaska, Arizona, California, **Florida,** Georgia, Louisiana, Michigan, Mississippi, New Hampshire, New York, North Carolina, South Carolina, South Dakota, Texas, and Virginia.

Anyone aggrieved by minority vote dilution can bring a federal lawsuit. If the court decides that the effect of an election system, in combination with all the local circumstances, is to make minority votes less effective than white votes, it can order a change in the election system. For example, courts have ordered states and localities to adopt districting plans to replace at-large voting, or to redraw their election district lines in a way that gives minority voters the same opportunity as other voters to elect representatives of their choice.

This information was obtained from the U.S. Department of Justice's website at http://www.usdoj.gov/crt/voting/misc/faq.htm#faq02. (03/24/06).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1211

THE SPACE COAST'S NEWSPAPER
FLORIDA TODAY
PUBLISHED IN BREVARD COUNTY

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#647332-$32.59)** **in the** matter of **GRANT-VALKARIA PRESERVATION COMMITTEE** in the _____ Court **NOTICE OF INTENT**

was published in the **FLORIDA TODAY**

in the issues of **NOVEMBER 17, 2005**

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.

Maureen Farr
(Signature of Affiant)

Sworn to and subscribed before this this **17TH DAY OF NOVEMBER, 2005**

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 _____

AD#647332-11/17,2005

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 a local bill providing for the municipal incorporation of the South Brevard County unincorporated areas of Grant and Valkaria and forming the Town of Grant-Valkaria.
Dated this day of November 17, 2005
Grant-Valkaria Preservation Committee
PO Box 90
Grant, Florida

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 #: 1297

SPONSOR(S): Rep. Ralph Poppell

RELATING TO: Town of Grant-Valkaria, Brevard County
[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:		
Projected cost of funding the Town government of Grant-Valkaria and provision of municipal services.	$1,641,575	$1,777,937

Note: See Municipal Incorporation Feasibility study, Proposed Town of Grant-Valkaria, for full methodology employed in arriving at these projections.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State:		
Local:	$1,796,298	$1,891,519

Note: See Municipal Incorporation Feasibility, Proposed Town of Grant-Valkaria, for full methodology employed in arriving at these projections.

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: No significant identifiable impact to state revenue streams.		

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

Advantages: The individuals residing within the proposed boundaries of the Town of Grant-Valkaria will accrue the rights of home rule and self determination. Additionally, and they will have their tax monies and local resources available to them. The combination of home rule and local discretion regarding expenditures will allow this historic rural fishing village to retain and protect the quality of life and natural Florida environment they value.

Disadvantages: As addressing in the Municipal Incorporation Feasibility Study, if the Town of Grant Valkaria were to incorporate the municipality would be eligible to participate in county and state revenue sharing distributions. The impact of this to counties other than Brevard, and municipalities other than those located in Brevard is essentially non-existent. As demonstrated within the Municipal Incorporation Feasibility study for the Proposed Town of Grant-Valkaria, the impacts to Brevard County and the municipalities within Brevard are minimal.

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

It is estimated there will be little impact upon competition and employment.

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

All data, methodologies, and sources are full expounded within the body of the Municipal Incorporation Feasibility Study for proposed Town of Grant-Valkaria.

PREPARED BY: _____ 23/Feb/06
[Must be signed by Preparer] Date

TITLE: Director Academic Services, Eastern Region, UCF Regional Campus System

REPRESENTING: University of Central Florida, Institute of Government

PHONE: (386-506-4028)

E-Mail Address: dlaney@mail.ucf.edu

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1297

SPONSOR(S): Rep. Ralph Poppell

RELATING TO: **Town of Grant-Valkaria, 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: 11/30/2005

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 [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 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 [11/17/2005]

Where? Florida Today Newspaper County Brevard

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

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

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

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

3/9/06

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

1 A bill to be entitled
2 An act relating to Town of Grant-Valkaria, Brevard County;
3 creating the Town of Grant-Valkaria; providing a charter
4 for the town; providing powers of the town; providing for
5 liberal construction; providing for a town council-
6 administrator form of government; providing corporate
7 boundaries; providing that the town may contract with
8 other governmental entities; providing for a town council
9 and its powers and duties, compensation, and membership;
10 providing for a mayor and vice mayor and their powers and
11 duties; providing for filling of vacancies; providing for
12 meetings of the town council; providing for ordinances;
13 restricting the use of eminent domain; providing for a
14 town administrator and his or her powers and duties,
15 appointment, qualifications, and compensation; requiring
16 the town administrator to furnish a security bond;
17 providing for removal or absence of the town
18 administrator; providing that the town may establish
19 departments, offices, and agencies and providing for
20 administration of those under the direction and
21 supervision of the town administrator; providing for a
22 personnel system; providing for a town attorney; providing
23 for land use, development, and environmental planning;
24 providing for accounting procedures; specifying the fiscal
25 year of the town; requiring an annual audit; providing for
26 availability of financial records of the town; providing
27 for public deposits; providing requirements for purchase
28 or sale of real property by the town; providing for an

29 annual budget; authorizing the levy of certain taxes
30 within the town; prohibiting the issuance of certain bonds
31 or entering into certain types of contracts unless
32 approved by referendum; providing for emergency
33 appropriations; providing for town elections; providing
34 for conduct of officials in office; providing for
35 appointments and removals of town administrative officers
36 and employees; providing that the town council shall deal
37 with the town administrator and not officers and employees
38 of the administrator; providing for regulation of campaign
39 financing; requiring a long-range plan and a 5-year
40 financial plan; providing for emergency operations;
41 providing for dissolution; providing for charter amendment
42 and review; providing for regulation of land use, zoning,
43 and development; providing for transition, including an
44 interim council, continuity and sources of revenues, and
45 continuity of services; providing severability; requiring
46 a referendum; providing an effective date.
47
48 WHEREAS, we, the people of the Town of Grant-Valkaria,
49 under the Constitution and laws of the State of Florida, in
50 order to secure the local benefits of self-government, preserve
51 our history, protect our future, maintain a rural quality of
52 life, and foster responsible, community-controlled growth, have
53 ratified this charter by referendum, and
54 WHEREAS, this charter secures the benefits of home rule and
55 affirms the value of representative democracy, strong community

56 leadership, citizen participation, and regional cooperation,
57 NOW, THEREFORE,
58
59 Be It Enacted by the Legislature of the State of Florida:
60
61 Section 1. Town of Grant-Valkaria; charter; creation;
62 powers; construction; form of government; boundaries;
63 intergovernmental relations.--
64 (1) CHARTER; CREATION.--This act, together with any
65 amendments thereto, may be known as the "Charter of the Town of
66 Grant-Valkaria," and the Town of Grant-Valkaria ("town") is
67 hereby created and established.
68 (2) POWERS OF THE TOWN.--The town shall retain claim to
69 all power and legal rights granted to municipalities under the
70 Constitution and laws of the State of Florida as fully and
71 completely as though they were specifically enumerated in this
72 charter.
73 (3) CONSTRUCTION.--The power of the town, under this
74 charter, shall be construed liberally in favor of the town. The
75 specific mention of particular powers in this charter shall not
76 be construed as limiting in any way the general power granted in
77 this section.
78 (4) FORM OF GOVERNMENT.--The town shall have a town
79 council-administrator form of government, as defined in sections
80 2 and 3.
81 (5) CORPORATE BOUNDARIES.--
82

83 That area lying mostly North of Senne Road, East of
84 Babcock Road, South of the City limits of Malabar, and
85 West of the centerline of the Indian River Channel.
86 Bounded on the North by the North lines of Sections
87 15, 14 and 13 of Township 29S, Range 37E, and Sections
88 18 and 17, Township 29S, Range 38E, Brevard County,
89 Florida, and its easterly projection to the centerline
90 of the Indian River channel.
91 Bounded on the East by a line beginning at the
92 centerline of the Indian River Channel and the
93 Easterly projection of the North line of Section 17,
94 Township 29 South, Range 38 East; thence Southerly
95 along said centerline of the Indian River Channel to
96 the Westerly projection of the South line of the North
97 220 feet of GL-4 Section 10, Township 29 South, Range
98 38 East; thence Easterly 3,150 Feet along said
99 Westerly projection of the South line of the North 220
100 feet of GL-4; thence due South to the Easterly
101 projection of the North line of GL-2 of Section 34,
102 Township 29 South, Range 38 East; thence Westerly
103 along said Easterly projection of the North line of
104 GL-2 to the centerline of the Indian River Channel;
105 thence Southerly along said centerline of the Indian
106 River Channel to the intersection of the Easterly
107 projection of the South line of Section 3, Township 30
108 South, Range 38 East.
109 Bounded on the South by a line beginning at the
110 intersection of the centerline of the Indian River

111 channel and the Easterly projection of the South line
112 of Section 3, Township 30 South, Range 38 East; thence
113 Westerly along said South line and its Westerly
114 projection to the East line of Tax Parcel 250, lying
115 in Section 1, Township 30 South, Range 37 East, as
116 recorded in Official Records Book (ORB) 4258, Page 968
117 of the Public Records of Brevard County, Florida;
118 thence northerly along said East line to the North
119 line of said Section 1; thence westerly along said
120 North line and its westerly projection to the East
121 line of the SW 1/4 of Section 34, Township 29 South,
122 Range 37 East; thence northerly along the East line of
123 the SW 1/4 of said Section 34 to the South line of Tax
124 Parcel 762 as recorded in Official Records Book 4895,
125 Page 625 of said Public Records; thence easterly along
126 the South line of said Tax Parcel 762 to the East line
127 of said Tax Parcel 762; thence northerly along said
128 East line to the North line of the SW 1/4 of said
129 Section 34; thence westerly along the North line of
130 the SW 1/4 of said Section 34 to the intersection of
131 the centerline of Babcock St.
132 Bounded on the West by the centerline of Babcock St.
133 Except:
134 Tax Parcel 276 as recorded in Official Record Book
135 5193 Page 3598, in Section 27, Township 29 South,
136 Range 37 East, of Public Records of Brevard County,
137 Florida.

138 Tax Parcel 334 as recorded in Official Record Book
139 5193 Page 3629, in Section 27, Township 29 South,
140 Range 37 East, of Public Records of Brevard County,
141 Florida.
142 Tax Parcel 335 as recorded in Official Record Book
143 5193 Page 3562, in Section 27, Township 29 South,
144 Range 37 East, of Public Records of Brevard County,
145 Florida.
146 Tax Parcel 336 as recorded in Official Record Book
147 5193 Page 3831, in Section 27, Township 29 South,
148 Range 37 East, of Public Records of Brevard County,
149 Florida.
150 Tax Parcel 504 as recorded in Official Record Book
151 5375 Page 6773, in Section 27, Township 29 South,
152 Range 37 East, of Public Records of Brevard County,
153 Florida.
154 Tax Parcel 278 as recorded in Official Record Book
155 4003 page 3742, in Section 22, Township 29 South,
156 Range 37 East, of Public Records of Brevard County,
157 Florida.
158 Tax Parcels 270 and 309, as recorded in Official
159 Record Book 4951 Page 1494, in Section 22, Township 29
160 South, Range 37 East, of Public Records of Brevard
161 County, Florida.
162 AND in the SW 1/4 of Section 15, Township 29 South,
163 Range 37 East being more particularly described as
164 follows:

165 Tax Parcel 519, 573, 536, 572, 532, 549, 533, 575,
166 534, 554, 535, 515 and 540 as recorded in the Official
167 Record Book 4607 page 3439 of the Public Records of
168 Brevard County, Florida.
169 Except: All of land described in ORB 4643 page 324, in
170 Section 15, Township 29 South, Range 37 East, as
171 recorded in Public Records of Brevard County, Florida
172 AKA as tax parcels:
173 Tax parcel 277, as recorded in ORB 4167 page 3180
174 Tax parcel 278, as recorded in ORB 4167 page 3180
175 Tax parcel 279, as recorded in ORB 4167 page 3180
176 Tax parcel 280, as recorded in ORB 4167 page 3180
177 Tax parcel 281, as recorded in ORB 4237 page 679
178 Tax parcel 290, as recorded in ORB 4237 page 680
179 Tax parcel 298, as recorded in ORB 4237 page 681
180 and,
181 The South 435.00 feet of the West 350.00 feet of Lot
182 24, Florida Indian River Land Company Subdivision, as
183 recorded in Plat Book 1, Page 165, of the Public
184 Records of Brevard County, Florida, less and except
185 the South 35.00 feet and the West 50.00 feet thereof.
186
187 (6) INTERGOVERNMENTAL RELATIONS.--The town may participate
188 by contract or otherwise with any governmental entity of the
189 state, or any other state or states of the United States, in the
190 performance of any activity that one or more of such entities
191 have the authority to undertake.

