Local Government Council

Wednesday, March 15, 2006
2:30 p.m.
404 House Office Building

Revised

Allan G. Bense
Speaker

Ken Sorensen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time:	Wednesday, March 15, 2006 02:30 pm
End Date and Time:	Wednesday, March 15, 2006 05:30 pm
Location:	404 HOB
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 251 CS High-Risk Offenders by Allen
HB 463 CS Testing of Inmates for HIV Infection in County and Municipal Detention Facilities by Richardson
HB 823 Local Government Infrastructure Surtax by Altman
HB 905 Transportation Concurrency Management by Goodlette
HB 931 Pinellas Suncoast Transit Authority, Pinellas County by Farkas
HB 937 Pinecraft Lighting District, Sarasota County by Clarke
HB 971 Broward County by Sobel
HB 1051 Northern Palm Beach County Improvement District, Palm Beach County by Domino
HB 1053 City of Jacksonville, Duval County by Davis, D.
HB 1057 City of Jacksonville, Duval County by Kravitz
HB 1081 Lee County Hyacinth Control District, Lee County by Kyle
HB 1085 Hillsborough County School District by Traviesa
HB 1133 Key Largo Wastewater Treatment District, Monroe County by Sorensen
HB 1151 Collier County by Davis, M.
HB 1195 Manatee County by Galvano

NOTICE FINALIZED on 03/13/2006 16:14 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 251 CS High-Risk Offenders
SPONSOR(S): Allen and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1666

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Kramer	Kramer
2) Local Government Council		Camechis	Hamby
3) Education Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

The bill provides that the act may be cited as the "Sexual Predator Elimination Act".

The bill also provides that any person who has been designated a sexual predator who is convicted of an offense under ch. 794, F.S., upon a child under the age of 12 that is a capital, life or first degree felony and who was 18 or older at the time of the offense, must be sentenced to life in prison without the possibility of parole or eligibility for gain-time.

During the 2004 session, section 794.065, F.S., was created which makes it unlawful for a person convicted on or after October 1, 2004 (the effective date of the law) of a specified sexual battery or lewd or lascivious offense, against a victim under the age of 16 from living within 1,000 feet of a school, day care center, park or playground. In recent months, a large number of cities and counties throughout the state have passed local ordinances designed to restrict where people who have been convicted of a sexual offense can live. HB 251 amends section 794.065, F.S., to provide that no state law shall prevent a county or municipality from enacting an ordinance restricting the residence of sexual predators or sexual offenders within its jurisdiction as it deems appropriate to protect its citizens.

Currently, section 794.0115, F.S., requires a judge to impose a minimum of a 25 year sentence and a maximum of a life sentence upon an offender who is sentenced for a violation of one of an enumerated list of sexual offenses and who:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed such offense while under the jurisdiction of the court for a felony offense or;
- Has previously been convicted of a violation of one of the enumerated offenses.

The bill amends this section to require the imposition of a life sentence.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill increases criminal penalties for certain offenses.

Safeguard individual liberty: The bill provides that no state law shall prevent a county or municipality from enacting an ordinance restricting the residence of sexual predators or sexual offenders within its jurisdiction as it deems appropriate to protect its citizens.

Promote personal responsibility: The bill provides for increased sanctions for certain criminal offenses.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that the act may be cited as the "Sexual Predator Elimination Act".

Sexual battery: Section 794.011, F.S., provides that a person 18 years of age or older who commits sexual battery upon, or attempts to commit sexual battery and injures the sexual organs of, a person less than 12 years of age commits a capital felony. This is commonly referred to as "capital sexual battery". A capital felony is punishable by a sentence of death or a sentence of life in prison.[1] However, the Florida Supreme Court has held that a sentence of death for the crime of "capital sexual battery" constitutes cruel and unusual punishment in violation of the Eighth Amendment.[2] As a result, the offense of capital sexual battery is punishable by a mandatory life sentence.[3] A person who receives a life sentence must spend the rest of his or her life in prison and is not eligible for parole or any type of early release other than as a result of a pardon or the granting of clemency.[4]

The bill provides that any person who has been designated a sexual predator who is convicted of an offense under ch. 794, F.S., upon a child under the age of 12 that is a capital, life or first degree felony and who was 18 or older at the time of the offense must be sentenced to life in prison without the possibility of parole or eligibility for gain-time. [See DRAFTING ISSUES OR OTHER COMMENTS].

Unlawful place of residence for persons convicted of certain sex offenses: Before the 2004 legislative session, there was no statutory prohibition on where a sexual predator or sexual offender who was no longer on supervision could live.[5] In other words, a sexual predator or sexual offender who was not on supervision could live wherever he or she wished but was required to report his or her residence to law enforcement. During the 2004 session, section 794.065, F.S., was created[6] which makes it unlawful for a person convicted on or after October 1, 2004 (the effective date of the law) of a specified sexual battery or lewd or lascivious offense[7], against a victim under the age of 16 from living within 1,000 feet of a school, day care center, park or playground. The offense is a third degree felony if the sexual offense for which the offender was previously convicted was classified as a first degree felony or

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[1] S. 775.082(1), F.S.
[2] *Buford v. State,* 403 So.2d 943 (Fla.1981).
[3] *Huffman v. State*, 813 So.2d 10 (Fla. 2000); *Welsh v. State*, 850 So.2d 467, 468 (Fla. 2003)("The crime of sexual battery on a child less than twelve set forth in Florida Statutes section 794.011(2)(a) is referred to as "capital" sexual battery because the crime historically has been statutorily punishable by death. However, in [*Buford*], this Court determined that the sentence of death for the crime of 'capital sexual battery' constituted cruel and unusual punishment in violation of the Eighth Amendment."
[4] s. 944.275(4)(b)3, F.S.
[5] In cases in which the victim was a minor, a sexual predator is prohibited from *working* in a business, school, day care center, park, playground or other place where children regularly congregate. s. 775.21(10)(b), F.S. If a sexual predator or sexual offender is working at or attending an institution of higher education, this fact must be disclosed to FDLE who then, in turn, must inform the institution of higher education. ss. 775.21(6)(a)1b, 943.0435(2)(b)2, F.S.
[6] See 2004-391, Laws of Florida.
[7] Included are ss. 794.011, 800.04, 827.071 and 847.0145, F.S.

higher. The offense is a first degree misdemeanor if the sexual offense for which the offender was previously convicted was classified as a second or third degree felony.

In recent months, a large number of cities and counties throughout the state have passed local ordinances designed to restrict where people who have been convicted of a sexual offense can live. Generally, the ordinances appear to be modeled after section 794.065, F.S., but extend the distance from 1,000 feet to 2,500 feet. Many of the ordinances also prohibit an offender from living within 2,500 feet of places such as libraries, churches and bus stops that are not included in the state statute. By request of the staff of the Judiciary Committee, the Legislative Committee on Intergovernmental Relations surveyed 321 municipalities and all 67 counties to determine whether they had passed an ordinance restricting the residence of sexual offenders. As of October 17, 2005, of the 153 municipalities that responded, 50 municipalities indicated that they had passed ordinances and 14 had pending proposed ordinances. Of the 44 counties that responded, two had passed ordinances and 5 had pending proposed ordinances.

HB 251 amends section 794.065, F.S., to provide that no state law shall prevent a county or municipality from enacting an ordinance restricting the residence of sexual predators or sexual offenders within its jurisdiction as it deems appropriate to protect its citizens.

Dangerous sexual felony offender sentencing: Section 794.0115, F.S., is known as the "Dangerous Sexual Felony Offender Act". The section provides that if a person is convicted of sexual battery[8], lewd or lascivious battery[9], lewd or lascivious molestation[10], sexual performance by a child[11], selling or buying a minor[12], lewd or lascivious offenses committed upon an elderly person or disabled adult[13] or luring or enticing a child[14] where the offender was 18 years of age or older and the person:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed such offense while under the jurisdiction of the court for a felony offense or;
- Has previously been convicted of a violation of one of the above offenses;

the person must be sentenced as a "dangerous sexual felony offender" to a mandatory minimum term of 25 years imprisonment up to and including life imprisonment. The enhanced sentencing provision could be applied to offenders upon the commission of a first offense if the facts of the case met one of the first four criteria listed above.

HB 251 amends this section of statute to provide that a person who is sentenced as a dangerous sexual felony offender must be sentenced to a mandatory minimum term of life in prison without the possibility of parole or eligibility for gain time.

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[8] s. 794.011(2), (3), (4), (5) or (8), F.S.

[9] s. 800.04(4), F.S. This section requires proof that the offender had engaged in sexual activity with a person 12 years of age or older but less than 16 years of age. "Sexual activity" means the oral, anal or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object. Consent is not a defense to this offense.

[10] s. 800.04(5), F.S. This section requires proof that a person intentionally touched in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks or the clothing covering them of a person less than 16 years of age or forced or enticed the victim to so touch the offender.

[11] s. 827.071(2), (3), (4), F.S. This section makes it unlawful for a person to employ a child less than 18 years of age to engage in sexual performance.

[12] s. 847.0145, F.S. This section requires proof that the a person sold or purchased a minor with knowledge that as a consequence of the transfer, the minor will be portrayed in a visual depiction engaging in sexually explicit conduct.

[13] s. 825.1025. This section prohibits various lewd or lascivious offenses committed against a person over the age of 60 or against a disabled adult.

[14] s. 787.025, F.S. This section makes it a third degree felony to lure or entice a child under the age of 12 into a structure, dwelling or conveyance for other than a lawful purpose.

C. SECTION DIRECTORY:

Section 1. Provides that the act may be cited as the "Sexual Predator Elimination Act".

Section 1. Amends s. 794.011, F.S., relating to sexual battery.

Section 3. Amends s. 794.0015, F.S., increase minimum mandatory sentence applicable to dangerous sexual felony offenders.

Section 4. Amends s. 794.065, F.S., to prohibit state law which would prevent a county or municipal ordinance restricting residence of sexual offenders or predators.

Section 5. Provides that amendments to ss. 794.011 and 794.0115, F.S., by the act shall apply to offenses committed on or after effective date of act.

Section 6. Provides that the act will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

Expenditures:

The Criminal Justice Impact Conference is charged with forecasting the five year prison bed impact of filed bills on the Department of Corrections. On February 28, 2006, the conference determined the bill would have an insignificant impact over the next five years but could have a long term prison bed impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

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:

The bill provides that any person who has been designated a sexual predator who is convicted of an offense under ch. 794, F.S., upon a child under the age of 12 that is a capital, life or first degree felony and who was 18 or older at the time of the offense must be sentenced to life in prison without the possibility of parole or eligibility for gain-time. It is not clear how this provision changes current law. Under s. 794.011(2)(a), F.S., a person 18 years of age or older who commits sexual battery on a person under the age of 12 commits a capital felony. For this offense, a capital felony is punishable by a life sentence. A person who is sentenced to life in prison is ineligible for parole or gain time. The other life or first degree felony offenses that are currently in this section of statute apply to a victim over the age of 12 or an offender under the age of 18 and the language of the bill would not apply to these offenses.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted an amendment which removed a provision from the original bill relating to criminal history checks of contractual school personnel.

As filed, the bill prohibited a prosecutor who charges a person with capital sexual battery from presenting or entering into with the accused a plea bargain for a term of less than life in prison without the possibility of parole or eligibility for gain-time. The Criminal Justice Committee adopted an amendment which removed this provision from the bill.

CHAMBER ACTION

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1 The Criminal Justice Committee recommends the following:
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3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to high-risk offenders; providing a short
7 title; amending s. 794.011, F.S., and reenacting
8 subsections (3), (4), and (5), relating to persons
9 committing sexual battery upon certain persons, to
10 incorporate the amendment to s. 794.0115, F.S., in
11 references thereto; providing that sexual predators who
12 commit a sexual battery against certain victims shall be
13 sentenced to life in prison without the possibility of
14 parole or gain-time; amending s. 794.0115, F.S.;
15 increasing the mandatory minimum sentence applicable to
16 dangerous sexual felony offenders; amending s. 794.065,
17 F.S.; providing for county or municipal ordinances
18 relating to the residence of persons subject to
19 registration as sexual offenders or designated as sexual
20 predators; providing applicability; providing an effective
21 date.
22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. This act may be cited as the "Sexual Predator
26 Elimination Act."
27 Section 2. For the purpose of incorporating the amendment
28 made by this act to section 794.0115, Florida Statutes, in
29 references thereto, subsections (3), (4), and (5) of section
30 794.011, Florida Statutes, are reenacted, and subsection (11) is
31 added to that section, to read:
32 794.011 Sexual battery.--
33 (3) A person who commits sexual battery upon a person 12
34 years of age or older, without that person's consent, and in the
35 process thereof uses or threatens to use a deadly weapon or uses
36 actual physical force likely to cause serious personal injury
37 commits a life felony, punishable as provided in s. 775.082, s.
38 775.083, s. 775.084, or s. 794.0115.
39 (4) A person who commits sexual battery upon a person 12
40 years of age or older without that person's consent, under any
41 of the following circumstances, commits a felony of the first
42 degree, punishable as provided in s. 775.082, s. 775.083, s.
43 775.084, or s. 794.0115:
44 (a) When the victim is physically helpless to resist.
45 (b) When the offender coerces the victim to submit by
46 threatening to use force or violence likely to cause serious
47 personal injury on the victim, and the victim reasonably
48 believes that the offender has the present ability to execute
49 the threat.
50 (c) When the offender coerces the victim to submit by
51 threatening to retaliate against the victim, or any other

52 person, and the victim reasonably believes that the offender has
53 the ability to execute the threat in the future.
54 (d) When the offender, without the prior knowledge or
55 consent of the victim, administers or has knowledge of someone
56 else administering to the victim any narcotic, anesthetic, or
57 other intoxicating substance which mentally or physically
58 incapacitates the victim.
59 (e) When the victim is mentally defective and the offender
60 has reason to believe this or has actual knowledge of this fact.
61 (f) When the victim is physically incapacitated.
62 (g) When the offender is a law enforcement officer,
63 correctional officer, or correctional probation officer as
64 defined by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is
65 certified under the provisions of s. 943.1395 or is an elected
66 official exempt from such certification by virtue of s. 943.253,
67 or any other person in a position of control or authority in a
68 probation, community control, controlled release, detention,
69 custodial, or similar setting, and such officer, official, or
70 person is acting in such a manner as to lead the victim to
71 reasonably believe that the offender is in a position of control
72 or authority as an agent or employee of government.
73 (5) A person who commits sexual battery upon a person 12
74 years of age or older, without that person's consent, and in the
75 process thereof does not use physical force and violence likely
76 to cause serious personal injury commits a felony of the second
77 degree, punishable as provided in s. 775.082, s. 775.083, s.
78 775.084, or s. 794.0115.

79 (11) Notwithstanding any other provision of law, any
80 person who has been designated as a sexual predator under s.
81 775.21 who is convicted of an offense under this chapter upon a
82 child under 12 years of age that is classified as a capital
83 felony, a life felony, or a first degree felony and who was 18
84 years of age or older at the time of the offense shall be
85 sentenced to life in prison without the possibility of parole or
86 eligibility for gain-time.
87 Section 3. Subsection (2) of section 794.0115, Florida
88 Statutes, is amended to read:
89 794.0115 Dangerous sexual felony offender; mandatory
90 sentencing.--
91 (2) Any person who is convicted of a violation of s.
92 787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or
93 (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); or s.
94 847.0145; or of any similar offense under a former designation,
95 which offense the person committed when he or she was 18 years
96 of age or older, and the person:
97 (a) Caused serious personal injury to the victim as a
98 result of the commission of the offense;
99 (b) Used or threatened to use a deadly weapon during the
100 commission of the offense;
101 (c) Victimized more than one person during the course of
102 the criminal episode applicable to the offense;
103 (d) Committed the offense while under the jurisdiction of
104 a court for a felony offense under the laws of this state, for
105 an offense that is a felony in another jurisdiction, or for an

106 offense that would be a felony if that offense were committed in
107 this state; or
108 (e) Has previously been convicted of a violation of s.
109 787.025; s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or
110 (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); s.
111 847.0145; of any offense under a former statutory designation
112 which is similar in elements to an offense described in this
113 paragraph; or of any offense that is a felony in another
114 jurisdiction, or would be a felony if that offense were
115 committed in this state, and which is similar in elements to an
116 offense described in this paragraph,
117
118 is a dangerous sexual felony offender, who must be sentenced to
119 a mandatory minimum term of life in prison without the
120 possibility of parole or eligibility for gain-time ~~25 years~~
121 ~~imprisonment up to, and including, life imprisonment~~.
122 Section 4. Subsection (3) is added to section 794.065,
123 Florida Statutes, to read:
124 794.065 Unlawful place of residence for persons convicted
125 of certain sex offenses.--
126 (3) No state law shall prevent a county or municipality
127 from enacting an ordinance relating to the residence of persons
128 subject to registration as sexual offenders under s. 943.0435 or
129 designated as sexual predators under s. 775.21 that restricts
130 the residence of such persons within its jurisdiction as it may
131 deem appropriate to protect its citizens.