192 Section 2. Town council; mayor; vice mayor; ordinances;
193 eminent domain.--
194 (1) TOWN COUNCIL.--The term "council" means the Grant-
195 Valkaria Town Council and includes the mayor.
196 (a) The town council shall consist of six council members
197 and one mayor, for a total of seven members, all of whom shall
198 be elected at large and in accordance with section 6. The
199 council members shall occupy seats numbered 1 through 6.
200 (b) Four or more members of the town council shall
201 constitute a majority, and five or more members of the town
202 council shall constitute a supermajority. A majority of the town
203 council shall constitute a quorum, but a smaller number may
204 adjourn as required and may compel the attendance of absent
205 members in the manner and subject to any penalties prescribed by
206 rules adopted by the town council.
207 (c) All powers of the town shall be vested in the elected
208 town council, except as otherwise provided by law or by this
209 charter.
210 (2) MAYOR.--The mayor shall preside at meetings of the
211 town council. The mayor shall be a regular voting member of the
212 town council. The mayor shall be recognized as the head of town
213 government for all ceremonial purposes; for purposes of military
214 law; for service of process and execution of town council
215 authorized contracts, deeds, and other documents; and as the
216 town official designated to represent the town when dealing with
217 other governmental entities on behalf of the town.
218 (3) VICE MAYOR.--The vice mayor shall act as mayor in the
219 absence of the mayor. The vice mayor shall be elected from among

220 council members for a term of 1 year or until his or her
221 successor is elected. A council member shall not serve
222 consecutive terms as vice mayor unless no other council member
223 is willing to serve as vice mayor.
224 (4) VACANCIES.--The office of a town council member shall
225 become vacant upon the incumbent's death, resignation, or
226 removal from office in any manner authorized by law or by
227 forfeiture of his or her office.
228 (a) A town council member shall forfeit his or her seat if
229 at any time during his or her term he or she ceases to maintain
230 his or her permanent residence in the town or if he or she
231 otherwise ceases to be a qualified elector of the town.
232 (b) Any member of the town council shall be subject to
233 forfeiture of his or her office if he or she is absent without
234 good cause from any three consecutive regular meetings of the
235 council or if he or she is absent without good cause from any
236 four regular meetings of the council within any 12-month period.
237 (c) The town council shall be the sole judge of the
238 qualifications of its members and shall hear all questions
239 relating to forfeiture of a council member's office, including
240 whether good cause for absence has been or may be established.
241 The burden of establishing good cause shall be on the council
242 member in question; however, any council member may at any time
243 during any duly held meeting move to establish good cause for
244 his or her absence or the absence of any other council member
245 from any past, present, or future meeting or meetings, which
246 motion, if carried, shall be conclusive.

247 (d) A council member whose qualifications are in question
248 or who is otherwise subject to forfeiture of his or her office
249 shall not vote on any such matters. The council member in
250 question shall be entitled to a public hearing on requests
251 regarding an alleged forfeiture of office. If a public hearing
252 is requested, notice thereof shall be published in one or more
253 newspapers of general circulation in the town at least 1 week in
254 advance of the hearing.
255 (e) Any final determination by the town council that a
256 council member has forfeited his or her office shall be made by
257 resolution. All votes and other acts of the council member in
258 question prior to the effective date of such resolution shall be
259 valid regardless of the grounds of forfeiture.
260 (5) FILLING OF VACANCIES.--
261 (a) A vacancy on the town council shall be filled by a
262 majority vote of the remaining members of the town council,
263 unless at the time of the vacancy there are fewer than 6 months
264 remaining before the next regular election of town council
265 members, in which case the town council shall have the
266 discretion to leave the seat vacant until the next regular
267 election of town council members. Any person appointed by the
268 town council to fill a vacancy shall hold office until the next
269 regular town council election. The elected replacement shall
270 serve the remaining term for the vacated seat.
271 (b) In the event that all the members of the town council
272 are removed by death, disability, recall, forfeiture of office,
273 resignation, or any combination thereof, the Governor shall
274 appoint an interim town council. The interim town council shall

275 call a special election within not fewer than 60 days or more
276 than 90 days after such appointment. Such election shall be held
277 in the same manner as the initial elections under this charter.
278 However, if there are fewer than 6 months remaining in the
279 unexpired terms, the interim town council appointed by the
280 Governor shall serve out the unexpired terms.
281 (c) Persons filling vacancies shall meet the
282 qualifications specified in section 6(8).
283 (d) Notwithstanding any quorum requirements established
284 herein, if at any time the full membership of the town council
285 is reduced to less than a quorum, the remaining members may, by
286 unanimous vote, appoint additional members to the extent
287 permitted or required under this subsection.
288 (6) COMPENSATION; REIMBURSEMENT FOR EXPENSES.--
289 (a) The council members shall serve as town volunteers and
290 shall not be compensated.
291 (b) The council members shall receive reimbursement for
292 council-approved expenses in accordance with applicable law, or
293 as may be otherwise provided by ordinance, for authorized travel
294 and per diem expenses incurred in the performance of their
295 official duties. An ordinance establishing, increasing, or
296 decreasing reimbursement for expenses of the council members may
297 be adopted at any time.
298 (7) INVESTIGATIONS.--The town council may make
299 investigations into the affairs of the town and the conduct of
300 any town department, office, or agency and for this purpose may
301 subpoena witnesses, administer oaths, take testimony, and
302 require the production of evidence.

303 (8) MEETINGS.--
304 (a) The town council shall hold a minimum of 11 monthly
305 meetings in each fiscal year at such times and places as the
306 town council may prescribe by rule. Special meetings may be held
307 on the call of the mayor or four or more members and, whenever
308 feasible, upon no less than 24 hours' notice to each member.
309 Except as otherwise provided by general law, all meetings shall
310 be public.
311 (b) The town council shall determine its own rules and
312 order of business and procedure; however, in the absence of
313 same, the latest edition of Robert's Rules of Order shall be
314 used. The town council shall provide for keeping the journal of
315 its proceedings, which journal shall be a public record except
316 as otherwise provided by general law.
317 (c) During all town council votes, the individual votes as
318 cast by each person on the town council shall be recorded in the
319 journal of that meeting. No action of the town council, except
320 as otherwise provided in this charter, shall be valid or binding
321 unless adopted by a majority decision. Except as otherwise
322 provided in this charter, all land use and quasi-judicial items
323 shall require a supermajority decision.
324 (9) ORDINANCES.--In addition to other acts required by law
325 or by specific provision of this charter to be done by
326 ordinance, those acts of the town council shall be done by
327 ordinance, in accordance with the provisions of this charter,
328 which:
329 (a) Adopt or amend an administrative code or establish,
330 alter, or abolish any town department, office, or agency;

331 (b) Regulate land use and development;
332 (c) Levy taxes;
333 (d) Grant, renew, or extend a franchise;
334 (e) Regulate the rate charged by a public utility for its
335 services;
336 (f) Authorize the borrowing of money;
337 (g) Convey or lease, or authorize the conveyance or lease
338 of, any lands of the town;
339 (h) Provide for a fine or other penalty or establish a
340 rule or regulation for violation of which a fine or other
341 penalty is imposed;
342 (i) Amend or repeal any ordinance previously adopted; or
343 (j) Adopt, with or without amendment, ordinances proposed
344 under the initiative power.
345
346 Acts other than those referred to in this subsection may be done
347 either by ordinance or by resolution.
348 (10) EMINENT DOMAIN.--In no case shall the town council
349 exercise its powers of eminent domain or condemnation to acquire
350 property for private development purposes, regardless of the
351 public good such eminent domain or condemnation might support.
352 (11) ORDINANCES IN GENERAL.--
353 (a) Every proposed ordinance shall be introduced in
354 writing and in the form required for final adoption. No
355 ordinance shall contain more than one subject, which shall be
356 clearly expressed in its title. The enacting clause shall read,
357 "The Town of Grant-Valkaria hereby ordains:". Any ordinance that
358 repeals or amends an existing ordinance or part of the town code

359 shall set out in full the ordinance and the sections or
360 subsections to be repealed or amended and shall indicate matters
361 to be omitted by enclosing brackets or by strikeout type and
362 shall indicate new matters by italics or by underscoring.
363 (b) Any member of the town council at any regular or
364 special meeting of the town council may introduce an ordinance.
365 Upon introduction of any ordinance, the town clerk shall
366 distribute a copy to each council member and the town
367 administrator, shall file a reasonable number of copies in the
368 office of the town clerk and such other public places as the
369 town council may designate, and shall publish the ordinance
370 together with a notice setting out the time and place for a
371 public hearing thereon and for its consideration by the town
372 council. The public hearing shall follow the publication by at
373 least 7 calendar days, may be held separately or in connection
374 with a regular or special town council meeting, and may be
375 adjourned from time to time; all persons interested shall have
376 an opportunity to be heard. After the hearing, the town council
377 may adopt the ordinance with or without amendment or reject it,
378 but if it is amended as to any matter of substance, the town
379 council may not adopt it until the ordinance or its amended
380 sections have been subjected to all the procedures hereinbefore
381 required in the case of a newly introduced ordinance. As soon as
382 feasible after adoption, the clerk shall have the ordinance and
383 a notice of its adoption published and available at a reasonable
384 price. As used in this section, the term "publish" means to
385 provide in the contemporary means of information sharing, which
386 includes, but is not limited to, one or more newspapers of

387 general circulation in the town and, if available, in a website,
388 the ordinance or a brief summary thereof, the places where
389 copies of it have been filed, and the times when they are
390 available for public inspection and purchase at a reasonable
391 price.
392 (c) Except as otherwise provided in this charter, every
393 adopted ordinance shall become effective at the expiration of 30
394 days after adoption or at any later date specified therein.
395 (d) To meet a public emergency affecting life, health,
396 property, or the public peace, the town council may adopt one or
397 more emergency ordinances, but such ordinances may not levy
398 taxes; grant, renew, or extend a franchise; regulate the rate
399 charged by any public utility for its services; or authorize the
400 borrowing of money except as provided in section 5(8). An
401 emergency ordinance shall be introduced in the form and manner
402 prescribed for ordinances generally, except that it shall be
403 plainly designated as an emergency ordinance and shall contain,
404 after the enacting clause, a declaration stating that an
405 emergency exists and describing it in clear and specific terms.
406 An emergency ordinance may be adopted with or without amendment
407 or rejected at the meeting at which it is introduced, but the
408 affirmative vote of four or more members shall be required for
409 adoption. After its adoption, the ordinance shall be published
410 as prescribed for other adopted ordinances. It shall become
411 effective upon adoption or at such later time as it may specify.
412 Every emergency ordinance except an emergency appropriation as
413 described in section 5(9) shall automatically stand repealed as
414 of the 61st day following the date on which it was adopted, but

415 this shall not prevent reenactment of the ordinance in the
416 manner specified in this section if the emergency still exists.
417 An emergency ordinance may also be repealed by adoption of a
418 repealing ordinance in the same manner specified in this section
419 for adoption of emergency ordinances.
420 (e) The town council may adopt any standard code of
421 technical regulations by reference thereto in an adopting
422 ordinance. The procedure and requirements governing such an
423 adopting ordinance shall be as prescribed for ordinances
424 generally, except that:
425 1. The requirements of this charter for distribution and
426 filing of copies of the ordinance shall be construed to include
427 copies of the code of technical regulations as well as of the
428 adopting ordinance.
429 2. A copy of each adopted code of technical regulations as
430 well as of the adopting ordinance shall be authenticated and
431 recorded by the town clerk pursuant to this charter.
432 3. Copies of any adopted code of technical regulations
433 shall be made available by the town clerk for distribution or
434 for purchase at a reasonable price, consistent with the current
435 year's budget.
436 (f) The town clerk shall authenticate by signing and shall
437 record in full in a properly indexed document kept for that
438 purpose all ordinances and resolutions adopted by the town
439 council.
440 (g) Within 3 years after adoption of this charter and at
441 least every 10 years thereafter, the town council shall provide
442 for the preparation of a general codification of all town

443 ordinances and resolutions having the force and effect of law.
444 The general codification shall be adopted by the town council by
445 ordinance and shall be published, together with this charter and
446 any amendments thereto, pertinent provisions of the constitution
447 and other laws of the state, and such codes of technical
448 regulations and other rules and regulations as the town council
449 may specify. This compilation shall be known and cited
450 officially as the Grant-Valkaria Town Code. Copies of the code
451 shall be furnished to town officers, placed in libraries, public
452 offices, and, if available, on a website for free public
453 reference, and made available for purchase by the public at a
454 reasonable price fixed by the town council.
455 (h) The town council shall cause each ordinance and
456 resolution having the force and effect of law and each amendment
457 to this charter to be published promptly following its adoption,
458 and the published ordinances, resolutions, and charter
459 amendments shall be distributed or sold to the public at
460 reasonable prices as fixed by the town council. Following
461 publication of the first Grant-Valkaria Town Code and at all
462 times thereafter, the ordinances, resolutions, and charter
463 amendments shall be published in substantially the same style as
464 the code currently in effect and shall be suitable in form for
465 integration therein. The town council shall make such further
466 arrangements as it deems desirable with respect to reproduction
467 and distribution of any changes in or additions to the
468 provisions of the Constitution and laws of the State of Florida
469 or the codes of technical regulations and other rules and
470 regulations included in the code.

471 Section 3. Town administrator.--
472 (1) APPOINTMENT; QUALIFICATIONS; COMPENSATION.--The town
473 council, by majority vote, shall appoint a town administrator
474 for an indefinite term and set the town administrator's
475 compensation. The town administrator shall be appointed
476 primarily on the basis of education and experience in the
477 accepted competencies and practices of local government
478 management. The town administrator need not be a resident of the
479 town or state at the time of appointment but may reside outside
480 the town while in office only with the approval of the town
481 council. The town administrator is continuously responsible to
482 the town council, the elected representatives of the people.
483 (2) REMOVAL.--The town council may request the resignation
484 of the town administrator. If the town administrator declines to
485 resign at the town council's request, the town council may
486 suspend the administrator by a resolution approved by a majority
487 of the town council. Such resolution shall set forth the reasons
488 for suspension and proposed removal. A copy of such resolution
489 shall be served immediately upon the town administrator. The
490 town administrator shall have 15 days in which to reply thereto
491 in writing and, upon request, shall be afforded a public
492 hearing, which shall occur not earlier than 10 days or later
493 than 15 days after such hearing is requested. After the public
494 hearing, if one is requested, and after full consideration, the
495 town council, by a majority vote, may adopt a final resolution
496 of removal. The town administrator shall continue to receive
497 full salary until the effective date of a final resolution of
498 removal.

499 (3) ABSENCE OR DISABILITY.--
500 (a) To perform his or her duties during his or her
501 temporary absence or disability, the town administrator may
502 designate, by letter filed with the town clerk, an interim town
503 administrator.
504 (b) In the event of failure or inability of the town
505 administrator to make such designation, or should the person so
506 designated by the town administrator be unsatisfactory to the
507 town council, the town council may by resolution appoint an
508 interim town administrator to perform the duties of the town
509 administrator until he or she returns or his or her disability
510 ceases.
511 (4) POWERS AND DUTIES.--The town administrator shall be
512 the chief executive officer of the town, responsible to the town
513 council for the management of all town affairs placed in the
514 town administrator's charge by or under this charter. The town
515 administrator shall:
516 (a) Hire or fill existing positions, including the town
517 clerk, and when the town administrator deems it necessary for
518 the good of the town, suspend or remove town employees, except
519 as otherwise provided by law or this charter. The town
520 administrator may serve as town clerk.
521 (b) Direct and supervise the administration of all
522 departments and offices, but not town boards or agencies, except
523 as otherwise directed by the town council or provided by this
524 charter.

525 (c) Attend all town council meetings. The town
526 administrator shall have the right to take part in discussion
527 but shall not have the right to vote.
528 (d) Ensure that all laws, provisions of this charter, and
529 acts of the town council, subject to enforcement by the town
530 administrator or by officers subject to the town administrator's
531 direction and supervision, are faithfully executed.
532 (e) Prepare and submit the annual budget and capital
533 program, as specified in section 5, to the town council and
534 implement the final budget approved by the town council to
535 achieve the goals of the town.
536 (f) Submit to the town council, and make available to the
537 public, a complete report on the financial and administrative
538 activities of the town as of the end of each fiscal year.
539 (g) Prepare such other reports as the town council may
540 require concerning the operations of town departments, offices,
541 boards, and agencies.
542 (h) Keep the town council fully advised as to the
543 financial condition and current and future needs of the town.
544 (i) Assist the town council in developing long-term goals
545 for the town and strategies to implement these goals.
546 (j) Make recommendations to the town council concerning
547 the affairs of the town and facilitate the work of the town
548 council in developing policy.
549 (k) Provide staff support services for the mayor and
550 council members.
551 (l) Encourage and provide staff support for regional and
552 intergovernmental cooperation.

553 (m) Promote partnerships among the town council, staff,
554 and citizens in developing public policy and building a sense of
555 community.
556 (n) Perform all such other duties as are specified in this
557 charter or that may be required by the town council.
558 (5) BOND.--The town administrator and, where applicable,
559 an interim town administrator shall furnish a security bond to
560 be approved by the town council, in such amount as the town
561 council may specify, such bond to be conditioned on the faithful
562 performance of his or her duties. The premium of the bond shall
563 be paid by the town.
564 Section 4. Departments, offices, and agencies; town
565 attorney; land use.--
566 (1) CREATION OF DEPARTMENTS, OFFICES, AND AGENCIES.--The
567 town council may establish town departments, offices, and
568 agencies in addition to those created by this charter and shall
569 prescribe the functions of all departments, offices, and
570 agencies. No function assigned by this charter to a particular
571 department, office, or agency may be discontinued or assigned to
572 any other unless specified by this charter.
573 (2) DIRECTION BY TOWN ADMINISTRATOR.--All departments,
574 offices, and agencies under the direction and supervision of the
575 town administrator shall be administered by an officer appointed
576 by and subject to the direction and supervision of the town
577 administrator. With the consent of the town council, the town
578 administrator may serve as the head of one or more such
579 departments, offices, or agencies or may appoint one person as
580 the head of two or more of them.

581 (3) PERSONNEL SYSTEM.--
582 (a) All appointments and promotions of town officers and
583 employees shall be made primarily on the basis of merit or other
584 evidence of competence.
585 (b) Consistent with all applicable federal and state laws,
586 the town council shall provide by ordinance for the
587 establishment, regulation, and maintenance of a merit system
588 governing personnel policies necessary to effective
589 administration of the employees of the town's departments,
590 offices, and agencies.
591 (4) TOWN ATTORNEY.--The town council shall appoint the
592 town attorney by an affirmative vote of a majority of the town
593 council. The town council shall establish a contract term for
594 the town attorney that includes scheduled reviews. The town
595 attorney shall report to the town council to serve as chief
596 legal adviser to the town council, the town administrator, and
597 all town departments, offices, and agencies. Compensation and
598 benefits of the town attorney shall be set by the town council.
599 The town attorney shall be a member in good standing of The
600 Florida Bar. The town council may remove the town attorney at
601 any time by an affirmative vote of a majority of the town
602 council. The town attorney shall take office immediately on
603 appointment, and the terms and conditions shall be reduced to a
604 written contract. The town council shall have the authority to
605 engage such additional legal counsel as it deems advisable and
606 necessary.
607 (5) LAND USE, DEVELOPMENT, AND ENVIRONMENTAL
608 PLANNING.--Consistent with all applicable federal and state laws

609 with respect to land use, development, and environmental
610 planning, the town council shall:
611 (a) Designate an agency or agencies to carry out the
612 planning function and such decisionmaking responsibilities as
613 may be specified by ordinance or in section 9.
614 (b) Adopt a comprehensive plan and determine to what
615 extent zoning and other land use control ordinances must be
616 consistent with the plan.
617 (c) Determine to what extent the comprehensive plan and
618 zoning and other land use ordinances must be consistent with
619 regional plans.
620 (d) Adopt development regulations, to be specified by
621 ordinance, to implement the plan.
622
623 The designated agency, the town administrator, and the town
624 council shall seek to act in cooperation with other
625 jurisdictions and organizations in their region to promote
626 integrated approaches to regional issues.
627 Section 5. Finances.--
628 (1) ACCOUNTING PROCEDURES.--The town administrator shall
629 prescribe and require, except as may be prescribed and required
630 by law, the use of plain and uniform systems of keeping books of
631 accounts by all town departments, officers, or employees who are
632 charged with the receipt or disbursements of any of the funds of
633 the town or who may be authorized to purchase materials and
634 supplies or to employ labor for the town.
635 (2) FISCAL YEAR.--The fiscal year of the town shall begin
636 with the first day of October in each year and end on the last

637 day of September of the following year, as set forth in section
638 166.241, Florida Statutes.
639 (3) ANNUAL AUDIT.--The town council shall retain a
640 certified public accountant to be the independent auditor of
641 accounts of the town. It shall be the duty of the auditor to
642 audit the accounts of the town and all its officers whose duty
643 involves the collection, custody, and payment of moneys to or by
644 the town. The auditor shall, on or before April 15 of each year,
645 make and deliver a detailed report of any and all accounts,
646 records, and books from the previous fiscal year examined and
647 audited by him or her, which report under his or her hand and
648 seal shall be made available for public inspection.
649 (4) PUBLIC FINANCIAL RECORDS.--The town administrator
650 shall regularly make available as public records at a suitable
651 location all major revenues and expenditures of the town for a
652 given fiscal year. This information shall be made available, at
653 a minimum, quarterly.
654 (5) PUBLIC DEPOSITS.--All public deposits shall be made in
655 qualified public depositories and shall be secured as provided
656 by state law.
657 (6) PURCHASE, SALE, AND LEASE OF REAL PROPERTY.--All
658 purchases or sales of real property by the town or leases of
659 town-owned property are subject to public notice and hearing
660 before action is taken by the town council. Such action shall
661 require a supermajority vote of the town council. The public
662 notice shall be of the same extent and nature as that required
663 by general law for rezoning.
664 (7) ANNUAL BUDGET.--

665 (a) Submission of annual budget.--On or before July 15 of
666 each year, the town administrator shall submit a budget in
667 accordance with state law. It shall outline the financial
668 policies of the town for the ensuing fiscal year, describe the
669 important features of the budget, indicate any major changes
670 from the current year in fiscal policy, summarize the town's
671 fiscal position, and include any other material as the town
672 administrator deems necessary.
673 (b) Town council action on the budget.--
674 1. The town council shall adopt a budget for the ensuing
675 fiscal year by resolution on or before September 30 of each
676 year.
677 2. The town council shall not authorize or allow to be
678 authorized a budget that exceeds the reasonably expected revenue
679 for the ensuing fiscal year.
680 (c) Budget financial procedures.--
681 1. If at any time during the fiscal year it appears
682 probable to the town administrator that the revenues available
683 will be insufficient to meet the amount appropriated in the
684 budget, the town administrator shall report to the town council
685 without delay. The town council shall then take action to
686 prevent or minimize any deficit and for that purpose may, by
687 resolution, reduce one or more appropriations.
688 2. The town administrator shall have full authority to
689 transfer unencumbered funds between different programs within a
690 department, office, or agency. The town administrator shall not
691 have the authority to transfer funds between departments,
692 offices, or agencies.