132 Section 5. The amendments to ss. 794.011 and 794.0115,
133 Florida Statutes, by this act shall apply to offenses committed
134 on or after the effective date of this act.
135 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 463 CS Testing of Inmates for HIV Infection in County and Municipal Detention Facilities
SPONSOR(S): Richardson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 796

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Cunningham	Kramer
2) Local Government Council		DiVagno	Hamby
3) Criminal Justice Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

County and municipal detention facilities are authorized to test inmates for infectious diseases in accordance with their written procedures, which are to be consistent with the guidelines of the Centers for Disease Control and Prevention and the recommendations of the Correctional Medical Authority. This authorization includes testing for the human immunodeficiency virus (HIV) under specific statutory circumstances and specified offenses. The results of these tests are confidential, exempt from public records, except to employees or officers of the sheriff or chief correctional officer who handle custody and care of the affected inmate and have a need to know such information, and to the victim of an inmate arrested for sexual offenses.

This bill allows a local government to adopt an additional program to require HIV testing of inmates in county and municipal detention facilities, irrespective of the crime committed. The bill would allow a county or municipally to require their detention facilities operating a testing program to perform an HIV test on each sentenced inmate no less than 30 days before the release date of the inmate unless the facility knows that the inmate is HIV positive or unless, within 120 days before the release date, the inmate has been tested for HIV and does not request retesting. This bill also requires a county or municipal jail to notify the Department of Health and the county health department upon release of prisoner who is known to be HIV positive, and requires the jail to provide such prisoners special transitional assistance. The bill provides for immunity of complying entities for negligently causing death or personal injury while complying with the program.

This bill also provides that any HIV testing of a county jail prisoner may be conducted without the prisoner's consent.

This bill would take effect July 1, 2006.

The fiscal impact of this bill on state and local governments is uncertain.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government → This bill gives local governments the option to require their facilities to conduct HIV testing on a wider population of inmates. In addition to testing, detention facilities would have to provide transitional assistance to infected inmates.

Safeguard individual liberty → This bill requires persons to submit to an invasive medical test.

Promote personal responsibility → This bill requires persons to submit to an invasive medical test, the result of which may entitle them to receive medical services provided at government expense. This bill does not require the beneficiaries of the legislation to pay any portion of the cost of implementation.

B. EFFECT OF PROPOSED CHANGES:

The prevalence of HIV/AIDS in prisons exceeds its prevalence in the general population. A reason for the high rate of HIV infection in correctional institutions is the high-risk behaviors of inmates prior to and while being incarcerated. Not only do inmates engage in more of these behaviors, they also engage in them more frequently than members of the general population.[1] Examples of such behaviors include anal intercourse, tattooing, a history of multiple sexual partners, a history of multiple sexually transmitted diseases, and poor physical and/or mental health. Research has shown that female inmates are more likely to be infected with HIV/AIDS than male inmates. The elevated risk of women for HIV infection can be explained by certain pre-incarceration behaviors, including high rates of economic dependency, injection drug use, and prostitution.

Since July 1, 2002, the Department of Corrections has been required to test all inmates for HIV within the 60 days prior to release.[2] If the inmate is found to be HIV-positive, the department is required to:

- Notify the Department of Health and the county health department in the county that the inmate intends to reside in.
- Provide counseling and transition assistance related to HIV.
- Provide a 30 day supply of HIV/AIDS related medicine.[3]

Section 951.27, F.S., requires county and municipal detention facilities to have a written procedure, consistent with guidelines of the Centers for Disease Control and Prevention and recommendations of the Correctional Medical Authority,[4] developed in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease. Under this statute, county and municipal detention facilities may test for HIV under the provisions of s. 775.0877, F.S. Section 775.0877, F.S., requires HIV testing of anyone who was convicted of, or pled nolo contendere or guilty to, committing or attempting to commit offenses involving the transmission of bodily fluid and delineated in the section. The person receiving the test results may divulge the test results to the sheriff or chief correctional officer. Such test results are confidential and exempt from public records laws.

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[1] Florida Corrections Commission 1998 Annual Report, page 52.
[2] Chapter 2002-292, L.O.F.
[3] s. 945.355, F.S.
[4] The Correctional Medical Authority (CMA) was created in 1986 to give independent advice to the Governor, the Legislature, and the Department of Corrections on the conduct of health care and management of costs consistent with quality care. *See* s. 945.601, F.S.

Effect of Bill
This bill amends s. 951.27, F.S., to provide that a local government may institute a program to test that government's prisoners for HIV prior to release, irrespective of the crime convicted of. This is establishing a program similar to the requirement related to state prisoners.

A county or municipal detention facility that lies within the authority of any county or municipality that elects to institute a testing program authorized by this bill must, consistent with s. 381.004(3), F.S.,[5] perform an HIV test on each sentenced inmate who is to be released from the facility unless the facility knows that the inmate is HIV positive or unless, within 120 days before the release date, the inmate has been tested for HIV and does not request retesting. The required test must be performed not less than 30 days before the release date of the inmate.

An HIV test is not required if a prisoner is released due to an emergency or a court order and the detention facility receives less than 30 days' notice of the release date, or if the inmate is transferred to the custody of the Department of Corrections for incarceration in the state correctional system.

Because the testing must be within 30 days prior to release, it is likely that counties will forgo testing until the release date is known. Most prisoners in county jails are released pursuant to court order on less than 30 days notice[6], and many are held until they are transferred to the Department of Corrections. The net result is that only persons sentenced to more than 30 additional days in county jail, and less than one year total for the offense, will be required to undergo testing.

If the county or municipal detention facility knows that a prisoner who is to be released from the facility is HIV positive or has received a positive HIV test result, the facility must, before the inmate is released:

- Notify the Department of Health and the county health department where the inmate being released plans to reside of the release date and HIV status of the inmate.
- Provide special transitional assistance to the prisoner, which must include: education on preventing the transmission of HIV to others; the importance of receiving follow-up medical care and treatment; and a written, individualized discharge plan that includes referrals to and contacts with the county health department and local primary medical care services for the treatment of HIV infection that are available where the inmate plans to reside. The prisoner must also be given a copy of his or her medical records from the jail.

This bill amends the current public records exemption for HIV tests conducted by local jails to include the HIV tests created by this bill.

This bill also provides that: "notwithstanding any statute providing for a waiver of sovereign immunity, the state, its agencies, or subdivisions, and employees of the state, its agencies, or subdivisions are not liable to any person for negligently causing death or personal injury arising out of complying with this section."

This bill also amends s. 381.004(3), F.S., to add the HIV tests done under s. 951.27, F.S., to the list of HIV tests that an individual may be compelled to submit to. Though referring to s. 951.27, F.S., as a whole, HIV testing pursuant to s. 951.27(1), F.S., does not require consent since it is conducted pursuant to s. 775.0877, F.S., which already requires mandatory testing. This bill provides an independent basis for unconsensual HIV testing under s. 951.27(1), F.S., and then provides that testing of all sentenced inmates pursuant to this bill may also be done without consent.

C. SECTION DIRECTORY:

Section 1. Amends s. 951.27, F.S., providing for HIV testing of certain county jail prisoners; amending the applicable public records exemption; requiring transitional assistance; providing immunity.

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[5] Section 381.004, F.S., provides procedures for HIV testing, confidentiality, and referral to services.
[6] This appears to include prisoners granted pretrial release. This also appears to include those convicted of an offense who receive the common sentence of "time served", which allows the prisoner to be released that day.

Section 2. Amends s. 381.004, F.S., providing that the testing required in Section 1 of the bill may be performed without the consent of the person being tested.

Section 3. This act takes effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   Estimated expenditures are unknown, but are a local option. The Department of Health (DOH) states in its analysis that counties will incur the costs of testing inmates and providing transitional assistance for those who test positive. DOH listed four different HIV tests, the least expensive being the ELISA test which costs $12.07. DOH stated that if 120,000 inmates are tested annually, the cost of the ELISA test would be approximately $1,448,400.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

It is unknown how many individuals might be tested as a result of this bill. Testing is not required for a prisoner released on less than 30 days notice, so persons arrested and then released on bond will not be tested. This group is the majority of individuals released from local jails. Also not tested are prisoners transferred to the Department of Corrections, which would be felony offenders sentenced to a term in excess of one year.

It appears that the only group that will be tested are prisoners serving more than 30 days of a county jail sentence beyond the sentencing date, in a county or municipality that elects to create and fund the program. This group will include not only misdemeanor offenders, but felony offenders sentenced to a term of less than one year (who by law are incarcerated in county jail). In 2004, there were 25,050 felony offenders sentenced to a term in county jail. It is unknown how many misdemeanor offenders were sentenced to a term in jail longer than 30 days after the date of sentencing.

In 2002, the Department of Corrections estimated the cost of a very similar requirement to be $34.81 per inmate tested.[7] This cost includes basic testing of all, advanced testing for those few whose preliminary test is positive, and pre-release counseling for those known to be infected with HIV.

[7] *See* Bill Analysis to HB 1289, from the 2002 session.

In its 2006 bill analysis, DOH stated that approximately 600,000 individuals are released from county jails each year. Recognizing that a majority of those individuals would not be required to be tested under the provisions of the bill, DOH used the figure 120,000[8] and stated that if 120,000 individuals were tested pursuant to the bill's provisions, approximately 2.1% would be HIV positive.[9] This translates into approximately 2,520 HIV positive inmates per year. DOH reports that health care costs for an HIV positive patient are approximately $18,000 annually.[10] If half of the 2,520 HIV positive inmates continued treatment, DOH estimates that the cost would be approximately $22,680,000 per year.[11]

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 action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006, the Criminal Justice Committee adopted two amendments to the bill and reported the bill favorably with committee substitute. The first amendment clarifies that HIV testing is limited to *sentenced* offenders (rather than those unable to make bail, those awaiting their first appearance hearing, etc...). The second amendment specifies that counties electing to participate in the HIV testing program must comply with the requirements of the bill.

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[8] It is unclear how DOH arrived at the 120,000 figure.
[9] *See* Department of Health HB 463 Bill Analysis, 2006.
[10] *Id.*
[11] *Id.*

CHAMBER ACTION

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1 The Criminal Justice Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to the testing of inmates for HIV
7 infection in county and municipal detention facilities;
8 amending s. 951.27, F.S.; authorizing counties and
9 municipalities to participate in a program to test each
10 sentenced inmate for HIV before the inmate is released if
11 the inmate's HIV status is unknown; providing certain
12 exceptions; requiring that certain county and municipal
13 detention facilities notify the Department of Health and
14 the county health department in the county where the
15 inmate plans to reside following release if the inmate is
16 HIV positive; requiring certain detention facilities to
17 provide special transitional assistance to an inmate who
18 is HIV positive; providing for immunity for complying
19 entities; amending s. 381.004, F.S.; providing that
20 informed consent is not required for an HIV test of an
21 inmate before the inmate's release from a municipal or
22 county detention facility; providing an effective date.
23

24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Section 951.27, Florida Statutes, is amended to
27 read:
28 951.27 Blood tests of inmates.--
29 (1) Each county and each municipal detention facility
30 shall have a written procedure developed, in consultation with
31 the facility medical provider, establishing conditions under
32 which an inmate will be tested for infectious disease, including
33 human immunodeficiency virus pursuant to s. 775.0877, which
34 procedure is consistent with guidelines of the Centers for
35 Disease Control and Prevention and recommendations of the
36 Correctional Medical Authority. It is not unlawful for the
37 person receiving the test results to divulge the test results to
38 the sheriff or chief correctional officer.
39 (2)(a) Each county or municipality has the local option,
40 if authorized by a majority of the respective county's or
41 municipality's governing body, to participate in the testing
42 program provided in this subsection. The county or municipal
43 detention facility that lies within the authority of any
44 participating county or municipality shall, consistent with s.
45 381.004(3), perform an HIV test as defined in s. 381.004(2) on
46 each sentenced inmate who is to be released from the facility
47 unless the facility knows that the inmate is HIV positive or
48 unless, within 120 days before the release date, the inmate has
49 been tested for HIV and does not request retesting. The required
50 test must be performed not less than 30 days before the release
51 date of the inmate. A test is not required under this paragraph

52 if an inmate is released due to an emergency or a court order
53 and the detention facility receives less than 30 days' notice of
54 the release date or if the inmate is transferred to the custody
55 of the Department of Corrections for incarceration in the state
56 correctional system.
57 (b) Each county or municipal detention facility that
58 elects to participate in the testing program authorized in
59 paragraph (a) must comply with the requirements of this
60 paragraph. If the county or municipal detention facility knows
61 that an inmate who is to be released from the facility is HIV
62 positive or has received a positive HIV test result, that
63 facility shall, before the inmate is released:
64 1. Notify, consistent with s. 381.004(3), the Department
65 of Health and the county health department in the county where
66 the inmate being released plans to reside of the release date
67 and HIV status of the inmate.
68 2. Provide special transitional assistance to the inmate,
69 which must include:
70 a. Education on preventing the transmission of HIV to
71 others and on the importance of receiving followup medical care
72 and treatment.
73 b. A written, individualized discharge plan that includes
74 records of all laboratory and diagnostic test results,
75 medication and treatment information, and referrals to and
76 contacts with the county health department and local primary
77 medical care services for the treatment of HIV infection which
78 are available in the area where the inmate plans to reside.

79 (3) ~~(2)~~ Except as otherwise provided in this subsection,
80 serologic blood test results obtained pursuant to subsection (1)
81 or subsection (2) are confidential and exempt from the
82 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution. However, such results may be provided to employees
84 or officers of the sheriff or chief correctional officer who are
85 responsible for the custody and care of the affected inmate and
86 have a need to know such information, and as provided in ss.
87 381.004(3), 775.0877, and 960.003. In addition, upon request of
88 the victim or the victim's legal guardian, or the parent or
89 legal guardian of the victim if the victim is a minor, the
90 results of any HIV test performed on an inmate who has been
91 arrested for any sexual offense involving oral, anal, or vaginal
92 penetration by, or union with, the sexual organ of another,
93 shall be disclosed to the victim or the victim's legal guardian,
94 or to the parent or legal guardian of the victim if the victim
95 is a minor. In such cases, the county or municipal detention
96 facility shall furnish the test results to the Department of
97 Health, which is responsible for disclosing the results to
98 public health agencies as provided in s. 775.0877 and to the
99 victim or the victim's legal guardian, or the parent or legal
100 guardian of the victim if the victim is a minor, as provided in
101 s. 960.003(3).
102 (4) ~~(3)~~ The results of any serologic blood test on an
103 inmate are a part of that inmate's permanent medical file. Upon
104 transfer of the inmate to any other correctional facility, such
105 file is also transferred, and all relevant authorized persons

106 must be notified of positive HIV test results, as required in s.
107 775.0877.
108 (5) Notwithstanding any statute providing for a waiver of
109 sovereign immunity, the state, its agencies, or subdivisions,
110 and employees of the state, its agencies, or subdivisions, are
111 not liable to any person for negligently causing death or
112 personal injury arising out of complying with this section.
113 Section 2. Subsection (3) of section 381.004, Florida
114 Statutes, is amended to read:
115 381.004 HIV testing.--
116 (3) ~~HUMAN IMMUNODEFICIENCY VIRUS TESTING;~~ INFORMED
117 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--
118 (a) No person in this state shall order a test designed to
119 identify the human immunodeficiency virus, or its antigen or
120 antibody, without first obtaining the informed consent of the
121 person upon whom the test is being performed, except as
122 specified in paragraph (h). Informed consent shall be preceded
123 by an explanation of the right to confidential treatment of
124 information identifying the subject of the test and the results
125 of the test to the extent provided by law. Information shall
126 also be provided on the fact that a positive HIV test result
127 will be reported to the county health department with sufficient
128 information to identify the test subject and on the availability
129 and location of sites at which anonymous testing is performed.
130 As required in paragraph (4)(c), each county health department
131 shall maintain a list of sites at which anonymous testing is
132 performed, including the locations, phone numbers, and hours of
133 operation of the sites. Consent need not be in writing provided

134 there is documentation in the medical record that the test has
135 been explained and the consent has been obtained.
136 (b) Except as provided in paragraph (h), informed consent
137 must be obtained from a legal guardian or other person
138 authorized by law when the person:
139 1. Is not competent, is incapacitated, or is otherwise
140 unable to make an informed judgment; or
141 2. Has not reached the age of majority, except as provided
142 in s. 384.30.
143 (c) The person ordering the test or that person's designee
144 shall ensure that all reasonable efforts are made to notify the
145 test subject of his or her test result. Notification of a person
146 with a positive test result shall include information on the
147 availability of appropriate medical and support services, on the
148 importance of notifying partners who may have been exposed, and
149 on preventing transmission of HIV. Notification of a person with
150 a negative test result shall include, as appropriate,
151 information on preventing the transmission of HIV. When testing
152 occurs in a hospital emergency department, detention facility,
153 or other facility and the test subject has been released before
154 being notified of positive test results, informing the county
155 health department for that department to notify the test subject
156 fulfills this responsibility.
157 (d) A positive preliminary test result may not be revealed
158 to any person except in the following situations:
159 1. Preliminary test results may be released to licensed
160 physicians or the medical or nonmedical personnel subject to the