693 3. The town council may, by resolution, transfer or
694 otherwise allocate or reallocate part or all of any unencumbered
695 balance within a department, office, or agency to any other
696 department, office, or agency.
697 (d) Budget as public record.--Copies of the budget as
698 adopted shall be public record and shall be made available to
699 the public at a suitable location in the town.
700 (8) TAXATION AND REVENUE.--
701 (a) Property taxable.--All property, real or personal, in
702 the town not expressly exempt by state law shall be subject to
703 taxation by the town within the limits set forth by the State
704 Constitution and general law.
705 (b) Authority of town to levy taxes.--The town council
706 shall have the right to raise, by taxation on the taxable
707 property within the corporate limits of the town and on
708 licenses, such amounts as may be necessary to carry on the
709 government of the town, within the limits set forth by the State
710 Constitution and general law. The town council shall have the
711 right to levy such additional taxes, within the limits set forth
712 by the State Constitution and general law, as may be necessary
713 to pay the interest on, and to provide a sinking fund for the
714 ultimate redemption of, the outstanding bonds of the town as may
715 from time to time be issued in accordance with law and to pay
716 any lawful judgment that the town may be compelled to satisfy.
717 (c) Borrowing money; selling bonds.--Unless authorized by
718 the electors of the town at a duly held referendum election, the
719 town council shall not authorize or allow to be authorized the
720 issuance of revenue bonds or enter into lease-purchase contracts

721 or any other unfunded multiyear contracts for the purchase of
722 real property or the construction of capital improvements the
723 repayment of which extends beyond the end of any fiscal year.
724 (9) EMERGENCY APPROPRIATIONS.--To address a public
725 emergency affecting life, health, property, or the public peace,
726 the town council may make emergency appropriations. Such
727 appropriations may be made by emergency ordinance in accordance
728 with the provisions of section 2. To the extent that there are
729 no available unappropriated revenues or a sufficient fund
730 balance to meet such appropriations, the town council may by
731 such emergency ordinance authorize the issuance of emergency
732 notes, which may be renewed from time to time, but the emergency
733 notes and renewals of any fiscal year shall be paid or
734 refinanced as long-term debt not later than the last day of the
735 fiscal year next succeeding that in which the emergency
736 appropriation was made.
737 Section 6. Town elections.--
738 (1) CONDUCT OF ELECTIONS.--The provisions of the general
739 election laws of the state shall apply to all elections held
740 under this charter. The town council may, by ordinance, make all
741 regulations it considers needful or desirable, not inconsistent
742 with this charter, for the conduct of municipal elections and
743 for the prevention of fraud therein. Nothing in this charter
744 shall preclude the town council from authorizing the
745 administration of town elections by the county supervisor of
746 elections.
747 (a) Regular elections.--The regular town elections shall
748 be held every 2 years beginning on November 7, 2006, coincident

749 with county, state, and national elections. Poll workers and
750 clerks of elections, if required, shall be appointed by the
751 Brevard County Supervisor of Elections.
752 (b) Special elections.--Special elections, when required,
753 shall be scheduled by the town council at such times and in such
754 manner as shall be consistent with this charter and state law.
755 (c) Single candidates.--No election for a town council
756 seat shall be required in any election if there is only one duly
757 qualified candidate for that seat.
758 (d) Electors.--Any person who is a resident of the town,
759 is qualified as an elector of the state, and is registered to
760 vote in the manner prescribed by law shall be an elector of the
761 town.
762 (e) Nonpartisan elections.--All elections for the offices
763 of council member and mayor shall be conducted on a nonpartisan
764 basis.
765 (2) COMMENCEMENT OF TERMS.--The term of office of any
766 elected official shall commence 2 weeks after the election.
767 (3) OATH OF OFFICE.--All elected officers, before entering
768 upon their duties, shall take and subscribe to the following
769 oath of office: "I do solemnly swear (or affirm) that I will
770 support, protect, and defend the Constitution and Government of
771 the United States and of the State of Florida and the charter of
772 the Town of Grant-Valkaria; that I am duly qualified to hold
773 office under the Constitution of the State and of the charter of
774 the Town of Grant-Valkaria; that I will well and faithfully
775 perform the duties of (mayor or council member) upon which I am
776 about to enter; and that I will work to preserve and promote the

777 history, environment, and rural character of the Town of Grant-
778 Valkaria."
779 (4) METHOD OF ELECTING COUNCIL MEMBERS.--The ballot for
780 the general election shall contain the names of all qualified
781 candidates for council members and the number of seats up for
782 election. The ballot shall instruct electors to cast one vote
783 for each open council seat. The candidates who receive the
784 largest number of votes shall be the duly elected council
785 members and shall be designated as holding a specific council
786 seat number. Council seat numbers shall be assigned such that
787 the lowest seat number available is given to the candidate who
788 receives the largest number of votes.
789 (5) METHOD OF ELECTING THE MAYOR.--If the mayor's term is
790 expiring, the ballot for the general election shall contain the
791 names of all qualified candidates for mayor and shall instruct
792 electors to cast one vote for mayor. The candidate for mayor
793 receiving the largest number of votes shall be the duly elected
794 mayor.
795 (6) TIE VOTES.--In the event of a tie for the office of
796 council member or mayor, the winner shall be determined by lot.
797 (7) CANDIDATE FORUMS.--The town shall sponsor and budget
798 for a minimum of three candidate forums. Each candidate for
799 mayor or council seat shall participate in a minimum of two
800 candidate forums.
801 (8) QUALIFYING OF CANDIDATES FOR OFFICE OF COUNCIL MEMBER
802 OR MAYOR.--

803 (a) Only electors of the town who have resided in the town
804 for the 2 years preceding the date of filing for candidacy shall
805 be eligible to hold the office of council member or mayor.
806 (b) Candidates for council member or mayor shall qualify
807 for election by the filing of a written notice of candidacy with
808 the clerk of the town at such time and in such manner as may be
809 prescribed by ordinance, plus payment of any fees required by
810 general law as a qualifying fee. The candidate shall submit a
811 qualifying statement, as prescribed by ordinance, with the
812 signatures of at least 1 percent of the total number of electors
813 at the last general election, and pay any required filing fee.
814 (c) The qualifying period shall not be less than 45 days
815 and not more than 60 days prior to the elections. If there is an
816 insufficient number of candidates at the conclusion of the
817 qualifying period, all candidates shall be seated according to
818 paragraph (1)(c) and subsection (6). The qualifying period shall
819 be extended 5 business days for the remaining open seat or
820 seats.
821 (d) A person may not be a candidate for more than one
822 office in the same election.
823 (9) INITIATIVE, CITIZEN REFERENDUM, AND RECALL.--
824 (a) The electors of the town shall have power to propose
825 ordinances to the town council; however, such power shall not
826 extend to the budget or capital program or any ordinance
827 relating to appropriation of money, levy of taxes, or salaries
828 of town employees. If the town council fails to adopt the
829 proposed ordinance or a modification thereof, the electors shall
830 have the power to adopt or reject it at a town election.

831 (b) The electors of the town shall have the power to
832 require reconsideration by the town council of any adopted
833 ordinance. If the town council fails to repeal an ordinance so
834 reconsidered, the electors may approve or reject it at a town
835 election. However, such power of reconsideration shall not
836 extend to the budget or capital program or any emergency
837 ordinance or ordinance relating to appropriation of money, levy
838 of taxes, or salaries of town employees.
839 (c) The electors of the town shall have the power to
840 remove from office any elected official of the town in
841 accordance with general law.
842 (10) INITIATIVE AND REFERENDUM PROCEEDINGS.--
843 (a) Any five electors may commence initiative or
844 referendum proceedings by filing with the town clerk an
845 affidavit stating that they will constitute the petitioners'
846 committee, stating that they will be responsible for circulating
847 the petition and filing it in proper form, stating their names
848 and addresses, specifying the address to which all notices to
849 the petitioners' committee are to be sent, and setting out in
850 full the proposed initiative ordinance or the proposed amendment
851 or repeal action relating to an existing ordinance. The town
852 clerk shall promptly file the affidavit with the town
853 administrator so that it can be placed on the agenda for the
854 next town council meeting. If the proposed ordinance is in the
855 correct form and is compatible with the town charter and general
856 and special law, the town council shall promptly consider the
857 proposal on its merits and substance. If deficiencies of form or
858 legality exist, the proposal shall be returned to its sponsors

859 for correction and resubmission. If the town council delays,
860 rejects, changes, or refuses to consider a proposed ordinance or
861 amendment or repeal request for reasons that fail to satisfy its
862 sponsors, the proposed ordinance or amendment or repeal request
863 may be submitted to referendum by petition. Production of
864 petition forms and validation of signatures shall be the
865 responsibility of the petitioners' committee.
866 (b) Referendum and initiative petitions must be signed by
867 electors of the town, as certified by the Brevard County
868 Supervisor of Elections, equal in number to at least 20 percent
869 of the total number of electors voting at the last regular
870 election.
871 (c) All papers of a petition shall be uniform in size and
872 style and shall be assembled as one instrument for filing. Each
873 signature shall be executed in ink or indelible pencil and shall
874 be followed by the address of the person signing. Referendum and
875 initiative petitions shall contain or shall have attached to
876 them throughout their circulation the full text of the proposed
877 ordinance, amendment, or repeal request.
878 (d) Each paper of a petition shall have attached to it,
879 when filed, an affidavit executed by its circulator stating that
880 the circulator personally circulated the paper, giving the
881 number of signatures on the paper, and stating that all the
882 signatures were affixed in the circulator's presence, that the
883 circulator believes them to be the genuine signatures of the
884 persons whose names they purport to be, and that each signer had
885 an opportunity before signing to read the full text of the
886 proposed ordinance, amendment, or repeal request.

887 (e) Referendum petitions must be filed within 30 days
888 after adoption by the town council of the ordinance sought to be
889 reconsidered.
890 (f) Within 20 days after the petition is filed, the town
891 clerk shall complete a certificate as to its sufficiency,
892 specifying, if it is insufficient, the particulars in which it
893 is defective, and shall within 2 working days send a copy of the
894 certificate to the petitioners' committee by registered mail.
895 Verification of electors shall be as certified by the Brevard
896 County Supervisor of Elections. A petition certified
897 insufficient for lack of the required number of valid signatures
898 may be amended once if the petitioners' committee files a notice
899 of intention to amend it with the town clerk within 5 days after
900 receiving the copy of the certificate and if the petitioners'
901 committee files a supplementary petition upon additional papers
902 within 10 days after receiving the copy of the certificate. Such
903 supplementary petition shall comply with the requirements of
904 paragraphs (c) and (d). Within 20 days after a supplementary
905 petition is filed, the town clerk shall complete a certificate
906 as to the sufficiency of the petition as amended and shall
907 promptly send a copy of such certificate to the petitioners'
908 committee by registered mail. If a petition or amended petition
909 is certified sufficient, or if a petition or amended petition is
910 certified insufficient and the petitioners' committee does not
911 elect to amend or to request town council review under paragraph
912 (g) within the time required, the town clerk shall promptly
913 present the certificate to the town council, and the certificate

914 shall then be a final determination as to the sufficiency of the
915 petition.
916 (g) If a petition has been certified insufficient for
917 reasons other than the required number of elector signatures and
918 the petitioners' committee does not file notice of intention to
919 amend it, or if an amended petition has been certified
920 insufficient for reasons other than the required number of
921 elector signatures, the committee may, within 5 days after
922 receiving the copy of such certificate, file a request that the
923 petition be reviewed by the town council. The town council shall
924 review the petition and its accompanying certificate at its next
925 meeting following the filing of such request and shall approve
926 or disapprove it. The town council's determination shall then be
927 a final determination as to the sufficiency of the petition.
928 (h) A final determination as to the sufficiency of a
929 petition shall be subject to court review. A final determination
930 of insufficiency, even if sustained upon court review, shall not
931 prejudice the filing of a new petition for the same purpose.
932 (i) The cost of checking the names on a petition against
933 the list of electors shall be borne by the petitioners'
934 committee.
935 (j) When a referendum petition is filed with the town
936 clerk, the ordinance sought to be reconsidered shall be
937 suspended from taking effect. Such suspension shall terminate
938 when:
939 1. There is a final determination of insufficiency of the
940 petition;
941 2. The petitioners' committee withdraws the petition;

942 3. The town council repeals the ordinance; or
943 4. Thirty days have elapsed after a vote of the electors
944 of the town on the ordinance.
945 (k) When an initiative or referendum petition has been
946 finally determined sufficient, the town council shall promptly
947 consider adoption of the proposed initiative ordinance or
948 reconsider the referred ordinance by voting its repeal. If,
949 within 60 days after the petition is determined sufficient, the
950 town council fails to adopt a proposed initiative ordinance
951 without any change in substance or fails to repeal the referred
952 ordinance, it shall submit the proposed or referred ordinance to
953 the electors of the town.
954 (l) The election on a proposed or referred ordinance shall
955 be held not fewer than 30 days and not later than 1 year from
956 the date that the petition was determined sufficient. If no
957 regular town election is to be held within such period, the town
958 council shall provide for a special election; otherwise, the
959 vote shall be held at the same time as such regular election,
960 except that the town council may in its discretion provide for a
961 special election at an earlier date within such period. Copies
962 of the proposed or referred ordinance shall be made available at
963 the polls.
964 (m) An initiative or referendum petition may be withdrawn
965 at any time prior to the 15th day preceding the day scheduled
966 for a vote of the town by filing with the town clerk or other
967 official designated by the town council a request for withdrawal
968 signed by at least four members of the petitioners' committee.
969 Upon the filing of such request, the petition shall have no

970 further force or effect and all proceedings thereon shall be
971 terminated.
972 (11) RESULTS OF INITIATIVE OR REFERENDUM.--
973 (a) If a majority of the electors voting in a referendum
974 on a proposed initiative ordinance votes in favor of it, it
975 shall be considered adopted upon certification of the election
976 results and shall be treated in all respects in the same manner
977 as ordinances adopted by the town council.
978 (b) If a majority of the electors voting in a referendum
979 on a request to repeal an existing ordinance votes in favor of
980 repeal, the ordinance shall be considered repealed upon
981 certification of the election results.
982 Section 7. General provisions.--
983 (1) CONDUCT OF OFFICIALS IN OFFICE.--
984 (a) All town council members, town officials, and town
985 employees shall be subject to the code of ethics for public
986 officers and employees set forth in part III of chapter 112,
987 Florida Statutes, as required by law.
988 (b) The use of public office for private gain is
989 prohibited. The town council shall implement this prohibition by
990 ordinance, the terms of which shall address, but not be limited
991 to:
992 1. Acting in an official capacity on matters in which the
993 official has a private financial interest clearly separate from
994 that of the general public.
995 2. The acceptance of gifts and other things of value.
996 3. Acting in a private capacity on matters dealt with as a
997 public official.

998 4. The use of confidential information.
999 5. Appearances by public officials before other town
1000 departments, offices, or agencies on behalf of private
1001 interests.
1002
1003 This ordinance shall include a statement of purpose and shall
1004 provide for reasonable public disclosure of finances by
1005 officials with major decisionmaking authority over monetary
1006 expenditures and regulatory matters. Insofar as permissible
1007 under state law, this ordinance may provide for fines and
1008 imprisonment for violations.
1009 (2) PROHIBITIONS.--Except where authorized by law, neither
1010 the mayor nor any council member shall hold any other elected
1011 public office during the term for which the mayor or council
1012 member is elected. No elected town official shall hold any
1013 appointive town office or town employment while in office. No
1014 former elected town official shall hold any compensated
1015 appointive town office or town employment until 12 months after
1016 the expiration of his or her term. This subsection shall not
1017 prevent participation in, or compensation for, activities
1018 connected with any volunteer organization of the town.
1019 (3) APPOINTMENTS AND REMOVALS.--Neither the council
1020 members nor the mayor shall in any manner control or demand the
1021 appointment or removal of any town administrative officer or
1022 employee whom the town administrator or any subordinate of the
1023 town administrator is empowered to appoint, but the town council
1024 may express its views and fully and freely discuss with the town

1025 administrator anything pertaining to appointment and removal of
1026 such officers and employees.
1027 (4) INTERFERENCE WITH ADMINISTRATION.--Except for the
1028 purpose of inquiries and investigations, the town council and
1029 its members shall deal with the town officers and employees who
1030 are subject to the direction of the town administrator solely
1031 through the town administrator, and neither the town council nor
1032 its members shall give orders to any such officer or employee
1033 either publicly or privately.
1034 (5) CAMPAIGN FINANCE.--
1035 (a) The town council shall adopt ordinances to protect the
1036 ability of citizens to be informed of financing used in
1037 campaigns for local office. The ordinances shall provide for
1038 convenient public disclosure. Insofar as is permissible under
1039 state law, such regulations may also provide for fines and
1040 imprisonment for violations.
1041 (b) The town council may adopt ordinances that limit
1042 contributions, time limits on fundraising, and public financing.
1043 (6) LONG-RANGE PLAN.--The town council shall meet to
1044 discuss long-range goals and objectives that, when achieved,
1045 will sustain town operations and continued quality of life for
1046 inhabitants of the town. Each year, goals and objectives shall
1047 be established for 5, 10, and 20 years into the future. Once
1048 established, the goals and objectives shall be presented as a
1049 long-range plan at a meeting of the town council and documented
1050 in presentations and minutes of the meeting. Inputs shall be
1051 solicited from town residents during the preparation of the
1052 long-range plan.

1053 (7) FIVE-YEAR FINANCIAL PLAN.--In accordance with the 5-
1054 year goals and objectives established in the long-range plan by
1055 the town council, the town council shall prepare a 5-year
1056 financial plan (FYFP). The FYFP shall be presented in
1057 conjunction with the annual budget and shall contain projected
1058 financial requirements necessary to support proposed plans and
1059 programs.
1060 (8) EMERGENCY OPERATIONS.--The town council shall
1061 establish an emergency preparedness plan for the town. This plan
1062 shall be reviewed annually.
1063 (9) DISSOLUTION.--The charter of this town may not be
1064 revoked except in accordance with the dissolution procedures of
1065 chapter 165, Florida Statutes.
1066 Section 8. Charter amendment.--
1067 (1) PROCEDURE TO AMEND THE CHARTER.--
1068 (a) The town council may, by ordinance, propose amendments
1069 to this charter. Upon approval of the initiating ordinance by
1070 majority of the town council, the proposed amendment shall be
1071 placed on the ballot at the next regularly scheduled election,
1072 unless the amendment calls for placement on the ballot at a
1073 special election.
1074 (b) The electors of the town may propose amendments to
1075 this charter by petition signed by 20 percent of the registered
1076 electors as of the last general election. Once the petition is
1077 verified, the proposed amendment shall be placed on the ballot
1078 at the next regularly scheduled ballot, unless the amendment
1079 calls for placement on the ballot at a special ballot. The
1080 proposed charter amendment will be published twice in the local

1081 paper not fewer than 30 days or more than 60 days before the
1082 scheduled election.
1083 (2) CHARTER REVIEW.--The charter shall be reviewed no
1084 later than 3 years from the date the town was established. After
1085 the initial review, the charter shall be reviewed no more than
1086 once every 10 years. Each town council member shall appoint one
1087 person to a seven-member charter review committee. The charter
1088 review committee shall be appointed at least 6 months before the
1089 next scheduled election and complete its work and present any
1090 recommendations for change no later than 90 days before the
1091 election. The town council shall hold a minimum of two public
1092 hearings on the proposed changes prior to placement on the
1093 regularly scheduled ballot.
1094 (3) RESULTS OF ELECTION.--If a majority of the electors
1095 voting on the proposed amendment passes the item, it shall be
1096 considered adopted upon certification of the election results.
1097 The town council shall have the amendment incorporated into the
1098 charter and shall file the revised charter with the Department
1099 of State.
1100 Section 9. Land use, zoning, and development.--
1101 (1) RURAL CHARACTER OF TOWN.--This section secures the
1102 foundation on which this town was formed and maintains the
1103 existing rural character of the town. "Rural" includes several
1104 key elements that constitute the makeup of the town. These
1105 elements include:
1106 (a) Low development intensity and an abundance of
1107 agricultural lands.

1108 (b) Inherent "green canopy" and natural preserve that
1109 currently covers the majority of the town.
1110 (c) Inherent natural resources including aquifers,
1111 watersheds, wetlands, and the waterways of the Indian River
1112 Lagoon.
1113 (d) Predominant and viable wildlife areas and protected
1114 species habitat.
1115 (e) Small, family-owned and family-operated businesses.
1116 (f) Commercial development as deemed appropriate to the
1117 character and emerging needs of the town.
1118 (2) LAND USE, ZONING, AND DEVELOPMENT REQUIREMENTS.--In
1119 order to preserve and promote the existing rural elements listed
1120 in subsection (1), this section outlines land use, zoning, and
1121 development requirements and the requirements for approval of
1122 development intensity increases for any parcel within the
1123 boundaries of the town. The provisions of this section shall
1124 make it incumbent upon all future development to protect the
1125 rural elements of the town and:
1126 (a) Continue the use of private wells as sources of
1127 potable water and the use of private septic recycling.
1128 (b) Promote and preserve public lands and parks for
1129 community enjoyment.
1130 (c) Protect and promote the wildlife and the wildlife
1131 habitat that coexist within the town.
1132 (d) Preserve the natural view and existing scenic highway
1133 designation of U.S. Highway 1 through careful management of
1134 development along and within these natural assets.
1135

1136 By proactively managing future growth as a rural community and
1137 limiting impacts through thoughtful community-based planned
1138 development, the naturally existing rural character of the town
1139 will be sustained. To this end, the land development regulations
1140 and ordinances of the town shall uphold and enforce the goals
1141 and overall spirit of this section. All zoning in effect at the
1142 time of incorporation shall remain unchanged after incorporation
1143 (i.e. "grandfathered in"). All present county zoning
1144 classifications and land use designation terminology shall
1145 continue in effect until the town is established and the town's
1146 long-range comprehensive plan and future land use map are
1147 completed and adopted. A new long-range comprehensive plan and
1148 future land use map shall be completed and adopted within 1 year
1149 after incorporation.
1150 (3) PROPOSED CHANGE; PRIOR NOTICE; VOTE REQUIRED.--Prior
1151 to voting on a proposed increase in development intensity,
1152 including, but not limited to, density levels, building heights,
1153 and traffic impacts, the town council shall notify all property
1154 owners inside the town whose property is within 1,500 feet of
1155 the proposed change. Notification shall occur no fewer than 30
1156 days prior to consideration by the town council. An affirmative
1157 vote of six or more members of the town council shall be
1158 required to enact any such proposed change.
1159 Section 10. Transition.--
1160 (1) CREATION AND ESTABLISHMENT OF THE TOWN.--
1161 (a) For the purpose of compliance with general law
1162 relating to the assessment and collection of ad valorem taxes,
1163 the town is hereby created and established effective when