161 significant exposure for purposes of subparagraphs (h)10., 11.,
162 and 12.
163 2. Preliminary test results may be released to health care
164 providers and to the person tested when decisions about medical
165 care or treatment of, or recommendation to, the person tested
166 and, in the case of an intrapartum or postpartum woman, when
167 care, treatment, or recommendations regarding her newborn,
168 cannot await the results of confirmatory testing. Positive
169 preliminary HIV test results may not be characterized to the
170 patient as a diagnosis of HIV infection. Justification for the
171 use of preliminary test results must be documented in the
172 medical record by the health care provider who ordered the test.
173 3. The results of rapid testing technologies shall be
174 considered preliminary and may be released in accordance with
175 the manufacturer's instructions as approved by the federal Food
176 and Drug Administration.
177 4. Corroborating or confirmatory testing must be conducted
178 as followup to a positive preliminary test. Results shall be
179 communicated to the patient according to statute regardless of
180 the outcome. Except as provided in this section, test results
181 are confidential and exempt from the provisions of s. 119.07(1).
182 (e) Except as provided in this section, the identity of
183 any person upon whom a test has been performed and test results
184 are confidential and exempt from the provisions of s. 119.07(1).
185 No person who has obtained or has knowledge of a test result
186 pursuant to this section may disclose or be compelled to
187 disclose the identity of any person upon whom a test is
188 performed, or the results of such a test in a manner which

189 permits identification of the subject of the test, except to the
190 following persons:
191 1. The subject of the test or the subject's legally
192 authorized representative.
193 2. Any person, including third-party payors, designated in
194 a legally effective release of the test results executed prior
195 to or after the test by the subject of the test or the subject's
196 legally authorized representative. The test subject may in
197 writing authorize the disclosure of the test subject's HIV test
198 results to third party payors, who need not be specifically
199 identified, and to other persons to whom the test subject
200 subsequently issues a general release of medical information. A
201 general release without such prior written authorization is not
202 sufficient to release HIV test results.
203 3. An authorized agent or employee of a health facility or
204 health care provider if the health facility or health care
205 provider itself is authorized to obtain the test results, the
206 agent or employee participates in the administration or
207 provision of patient care or handles or processes specimens of
208 body fluids or tissues, and the agent or employee has a need to
209 know such information. The department shall adopt a rule
210 defining which persons have a need to know pursuant to this
211 subparagraph.
212 4. Health care providers consulting between themselves or
213 with health care facilities to determine diagnosis and
214 treatment. For purposes of this subparagraph, health care
215 providers shall include licensed health care professionals
216 employed by or associated with state, county, or municipal

217 detention facilities when such health care professionals are
218 acting exclusively for the purpose of providing diagnoses or
219 treatment of persons in the custody of such facilities.
220 5. The department, in accordance with rules for reporting
221 and controlling the spread of disease, as otherwise provided by
222 state law.
223 6. A health facility or health care provider which
224 procures, processes, distributes, or uses:
225 a. A human body part from a deceased person, with respect
226 to medical information regarding that person; or
227 b. Semen provided prior to July 6, 1988, for the purpose
228 of artificial insemination.
229 7. Health facility staff committees, for the purposes of
230 conducting program monitoring, program evaluation, or service
231 reviews pursuant to chapters 395 and 766.
232 8. Authorized medical or epidemiological researchers who
233 may not further disclose any identifying characteristics or
234 information.
235 9. A person allowed access by a court order which is
236 issued in compliance with the following provisions:
237 a. No court of this state shall issue such order unless
238 the court finds that the person seeking the test results has
239 demonstrated a compelling need for the test results which cannot
240 be accommodated by other means. In assessing compelling need,
241 the court shall weigh the need for disclosure against the
242 privacy interest of the test subject and the public interest
243 which may be disserved by disclosure which deters blood, organ,
244 and semen donation and future human immunodeficiency virus-

245 related testing or which may lead to discrimination. This
246 paragraph shall not apply to blood bank donor records.
247 b. Pleadings pertaining to disclosure of test results
248 shall substitute a pseudonym for the true name of the subject of
249 the test. The disclosure to the parties of the subject's true
250 name shall be communicated confidentially in documents not filed
251 with the court.
252 c. Before granting any such order, the court shall provide
253 the individual whose test result is in question with notice and
254 a reasonable opportunity to participate in the proceedings if he
255 or she is not already a party.
256 d. Court proceedings as to disclosure of test results
257 shall be conducted in camera, unless the subject of the test
258 agrees to a hearing in open court or unless the court determines
259 that a public hearing is necessary to the public interest and
260 the proper administration of justice.
261 e. Upon the issuance of an order to disclose test results,
262 the court shall impose appropriate safeguards against
263 unauthorized disclosure which shall specify the persons who may
264 have access to the information, the purposes for which the
265 information shall be used, and appropriate prohibitions on
266 future disclosure.
267 10. A person allowed access by order of a judge of
268 compensation claims of the Division of Administrative Hearings.
269 A judge of compensation claims shall not issue such order unless
270 he or she finds that the person seeking the test results has
271 demonstrated a compelling need for the test results which cannot
272 be accommodated by other means.

273 11. Those employees of the department or of child-placing
274 or child-caring agencies or of family foster homes, licensed
275 pursuant to s. 409.175, who are directly involved in the
276 placement, care, control, or custody of such test subject and
277 who have a need to know such information; adoptive parents of
278 such test subject; or any adult custodian, any adult relative,
279 or any person responsible for the child's welfare, if the test
280 subject was not tested under subparagraph (b)2. and if a
281 reasonable attempt has been made to locate and inform the legal
282 guardian of a test result. The department shall adopt a rule to
283 implement this subparagraph.
284 12. Those employees of residential facilities or of
285 community-based care programs that care for developmentally
286 disabled persons, pursuant to chapter 393, who are directly
287 involved in the care, control, or custody of such test subject
288 and who have a need to know such information.
289 13. A health care provider involved in the delivery of a
290 child can note the mother's HIV test results in the child's
291 medical record.
292 14. Medical personnel or nonmedical personnel who have
293 been subject to a significant exposure during the course of
294 medical practice or in the performance of professional duties,
295 or individuals who are the subject of the significant exposure
296 as provided in subparagraphs (h)10.-12.
297 15. The medical examiner shall disclose positive HIV test
298 results to the department in accordance with rules for reporting
299 and controlling the spread of disease.

300 (f) Except as provided in this section, the identity of a
301 person upon whom a test has been performed is confidential and
302 exempt from the provisions of s. 119.07(1). No person to whom
303 the results of a test have been disclosed may disclose the test
304 results to another person except as authorized by this
305 subsection and by ss. 951.27 and 960.003. Whenever disclosure is
306 made pursuant to this subsection, it shall be accompanied by a
307 statement in writing which includes the following or
308 substantially similar language: "This information has been
309 disclosed to you from records whose confidentiality is protected
310 by state law. State law prohibits you from making any further
311 disclosure of such information without the specific written
312 consent of the person to whom such information pertains, or as
313 otherwise permitted by state law. A general authorization for
314 the release of medical or other information is NOT sufficient
315 for this purpose." An oral disclosure shall be accompanied by
316 oral notice and followed by a written notice within 10 days,
317 except that this notice shall not be required for disclosures
318 made pursuant to subparagraphs (e)3. and 4.
319 (g) Human immunodeficiency virus test results contained in
320 the medical records of a hospital licensed under chapter 395 may
321 be released in accordance with s. 395.3025 without being subject
322 to the requirements of subparagraph (e)2., subparagraph (e)9.,
323 or paragraph (f); provided the hospital has obtained written
324 informed consent for the HIV test in accordance with provisions
325 of this section.
326 (h) Notwithstanding the provisions of paragraph (a),
327 informed consent is not required:

328 1. When testing for sexually transmissible diseases is
329 required by state or federal law, or by rule including the
330 following situations:
331 a. HIV testing pursuant to s. 796.08 of persons convicted
332 of prostitution or of procuring another to commit prostitution.
333 b. HIV testing of inmates pursuant to s. 945.355 prior to
334 their release from prison by reason of parole, accumulation of
335 gain-time credits, or expiration of sentence.
336 c. Testing for HIV by a medical examiner in accordance
337 with s. 406.11.
338 d. HIV testing of pregnant women pursuant to s. 384.31.
339 e. HIV testing of inmates pursuant to s. 951.27 before
340 their release from a county or municipal detention facility.
341 2. Those exceptions provided for blood, plasma, organs,
342 skin, semen, or other human tissue pursuant to s. 381.0041.
343 3. For the performance of an HIV-related test by licensed
344 medical personnel in bona fide medical emergencies when the test
345 results are necessary for medical diagnostic purposes to provide
346 appropriate emergency care or treatment to the person being
347 tested and the patient is unable to consent, as supported by
348 documentation in the medical record. Notification of test
349 results in accordance with paragraph (c) is required.
350 4. For the performance of an HIV-related test by licensed
351 medical personnel for medical diagnosis of acute illness where,
352 in the opinion of the attending physician, obtaining informed
353 consent would be detrimental to the patient, as supported by
354 documentation in the medical record, and the test results are
355 necessary for medical diagnostic purposes to provide appropriate

356 care or treatment to the person being tested. Notification of
357 test results in accordance with paragraph (c) is required if it
358 would not be detrimental to the patient. This subparagraph does
359 not authorize the routine testing of patients for HIV infection
360 without informed consent.
361 5. When HIV testing is performed as part of an autopsy for
362 which consent was obtained pursuant to s. 872.04.
363 6. For the performance of an HIV test upon a defendant
364 pursuant to the victim's request in a prosecution for any type
365 of sexual battery where a blood sample is taken from the
366 defendant voluntarily, pursuant to court order for any purpose,
367 or pursuant to the provisions of s. 775.0877, s. 951.27, or s.
368 960.003; however, the results of any HIV test performed shall be
369 disclosed solely to the victim and the defendant, except as
370 provided in ss. 775.0877, 951.27, and 960.003.
371 7. When an HIV test is mandated by court order.
372 8. For epidemiological research pursuant to s. 381.0032,
373 for research consistent with institutional review boards created
374 by 45 C.F.R. part 46, or for the performance of an HIV-related
375 test for the purpose of research, if the testing is performed in
376 a manner by which the identity of the test subject is not known
377 and may not be retrieved by the researcher.
378 9. When human tissue is collected lawfully without the
379 consent of the donor for corneal removal as authorized by s.
380 765.5185 or enucleation of the eyes as authorized by s. 765.519.
381 10. For the performance of an HIV test upon an individual
382 who comes into contact with medical personnel in such a way that
383 a significant exposure has occurred during the course of

384 employment or within the scope of practice and where a blood
385 sample is available that was taken from that individual
386 voluntarily by medical personnel for other purposes. The term
387 "medical personnel" includes a licensed or certified health care
388 professional; an employee of a health care professional or
389 health care facility; employees of a laboratory licensed under
390 chapter 483; personnel of a blood bank or plasma center; a
391 medical student or other student who is receiving training as a
392 health care professional at a health care facility; and a
393 paramedic or emergency medical technician certified by the
394 department to perform life-support procedures under s. 401.23.
395 a. Prior to performance of an HIV test on a voluntarily
396 obtained blood sample, the individual from whom the blood was
397 obtained shall be requested to consent to the performance of the
398 test and to the release of the results. The individual's refusal
399 to consent and all information concerning the performance of an
400 HIV test and any HIV test result shall be documented only in the
401 medical personnel's record unless the individual gives written
402 consent to entering this information on the individual's medical
403 record.
404 b. Reasonable attempts to locate the individual and to
405 obtain consent shall be made, and all attempts must be
406 documented. If the individual cannot be found, an HIV test may
407 be conducted on the available blood sample. If the individual
408 does not voluntarily consent to the performance of an HIV test,
409 the individual shall be informed that an HIV test will be
410 performed, and counseling shall be furnished as provided in this
411 section. However, HIV testing shall be conducted only after a

412 licensed physician documents, in the medical record of the
413 medical personnel, that there has been a significant exposure
414 and that, in the physician's medical judgment, the information
415 is medically necessary to determine the course of treatment for
416 the medical personnel.
417 c. Costs of any HIV test of a blood sample performed with
418 or without the consent of the individual, as provided in this
419 subparagraph, shall be borne by the medical personnel or the
420 employer of the medical personnel. However, costs of testing or
421 treatment not directly related to the initial HIV tests or costs
422 of subsequent testing or treatment may not be borne by the
423 medical personnel or the employer of the medical personnel.
424 d. In order to utilize the provisions of this
425 subparagraph, the medical personnel must either be tested for
426 HIV pursuant to this section or provide the results of an HIV
427 test taken within 6 months prior to the significant exposure if
428 such test results are negative.
429 e. A person who receives the results of an HIV test
430 pursuant to this subparagraph shall maintain the confidentiality
431 of the information received and of the persons tested. Such
432 confidential information is exempt from s. 119.07(1).
433 f. If the source of the exposure will not voluntarily
434 submit to HIV testing and a blood sample is not available, the
435 medical personnel or the employer of such person acting on
436 behalf of the employee may seek a court order directing the
437 source of the exposure to submit to HIV testing. A sworn
438 statement by a physician licensed under chapter 458 or chapter
439 459 that a significant exposure has occurred and that, in the

440 physician's medical judgment, testing is medically necessary to
441 determine the course of treatment constitutes probable cause for
442 the issuance of an order by the court. The results of the test
443 shall be released to the source of the exposure and to the
444 person who experienced the exposure.
445 11. For the performance of an HIV test upon an individual
446 who comes into contact with medical personnel in such a way that
447 a significant exposure has occurred during the course of
448 employment or within the scope of practice of the medical
449 personnel while the medical personnel provides emergency medical
450 treatment to the individual; or who comes into contact with
451 nonmedical personnel in such a way that a significant exposure
452 has occurred while the nonmedical personnel provides emergency
453 medical assistance during a medical emergency. For the purposes
454 of this subparagraph, a medical emergency means an emergency
455 medical condition outside of a hospital or health care facility
456 that provides physician care. The test may be performed only
457 during the course of treatment for the medical emergency.
458 a. An individual who is capable of providing consent shall
459 be requested to consent to an HIV test prior to the testing. The
460 individual's refusal to consent, and all information concerning
461 the performance of an HIV test and its result, shall be
462 documented only in the medical personnel's record unless the
463 individual gives written consent to entering this information on
464 the individual's medical record.
465 b. HIV testing shall be conducted only after a licensed
466 physician documents, in the medical record of the medical
467 personnel or nonmedical personnel, that there has been a

468 significant exposure and that, in the physician's medical
469 judgment, the information is medically necessary to determine
470 the course of treatment for the medical personnel or nonmedical
471 personnel.
472 c. Costs of any HIV test performed with or without the
473 consent of the individual, as provided in this subparagraph,
474 shall be borne by the medical personnel or the employer of the
475 medical personnel or nonmedical personnel. However, costs of
476 testing or treatment not directly related to the initial HIV
477 tests or costs of subsequent testing or treatment may not be
478 borne by the medical personnel or the employer of the medical
479 personnel or nonmedical personnel.
480 d. In order to utilize the provisions of this
481 subparagraph, the medical personnel or nonmedical personnel
482 shall be tested for HIV pursuant to this section or shall
483 provide the results of an HIV test taken within 6 months prior
484 to the significant exposure if such test results are negative.
485 e. A person who receives the results of an HIV test
486 pursuant to this subparagraph shall maintain the confidentiality
487 of the information received and of the persons tested. Such
488 confidential information is exempt from s. 119.07(1).
489 f. If the source of the exposure will not voluntarily
490 submit to HIV testing and a blood sample was not obtained during
491 treatment for the medical emergency, the medical personnel, the
492 employer of the medical personnel acting on behalf of the
493 employee, or the nonmedical personnel may seek a court order
494 directing the source of the exposure to submit to HIV testing. A
495 sworn statement by a physician licensed under chapter 458 or

496 chapter 459 that a significant exposure has occurred and that,
497 in the physician's medical judgment, testing is medically
498 necessary to determine the course of treatment constitutes
499 probable cause for the issuance of an order by the court. The
500 results of the test shall be released to the source of the
501 exposure and to the person who experienced the exposure.
502 12. For the performance of an HIV test by the medical
503 examiner or attending physician upon an individual who expired
504 or could not be resuscitated while receiving emergency medical
505 assistance or care and who was the source of a significant
506 exposure to medical or nonmedical personnel providing such
507 assistance or care.
508 a. HIV testing may be conducted only after a licensed
509 physician documents in the medical record of the medical
510 personnel or nonmedical personnel that there has been a
511 significant exposure and that, in the physician's medical
512 judgment, the information is medically necessary to determine
513 the course of treatment for the medical personnel or nonmedical
514 personnel.
515 b. Costs of any HIV test performed under this subparagraph
516 may not be charged to the deceased or to the family of the
517 deceased person.
518 c. For the provisions of this subparagraph to be
519 applicable, the medical personnel or nonmedical personnel must
520 be tested for HIV under this section or must provide the results
521 of an HIV test taken within 6 months before the significant
522 exposure if such test results are negative.