1164 approved by the electors at the August 1, 2006, special election
1165 and filed with the Secretary of State in the manner prescribed
1166 by law.
1167 (b) The town name used in this charter is "Town of Grant-
1168 Valkaria." As a first act of home rule and to ensure community
1169 participation, residents will have the opportunity to select
1170 their town name. The elected town council shall set the
1171 procedures for the residents' selection of the town name within
1172 6 months after the first town council meeting.
1173 (2) TEMPORAL NATURE OF TRANSITION SECTIONS OF
1174 CHARTER.--This section is inserted solely for the purpose of
1175 effecting the incorporation of the town and the transition from
1176 an unincorporated area of Brevard County to a new incorporated
1177 municipality. Each of the following subsections of this section
1178 shall automatically, and without further vote or act of the
1179 electors of the town, become ineffective and no longer a part of
1180 this charter at such time as the implementation of such
1181 subsection has been accomplished.
1182 (3) FIRST TRANSITION PERIOD; CHARTER ACCEPTANCE TO FIRST
1183 ELECTION.--
1184 (a) Since upon approval of the charter a governmental unit
1185 equivalent to the town does not exist to provide people with
1186 positions accredited to effect a transition, an interim council
1187 committed to the charter and the transition to town government
1188 shall be identified and authorized.
1189 (b) Based on prior commitment to and involvement in the
1190 incorporation process, the Grant-Valkaria Preservation
1191 Committee-Steering Committee (GVPC-SC) is recognized as the

1192 appropriate body to select an interim council. The interim
1193 council shall transition from charter development and community
1194 organization by providing an interim town government during the
1195 time period between the approval of the charter and the
1196 dissolution of the interim council. Upon the certification of
1197 acceptance of the charter by the electors of the town, as
1198 reported by the Brevard County Supervisor of Elections, the
1199 GVPC-SC shall convene forthwith and identify five electors to
1200 act as interim town council members.
1201 (c) Dissolution of the interim council shall occur at the
1202 beginning of the term of the first elected town council.
1203 (d) The positions of interim council members shall be
1204 voluntary positions. Interim council members shall receive no
1205 compensation.
1206 (e) Powers of the interim council shall be in accordance
1207 with this charter and shall include:
1208 1. Preparing and adopting temporary regulations that are
1209 applicable only to the first town council election and designed
1210 to ensure its proper conduct, to prevent fraud, and to provide
1211 for recount of ballots in cases of doubt or fraud.
1212 2. Providing a method for certification of candidates for
1213 the first town council election.
1214 3. Scheduling the three community candidate forums as
1215 described in section 6 in preparation for the first town council
1216 election.
1217 4. Coordinating with the Brevard County Supervisor of
1218 Elections with regard to the first town council election and to
1219 effect the timely receipt by the interim council of the official

1220 certification results for the town council election.
1221 5. Scheduling the first town council meeting.
1222 6. Enacting emergency ordinances as may be warranted to
1223 protect public safety.
1224 7. Identifying and managing funds.
1225 8. Filing applicable forms and requests for revenue
1226 sharing and other funding sources.
1227 9. Disbursing funds for the purpose of conducting town
1228 business to include the funding of the first election of the
1229 town council. The moneys available for this purpose shall be
1230 those identified within the Proposed Town of Grant-Valkaria
1231 Municipal Incorporation Feasibility Study and shall accrue from
1232 the municipal ad valorem millage rate of 4.369 mills as applied
1233 to the total taxable value of the properties contained within
1234 the proposed boundaries of the Town of Grant-Valkaria as they
1235 accrue to the town general fund and from those funds accruing
1236 from all applicable state and county revenue-sharing programs as
1237 calculated effective from the first day of the month following
1238 the charter referendum, being the first day of legal status of
1239 the Town of Grant-Valkaria as a newly incorporated municipality
1240 within the state.
1241 (f) Until otherwise modified or replaced by this charter
1242 or the council, all codes, ordinances, and resolutions of
1243 Brevard County in effect on the day of adoption of this charter
1244 shall, to the extent applicable to the town, remain in force and
1245 effect as municipal codes, ordinances, and resolutions of the
1246 town. Until otherwise determined by the council, said codes,
1247 ordinances, and resolutions shall be applied, interpreted, and

1248 implemented by the town in a manner consistent with established
1249 policies of Brevard County on the date of the adoption of this
1250 charter.
1251 (4) FIRST ELECTION; TERMS OF COUNCIL MEMBERS AND MAYOR.--
1252 (a) For the first election, only electors who have resided
1253 within the proposed town boundaries, as described in section
1254 1(5), for the 2 years preceding the date of the first election
1255 shall be eligible to hold the office of council member or mayor.
1256 (b) At the first election under this charter, all six
1257 council members and the mayor shall be elected. The three
1258 council candidates receiving the greatest number of votes shall
1259 be duly elected council members and shall be designated as
1260 holding seats 1, 3, and 5, respectively. The three council
1261 candidates receiving the next greatest number of votes shall be
1262 duly elected council members and shall be designated as holding
1263 seats 2, 4, and 6, respectively. The candidate for mayor
1264 receiving the greatest number of votes shall be the duly elected
1265 mayor. Notwithstanding the date of the first election, the terms
1266 of the mayor and council seats 1, 3, and 5 shall end 2 weeks
1267 after the general election in 2010, and the terms of council
1268 seats 2, 4, and 6 shall end 2 weeks after the general election
1269 in 2008. Division of council seats into 4-year and 2-year terms
1270 is required in order to allow staggered terms of office.
1271 (5) INITIAL EXPENSES.--The initial expenses of the town
1272 council, including the expense of recruiting a town
1273 administrator, shall be paid by the town on vouchers signed by
1274 the mayor. The town council, in order to provide moneys for the
1275 expenses and support of the town, shall have the power to borrow

1276 money, if necessary, for the operation of town government until
1277 such time as a budget is adopted and revenues accrue in
1278 accordance with the provisions of this charter. Notwithstanding
1279 the provisions of paragraph (3)(e), the amount borrowed shall be
1280 in accordance with and shall not exceed the projected revenues
1281 of the incorporation feasibility study for the town for fiscal
1282 year 2006-2007.
1283 (6) TRANSITIONAL ORDINANCES AND RESOLUTIONS.--The town
1284 council shall adopt ordinances and resolutions required to
1285 effect the transition. Ordinances adopted within 60 days after
1286 the first regular council meeting may be passed as emergency
1287 ordinances.
1288 (7) REVENUE SOURCE TRANSITION.--Until otherwise modified
1289 by the council, all municipal taxes and fees imposed within the
1290 town boundaries by the county as the municipal government for
1291 unincorporated Brevard County, which taxes and fees are in
1292 effect on the date of adoption of this charter, shall continue
1293 at the same rate and on the same conditions as if those taxes
1294 and fees had been adopted and assessed by the town.
1295 (8) TRANSITION CONTINUITY OF SERVICES.--To ensure that
1296 there is no discontinuity in the provision, level, or quality of
1297 municipal service delivery to the proposed town, and until such
1298 time as the town may enter into interlocal agreements with
1299 Brevard County regarding the provision of municipal services,
1300 all municipal services currently provided by Brevard County will
1301 continue to be provided by Brevard County at the service levels
1302 existing at the time of municipal incorporation. All federal,
1303 state, grant, and other funding sources existing prior to the

1304 time the town is incorporated shall continue to be applied in
1305 the manner and at the level anticipated and projected by the
1306 Brevard County Budget prior to the incorporation of the town.
1307 The future cost and level of municipal service delivery provided
1308 to the town by Brevard County beyond fiscal year 2006-2007 shall
1309 be negotiated and determined through interlocal agreement
1310 between the town and appropriate representatives of Brevard
1311 County.
1312 (9) STATE-SHARED REVENUES.--The town shall be entitled to
1313 participate in all shared revenue programs of the state,
1314 effective immediately on the date of incorporation. The
1315 provisions of section 218.23, Florida Statutes, shall be waived
1316 for the purpose of eligibility to receive revenue-sharing funds
1317 from the date of incorporation through the end of state fiscal
1318 year 2005-2006. The provisions of section 218.26(3), Florida
1319 Statutes, shall be waived for state fiscal year 2005-2006, and
1320 the apportionment factors for the municipalities and counties
1321 shall be recalculated pursuant to section 218.245, Florida
1322 Statutes. The initial population estimates for calculating
1323 eligibility for shared revenues shall be determined by the
1324 University of Florida Bureau of Economic and Business Research
1325 as of the effective date of this charter. Should the bureau be
1326 unable to provide an appropriate population estimate, the
1327 initial population for calculating eligibility for shared
1328 revenues shall be established at the level of 3,907 as projected
1329 in the incorporation feasibility study.
1330 (10) GAS TAX REVENUES.--Notwithstanding the requirements
1331 of section 336.025, Florida Statutes, to the contrary, the town

1332 shall be entitled to receive local option gas tax revenues
1333 beginning the first day of the month following the charter
1334 referendum. These revenues shall be distributed to the town as a
1335 fully eligible incorporated municipality of Brevard County in
1336 accordance with the distribution formula initially established
1337 and adopted on October 18, 1988, as part of the "Brevard County
1338 Local Option Gasoline Tax Revenue Distribution, Interlocal
1339 Agreement" and as amended by the Board of County Commissioners
1340 of Brevard County through Ordinance No. 99-40 as ratified on
1341 October 12, 1999, extending the Local Option Gas Tax Interlocal
1342 Agreement through August 31, 2021.
1343 (11) SHARED REVENUES.--Brevard County shall distribute to
1344 the town, from taxes, franchise fees, and ad valorem taxes,
1345 revenues collected within the municipal boundaries of the town.
1346 This calculation shall be based upon a population projection of
1347 3,907 residents for the town as estimated for the feasibility
1348 study in anticipation of the year 2008 census.
1349 Section 11. Severability.--If any section or part of a
1350 section of this charter shall be held invalid by a court of
1351 competent jurisdiction, such holding shall not affect the
1352 remainder of this charter nor the context in which such section
1353 or partial section so held invalid may appear, except to the
1354 extent that an entire section or a partial section may be
1355 inseparably connected in meaning and effect with the section or
1356 partial section to which such holding shall directly apply.
1357 Section 12. This act shall only take effect upon approval
1358 by a majority vote of those qualified electors of the area
1359 described in subsection (5) of section 1 voting in a referendum

1360 to be called by the Brevard County Supervisor of Elections on or
1361 before August 1, 2006, except that this section shall take
1362 effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1509 Flagler Estates Road and Water Control District, St. Johns County
SPONSOR(S): Proctor
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

House Bill 1509 amends the boundaries of Flagler Estates Road and Water Control District (District), an independent special district in St. Johns County, to remove lands located in Flagler County. The bill authorizes the District to collect fees for connections to and use of District works by the Hastings Drainage District and by the landowners of property in Flagler County that was formerly a part of the District. The bill provides the Hastings Drainage District and the District may enter into an interlocal agreement that incorporates district policies and conditions for cooperative operation of interconnected water facilities. The bill expands the District's powers and provides that the works of the District include all waterways, water control structures, equipment, facilities, real property interests, lighting, roads and the streets maintained by the District.

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:

Ensure lower taxes – The bill authorizes the District to collect fees for connection to and use of the works of the District.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Flagler Estates Road and Water Control District originally was named "Sixteen Mile Creek Water 8 Control District" when it was created as a public corporation by Final Judgment of the Seventh Judicial Circuit Court, St. Johns County, Florida, on June 4, 1971, as recorded in O.R. 194, page 344, Public Records of St. Johns County, Florida, in Case # 2154.

The District originally was authorized to accept and maintain drainage improvements already in existence and to operate pursuant to chapter 298, F.S. In addition to the powers provided for in general law, in 1981 the District was granted the authority to maintain roadways, roads, and streets. This road authority geographically was expanded in 1982 to include the lands within the boundaries of the District situated in Flagler County as well as a component of the District's road maintenance authority within the District boundaries. The District also has the authority to include, but not be limited to, street lighting, road striping, reconstruction, and any other safety features or improvements customary to a modern road system. Surplus real property owned by the District can be made available to the public for passive use and the District is authorized to enter into lease or interlocal agreements with other governmental entities for the operation and/or maintenance of passive use areas within the District boundaries.

Chapter 2000-479, L.O.F., an act relating to Flagler Estates Road and Water Control District, St. Johns and Flagler Counties, provides that if no agreement can be reached and the level of assessment on properties located within the District reaches zero, the lands will be dissolved from the District, Flagler County will assume title to all real property of the District that is located in Flagler County, and the county will assume all debts owed by the District with respect to property or interest so transferred.

Effect of Proposed Changes

This bill amends the boundaries to Flagler Estates Road and Water Control District (District), an independent special district in St. Johns County. The bill authorizes the District to collect fees for connections to and use of District works by the Hastings Drainage District and by the landowners of property in Flagler County that was formerly a part of the District. The bill provides the District and Hastings Drainage District may enter into an interlocal agreement that incorporates district policies and conditions for cooperative operation of interconnected water facilities. The bill provides that the District shall have authority to construct, operate, maintain, repair, and replace any and all works and improvements necessary to execute the district's water control plan, including all power and authority conferred by chapter 298, F.S. The bill provides that the works of the District include all waterways, water control structures, equipment, facilities, real property interests, lighting, roads and the streets maintained by the District.

C. SECTION DIRECTORY:

Section 1. Amends sections 1 and 3 of section 4 of chapter 98-529, L.O.F.

Section 1. Amends the powers and authority of the District.

Section 3. Revises District boundaries.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? October 21, 2005.

WHERE? The St. Augustine Record, St. Augustine, St. Johns 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:

Mr. David Ramba, Esq., with the law firm of Lewis, Longman & Walker, P.A., representing the District, sent the following statement relating to the boundaries of the district:

> This bill specifically de-annexes all District lands located in Flagler County as was required by chapter 2000-479, L.O.F. All land remaining in the District is in St. John's County. In addition, the boundary is amended to include district-owned lands containing the main outfall structure for the Sixteen Mile Creek Basin into the boundary description.[1]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment requiring Hastings Drainage District and Flagler Estates Road and Water Control District, with the assistance and advice of the St. Johns River Water Management District, to enter into an interlocal agreement by December 31, 2006, regarding interconnected water control facilities. The amendment deletes a provision that the District may collect fees for connection to and use of the works of the District. The amendment also adds a statement that "the district recognizes that it is subject to the provisions of Chapter 2005-345, Laws of Florida, in so far as that chapter relates to the Flagler Estates Road and Water Control District formerly known as Sixteen Mile Creek Water Control District."

[1] *See* Letter from Mr. David Ramba (March 31, 2006) (on file with House of Representatives, Local Government Council).

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1509

SPONSOR(S): Representative Bill Proctor

RELATING TO: Flagler Estates Road and Water Control District
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Saint John's

CONTACT PERSON: Jackie VanHorn

PHONE # and E-Mail: 904-692-1513 ferwd@aug.com

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: NOV. 22, 2005

Location: ST JOHNS COUNTY LEGISLATIVE DELEGATION MEETING

(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 [X] NO [ ] DATE [October 21, 2005 **]**

Where? St. Augustine Record **County** Saint John's

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.

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 #: 1509

SPONSOR(S): Representative Bill Proctor

RELATING TO: Flagler Estates Road and 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:	$0.00	$0.00

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	$0.00	$0.00
State:	$0.00	$0.00
Local:	$0.00	$0.00

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$0.00	$0.00

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]:

N/A

PREPARED BY: _____ 11-1-05
[Must be signed by Preparer] Date

TITLE: District Manager

REPRESENTING: Flagler Estates Road and Water Control District

PHONE: (904-692-1513)

E-Mail Address: ferwd@aug.com

1 A bill to be entitled
2 An act relating to Flagler Estates Road and Water Control
3 District, St. Johns County; amending chapter 98-529, Laws
4 of Florida; providing additional powers of the district to
5 construct, operate, maintain, repair, and replace works
6 and improvements necessary to execute the district's water
7 control plan; providing that the district may collect fees
8 for connection to and use of the works of the district;
9 specifying applicability of certain general law; revising
10 district boundaries; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Sections 1 and 3 of section 4 of chapter 98-
15 529, Laws of Florida, are amended to read:
16 Section 1. Powers and authority.--
17 (1) The ~~drainage~~ district originally was empowered to
18 accept and maintain drainage improvements already in existence
19 and to operate pursuant to the general drainage laws of chapter
20 298, Florida Statutes. In addition to the powers provided for in
21 chapter 298, Florida Statutes, in 1981 the district was granted
22 the power to maintain roadways and roads necessary and
23 convenient for the exercise of the powers or duties ~~or any of~~
24 ~~the powers or duties~~ of said district; and in furtherance of the
25 purposes and intent of chapter 298, Florida Statutes, to
26 maintain streets, roadways, and roads necessary and convenient
27 to provide access to and efficient development of areas made
28 suitable and available for cultivation and settlement, urban and

29 suburban, and other beneficial use and development as a result
30 of the drainage, irrigation, and reclamation operations of the
31 district for the lands ~~only~~ within the boundaries of the
32 district situated in St. Johns ~~John's~~ County. ~~This road~~
33 ~~authority geographically was expanded in 1982 to include the~~
34 ~~lands within the boundaries of the district situated in Flagler~~
35 ~~County as well as a component of the district's road maintenance~~
36 ~~authority within the district boundaries.~~ This authority was ~~is~~
37 ~~hereby~~ specified to include, but not be limited to, street
38 lighting, road striping, reconstruction, and any other safety
39 features or improvements customary to a modern road system.
40 (2) In addition to the foregoing power and authority, the
41 district shall have full power and authority to construct,
42 operate, maintain, repair, and replace any and all works and
43 improvements necessary to execute the district's water control
44 plan, including all power and authority conferred by chapter
45 298, Florida Statutes. The works of the district include,
46 without limitation, all waterways, water control structures,
47 equipment, facilities, real property interests, roads, streets,
48 lighting, and appurtenant facilities owned, operated, or
49 maintained by the district or included in the district water
50 control plan.
51 (3) Notwithstanding any provision of law to the contrary
52 and pursuant to section 298.22(8), (9), and (10), Florida
53 Statutes, the district is authorized:
54 (a) To adopt resolutions and policies implementing all
55 purposes of this act, including specification of conditions
56 related to comprehensive water control activities necessary to

57 ensure the proper operation of the water control plan and
58 protection of district landowners, including flood protection,
59 water quantity, and water quality management conditions, that
60 may be imposed upon any person or entity within or outside the
61 district boundary with a connection or application for a
62 connection to district works.
63 (b) To collect reasonable fees for any connections to
64 district works which may cover costs of the connection and
65 continuing operational costs of the district water control plan
66 caused by the connection and discharge of surface waters through
67 the works of the district.
68 (4) Pursuant to this section, the Hastings Drainage
69 District and the Flagler Estates Road and Water Control District
70 may enter into an interlocal agreement which may incorporate
71 district policies and conditions for cooperative operation of
72 interconnected water control facilities.
73 (5) Surplus real property owned by the district can be
74 made available to the public for passive use and the district is
75 authorized to enter into lease or interlocal agreements with
76 other governmental entities for the operation and/or maintenance
77 of such passive use areas within the district boundaries.
78 Section 3. Boundaries.--The district boundaries originally
79 were established in the Final Judgment Incorporating the
80 Drainage District by the Seventh Judicial Circuit Court, St.
81 Johns County, Florida, on June 4, 1971, as recorded in O.R. 194,
82 page 344, Public Records of St. Johns County, Florida, in Case #
83 2154 and as subsequently extended by Order of the Seventh
84 Judicial Circuit Court, St. Johns County, Florida, on August 16,

85 1972, as recorded in O.R. 194, page 344, and O.R. 224, page 26,
86 Public Records of St. Johns County, Florida, in Case # 2154.
87 Several Special Acts further adjusted the district boundaries.
88 Section 2 of chapter 81-481, Laws of Florida, extended district
89 boundaries into St. Johns County; section 3 of chapter 81-481,
90 Laws of Florida, removed lands from Hastings Drainage District;
91 section 2 of chapter 82-294, Laws of Florida, extended district
92 boundaries in Flagler County; and chapter 89-505, Laws of
93 Florida, reduced the size of the district in St. Johns County,
94 and chapter 2000-479, Laws of Florida, removed Flagler County
95 from the jurisdiction of the district. The consolidated legal
96 description of the boundaries of the district is:
97
98 THAT PORTION OF TOWNSHIP 10 SOUTH, RANGE 28 EAST,
99 LYING AND BEING IN ST. JOHNS COUNTY ~~AND FLAGLER~~
100 ~~COUNTIES~~, FLORIDA, DESCRIBED AS FOLLOWS:
101 BEGIN AT THE NORTHEAST CORNER OF SAID TOWNSHIP 10
102 SOUTH, RANGE 28 EAST; THENCE RUN SOUTHERLY ALONG THE
103 EAST LINE OF SAID TOWNSHIP 10 SOUTH, RANGE 28 EAST TO
104 THE SOUTHERN BOUNDARY OF ST JOHNS COUNTY; THENCE RUN
105 WESTERLY ALONG THE SAID SOUTHERN BOUNDARY OF ST JOHNS
106 COUNTY ~~SOUTHEAST CORNER OF SECTION 24; THENCE RUN~~
107 ~~WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 24 TO~~
108 ~~THE NORTHEAST CORNER OF SECTION 26; THENCE RUN~~
109 ~~SOUTHERLY ALONG THE EAST LINE OF SAID SECTION 26 TO~~
110 ~~THE NORTHERLY RIGHT OF WAY LINE OF THE FLORIDA EAST~~
111 ~~COAST RAILROAD; THENCE RUN NORTHWESTERLY ALONG SAID~~
112 ~~NORTHERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST~~

113 ~~RAILROAD TO THE SOUTH LINE OF SECTION 22; THENCE RUN~~
114 ~~WESTERLY ALONG THE SAID SOUTH LINE OF SECTION 22 TO~~
115 ~~THE SOUTHWEST CORNER THEREOF; THENCE RUN NORTHERLY~~
116 ~~ALONG THE WEST LINE OF SAID SECTION 22 TO THE SAID~~
117 ~~NORTHERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST~~
118 ~~RAILROAD; THENCE RUN NORTHWESTERLY ALONG THE SAID~~
119 ~~NORTHERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST~~
120 ~~RAILROAD TO THE WEST LINE OF THE EAST $^1/_2$ OF THE~~
121 ~~NORTHWEST $^1/_4$ OF SECTION 21; THENCE RUN NORTHERLY ALONG~~
122 ~~THE SAID WEST LINE OF THE EAST $^1/_2$ OF THE NORTHWEST $^1/_4$~~
123 ~~TO THE SOUTH LINE OF SECTION 16; THENCE RUN WESTERLY~~
124 ~~ALONG THE SAID SOUTH LINE OF SECTION 16~~ TO THE
125 SOUTHEAST CORNER OF SECTION 17 OF SAID TOWNSHIP 10
126 SOUTH, RANGE 28 EAST; THENCE RUN WESTERLY ALONG THE
127 SOUTH LINE OF SAID SECTION 17 TO THE SOUTHWEST CORNER
128 OF THE EAST $^1/_4$ OF SAID SECTION 17; THENCE RUN
129 NORTHERLY ALONG THE WEST LINE OF THE EAST $^1/_4$ OF SAID
130 SECTION 17 AND ALONG THE WEST LINE OF THE EAST $^1/_4$ OF
131 SECTION 8 TO THE NORTH LINE OF SAID SECTION 8; THENCE
132 RUN EASTERLY ALONG THE NORTH LINE OF SAID SECTION 8
133 AND ALONG THE NORTH LINE OF SECTION 9 TO THE SOUTHWEST
134 CORNER OF SECTION 3; THENCE RUN NORTHERLY ALONG THE
135 WEST LINE OF SAID SECTION 3 TO THE NORTHWEST CORNER OF
136 U.S. GOVERNMENT LOT 3 OF SAID SECTION 3; THENCE RUN
137 EASTERLY ALONG THE NORTH LINES OF U.S. GOVERNMENT LOTS
138 3 AND 4 OF SAID SECTION 3 TO THE NORTHEAST CORNER OF
139 SAID LOT 4; THENCE RUN S 0°12'38" E FOR A DISTANCE OF
140 12.54 FEET; THENCE RUN S 88°27'38" E FOR A DISTANCE OF