523 d. A person who receives the results of an HIV test
524 pursuant to this subparagraph shall comply with paragraph (e).
525 13. For the performance of an HIV-related test medically
526 indicated by licensed medical personnel for medical diagnosis of
527 a hospitalized infant as necessary to provide appropriate care
528 and treatment of the infant when, after a reasonable attempt, a
529 parent cannot be contacted to provide consent. The medical
530 records of the infant shall reflect the reason consent of the
531 parent was not initially obtained. Test results shall be
532 provided to the parent when the parent is located.
533 14. For the performance of HIV testing conducted to
534 monitor the clinical progress of a patient previously diagnosed
535 to be HIV positive.
536 15. For the performance of repeated HIV testing conducted
537 to monitor possible conversion from a significant exposure.
538 Section 3. This act shall take effect July 1, 2006.

HB 823

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 823 Local Government Infrastructure Surtax
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2382

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

SUMMARY ANALYSIS

Counties have authority to impose a limited number of discretionary sales surtaxes. To impose any of the surtaxes requires either a favorable referendum vote or, for some, an extraordinary vote of the governing body. The Local Government Infrastructure Surtax is one of the discretionary sales surtaxes.

With limited exceptions, all proceeds of the Local Government Infrastructure Surtax, and any interest accrued, are only allowed to be spent by the school district or within the county and municipalities in the county on local infrastructure needs. This bill requires that only a minimum of 50% of the proceeds or accruements be expended for local infrastructure purposes. The bill provides that up to 35% of the remaining proceeds and accruements may be used to reduce property taxes and up 15% may be used for operational expenses. The percentage used for operational expenses may not exceed the percentage used to reduce property taxes.

The bill provides that property taxes may not be increased for the first year or by more than 3% above the rollback rate during any subsequent years after a taxing authority elects to use proceeds to fund operational expenses.

This bill would take effect July 1, 2006.

The bill does not appear to have a fiscal impact on state government. The bill has no required fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes- This bill allows 35% of the proceeds and interest of the Local Government Infrastructure Surtax (surtax) to be used to reduce property taxes. The bill also allows up to 15% of such proceeds to be used for operational expenses. The bill prevents property taxes from increasing the first year after proceeds and interest of the surtax are used to fund operational expenses. After the first year, the increase is limited to 3% over the rollback rate for any subsequent years under the levy.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 212.055, F.S., authorizes counties to impose one or more of seven local discretionary sales surtaxes on all transactions occurring in the county which are subject to the state tax imposed on sales, use, services, rentals, and admissions.[1] The tax rate, duration of levy, method of imposition, and use of proceeds and accrued interest are set in statute and summarized below:

Local Discretionary Sales Surtaxes:	Authorized Levy (%):
Charter County Transient System	Up to 1%
Local Government Infrastructure Surtax	0.5% or 1%
Small County Surtax	0.5% or 1%
Indigent Care and Trauma Center Surtax	Up to 0.5%
County Public Hospital Surtax	0.5%
School Capital Outlay Surtax	Up to 0.5%
Voter-Approved Indigent Care Surtax	0.5% or 1%

Section 212.055, F.S., provides maximum combined tax rates for the different surtaxes imposed. The Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are maximized at a combined rate of 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined maximum rate is 1.5%. The School Capital Outlay Surtax, capped at 0.5%, is not included in tax rate caps.

The Local Government Infrastructure Surtax (surtax) is authorized in s. 212.055(2)(d), F.S., upon enactment of an ordinance by a majority of the members of the county governing authority and approval in a local referendum. If not provided for differently in the ordinance, the surtax may not be levied for more than 15 years. They levy may be extended by majority vote in another referendum.

The referendum must include a general description of the projects to be funded by the surtax. Section 212.055(2)(d), F.S., limits the purposes for which the proceeds and any accrued interest can be used for. Proceeds and accruements can not be used for operational expenses. Except for a limited number of exceptions for counties under certain specifications, funds are only to be used by the school district or within the county and municipalities in the county to:

- Finance, plan, and construct infrastructure.
- Acquire land for public recreation or conservation or protection of natural resources.
- Finance the closure of certain county or municipally owned solid waste landfills.
- Retire or service bond indebtedness related to prior infrastructure construction.

[1] Section 212.054, F.S.

- Up to 15% may be used for economic development projects if specifically provided for in the referendum

Effect of Bill

Subject to any obligation to retire or service bonded indebtedness, this bill requires that only a minimum of 50% of the funds from the Local Government Infrastructure Surtax be used for the approved projects. It then provides that up to 35% of the funds may be used to reduce property taxes and up to 15% may be used for operational expenses. Operational expenses are not allowed to exceed the percentage used to reduce property taxes. If a county decides to use funds for operational expenses, the taxing authority can not increase property taxes above the rollback rate for the first year following the year in which funds are used for operational expenses, and can not increase property taxes more than 3% above the rollback rate during any subsequent years the levy is imposed.

C. SECTION DIRECTORY:

Section 1: Renumbers and amends section (d) to create a subsection (d)(2).

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   This bill affects the Department of Revenue in its oversight capacity for taxes imposed by a county.[2]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill gives local governments the option to redistribute proceeds from a current revenue source, the Local Government Infrastructure Surtax, to fund operational expenses and reduce property taxes. If this option is elected, property tax increases will be capped at 0% the first year and 3% for any subsequent year.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could reduce property taxes.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[2] Department of Revenue: Bill Analysis (HB 823).

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

None.

1 A bill to be entitled
2 An act relating to the local government infrastructure
3 surtax; amending s. 212.055, F.S.; limiting use of surtax
4 revenues for infrastructure purposes; authorizing a
5 portion of surtax revenues to be used for property tax
6 reduction under certain circumstances; authorizing use of
7 a portion of surtax revenues for operating expenses under
8 certain circumstances; providing limitations; providing an
9 effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Paragraph (d) of subsection (2) of section
14 212.055, Florida Statutes, is amended to read:
15 212.055 Discretionary sales surtaxes; legislative intent;
16 authorization and use of proceeds.--It is the legislative intent
17 that any authorization for imposition of a discretionary sales
18 surtax shall be published in the Florida Statutes as a
19 subsection of this section, irrespective of the duration of the
20 levy. Each enactment shall specify the types of counties
21 authorized to levy; the rate or rates which may be imposed; the
22 maximum length of time the surtax may be imposed, if any; the
23 procedure which must be followed to secure voter approval, if
24 required; the purpose for which the proceeds may be expended;
25 and such other requirements as the Legislature may provide.
26 Taxable transactions and administrative procedures shall be as
27 provided in s. 212.054.
28 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

29 (d)1.a. At least 50 percent of the proceeds of the surtax
30 authorized by this subsection and any interest accrued thereto
31 shall be expended by the school district or within the county
32 and municipalities within the county, or, in the case of a
33 negotiated joint county agreement, within another county, to
34 finance, plan, and construct infrastructure and to acquire land
35 for public recreation or conservation or protection of natural
36 resources and to finance the closure of county-owned or
37 municipally owned solid waste landfills that are already closed
38 or are required to close by order of the Department of
39 Environmental Protection. Any use of such proceeds or interest
40 for purposes of landfill closure prior to July 1, 1993, is
41 ratified. ~~Neither the proceeds nor any interest accrued thereto~~
42 ~~shall be used for operational expenses of any infrastructure,~~
43 ~~except that~~ Any county with a population of less than 75,000
44 that is required to close a landfill by order of the Department
45 of Environmental Protection may use the proceeds or any interest
46 accrued thereto for long-term maintenance costs associated with
47 landfill closure. Counties, as defined in s. 125.011(1), and
48 charter counties may, in addition, use the proceeds and any
49 interest accrued thereto to retire or service indebtedness
50 incurred for bonds issued prior to July 1, 1987, for
51 infrastructure purposes, and for bonds subsequently issued to
52 refund such bonds. Any use of such proceeds or interest for
53 purposes of retiring or servicing indebtedness incurred for such
54 refunding bonds prior to July 1, 1999, is ratified.
55 b.~~2.~~ For the purposes of this subparagraph ~~paragraph~~,
56 "infrastructure" means:

57 (I)~~a.~~ Any fixed capital expenditure or fixed capital
58 outlay associated with the construction, reconstruction, or
59 improvement of public facilities which have a life expectancy of
60 5 or more years and any land acquisition, land improvement,
61 design, and engineering costs related thereto.
62 (II)~~b.~~ A fire department vehicle, an emergency medical
63 service vehicle, a sheriff's office vehicle, a police department
64 vehicle, or any other vehicle, and such equipment necessary to
65 outfit the vehicle for its official use or equipment that has a
66 life expectancy of at least 5 years.
67 (III)~~c.~~ Any expenditure for the construction, lease, or
68 maintenance of, or provision of utilities or security for,
69 facilities as defined in s. 29.008.
70 c.~~3.~~ Notwithstanding any other provision of this
71 subsection, a discretionary sales surtax imposed or extended
72 after the effective date of this act may provide for an amount
73 not to exceed 15 percent of the local option sales surtax
74 proceeds to be allocated for deposit to a trust fund within the
75 county's accounts created for the purpose of funding economic
76 development projects of a general public purpose targeted to
77 improve local economies, including the funding of operational
78 costs and incentives related to such economic development. The
79 ballot statement must indicate the intention to make an
80 allocation under the authority of this sub-subparagraph
81 ~~subparagraph~~.
82 2. Subject to any obligation to retire or service
83 indebtedness incurred by the taxing authority under this
84 subsection for bonds issued by the taxing authority prior to

85 July 1, 2006, and notwithstanding any other provision of this
86 subsection, a taxing authority receiving proceeds of the surtax
87 and any interest on such proceeds pursuant to this subsection
88 may use up to 35 percent of such proceeds and interest to reduce
89 property taxes and may use up to 15 percent of such proceeds and
90 interest for operational expenses; however, the percentage used
91 for operational expenses may not exceed the percentage used to
92 reduce property taxes. The taxing authority may not increase
93 property taxes for the first year following the year in which
94 the taxing authority elected to use such proceeds and interest
95 for operational expenses and may not increase property taxes
96 above the rollback rate by more than 3 percent in the second and
97 subsequent years during the period of the levy.
98 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No.823

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 Davis offered the following:
3
4 **Amendment (with title amendment)**
5 Remove line 92-96 and insert:
6 reduce property taxes. Except for by public referendum, the
7 taxing authority may not increase property taxes for the first
8 year following the year in which the taking authority elected to
9 use such proceeds and interest for operational expenses and may
10 not increase property taxes above the rollback rate by more than
11 5 percent in the second and
12
13
14 ========== T I T L E A M E N D M E N T ==========
15 Remove line 8 and insert:
16 certain circumstances; limiting the increase of property
17 taxes absent a referendum; providing an

000000

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 905 Transportation Concurrency Management
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Grayson	Hamby
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

HB 905 expressly provides local governments with the authority to impose stricter concurrency requirements than those provided in existing law. Concurrency is a growth management concept intended to ensure that the necessary public facilities and services are available concurrent with the impacts of development. Specifically, existing law provides that transportation facilities needed to serve new development must be in place or under construction within 3 years after local government approves either a building permit, or its functional equivalent, that results in traffic generation. The bill allows local government to establish a shorter period of time than 3 years, including "real-time concurrency" which is the ability to require the facilities to be in place prior to permitting development that would result in traffic generation.

The bill changes the effective date of the requirement to adopt a supporting comprehensive plan amendment in conjunction with a transportation concurrency exception area (TCEA). This mechanism is used to provide for an exception to the concurrency requirements under certain conditions when facilities concurrency conflicts with other public policy goals and leads to the discouragement of urban infill development and redevelopment. Existing law requires such a supporting amendment even for existing TCEAs. The bill applies that requirement only to TCEAs granted after July 1, 2006.

The bill changes existing law to allow for alternative means, rather than a single method (proportionate fair-share mitigation), to mitigate the impacts of development on transportation facilities.

The bill does not appear to have a fiscal impact on state resources. The bill may increase the demand for local expenditures to ensure that transportation facilities are funded and in place in tandem with development demand.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill allows local government to be more development restrictive in implementing transportation facilities concurrency. If local government chooses to be more restrictive than the state standard, then such action could be considered to either limit government by decentralizing the implementation standard or increase government by further restricting when development may occur.

Safeguard individual liberty – The bill allows local government to be more development restrictive in implementing transportation facilities concurrency. Thus, if local government chooses a more restrictive implementation, then such action could be considered to decrease or prohibit a private organization (developer) in the conduct of its affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Transportation Concurrency - CS/CS/CS SB 360 (2005)

The 2005 Legislature enacted CS/CS/CS SB 360 relating to infrastructure funding and planning (ch. 2005-290, L.O.F., the "2005 Act"). Among other revisions to existing law, the act provides for stricter facilities concurrency than existed in prior law. Concurrency is a growth management concept intended to ensure that the necessary public facilities and services are available concurrent with the impacts of development. One of the types of facilities to which concurrency applies under the 2005 Act is transportation facilities. Specifically, the 2005 Act provided that *transportation facilities must be in place or under actual construction within 3 years from the local government's approval of a building permit or its functional equivalent that results in traffic generation.* To carry out transportation concurrency, local governments must define what constitutes an adequate level of service and measure whether the service needs of a new development exceed existing capacity and any scheduled improvements in the capital improvements element of the local government's comprehensive plan.

Transportation Concurrency Exception Areas

The law provides that under limited circumstances, the requirement for transportation facilities concurrency conflicts with other public policy goals and leads to the discouragement of urban infill development and redevelopment. In such instances, existing law allows a local government to designate a transportation concurrency exception area (TCEA) to provide for an exception to the concurrency requirements. This results in an increase in the number of people and goods that need to move around within the TCEA and means that their mobility must be addressed in ways other than the traditional provision of roads. When a local government chooses to designate a TCEA, they must follow certain requirements in the law. Among those requirements is the adoption of a comprehensive plan amendment that supports the designated area in the ways outlined below.

- Implements strategies to support and fund mobility within the TCEA, including alternative modes of transportation.
- Demonstrates how strategies will support the purpose of the exception area and how mobility within the exception area will be provided.
- Addresses urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization.
- Be accompanied by data and analysis justifying the size of the area.

Proportionate Fair-Share Mitigation

The 2005 Act established a single method by which development could proceed ahead of supporting transportation facilities. The method is referred to as "proportionate fair-share mitigation." The intent of proportionate fair-share mitigation is to provide applicants for development an opportunity to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their share of the cost of improving the impacted transportation facility.

A developer may choose to satisfy transportation concurrency requirements by contributing or paying "proportionate fair-share mitigation" for those facilities or segments that are identified in the 5-year schedule of capital improvements. If the funds in an adopted 5-year schedule are insufficient to fully fund construction of the transportation improvements required by the local government's transportation concurrency management system, the local government may still enter into a binding proportionate share agreement with the developer. This agreement would allow a developer to construct the amount of development on which the proportionate fair share is calculated if the amount in the agreement is sufficient to pay for an improvement that will, in the opinion of a governmental entity, significantly benefit the impacted transportation system.

Effect of Proposed Changes

Stricter concurrency requirements: HB 905 expressly allows local government to adopt a stricter concurrency requirement, including real-time concurrency, than that provided in existing law. Existing law, which does not expressly provide authority to establish stricter concurrency standards, does provide that transportation facilities needed to serve new development must be in place or under construction within 3 years after local government approves either a building permit, or its functional equivalent, that results in traffic generation. Thus, under the bill, a local government may choose to require that such facilities need to be in place, or under construction, within any time period shorter than 3 years, after issuance of the building permit. Additionally, the bill expressly allows local government to establish "real-time concurrency" which would mean that no development would be allowed to proceed until "adequate transportation facilities are in place."

Transportation concurrency exception areas: Existing law requires that a local government that has designated a transportation concurrency exception area must also adopt a comprehensive plan amendment to support the exception area. The bill changes the effective date of the requirement to adopt such a comprehensive plan amendment. The bill only requires such a comprehensive plan amendment for those exception areas granted after July 1, 2006.

Proportionate Fair-Share Mitigation: The bill changes existing law to allow for alternative means, rather than a single method, to mitigate the impacts of development on transportation facilities. Existing law provides that "proportionate fair-share mitigation" is the sole method for mitigating such impacts. Thus, the bill allows a local government to adopt some alternative manner for mitigating such impacts, rather than being restricted to only using the "proportionate fair-share mitigation" method.

C. SECTION DIRECTORY:

Section 1 – Amends as. 163.3180(2)(c), (5)(e), and (16), F.S., relating to transportation concurrency.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill does not appear to have an impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local revenues.

2. Expenditures:

The bill may increase the demand for local expenditures to ensure that transportation facilities are funded and in place in tandem with development demand.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an impact on the private sector by limiting when development may proceed in relation to the availability of adequate transportation facilities.