141 363.00 FEET; THENCE RUN N 5°12'38" W FOR A DISTANCE OF
142 458 FEET, MORE OR LESS, TO THE SOUTHERLY LINE OF THE
143 GEO. I.F. CLARKE GRANT, SECTION 37; THENCE RUN
144 EASTERLY ALONG SAID SOUTHERLY LINE OF THE GEO. I.F.
145 CLARKE GRANT FOR A DISTANCE OF 824.99 FEET TO THE RUN
146 OF SIXTEENMILE ~~DEEP~~ CREEK; THENCE RUN N 18°58'00" E
147 FOR A DISTANCE OF 188.11 FEET TO THE POINT OF
148 CURVATURE OF A CIRCULAR CURVE LEADING TO THE LEFT,
149 HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 16°46'00"
150 AND A RADIUS OF 300.00 FEET; THENCE RUN NORTHERLY
151 ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 87.79
152 FEET TO THE POINT OF TANGENCY; THENCE RUN N 2°12'00" E
153 FOR A DISTANCE OF 302.93 FEET TO A POINT OF CURVATURE
154 OF A CIRCULAR CURVE LEADING TO THE LEFT, HAVING FOR
155 ITS ELEMENTS A CENTRAL ANGLE OF 82°00'00" AND A RADIUS
156 OF 200.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF
157 SAID CURVE FOR A DISTANCE OF 286.23 FEET TO THE POINT
158 OF TANGENCY; THENCE RUN N 79°48'00" W FOR A DISTANCE
159 OF 245.34 FEET TO A POINT: THENCE RUN S 50°11'17" W
160 FOR A DISTANCE OF 343.96 FEET TO A POINT; THENCE RUN N
161 45°05'48" W FOR A DISTANCE OF 82.01 FEET TO A POINT;
162 THENCE RUN S 44°19'22" W FOR A DISTANCE OF 40.37 FEET
163 TO A POINT; THENCE RUN N 41°15'00" W FOR A DISTANCE OF
164 733.53 FEET TO A POINT OF CURVATURE OF A CIRCULAR
165 CURVE LEADING TO THE LEFT, HAVING FOR ITS ELEMENTS A
166 CENTRAL ANGLE OF 27°16'00" AND A RADIUS OF 100.00
167 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE
168 FOR A DISTANCE OF 47.59 FEET TO THE POINT OF TANGENCY;

169 THENCE RUN N 68°31'00" W FOR A DISTANCE OF 377.79 FEET
170 TO A POINT OF CURVATURE OF A CIRCULAR CURVE LEADING TO
171 THE RIGHT, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF
172 59°20'00" AND A RADIUS OF 100.00 FEET; THENCE RUN
173 NORTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE
174 OF 103.56 FEET TO THE POINT OF TANGENCY; THENCE RUN N
175 9°11'00" W FOR A DISTANCE OF 569.04 FEET TO A POINT;
176 THENCE RUN N 3°34'00" W FOR A DISTANCE OF 2177.00 FEET
177 TO A POINT OF CURVATURE OF A CIRCULAR CURVE LEADING TO
178 THE RIGHT, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF
179 97°13'00" AND A RADIUS OF 48.48 FEET; THENCE RUN
180 NORTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE
181 OF 82.86 FEET TO THE POINT OF TANGENCY; THENCE RUN S
182 86°21'00" E FOR A DISTANCE OF 55.00 FEET TO A POINT;
183 THENCE RUN N 7°54'00" E FOR A DISTANCE OF 1123.57 FEET
184 TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF COUNTY
185 ROAD 13; THENCE RUN ALONG THE SOUTH RIGHT OF WAY LINE
186 OF SAID COUNTY ROAD 13 FOR A DISTANCE OF 578.44 FEET
187 TO A POINT; THENCE RUN S 41°27'41" E FOR A DISTANCE OF
188 133.83 FEET TO A POINT OF CURVATURE OF A CIRCULAR
189 CURVE LEADING TO THE RIGHT, HAVING FOR ITS ELEMENTS A
190 CENTRAL ANGLE OF 33°52'41" AND A RADIUS OF 100.00
191 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE
192 FOR A DISTANCE OF 39.13 FEET TO THE POINT OF TANGENCY;
193 THENCE RUN S 7°35'00" E FOR A DISTANCE OF 2058.07 FEET
194 TO A POINT OF CURVATURE OF A CIRCULAR CURVE LEADING TO
195 THE RIGHT, HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF
196 26°48'00" AND A RADIUS OF 420.00 FEET; THENCE RUN

197 SOUTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE
198 OF 196.45 FEET TO THE POINT OF TANGENCY; THENCE RUN S
199 19°13'00" W FOR A DISTANCE OF 502.38 FEET TO A POINT
200 OF CURVATURE OF A CIRCULAR CURVE LEADING TO THE LEFT,
201 HAVING FOR ITS ELEMENTS A CENTRAL ANGLE OF 64°29'00"
202 AND A RADIUS OF 80.00 FEET; THENCE RUN SOUTHERLY ALONG
203 THE ARC OF SAID CURVE FOR A DISTANCE OF 80.04 FEET TO
204 THE POINT OF TANGENCY; THENCE RUN S 45°16'00" E FOR A
205 DISTANCE OF 577.38 FEET TO A POINT OF CURVATURE OF A
206 CIRCULAR CURVE LEADING TO THE RIGHT, HAVING FOR ITS
207 ELEMENTS A CENTRAL ANGLE OF 12°37'59" AND A RADIUS OF
208 720.00 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF
209 SAID CURVE FOR A DISTANCE OF 158.75 FEET TO THE POINT
210 OF TANGENCY; THENCE RUN S 32°38'01" E FOR A DISTANCE
211 OF 850.29 FEET TO A POINT ON THE NORTHERLY LINE OF
212 SAID TOWNSHIP 10 SOUTH, RANGE 28 EAST; ~~THENCE RUN~~
213 ~~NORTHERLY DOWN THE RUN OF SAID DEEP CREEK TO THE NORTH~~
214 ~~LINE OF TOWNSHIP 10 SOUTH, RANGE 28 EAST;~~ THENCE RUN
215 EASTERLY ALONG THE SAID NORTH LINE OF TOWNSHIP 10
216 SOUTH, RANGE 28 EAST TO THE POINT OF BEGINNING.
217 ALSO THE CANAL 5A, DESCRIBED AS FOLLOWS:
218 A STRIP OF LAND 60 FEET IN WIDTH BEING A PORTION OF
219 THE GEO. I.F. CLARKE GRANT, LYING AND BEING IN SECTION
220 38, TOWNSHIP 9 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY,
221 FLORIDA, SAID STRIP LYING 30.00 FEET ON EACH SIDE OF
222 AND CONTIGUOUS WITH THE FOLLOWING DESCRIBED
223 CENTERLINE:

224 COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 38;
225 THENCE RUN S 81°12'24" ~~87°12'24"~~ E, ALONG THE SOUTH
226 LINE OF SAID SECTION 38, FOR 30.01 FEET TO THE POINT
227 OF BEGINNING OF THE FOLLOWING DESCRIBED CENTERLINE;
228 THENCE RUN N 04°18'32" E, ALONG A LINE PARALLEL WITH
229 AND 30.00 FEET EASTERLY OF THE WEST LINE OF SAID
230 SECTION 38, FOR 2261.05 FEET; THENCE RUN N 54°03'48" E
231 FOR 1118.15 FEET; THENCE RUN N 00°38'15" E FOR 395.40
232 FEET; THENCE RUN N 69°33'35" E FOR 236.03 FEET TO A
233 POINT OF TERMINATION BEING ON THE WESTERLY LINE OF THE
234 SIXTEEN MILE CREEK CANAL FOREBAY, AS DESCRIBED IN
235 OFFICIAL RECORDS BOOK 224 AT PAGES 31 AND 32 OF THE
236 PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.
237 CONTAINING 5.624 ~~5.524~~ ACRES, MORE OR LESS.
238 AND ALSO A 50 FOOT ROAD RIGHT OF WAY, DESCRIBED AS
239 FOLLOWS:
240 BEING PORTIONS OF SECTION 37, TOWNSHIP 10 SOUTH, RANGE
241 28 EAST, AND SECTION 38, TOWNSHIP 9 SOUTH, RANGE 28
242 EAST, ST. JOHNS COUNTY, FLORIDA, AND BEING MORE FULLY
243 DESCRIBED AS FOLLOWS:
244 COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 37;
245 THENCE S 85°45'20" E ALONG THE SOUTHERLY LINE OF SAID
246 SECTION 37 FOR 569.19 FEET TO THE SW CORNER OF PARCEL
247 ONE, ACCORDING TO DEED BOOK 136, PAGE 63 OF THE PUBLIC
248 RECORDS OF ST. JOHNS COUNTY, FLORIDA; THENCE S
249 84°01'14" E ALONG THE SOUTHERLY LINE OF SAID PARCEL
250 ONE AND THE EASTERLY PROLONGATION THEREOF FOR 1615.34
251 ~~1675.34~~ FEET TO THE NORTHEAST CORNER OF PARCEL 4,

252 ACCORDING TO DEED BOOK 136, PAGE 64 OF THE PUBLIC
253 RECORDS OF ST. JOHNS COUNTY, FLORIDA; THENCE S
254 85°12'38" E ALONG THE SOUTHERLY LINE OF SAID SECTION
255 37 FOR 300.00 FEET TO THE POINT OF BEGINNING OF THE
256 HEREINAFTER DESCRIBED 50.00 FOOT ROAD RIGHT OF WAY;
257 THE FOLLOWING EIGHT (8) COURSES BEING ALONG THE
258 CENTERLINE OF THE 50.00 FOOT ROAD RIGHT OF WAY; (1)
259 THENCE N 02°30'00" E FOR 180.00 FEET TO A POINT OF
260 CURVATURE; (2) THENCE NORTHWESTERLY ALONG A 100.00
261 FOOT RADIUS CURVE LEADING TO THE LEFT THROUGH A
262 CENTRAL ANGLE OF 87°30'00" FOR AN ARC OF 152.72 FEET
263 TO A POINT OF TANGENCY; (3) THENCE N 85°00'00" W FOR
264 700.00 FEET; (4) THENCE N 89°45'00" W, FOR 290.00 FEET
265 TO A POINT OF CURVATURE; (5) THENCE NORTHERLY ALONG A
266 100.00 FOOT RADIUS CURVE LEADING TO THE RIGHT THROUGH
267 A CENTRAL ANGLE OF 79°15'00" FOR AN ARC OF 138.32 FEET
268 TO A POINT OF TANGENCY; (6) THENCE N 10°30'00" W FOR
269 515.00 FEET TO A POINT OF CURVATURE; (7) THENCE
270 NORTHWESTERLY ALONG A 100.00 FOOT RADIUS CURVE LEADING
271 TO THE LEFT THROUGH A CENTRAL ANGLE OF 37°00'00' FOR
272 AN ARC OF 64.58 FEET TO A POINT OF TANGENCY; (8)
273 THENCE N 47°30'00" W FOR 120 FEET MORE OR LESS TO A
274 POINT ON THE CENTERLINE OF AN EXISTING COUNTY ROAD,
275 SAID POINT BEING ALSO THE POINT OF TERMINATION OF SAID
276 50 FOOT ROAD RIGHT OF WAY. THE SIDE LINES OF THE ABOVE
277 DESCRIBED 50.00 FOOT WIDE ROAD RIGHT OF WAY ARE TO BE
278 LENGTHENED OR SHORTENED AS MAY BE NECESSARY TO

279 MAINTAIN A 50.00 FOOT RIGHT OF WAY ALONG THE DESCRIBED
280 CENTERLINE.
281 ALL LYING AND BEING IN ST. JOHNS COUNTY, FLORIDA, AND
282 CONTAINING 2.5 ACRES.
283 Section 2. This act shall take effect upon becoming a law.