D. FISCAL COMMENTS:

Not applicable.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

The bill does not appear to contain any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does not contain any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 28 – 34 of the bill may lead to confusion over the intended scope of its application. The new language added to s. 163.3180(2)(c), F.S., specifically states:

> Nothing in *this section* prohibits a local government from adopting stricter concurrency requirements, including real-time concurrency, under which a local government a local government need not issue a building permit or its functional equivalent for a new development under any circumstances that result in traffic generation until adequate transportation facilities are in place. [emphasis provided]

Reference to "this section" may be interpreted to mean the entire s. 163.3180, F.S. It is unclear whether the new provision allows a local government to adopt stricter concurrency requirements solely for transportation facilities by its inclusion into the paragraph relating solely to transportation facilities, or more broadly for any of other facilities addressed in the "section" (i.e., sanitary sewer, solid waste, drainage, potable water, parks and recreation, or schools).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to transportation concurrency management;
3 amending s. 163.3180, F.S.; providing an exception to
4 certain in-place or under-actual-construction requirements
5 for transportation facilities serving new developments for
6 certain stricter concurrency requirements by local
7 governments; restricting a requirement that local
8 governments adopt into a plan and implement certain
9 strategies relating to exception areas to circumstances in
10 which an exception is granted; limiting application of
11 certain proportionate fair-share mitigation provisions to
12 circumstances in which a local government elects to use
13 such provisions instead of a concurrency management
14 system; providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Paragraph (c) of subsection (2), paragraph (e)
19 of subsection (5), and subsection (16) of section 163.3180,
20 Florida Statutes, are amended to read:
21 163.3180 Concurrency.--
22 (2)
23 (c) Consistent with the public welfare, and except as
24 otherwise provided in this section, transportation facilities
25 needed to serve new development shall be in place or under
26 actual construction within 3 years after the local government
27 approves a building permit or its functional equivalent that
28 results in traffic generation. <u>Nothing is this section prohibits</u>

29 a local government from adopting stricter concurrency
30 requirements, including real-time concurrency, under which a
31 local government need not issue a building permit or its
32 functional equivalent for a new development under any
33 circumstances that result in traffic generation until adequate
34 transportation facilities are in place.
35 (5)
36 (e) If a local government grants an exception from the
37 concurrency requirement for transportation facilities pursuant
38 to paragraph (b) after July 1, 2006, the local government shall
39 adopt into the plan and implement strategies to support and fund
40 mobility within the designated exception area, including
41 alternative modes of transportation. The plan amendment shall
42 also demonstrate how strategies will support the purpose of the
43 exception and how mobility within the designated exception area
44 will be provided. In addition, the strategies must address urban
45 design; appropriate land use mixes, including intensity and
46 density; and network connectivity plans needed to promote urban
47 infill, redevelopment, or downtown revitalization. The
48 comprehensive plan amendment designating the concurrency
49 exception area shall be accompanied by data and analysis
50 justifying the size of the area.
51 (16) It is the intent of the Legislature to provide
52 alternatives ~~a method~~ by which the impacts of development on
53 transportation facilities can be mitigated by the cooperative
54 efforts of the public and private sectors. If a local government
55 elects to use proportionate fair-share mitigation in lieu of its
56 existing concurrency management system as adopted in its

57 comprehensive plan, the methodology used to calculate
58 proportionate fair-share mitigation under this section shall be
59 as provided for in subsection (12) and the following provisions
60 shall apply:~~.~~
61 (a) By December 1, 2006, each local government shall adopt
62 by ordinance a methodology for assessing proportionate fair-
63 share mitigation options. By December 1, 2005, the Department of
64 Transportation shall develop a model transportation concurrency
65 management ordinance with methodologies for assessing
66 proportionate fair-share mitigation options.
67 (b)1. In its transportation concurrency management system,
68 a local government shall, by December 1, 2006, include
69 methodologies that will be applied to calculate proportionate
70 fair-share mitigation. A developer may choose to satisfy all
71 transportation concurrency requirements by contributing or
72 paying proportionate fair-share mitigation if transportation
73 facilities or facility segments identified as mitigation for
74 traffic impacts are specifically identified for funding in the
75 5-year schedule of capital improvements in the capital
76 improvements element of the local plan or the long-term
77 concurrency management system or if such contributions or
78 payments to such facilities or segments are reflected in the 5-
79 year schedule of capital improvements in the next regularly
80 scheduled update of the capital improvements element. Updates to
81 the 5-year capital improvements element which reflect
82 proportionate fair-share contributions may not be found not in
83 compliance based on ss. 163.164(32) and 163.3177(3) if
84 additional contributions, payments or funding sources are

85 reasonably anticipated during a period not to exceed 10 years to
86 fully mitigate impacts on the transportation facilities.
87 2. Proportionate fair-share mitigation shall be applied as
88 a credit against impact fees to the extent that all or a portion
89 of the proportionate fair-share mitigation is used to address
90 the same capital infrastructure improvements contemplated by the
91 local government's impact fee ordinance.
92 (c) Proportionate fair-share mitigation includes, without
93 limitation, separately or collectively, private funds,
94 contributions of land, and construction and contribution of
95 facilities and may include public funds as determined by the
96 local government. The fair market value of the proportionate
97 fair-share mitigation shall not differ based on the form of
98 mitigation. A local government may not require a development to
99 pay more than its proportionate fair-share contribution
100 regardless of the method of mitigation.
101 (d) Nothing in this subsection shall require a local
102 government to approve a development that is not otherwise
103 qualified for approval pursuant to the applicable local
104 comprehensive plan and land development regulations.
105 (e) Mitigation for development impacts to facilities on
106 the Strategic Intermodal System made pursuant to this subsection
107 requires the concurrence of the Department of Transportation.
108 (f) In the event the funds in an adopted 5-year capital
109 improvements element are insufficient to fully fund construction
110 of a transportation improvement required by the local
111 government's concurrency management system, a local government
112 and a developer may still enter into a binding proportionate-

113 share agreement authorizing the developer to construct that
114 amount of development on which the proportionate share is
115 calculated if the proportionate-share amount in such agreement
116 is sufficient to pay for one or more improvements which will, in
117 the opinion of the governmental entity or entities maintaining
118 the transportation facilities, significantly benefit the
119 impacted transportation system. The improvement or improvements
120 funded by the proportionate-share component must be adopted into
121 the 5-year capital improvements schedule of the comprehensive
122 plan at the next annual capital improvements element update.
123 (g) Except as provided in subparagraph (b)1., nothing in
124 this section shall prohibit the Department of Community Affairs
125 from finding other portions of the capital improvements element
126 amendments not in compliance as provided in this chapter.
127 (h) The provisions of this subsection do not apply to a
128 multiuse development of regional impact satisfying the
129 requirements of subsection (12).
130 Section 2. This act shall take effect July 1, 2006.

HB 931

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 931 Pinellas Suncoast Transit Authority, Pinellas County
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:** SB 2236

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

SUMMARY ANALYSIS

HB 931 adds four members to the Pinellas Suncoast Transit Authority (Authority), to include one additional member appointed by the City Council of the City of St. Petersburg and three additional members appointed by the Pinellas County Commission. The bill provides that the member appointed by the City Council of the City of St. Petersburg will serve an initial three year term; additional members appointed by the Pinellas County Commission will serve an initial three year term for one member, an initial two year term for another member, and an initial one year term for the third member.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The Central Pinellas Transit Authority was created in 1970 by ch. 70-907, L.O.F. The name of the Authority was changed to the Pinellas Suncoast Transit Authority by ch. 82-368, L.O.F. The Authority was created to provide public transit services in the Pinellas County area. Term limits are three years and a member may not serve more than three consecutive terms. Term limits are three years and a member may not serve more than three consecutive terms. The Authority has an annual total operating budget of $48.3 million. The ad valorem millage rate is 0.6377(cap 0.75).

The Authority is the public transit provider in Pinellas County, Florida, operating 180 buses and trolleys that serve 43 routes. In addition, two express buses travel between Pinellas County and Tampa, and the Suncoast Beach Trolley connects the Gulf Beaches from Clearwater Beach to Pass-a-Grille. During fiscal year 2004-05 the Authority transported 10,481,997 passengers.[1]

The bill adds four members to the Authority to include one additional member appointed by the City Council of the City of St. Petersburg and three additional members appointed by the Pinellas County Commission. The bill provides that the member appointed by the City Council of the City of St. Petersburg will serve an initial three year term; additional members appointed by the Pinellas County Commission will serve an initial three year term for one member, an initial two year term for another member, and an initial one year term for the third member.

C. SECTION DIRECTORY:

Section 1. Amends subsection (2) of s. 3 of s. 1 of ch. 2000-424, L.O.F., providing for four additional members to the Pinellas Suncoast Transit Authority; provides for the appointment of the additional members.

Section 2. Provides for the staggering initial terms for the additional members.

Section 3. Provides a severability clause.

Section 4. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 30, 2005.

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, Florida.

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

IF YES, WHEN?

---

[1] http://www.psta.net/pstahistory.htm.

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: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123020**
ACCT: **15008**
Subject: **THE PINELLAS SUNCOAST TRANSIT AUTHORITY**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: THE PINELLAS SUNSET TRANSIT AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
1-800-3-NOTARY FL Notary Discount Assoc. Co.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to the Pinellas Suncoast Transit Authority, Pinellas County; amending chapter 2000-424, Laws of Florida; providing for additional members of the authority's governing body; providing for appointment of additional members; providing for staggering of initial terms of additional members; providing severability; providing an effective date.

15008 Dec 30, 2005 123020

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____

SPONSOR(S): Representative Farkas & Senator Sebesta

RELATING TO: Pinellas Suncoast Transit Authority
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 727-570-3592 dmcgaugh@pinellascounty.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: December 1, 2005

Location: Safety Harbor City Hall

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

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

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [December 30, 2005 **]**

Where? Pinellas News **County** Pinellas

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.

12-19-05

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 #:

SPONSOR(S): Rep. Frank Farkas

RELATING TO: Pinellas Suncoast Transit Authority

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

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

	FY 06-07	FY 07-08
Expenditures:	NA	NA.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	NA	N.A.
State:		
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	N.A.	N.A.

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

Advantages: N.A. N.A.

Disadvantages:

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

NA

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

NA

PREPARED BY: Roger Sweeney 12/6/05
[Must be signed by Preparer] Date

TITLE: Executive Director

REPRESENTING: Pinellas Suncoast Transit Authority

PHONE: (727-~~786~~ 540 - 1800 ext 1800)

E-Mail Address: rsweeney@psta.net

1 A bill to be entitled
2 An act relating to the Pinellas Suncoast Transit
3 Authority, Pinellas County; amending chapter 2000-424,
4 Laws of Florida; providing for additional members of the
5 authority's governing body; providing for appointment of
6 additional members; providing for staggering of initial
7 terms of additional members; providing severability;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsection (2) of section 3 of section 2 of
13 chapter 2000-424, Laws of Florida, is amended to read:
14 Section 3. Pinellas Suncoast Transit Authority; status and
15 governing body.--
16 (2)(a) The governing body of the authority shall consist
17 of 15 ~~11~~ members, serving and selected as provided in this
18 paragraph.
19 1. One member shall be appointed by the City Council
20 ~~Commission~~ of the City of Clearwater from its membership.
21 2. One member shall be appointed by the City Commission of
22 the City of Dunedin from its membership.
23 3. One member shall be appointed by the City Commission of
24 the City of Largo from its membership.
25 4. One member shall be appointed by the City Council of
26 the City of Pinellas Park from its membership.
27 5. Two members ~~One member~~ shall be appointed by the City
28 Council of the City of St. Petersburg from its membership.

29 6. One member shall be appointed by the combined municipal
30 governing bodies of the Cities of Oldsmar, Safety Harbor, and
31 Tarpon Springs from their membership.
32 7. One member shall be appointed by the combined municipal
33 governing bodies of the Cities of Belleair, Belleair Bluffs,
34 Gulfport, Kenneth City, Seminole, and South Pasadena from their
35 membership.
36 8. One member shall be appointed by the combined municipal
37 governing bodies of the Cities of Belleair Beach, Belleair
38 Shores, Indian Rocks Beach, Indian Shores, Madeira Beach, North
39 Redington Beach, Redington Beach, Redington Shores, St. Pete
40 ~~Petersburg~~ Beach, and Treasure Island from their membership.
41 9. Four members ~~One member~~ shall be appointed by the
42 Pinellas County Commission from its membership.
43 10. One member shall be appointed by the Pinellas County
44 Commission, and this member may not be an elected official.
45 11. One member shall be appointed by the City Council of
46 the City of St. Petersburg, and this member may not be an
47 elected official.
48
49 After the expiration of each term of each member of the
50 governing body of the authority, that member's successor shall
51 be chosen by the same appointing authority as the member and
52 must possess the same qualifications. Each term of office shall
53 be 3 years, and a member may not serve more than 3 consecutive
54 terms as a member of the governing body of the authority.
55 (b) Each appointed member shall hold office until his or
56 her successor has been appointed and qualified. A vacancy

57 occurring during a term shall be filled only for the balance of
58 the unexpired term. A selection to fill a vacancy or select a
59 successor shall be made within 60 days after the occurrence of
60 the vacancy or before expiration of the term, whichever is
61 applicable. If any selection is not made as provided in this
62 subsection, the Board of County Commissioners of Pinellas County
63 shall appoint an eligible person to the authority with like
64 effect as if the selection were made by a municipality or group
65 of municipalities. Any member of the authority is eligible for
66 reappointment, except that the member may not serve more than 3
67 consecutive terms.
68 Section 2. The additional member to be appointed by the
69 City of St. Petersburg shall be appointed for the initial term
70 of 3 years. One of the additional members to be appointed by the
71 Pinellas County Commission shall serve an initial term of 3
72 years, another additional member to be appointed by the Pinellas
73 County Commission shall serve an initial term of 2 years, and
74 the third additional member to be appointed by the Pinellas
75 County Commission from its membership shall serve an initial
76 term of 1 year.
77 Section 3. If any provision of this act or the application
78 thereof to any person or circumstance is held invalid, the
79 invalidity shall not affect other provisions or applications of
80 this act which can be given effect without the invalid provision
81 or application, and to this end the provisions of this act are
82 declared severable.
83 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 937 Pinecraft Lighting District, Sarasota County
SPONSOR(S): Clarke
TIED BILLS: **IDEN./SIM. BILLS:** SB 2064

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

SUMMARY ANALYSIS

The Pinecraft Lighting District (District) is an independent special district located in Sarasota County. The District was created by ch. 71-911, L.O.F., which has been amended by subsequent special acts.

The bill codifies (reenacts) all prior special acts of the district into a single act, as required by s. 189.429, F.S.

The bill deletes outdated language and organizes previously authorized powers of the District. The bill also makes minor, stylistic changes to some of the language of the charter.

The bill contains a provision which does not simply codify existing law, but amends the charter of the District to:

- increase the rate of special assessments for certain lighting benefits by the District.

The Economic Impact Statement indicates the bill will generate anticipated new revenues of $6,820 for FY 2005-06 and $8,525 for FY 2006-07.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – the bill increases the rates of special assessments for certain lighting benefits provided by the District.

B. EFFECT OF PROPOSED CHANGES:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

Pinecraft Lighting District

The Pinecraft Lighting District (District) is an independent special district located in Sarasota County. The District was created by ch. 71-911, L.O.F., which has been amended by subsequent special acts.

The primary purpose of the District is to provide street lighting. The District is governed by a five member board of commissioners (Board), appointed by the Governor. The district levies benefit assessments.

Current authority provides that each board member receive no compensation for their services, but the Secretary-Treasurer may be paid $300 annually.

The District has the power to establish and collect special assessments, and to provide for reasonable penalties for any such rates, fees, or other charges which are delinquent.

The bill codifies (reenacts) all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill deletes outdated language and organizes previously authorized powers of the District. The bill also makes minor, stylistic changes to some of the language of the charter.

Changes to the Pinecraft Lighting District Charter

The bill contains a provision which does not simply codify existing law, but amends the charter of the District to:

- increase the rate of special assessments for lighting benefits to $75 from $25 annually on any one business firm, $30 from $10 annually on a home and the parcel of land that is less than one acre, $2 from .50 cent per vacant lot in platted subdivisions, and $2 from .50 cent per acre or fraction of un-subdivided acreage by the District.

Charter of District

This bill recreates and renacts the District's charter as follows:

Section 1: Provides for boundaries of the District.[1]

Section 2: Provides for a five member board of commissioners appointed by the Governor; provides no compensation for commissioners except for the secretary-treasurer; requires each commissioner to execute a $1,000 bond to secure faithful performance of powers and duties.[2]

Section 3: Provides for 4-year term limits; provides the commissioners are elected by the qualified electors of the District.[3]

Section 4: Authorizes District to levy special assessments, rates, protest, and provides for collection.[4]

Section 5: Provides for assessment as a lien; provides for procedure upon delinquency.[5]

Section 6: Provides for deposition of funds; provides for disbursement by check.[6]

Section 7: Provides for the authority to borrow money; provides for the installment purchases of equipment.[7]

Section 8: Provides for the use of funds by the District.[8]

Section 9: Authorizes for the acquisition of sites and equipment; provides for the authority to hire personnel.[9]

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[1] *See* ch. 71-911, L.O.F. § 1.
[2] *See* ch. 71-911, L.O.F. § 2.
[3] *See* ch. 71-911, L.O.F. § 3, ch. 72-689, L.O.F. § 1; ch. 76-486, L.O.F. § 1.
[4] *See* ch. 71-911, L.O.F. § 4.
[5] *See* ch. 71-911, L.O.F. § 5.
[6] *See* ch. 71-911, L.O.F. § 6.
[7] *See* ch. 71-911, L.O.F. § 7.
[8] *See* ch. 71-911, L.O.F. § 8.
[9] *See* ch. 71-911, L.O.F. § 9.

Section 10: Provides for the duties of the board officers; provides for record of meetings; provides for a quorum; provides the rules and regulations.[10]

Section 11: Provides for an annual report of District actions and accounting of funds of the Board.[11]

Section 12: Provides for the continuing existence of the District.[12]

Section 13: Provides for proceedings against the District.[13]

Section 14: Provides definitions.[14]

Section 15: Provides for severability.[15]

C. SECTION DIRECTORY:

Section 1: Provides that the reenactment of existing law in this bill may not be construed as a grant of additional authority; provides legislative intent.

Section 2: Codifies, reenacts, amends and repeals chapters 71-911, 72-689, 76-486, L.O.F.

Section 3: Recreates and reenacts the charter of the District.

Section 4: Repeals chapters 71-911, 72-689, 76-486, L.O.F.

Section 5: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? November 3, 2005.

WHERE? *Sarasota Herald-Tribune*, Sarasota, Sarasota 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 []

The Economic Impact Statement indicates the bill has anticipated new revenues of $6,820 for FY 2005-06 and $8,525 for FY 2006-07.

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[10] *See* ch. 71-911, L.O.F. § 10.
[11] *See* ch. 71-911, L.O.F. § 11.
[12] *See* ch. 71-911, L.O.F. § 12.
[13] *See* ch. 71-911, L.O.F. § 13.
[14] *See* ch. 71-911, L.O.F. § 14.
[15] *See* ch. 71-911, L.O.F. § 15.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 10(2) of the charter provides that the board of commissioners may adopt such rules and regulations not inconsistent with any portion of this act as it may deem necessary in and about any transaction of its business and in carrying out the provisions of this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

937

RECEIVED
NOV 07 2005
BY:

AFFIDAVIT OF PUBLICATION

SARASOTA HERALD-TRIBUNE
PUBLISHED DAILY
SARASOTA, SARASOTA COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF SARASOTA

BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED SHARI BRICKLEY, WHO ON OATH SAYD SHE IS ADVERTISING MANAGER OF THE SARASOTA HERALD-TRIBUNE, A DAILY NEWSPAPER PUBLISHED AT SARASOTA, IN SARASOTA COUNTY FLORIDA; AND CIRCULATED IN SARASOTA COUNTY DAILY; THAT THE ATTACHED COPY OF ADVERTISEMENT BEING A NOTICE IN THE MATTER OF:

NOTICE OF INTENT TO SEEK LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act codifying the special acts of the Pinecraft Lighting District into a single act for reenactment by the L

IN THE COURT WAS PUBLISHED IN THE SARASOTA EDITION OF SAID NEWSPAPER IN THE ISSUES OF:

10/9 1x, s10/23 1x

AFFIANT FURTHER SAYS THAT THE SAID SARASOTA HERALD-TRIBUNE IS A NEWSPAPER PUBLISHED AT SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS THERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID SARASOTA COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MAIL MATTER AT THE POST OFFICE IN SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT SHE HAS NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORATION ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN THE SAID NEWSPAPER.

SIGNED Shari Brickley

SWORN OR AFFIRMED TO, AND SUBSCRIBED BEFORE ME THIS 3rd DAY OF NOV., A.D., 2005 BY SHARI BRICKLEY WHO IS PERSONALLY KNOWN TO ME.

Bobbie J Clark
Notary Public

My commission expires 11th day of Oct., 2008.

Bobbie J Clark
My Commission DD347713
Expires October 11, 2008

"NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act codifying the special acts of the Pinecraft Lighting District into a single act for reenactment by the Legislature pursuant to Section 189.429, Florida Statutes; providing for maximum limits on special assessments levied by said district; providing an effective date."

Published: October 9, 2005 & October 23 2005

HOUSE OF REPRESENTATIVES

2005 LOCAL BILL CERTIFICATION

BILL #: HB 937

SPONSOR(S): Rep. Clarke

RELATING TO: Pinecraft Lighting District, Sarasota County
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Sarasota

CONTACT PERSON: Candace Jones

PHONE # and E-Mail: candace.jones@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 [X] NO [ ]

Date hearing held: November 03, 2005

Location: County Commission Chambers-1660 Ringling Blvd., Sarasota

(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 [10/09/05 & 10/23/05 **]**

Where? ~~Sarasota Herald Tribune~~ **County** Sarasota

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.

Ron Reay

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 #: HB937

SPONSOR(S): Rep. Clarke

RELATING TO: Pinecraft Lighting District

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

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

	FY 05-06	FY 06-07
Expenditures:	N/A	

II. ANTICIPATED SOURCE(S) OF FUNDING:

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

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 05-06	FY 06-07
Revenues:	Special assessments levied by the district	$6,820.	$8,525.

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

Advantages: N/A

Disadvantages: N/A

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

N/A

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

Anticipated 25% increase in assessments to keep pace with increasing utility costs.

PREPARED BY: _____ 11/3/05
[Must be signed by Preparer] Date

TITLE: Attorney

REPRESENTING: Pinecraft Lighting District

PHONE: (941-364-2765)

E-Mail Address: juan_villaveces@abelband.com

1 A bill to be entitled
2 An act relating to the Pinecraft Lighting District,
3 Sarasota County; codifying, amending, reenacting, and
4 repealing chapters 71-911, 72-689, and 76-486, Laws of
5 Florida; providing for maximum limits on special
6 assessments levied by the district; providing for powers,
7 duties, liabilities, and administration of the district;
8 providing for a board of commissioners and its membership,
9 appointment, powers, and duties; providing for the levy,
10 collection, and enforcement of special assessments and the
11 creation of liens upon lands in the district; providing
12 definitions; providing for severability; providing an
13 effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. (1) The reenactment of existing law in this
18 act shall not be construed as a grant of additional authority to
19 nor to supersede the authority of any entity pursuant to law.
20 Exceptions to law contained in any special act that are
21 reenacted pursuant to this act shall continue to apply.
22 (2) The reenactment of existing law in this act shall not
23 be construed to modify, amend, or alter any covenants,
24 contracts, or other obligations of the district with respect to
25 bonded indebtedness. Nothing pertaining to the reenactment of
26 existing law in this act shall be construed to affect the
27 ability of the district to levy and collect taxes, assessments,

28 fees, or charges for the purpose of redeeming or servicing
29 bonded indebtedness of the district.
30 Section 2. Chapters 71-911, 72-689, and 76-486, Laws of
31 Florida, are codified, reenacted, amended, and repealed as
32 provided in this act.
33 Section 3. The Pinecraft Lighting District is re-created
34 and the charter for such district is re-created and reenacted to
35 read:
36 Section 1. The boundaries of the Pinecraft Lighting
37 District shall include the following lands in Sarasota County:
38
39 All that part of section 28, township 36 south, range
40 18 east, Sarasota County, Florida, bounded on the east
41 side by Beneva Road, on the south side by Waldemere
42 Street, and south line of Homecroft subdivision, and
43 by Phillipi Creek on the north and west sides, more
44 specifically known as Pinecraft subdivision lots 1
45 through 539, namely, Kaufman, Yoder, Miller, Krupp,
46 Good, Gilbert, Tice, File and Carter Avenues and Zook
47 Place, and Homecroft subdivision blocks A through Q,
48 namely, Schrock, Estrada, Clarinda, Bimini, Hacienda,
49 Gardenia and Birkly Streets.
50
51 Section 2. The business and affairs of the district shall
52 be conducted and administered by a board of five commissioners.
53 The commissioners, upon their appointment and qualification and
54 annually in January, shall organize by electing from their
55 number a chair, vice chair, and secretary-treasurer. The

56 commissioners shall not receive any compensation for their
57 services as such, but the secretary-treasurer may be paid not
58 more than $300 per annum from the funds of the district for his
59 or her services as secretary-treasurer. Each commissioner shall,
60 before he or she enters upon his or her duties as commissioner,
61 execute to the Governor, for the benefit of the district, a good
62 and sufficient bond approved by the Circuit Court of Sarasota
63 County, in the sum of $1,000, with a qualified corporate surety
64 conditioned to faithfully perform the duties of commissioner and
65 to account for all funds to come into his or her hands as
66 commissioner. All premiums for surety on all such bonds shall be
67 paid from the funds of the district.
68 Section 3. (1) Each commissioner shall hold office until
69 his or her successor is appointed and qualified, unless such
70 commissioner ceases to be qualified to act as commissioner or is
71 removed from office.
72 (2)(a) Successful candidates for the office of
73 commissioner shall take office 2 weeks after their election and
74 shall serve for 4-year terms each.
75 (b) All electors of the district shall be eligible for
76 election to the office of commissioner. The commissioners shall
77 be elected by the qualified electors of the district.
78 Section 4. (1) The district shall have the right, power,
79 and authority to levy special assessments for special lighting
80 benefits against the real estate in the district to provide
81 funds for the purpose of the district. The rate of such special
82 assessments for special lighting benefits shall be fixed by a
83 resolution of the board of commissioners, as hereinafter

84 provided, but shall in no event exceed the sum of $75 per annum
85 on any one business firm; the sum of $30 per annum on a home and
86 the parcel of land on which it is located, if not in excess of 1
87 acre; and $2 per lot on vacant lots in platted subdivisions and
88 $2 per acre or fraction thereof on unsubdivided acreage.
89 Apartment buildings and tourist courts shall be construed as one
90 business firm.
91 (2) The county property appraiser shall furnish to the
92 commissioners of the district a tax roll covering all taxable
93 properties within the district on which the district
94 commissioners will place the levy for each piece of property
95 thereon on or before September 1 of each year. Any property
96 owner in the district shall each year have the right, during a
97 10-day period to be set by the board after the rolls have had
98 the levy recorded thereon and prior to the billing being mailed,
99 to file a protest in writing against the proposed special
100 assessments for special lighting benefits as to the amount
101 thereof, and to appear before the board in support of such
102 protest. The board shall hold a meeting or meetings during the
103 period to consider such protest and make adjustments to the
104 rolls.
105 (3) Immediately after the adjustment period, the board
106 shall adopt a resolution fixing the rate of special assessment
107 for special lighting benefits and shall return the tax roll to
108 the county property appraiser, having first noted thereon the
109 levy against each parcel of property described thereon. The
110 county property appraiser shall then include in the Sarasota
111 County tax roll the special assessments for special lighting

112 benefits thus made by the board of commissioners of the
113 Pinecraft Lighting District and the same shall be collected in
114 the manner and form as provided for the collection of county
115 taxes and paid monthly by the tax collector to the board of
116 commissioners. The county tax collector and the county property
117 appraiser shall each receive for his or her services regarding
118 such special assessment for special lighting protection benefits
119 3 percent of the amount collected for the tax collector and 3
120 percent of the amount assessed for the property appraiser, which
121 shall be considered as income of each office respectively
122 pursuant to s. 145.121(1), Florida Statutes. The personnel
123 required to do the special work shall be paid for such special
124 services from the compensation herein provided.
125 Section 5. Such special assessment for special lighting
126 benefits shall be a lien upon the land so assessed along with
127 the county taxes against the same until the special assessments
128 for special lighting benefits have been paid and, if the same
129 become delinquent, shall be considered a part of the county tax
130 subject to the same penalties, charges, fees, and remedies for
131 enforcement and collection and shall be enforced and collected
132 as provided by the laws of the state for the collection of such
133 taxes.
134 Section 6. The proceeds of such special assessments for
135 special lighting benefit and the funds of the district shall be
136 deposited in the name of the district in a bank authorized to
137 receive deposits of county funds, which bank shall be designated
138 by a resolution of the board of commissioners. No funds of the
139 district shall be paid out or disbursed save and except by check

140 with the signature of at least two commissioners.
141 Section 7. The board of commissioners shall have the power
142 and the authority to borrow money for the purposes of the
143 district in an amount not to exceed 50 percent of the total
144 income from the special assessment for special lighting benefits
145 of the year when such borrowing is done, provided, however, that
146 the total accumulative debt of the district shall never exceed
147 50 percent of the total income in any 1 year. Neither the
148 district commissioners as a body nor any one of them as an
149 individual shall be personally or individually liable for the
150 repayment of such loan; such repayment shall be made out of the
151 special assessments for special lighting benefits receipts of
152 the district. Except as provided in this section, the district
153 commissioners shall not create any indebtedness or incur
154 obligations for any sum or amount which it is unable to pay out
155 of the district funds then in its hands, provided, however, that
156 the district commissioners may make purchases of equipment on an
157 installment basis as necessary, if funds are available for the
158 payment of the current year's installment on such equipment plus
159 the amount due in that year for any other installments and the
160 repayment of any bank loan or other existing indebtedness which
161 may be due that year.
162 Section 8. No funds of the district shall be used for any
163 purpose other than the administration of the affairs and
164 business of the district; for the construction, care,
165 maintenance, upkeep, operation, and purchase of lighting
166 equipment or an office; for payment of public utilities such as
167 telephone and water; or for payments of salaries of an engineer

168 or maintenance personnel, as the board of commissioners may from
169 time to time determine to be for the best interests of the
170 district.
171 Section 9. The board of commissioners of the district
172 shall have the power and the authority to acquire by gift or
173 purchase a site and such lighting equipment as is deemed
174 necessary for the lighting of the district. The board shall have
175 the authority to hire, at salaries to be determined by the
176 board, an engineer and one or more maintenance personnel who
177 shall operate the lighting equipment.
178 Section 10. (1) The officers of the board of
179 commissioners shall have the duties usually pertaining to,
180 vested in, and incumbent upon like officers. A record shall be
181 kept of all meetings of the board of commissioners and, in such
182 meetings, concurrence of a majority of the commissioners shall
183 be necessary to any affirmative action by the board.
184 (2) The board of commissioners may adopt such rules and
185 regulations not inconsistent with any portion of this act as it
186 may deem necessary in and about any transaction of its business
187 and in carrying out the provisions of this act.
188 Section 11. The board of commissioners shall, on or before
189 August 1, make an annual report of its actions and accounting of
190 its funds as of June 30 of each year.
191 Section 12. The special lighting district shall exist
192 until dissolved by law. Should any part of the territory covered
193 in this act be held not to be included herein, then this act
194 shall continue in effect as to the balance of the territory.
195 Section 13. No suit, action, or proceeding shall be

196 instituted or maintained in any court against the district or
197 the commissioners, or any commissioner thereof, for or upon any
198 claim, right, or demand of any kind or nature, unless the person
199 or persons making such claim or demand or claiming such right
200 shall have given to the commissioners, or one of them, within 30
201 days after the alleged accrual of such claim, right, or demand,
202 a notice in writing setting forth the nature of the right,
203 claim, or demand; the amount thereof; and the place and manner
204 in which such claim or right accrued, together with the names
205 and addresses of all witnesses by whom such claims, rights, or
206 demands are to be proved or established, all with sufficient
207 detail to enable the district or the commissioners to fully
208 investigate such claim, right or demand; and no suit, action, or
209 proceeding on any such demand shall be instituted within 3
210 months after such notice shall be given.
211 Section 14. "District" means the special lighting district
212 hereby organized and "board of commissioners" means the board of
213 commissioners of and for the district when used in this act,
214 unless otherwise specified.
215 Section 15. If any clause, section, or provision of this
216 act is declared to be unconstitutional or invalid for any cause
217 or reason, the same shall be eliminated from this act, and the
218 remaining portion of the act shall be in force and effect and be
219 as valid as if such portion thereof had not been incorporated
220 therein.
221 Section 4. Chapters 71-911, 72-689, and 76-486, Laws of
222 Florida, are repealed.
223 Section 5. This act shall take effect upon becoming a law.

HB 971

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 971 Broward County
SPONSOR(S): Sobel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2) Elder & Long-Term Care Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

HB 971 creates an independent special district (district) for the purpose of providing funding for services for seniors in Broward County. The boundaries of the district are coterminous with the boundaries of Broward County. The district is authorized to levy an ad valorem tax not to exceed .5 mill on taxable property within the district subject to referendum approval by voters of the district. The referendum required to approve the ad valorem tax levy must be held in conjunction with the primary election held on September 5, 2006.

The bill provides for the district to be governed by the Broward County Council for Services for Seniors consisting of 11 members: the executive director of the area agency on aging of Broward County; the Broward County director of human services; one member of the Broward County board of county commissioners for a 2-year term; two nonvoting members of the Broward County legislative delegation for the county appointed by the delegation chair for a 2-year term; two representatives of the Broward League of Cities appointed by the President of the League of Cities for a 2-year term; and four members appointed by the Governor for a 4-year term, initially staggered, with reappointment for one additional term permitted, and who meet certain additional qualifications.

The bill sets forth powers, duties, and the financing and budgeting requirements of the district.

The bill provides that the district must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports.

According to the Economic Impact Statement, anticipated funding from the levy of ad valorem taxes at the maximum allowed millage rate is approximately $60 million for FY 06-07.

The bill is effective upon its approval by a majority vote of those qualified electors of Broward County voting in a referendum.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill creates a new independent special district for the purpose of providing services for seniors and adults with developmental disabilities in Broward County.

Ensure lower taxes - The bill authorizes the district to levy an ad valorem tax not to exceed .5 mill on taxable property within the district, pursuant to a referendum.

Empower families - The bill permits the district to provide and maintain preventive, developmental, treatment, and rehabilitative services in Broward County that the council determines are needed for the general welfare of the county's seniors.[1] In addition, the council may consult and coordinate with other agencies serving seniors to prevent overlapping of services.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts Generally

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

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

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

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

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

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

[1] HB 971 s. 1(3)(a)(1.) (2006).

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

Effect of Proposed Changes

Creation of Independent Special District in Broward County

HB 971 creates an independent special district for the purpose of providing funding for services for seniors in Broward County.

The bill includes definitions of "senior"[2] to clarify that the district provides a distinct type of service. The boundaries of the district must be coterminous with the boundaries of Broward County.

The bill authorizes the district to levy an ad valorem tax not to exceed .5 mill on taxable property within the district subject to referendum approval by voters of the district. The referendum required to approve the ad valorem tax levy must be held in conjunction with the primary election held on September 5, 2006.

The bill is effective upon its approval by a majority vote of those qualified electors of Broward County voting in a referendum.

Governing Board Members and Elections

The governing board of the district is the "Broward County Council for Services for Seniors" (council). The council must consist of 11 members:

- the executive director of the area agency on aging of Broward County, or his or her designee who is a director of senior programs, as a permanent position;
- the Broward County Director of Human Services or his or her designee who is a director of elderly services, as a permanent position;
- one member of the Broward County Board of County Commissioners for a 2-year term;
- two nonvoting members of the Broward County legislative delegation appointed by the delegation chair for a 2-year term;
- two representatives of the Broward League of Cities for a 2-year term; and
- four members appointed by the Governor for 4-year terms, initially staggered, with reappointment for one additional term permitted, and meeting these additional qualifications –
    - these members must, to the greatest extent possible, represent the cultural diversity of Broward County's population;
    - one of these members must be a caretaker for a senior and 60 years of age or older;
    - these members must have been residents of Broward County for the previous 24-month period; and
    - the County must provide three recommended names for each vacancy, determined by category, and the Governor must make a selection within a 45-day period or request a new list of candidates.

The Governor may remove a member for cause or upon the written petition of the Broward County Board of County Commissioners. If any of the members of the council required to be appointed by the Governor resign, die, or are removed from office, the vacancy is filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

Members of the council shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with s. 112.061, F.S.

[2] "senior" means a person who is at least 60 years of age. HB 971 at lines 58-59.

General Powers

The district council is given a number of permissive powers:

1. provide and maintain in the county such preventive, developmental, treatment, and rehabilitative services for seniors as the council determines are needed for their general welfare;
2. provide any other services as the council determines are needed for the general welfare of the county's seniors;
3. allocate and provide funds for other agencies in the county which are operated for the benefit of seniors;
4. collect information and statistical data and conduct research that will be helpful to the council and the county in deciding the needs of the county's seniors;
5. consult and coordinate with other agencies serving seniors to prevent overlapping of services;
6. seek grants from state, federal, and local agencies and accept donations from public and private sources;
7. lease or buy real estate, equipment, and personal property and construct buildings as needed to execute district powers and functions; such purchases must be paid for with cash on hand or secured by funds deposited in financial institutions; grant no authority to issue bonds; and
8. employ, pay, and provide benefits for required district personnel.

District Duties

The district council is also charged with a number of duties:

1. elect a chair and a vice chair from among its members, and elect other officers as deemed necessary by the council;
2. identify and assess the needs of the county's seniors and submit to the Broward County Commissioners a written description of:
   - the activities, services, and opportunities that will be provided to seniors;
   - the anticipated schedule for providing those activities, services, and opportunities;
   - the manner in which seniors will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the court system, guardianship groups, and other applicable public and private agencies and organizations;
   - the special outreach efforts that will be undertaken to provide services to at-risk, abused, or neglected and ailing seniors;
   - the manner in which the council will seek and provide funding for unmet needs; and
   - the strategy that will be used for interagency coordination to maximize existing human and fiscal resources;
3. provide training and orientation to all new council members;
4. make and adopt bylaws and rules, not inconsistent with federal or state laws or county ordinances, for the council's operation; and
5. provide an annual written report, due January 1 of each year, to the Broward County Commissioners, which includes:
   - information on the effectiveness of activities, services, and programs offered by the council, including cost-effectiveness;
   - a detailed anticipated continuation budget and a list of all sources of requested funding, both public and private;
   - procedures used for early identification of at-risk seniors who need additional or continued services and methods for ensuring receipt of those services;
   - a description of the degree to which the council's objectives and activities are consistent with the goals of this section;
   - detailed information of the various programs, services, and activities available to, and the degree to which they have been successfully used by seniors; and

- information on those programs, services, and activities that should be eliminated, those which should be continued, and those that should be added to the basic format of the council.

The council must also maintain minutes of each meeting, including a record of all votes cast, and make them available to any interested person.

Fiscal Matters and Millage Rates

The bill provides a number of financial and budgeting parameters for the districts:

- The fiscal year of the district is the same as that of Broward County.
- The council must prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.
- The council must also compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget and comply with the provisions of s. 200.065, F.S., relating to the method of fixing millage, and fix the final millage rate by resolution of the council.
- The adopted budget and final millage rate are then certified and delivered to the Broward County Commissioners within 15 days following the adoption by the council of the final budget and millage rate pursuant to ch. 200, F.S. The millage rate, adopted by resolution of the council, necessary to be applied to raise the funds budgeted for district operations and expenditures must be included in each certified budget.
- The millage rate may not exceed 0.5 mills of assessed valuation of all properties subject to ad valorem county taxes within Broward County.
- After the district budget is certified and delivered to the Broward County Commissioners, it may not be changed or modified by the Broward County Commissioners or any other authority.
- All taxes collected under this section shall be paid directly to the council by the Broward County Revenue Collection Division.
- All moneys received by the council must be deposited in qualified public depositories, as defined in s. 280.02, F.S., with separate and distinguishable accounts established specifically for the council and may only be withdrawn by checks signed by the council chair and countersigned by one other member of the council or by a chief executive officer authorized by the council.
- The chair and the other member of the council or chief executive officer who signs its checks must each file a surety bond in the sum of at least $1,000 for each $1 million or portion thereof of the council's annual budget, which bond shall be conditioned that each shall faithfully discharge the duties of his or her office. The premium on such bond may be paid by the district as part of the expenses of the council. No other council members have to give bond or other security.
- District funds may only be expended by check, except expenditures from a petty cash account not exceeding $100. All expenditures from petty cash must be recorded. Council funds other than petty cash may not be spent unless first budgeted for and approved by the council.
- The district must timely prepare and file a quarterly financial report which includes: for the quarter --- total council expenditures and receipts; a statement of the funds on hand, invested, or deposited; and total council administrative costs.
- After or during the first year of operation of the council, the Broward County Commissioners, at its option, may fund in whole or in part the council budget from its own funds.

District Compliance with Other Statutory Requirements

The bill requires that the district created under this act must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of ch. 218, F.S., or any other report or documentation required by law, including the reporting requirements of ss. 189.415, 189.417, and 189.418, F.S.

Referendum

The bill takes effect upon approval by a majority vote of those qualified electors of Broward County voting in a referendum to be conducted by the Broward County Supervisor of Elections in conjunction with the next primary election held on September 5, 2006, in accordance with the provisions of law relating to elections currently in force. The bill also provides a ballot statement.

C. SECTION DIRECTORY:

Section 1: Provides for the creation, governing body, powers, duties, and functions of an independent special district to provide funding for services for seniors in Broward County.

Section 2: Provides for a referendum.

Section 3: Provides that the act shall take effect upon becoming a law, except for otherwise provided.

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, and Miami, Miami Dade County, Florida.

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

IF YES, WHEN? September 5, 2006

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

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Section 189.404(2)(e), F.S., provides as follows:

(2) SPECIAL ACTS PROHIBITED.--Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

(e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:

1. The purpose of the proposed district;

2. The authority of the proposed district;

3. An explanation of why the district is the best alternative; and

4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

By letter to the Honorable Allan Bense, Speaker of the House of Representatives, Mr. Ben Graber, Mayor and Commissioner of District 3, Broward County, stated in part, "that the Broward County Board of County Commissioners is in support of the legislation. This local option legislation has been included in the Commission's Legislative Program for the 2006 Legislative Session. Mr. Graber states that one of the fastest growing populations in Broward are elders 85 years of age and older. As our population continue to live longer and wants to "age in place," greater levels of service delivery are required in order to accommodate multiple needs. We feel strongly that the voters should be given the choice to provide for a dedicated funding source that will enhance services in our local communities."

B. RULE-MAKING AUTHORITY:

This bill requires the district council to make and adopt bylaws and rules, not inconsistent with federal or state laws or county ordinances, for the council's guidance, operation, governance, and maintenance.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Fiscal Comments

According to the Economic Impact Statement, it is estimated that the Broward County Council for Services for Seniors will be eligible to receive approximately $4,000,000 in federal and foundation grants, for each year following the implementation of the funding.

Other Comments

HB 1501 (2005 Legislative Session), relating to Broward County, creating the Broward Council for Services to Seniors and Adults with Developmental Disabilities, died in the House Finance & Tax on 05/06/2005.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

971

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:

Services for Seniors

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

12/31 12653849

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.

Idella M. Johnson
(SIGNATURE OF NOTARY PUBLIC)

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

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

PERSONALLY KNOWN ✓ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION

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

A bill to be entitled

An act relating to Broward County; creating the Broward County Council for Services for Seniors; creating an independent special district to provide funding for services for seniors; requiring approval by a majority vote of electors to annually levy ad valorem taxes not to exceed a certain maximum; creating a governing board for the district; specifying criteria for membership to the governing board; providing terms of office; specifying the powers and functions of the Council; requiring the Council to appoint a Chair and Vice Chair and elect officers, to identify and assess the needs of seniors to provide training and orientation to new members of the Council, to make and adopt bylaws and rules for the Council's operation and governance, and to provide an annual report to the Broward County Board of County Commissioners; requiring the Council to maintain minutes of each meeting and to serve without compensation; requiring the Council to prepare a tentative annual budget and to compute a millage rate to fund the tentative budget; requiring that all tax moneys collected be paid directly to the Council by the Broward County Tax Collector and deposited in qualified public depositories; specifying expenditures of funds; requiring the Council to prepare and file a financial report to the Broward County Board of County Commissioners; providing that the district may be amended or dissolved by a special act of the Legislature; authorizing the Broward County Board of County Commissioners to fund the budget of the Council from its own funds after or during the Council's first year of operation; requiring the district to comply with statutory requirements related to the filing of a financial or compliance report; authorizing the district to seek grants and accept donations from public and private sources; providing legislative intent with respect to the use of funds collected by the Council; requiring a referendum; providing a ballot statement; 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 971

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: Broward County Council for Senior Services

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

NAME OF DELEGATION: Broward County Legislative Delegation

CONTACT PERSON: Sandy Harris

PHONE # and E-Mail: 850-922-9833 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 2/10/06

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 #: HB 971

SPONSOR (S): **Representative Eleanor Sobel**

RELATING TO: **Broward County Council for Services for Seniors**

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

Expenditures:	FY 05-06	FY 06-07

It is estimated that the cost of administration, implementation, and enforcement will not exceed 10% of revenues.

II. ANTICIPATED SOURCES (S) OF FUNDING:

	FY 05-06	FY 06-07
Federal	It is estimated that the Broward County Council for Services for Seniors will be eligible to receive approximately $4,000,000 in federal and foundation grants, for each year following the implementation of the funding.	
State		
Local	Revenue will be generated by an ad valorem levy of a maximum of 5 mills. In addition, it is expected that the Council will seek, as well as undertake, a coordinated effort to seek grants from federal sources as well as private foundations to supplement its revenues.	

III ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 05-06	FY 06-07
Revenues	The maximum amount will be .5 mils of ad valorem		60,000,000 (potential full year)

The revenue to be generated will be new revenue for the County. The amount will depend on property valuation and the amount levied as it is anticipated that the County would not necessarily levy the full .5 mill amount in its early years. Nevertheless, it is estimated that a full .5 mills will generate approximately $60 million in new revenue to be used to provide critical services to seniors in the County.

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

Advantages: New jobs in the home, health, and community based services; lessening of premature nursing home placement; potential for employment opportunities for seniors; lessening of waiting lists for critically important in-home and adult day care services; increase in home delivery and site meals.

Since over 135,000 of Broward's 351,929 year round senior residents are 75 years of age or older, frailty is a major factor in the augmenting need for community based services

Premature nursing home placement, for these individuals, would be far more costly to the community, if they were Medicaid eligible, or had depleted their own savings. In addition, it would be inhumane to force seniors into institutional settings, if they could be maintained, at reasonable costs, within their accustomed environments.

The availability of up to $60 million of new money in the County to provide services will have a positive economic impact on business and government as services involve increased jobs, local spending by such employees at retail, automotive and other establishments. The resulting need for physical commercial space, vehicles, fuel, telecommunications etc. would generate additional secondary revenue for local government through augmented utilities, telecommunications, cable and comparable franchise revenues.

Disadvantages: If the maximum amount of ad valorem taxes were imposed (.5 mill), the cost to the owner of property valued at $100,000 would be $37.50 with a $25,000 homestead exemption.

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

The Council will determine the extent of the need for specific services. Waiting lists for services are derived from our Senior Projects, through generated computer reports and other statistical data. Presently, over 2,000 elders in Broward County are on the waiting lists for in-home services. Broward Meals-on-Wheels also has waiting lists. Elder service recipients are receiving minimal hours of in-home assistance, sometimes only once weekly. We are in a crisis situation. If something positive does not occur soon, the results will be premature institutionalization and/or death.

The open market for employment will be stimulated by the need to hire professionals and workers at all levels in order to plan services and oversee providers, as well as deliver the multitude of critical services that would be funded. Competitive processes will be established to foster competition to provide services. Selection of proposed providers will be made by review committees to the Council Members, who, as a whole, will select the recipients and assure their being monitored.

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

Florida Consensus Estimating Population Conference
Florida Department of Elder Affairs
United States Senate
Broward County Property Appraiser

Prepared by: Edith Lederberg

TITLE: Executive Director

REPRESENTING: Area Agency on Aging (Aging and Disability Resource Center) of Broward County

PHONE: 954-714-3475

1 A bill to be entitled
2 An act relating to Broward County; creating the Broward
3 County Council for Services for Seniors; creating an
4 independent special district to provide funding for
5 services for seniors; requiring approval by a majority
6 vote of electors to annually levy ad valorem taxes not to
7 exceed a certain maximum; creating a governing board for
8 the district; specifying criteria for membership of the
9 governing board; providing terms of office; specifying the
10 powers and functions of the council; requiring the council
11 to elect a chair, vice chair, and officers, to identify
12 and assess the needs of seniors, to provide training and
13 orientation to new members of the council, to make and
14 adopt bylaws and rules for the council's operation and
15 governance, and to provide an annual report to the Broward
16 County Board of County Commissioners; requiring the
17 council to maintain minutes of each meeting and to serve
18 without compensation; requiring the council to prepare a
19 tentative annual budget and to compute a millage rate to
20 fund the tentative budget; requiring that all tax moneys
21 collected be paid directly to the council by the Broward
22 County Tax Collector and deposited in qualified public
23 depositories; specifying expenditures of funds; requiring
24 the council to prepare and file a financial report to the
25 Broward County Board of County Commissioners; providing
26 that the district may be amended or dissolved by a special
27 act of the Legislature; authorizing the Broward County
28 Board of County Commissioners to fund the budget of the

29 council from its own funds after or during the council's
30 first year of operation; requiring the district to comply
31 with statutory requirements related to the filing of a
32 financial or compliance report; authorizing the district
33 to seek grants and accept donations from public and
34 private sources; providing legislative intent with respect
35 to the use of funds collected by the council; requiring a
36 referendum; providing a ballot statement; providing an
37 effective date.
38
39 WHEREAS, the Legislature has determined that it would
40 serve the public interest to establish an independent
41 special district to provide services to seniors within
42 Broward County, NOW, THEREFORE,
43
44 Be It Enacted by the Legislature of the State of Florida:
45
46 Section 1. Services for seniors; independent special
47 district; council; powers, duties, and functions.--
48 (1) There is hereby created an independent special
49 district, as defined in sections 189.403 and 200.001, Florida
50 Statutes, to provide funding for services for seniors throughout
51 Broward County in accordance with this act. The boundaries of
52 such district shall be coterminous with the boundaries of
53 Broward County. The district created pursuant to this act shall
54 levy and fix millage as provided in section 200.065, Florida
55 Statutes. Once the millage is approved by the electorate, the
56 district is not required to seek approval of the electorate in

57 future years to levy the previously approved millage. For
58 purposes of this section, the term "senior" means a person who
59 is at least 60 years of age.
60 (2) The governing board of the district shall be the
61 Broward County Council for Services for Seniors. The council
62 shall consist of 11 members, including the Executive Director of
63 the Area Agency on Aging of Broward County or his or her
64 designee who is a director of senior programs; the Broward
65 County Director of Human Services or his or her designee who is
66 a director of senior services; one member of the Broward County
67 Board of County Commissioners; two nonvoting members of the
68 Broward County Legislative Delegation appointed by the
69 delegation chair; and two representatives of the Broward League
70 of Cities appointed by the President of the League of Cities.
71 The Executive Director of the Area Agency on Aging of Broward
72 County or his or her designee and the Broward County Director of
73 Human Services or his or her designee are permanent positions.
74 The members appointed from the Broward County Board of County
75 Commissioners, the Broward County Legislative Delegation, and
76 the Broward League of Cities shall be appointed to 2-year terms
77 each. The other four members shall be appointed by the Governor
78 and shall represent, to the greatest extent possible, the
79 cultural diversity of Broward County's population. At least one
80 of the gubernatorial appointees must be an individual who is
81 both a caretaker for a senior and 60 years of age or older.
82 Recommendations for these members shall be provided by the
83 Broward County Board of County Commissioners. Three names shall
84 be submitted for each vacancy, determined by category. The

85 gubernatorial appointees shall be appointed to 4-year terms and
86 may be reappointed for one additional term of office. The
87 Governor shall make a selection within a 45-day period or
88 request a new list of candidates. All members appointed by the
89 Governor must have been residents of Broward County for the
90 previous 24 months. The length of the terms of the initial
91 appointees shall be adjusted to stagger the terms. The Governor
92 may remove a member for cause or upon the written petition of
93 the Broward County Board of County Commissioners. If any of the
94 members of the council appointed by the Governor resign, die, or
95 are removed from office, the vacancy shall be filled by
96 appointment by the Governor using the same method as the
97 original appointment, and such appointment to fill a vacancy
98 shall be for the unexpired term of the member who resigns, dies,
99 or is removed from office.
100 (3)(a) The Broward County Council for Services for Seniors
101 may:
102 1. Provide and maintain in the county the preventive,
103 developmental, treatment, and rehabilitative services for
104 seniors the council determines are needed for the general
105 welfare of seniors.
106 2. Provide any other services the council determines are
107 needed for the general welfare of seniors in the county.
108 3. Allocate and provide funds for other agencies in the
109 county that are operated for the benefit of seniors.
110 4. Collect information and statistical data and conduct
111 research and assessments that will be helpful to the council and
112 the county in deciding the needs of seniors in the county.

113 5. Consult and coordinate with other agencies dedicated to
114 the welfare of seniors to the end that the overlapping of
115 services will be prevented.
116 6. Seek grants from state, federal, and local agencies and
117 accept donations from public and private sources.
118 7. Lease or buy real estate, equipment, and personal
119 property and construct buildings as needed to execute the
120 foregoing powers and functions, except that such purchases or
121 construction may only be paid for with cash on hand or secured
122 by funds deposited in financial institutions. This subparagraph
123 does not authorize the district to issue bonds of any nature,
124 and the district does not have the power to require the
125 imposition of any bond by the governing body of the county.
126 8. Employ, pay, and provide benefits for any part-time or
127 full-time personnel needed to execute the foregoing powers and
128 functions.
129 (b) The Broward County Council for Services for Seniors
130 shall:
131 1. Immediately after the members are appointed, elect a
132 chair and vice chair from among its members and elect other
133 officers as deemed necessary by the council.
134 2. As soon as possible after the members are appointed and
135 officers are elected, identify and assess the needs of seniors
136 in the county and submit to the Broward County Board of County
137 Commissioners a written description of:
138 a. The activities, services, and opportunities that will
139 be provided to seniors.
140 b. The anticipated schedule for providing those

141 activities, services, and opportunities.
142 c. The manner in which seniors will be served, including a
143 description of arrangements and agreements that will be made
144 with community organizations, state and local agencies, federal
145 agencies, public assistance agencies, the court system,
146 guardianship groups, and other applicable public and private
147 agencies and organizations.
148 d. The special outreach efforts that will be undertaken to
149 provide services to at-risk, abused, or neglected and ailing
150 seniors.
151 e. The manner in which the council will seek and provide
152 funding for unmet needs.
153 f. The strategy that will be used for interagency
154 coordination to maximize existing human and fiscal resources.
155 3. Provide training and orientation to all new members
156 sufficient to allow them to perform their duties.
157 4. Make and adopt bylaws and rules for the council's
158 guidance, operation, governance, and maintenance not
159 inconsistent with federal or state laws or county ordinances.
160 5. Provide an annual written report, to be presented no
161 later than January 1, to the Broward County Board of County
162 Commissioners. The annual report must contain, but need not be
163 limited to:
164 a. Information on the effectiveness of activities,
165 services, and programs offered by the council, including cost-
166 effectiveness.
167 b. A detailed anticipated budget for continuation of
168 activities, services, and programs offered by the council and a

169 list of all sources of requested funding, both public and
170 private.
171 c. Procedures used for early identification of at-risk
172 seniors who need additional or continued services and methods
173 for ensuring that the additional or continued services are
174 provided.
175 d. A description of the degree to which the council's
176 objectives and activities are consistent with the goals of this
177 section.
178 e. Detailed data on the various programs, services, and
179 activities available to seniors.
180 f. Information on programs, services, and activities that
181 should be eliminated; programs, services, and activities that
182 should be continued; and programs, services, and activities that
183 should be added to the basic format of the council.
184 (c) The council shall maintain minutes of each meeting,
185 including a record of all votes cast, and shall make such
186 minutes available to any interested person.
187 (d) Members of the council shall serve without
188 compensation but are entitled to receive reimbursement for per
189 diem and travel expenses consistent with section 112.061,
190 Florida Statutes.
191 (4)(a) The district shall maintain the same fiscal year as
192 Broward County.
193 (b) On or before July 1 of each year, the council shall
194 prepare a tentative annual written budget of the district's
195 expected income and expenditures, including a contingency fund.
196 The council shall, in addition, compute a proposed millage rate

197 within the voter-approved cap necessary to fund the tentative
198 budget and, prior to adopting a final budget, comply with
199 section 200.065, Florida Statutes, relating to the method of
200 fixing millage, and fix the final millage rate by resolution of
201 the council. The adopted budget and final millage rate must be
202 certified and delivered to the Broward County Board of County
203 Commissioners within 15 days following the council's adoption of
204 the final budget and millage rate under chapter 200, Florida
205 Statutes. Included in each certified budget shall be the millage
206 rate, adopted by resolution of the council, necessary to be
207 applied to raise the funds budgeted for district operations and
208 expenditures. District millage may not exceed 0.5 mills of
209 assessed valuation of all properties within Broward County that
210 are subject to ad valorem county taxes.
211 (c) After the budget of the district is certified and
212 delivered to the Broward County Board of County Commissioners,
213 the budget may not be changed or modified by the Broward County
214 Board of County Commissioners or any other authority.
215 (d) All taxes collected under this section, as soon after
216 collection as is reasonably practicable, shall be paid directly
217 to the council by the Broward County Revenue Collection
218 Division.
219 1. All moneys received by the council shall be deposited
220 in qualified public depositories, as defined in section 280.02,
221 Florida Statutes, with separate and distinguishable accounts
222 established specifically for the council and may be withdrawn
223 only by checks signed by the chair of the council and
224 countersigned by one other member of the council or by a chief

225 executive officer authorized by the council.
226 2. Upon entering the duties of office, the chair and the
227 other member of the council or chief executive officer who signs
228 its checks shall each file a surety bond in the sum of at least
229 $1,000 for each $1 million or portion thereof of the council's
230 annual budget, which bond shall be conditioned upon the faithful
231 discharge of the duties of his or her office. The premium on
232 such bond may be paid by the district as part of the expenses of
233 the council. Other members of the council may not be required to
234 give bond or other security.
235 3. Funds of the district may only be expended by check,
236 except expenditures from a petty cash account, which account may
237 not at any time exceed $100. All expenditures from petty cash
238 must be recorded on the books and records of the council. Funds
239 of the council, except expenditures from petty cash, may not be
240 expended without prior approval of the council, in addition to
241 the budgeting thereof.
242 (e) Within 10 days, exclusive of weekends and legal
243 holidays, after the expiration of each quarter-annual period,
244 the council shall prepare and file with the Broward County Board
245 of County Commissioners a financial report that includes:
246 1. The total expenditures of the council for the quarter-
247 annual period.
248 2. The total receipts of the council during the quarter-
249 annual period.
250 3. A statement of the funds the council has on hand, has
251 invested, or has deposited with qualified public depositories at
252 the end of the quarter-annual period.

253 4. The total administrative costs of the council for the
254 quarter-annual period.
255 (5) The district created under this act may be amended or
256 dissolved by a special act of the Legislature.
257 (6) After or during the first year of operation of the
258 council, the Broward County Board of County Commissioners, at
259 its option, may fund in whole or in part the budget of the
260 council from its own funds.
261 (7) The district created under this act shall comply with
262 all other statutory requirements of general application that
263 relate to the filing of any financial reports or compliancy
264 reports required under part III of chapter 218, Florida
265 Statutes, or any other report or documentation required by law,
266 including the requirements of sections 189.415, 189.417, and
267 189.418, Florida Statutes.
268 Section 2. Referendum.--The Broward County Board of County
269 Commissioners is directed to call and the Supervisor of
270 Elections of Broward County shall conduct a special referendum
271 election to be held in conjunction with the primary election
272 held on September 5, 2006, to carry out the purposes and intent
273 of this act and to do all things necessary to implement and fund
274 the Broward County Council for Services for Seniors and the
275 independent special district created hereby in accordance with
276 the terms of this act and the laws pertaining to elections. The
277 item shall appear on the ballot as follows:
278
279 Creating the Council for Services for Seniors and authorization
280 of taxation

281
282 An independent special district known as the "Broward County
283 Council for Services for Seniors" is created to fund the
284 improvement and availability of services for seniors by levying
285 each year an ad valorem tax not to exceed 0.5 mills for services
286 for seniors.
287
288 Yes ___
289 No ___
290
291 Section 3. This act shall take effect only upon approval
292 by a majority vote of those qualified electors of Broward County
293 voting in a referendum election to be called by the Broward
294 County Board of County Commissioners and held in conjunction
295 with the primary election held on September 5, 2006, in
296 accordance with the provisions of law relating to elections
297 currently in force, except that this section and section 2
298 shall take effect upon becoming a law.

HB 1051

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1051 Northern Palm Beach County Improvement District, Palm Beach County
SPONSOR(S): Domino
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

During the 2005 Legislative Session, the Northern Palm Beach County Improvement District (District) made significant changes to their charter in regards to the Board of Supervisors (Board). While making these changes, the District amended a section of their charter, and in doing so, removed a provision which requires a candidate for a position on the Board to provide a written notice of intention to be candidate at least 30 days before the annual meeting of the landowners.

This bill reinserts the requirement of a written notice of intention to be a candidate into the District's charter.

This bill would take effect upon becoming law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The Northern Palm Beach Improvement District (District) is an independent special tax district of the State of Florida, located in Palm Beach County. The District's charter was codified in chapter 2000-467, L.O.F. At that time, s. 3(4), chapter 2000-467, L.O.F., contained the provisions regarding the Board of Supervisors (Board) and its election, organization, powers, duties, and terms of office. Section 3(4)(D), chapter 2000-467, L.O.F., required a candidate for the position of Supervisor, to file a written notice of intention of candidacy at least 30 days before the annual meeting of the landowners to be eligible to run.

During the 2005 Legislative Session, a number of changes were made to the charter of the District.[1] Changes were made in regards to the Board's election procedures, terms of office, and compensation of supervisors. Many of these changes took place in s. 3(4), chapter 2000-467, L.O.F. Section 3(4)(D), chapter 2000-467, L.O.F., was replaced with new ss. 3(4)(D), (E), and (F), chapter 2005-302, L.O.F. A summary of the current state of the Board is below:

- The Board consists of five seats.
- The terms of the Supervisors on the Board are four years.
- Three out of the five supervisors are chosen via one-acre, one vote process at the annual landowner meeting and the reaming two supervisors are popularly elected.
- Elections are staggered.
- There are residency requirements specific to each seat.

In making these changes, the written notice requirement for candidacy was deleted.

This bill reinserts the written notice requirement for candidacy. The bill requires that for a candidate to be eligible for the office of Supervisor, they must file a written notice of intention to be a candidate in the office of the District at least 30 days before the annual meeting of the landowners held in November of each year.

C. SECTION DIRECTORY:

Section 1: Creates section (C) in section 6 of section 3 of chapter 2000-467, L.O.F., to provide written notification requirement.

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? November 9, 2005.

WHERE? *The Palm Beach Post*, West Palm Beach, Palm Beach County, Florida.

[1] Chapter 2005-302, L.O.F.

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:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1031
D [illegible]

THE PALM BEACH POST

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

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Kristi Morrow**, who on oath says that she is **Customer Service Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Seek Legislation** was published in said newspaper in the issues of **November 9, 2005**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

NO. 4495743
NOTICE OF INTENT TO SEEK LEGISLATION
Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Northern Palm Beach County Improvement District hereby gives notice of its intent to seek legislation before the Florida Legislature during the 2006 legislative session. The legislation will amend the District's special act to specify notice and filing requirements for Board of Supervisors candidates.
PUB: The Palm Beach Post
November 9, 2005

Kristi Morrow

Sworn to and subscribed before 9th day of November A.D. 2005

Bette D. Cullen
My Commission DD198605
Expires March 31, 2007

Bette D Cullen

Personally known XX or Produced Identification_____
Type of Identification Produced_____

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1051
SPONSOR(S): Rep. Carl Domino
RELATING TO: Northern Palm Beach County Improvement District
[Indicate Area Affected (City, County, Special District) and Subject]

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

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

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

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

Date hearing held: December 13, 2005
Location: West Palm Beach, Florida

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

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

Has this Constitutional requirement been met?

Notice published: **YES [X] NO [ ]** **Date:** November 9, 2005

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

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

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

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

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

Carl Domino 3 Feb 2006
Delegation Chair (Original Signature) Date

HOUSE LOCAL GOVERNMENT COUNCIL

2006 ECONOMIC IMPACT STATEMENT

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

BILL #: HB 1051

SPONSOR(S): Representative Carl Domino

RELATING TO: Northern Palm Beach County Improvement District; Palm Beach 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

All costs associated with implementing this special act can be met within the District's current budget.

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$ 0	$0

This legislation will not increase ad valorem levies or non-ad valorem assessments.

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

Advantages: This bill amends the District's special act to provide notice and filing requirements for candidates for the Board of Supervisors of the District. When the District's special act was last amended, provisions requiring the candidates to provide notice of their candidacy to the District were inadvertently deleted. The proposed bill will correct the mistake.

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 related to Northern Palm Beach County Improvement District; information from District staff; and prior experience representing special districts.

PREPARED BY: Terry E. Lewis 11/9/05
Terry E. Lewis Date

TITLE: District Special Counsel

REPRESENTING: Northern Palm Beach County Improvement District

PHONE: (561) 640-0820

1 A bill to be entitled
2 An act relating to the Northern Palm Beach County
3 Improvement District, Palm Beach County; amending chapter
4 2000-467, Laws of Florida, as amended; requiring prior
5 written notice of candidacy to be eligible for election to
6 the Board of Supervisors; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 6 of section 3 of chapter 2000-467,
11 Laws of Florida, as amended by chapter 2005-302, Laws of
12 Florida, is amended to read:
13 Section 6. Meetings of landowners; elections.--
14 (A) Each year during the month of November, beginning with
15 the month of November 2006, a meeting of the landowners of the
16 District shall be held for the purpose of electing Supervisors
17 and hearing reports of the Board of Supervisors; provided,
18 however, that a meeting of the landowners shall be held during
19 the month of November 2005, for the purpose of receiving reports
20 of the Board of Supervisors and considering any matters upon
21 which the Board of Supervisors may request the advice and views
22 of the landowners. The Board of Supervisors shall have the power
23 to call special meetings of the landowners at any time to
24 receive reports of the Board of Supervisors or consider and act
25 upon any matter upon which the Board of Supervisors may request
26 advice. Notice of all meetings of the landowners shall be given
27 by the Board of Supervisors by causing publication thereof to be
28 made for 2 consecutive weeks prior to such meeting in some

29 newspaper published in Palm Beach County. The meetings of the
30 landowners shall be held in some public place in said County,
31 and the place, day, and hour of holding such meetings shall be
32 stated in the notice. The landowners when assembled shall
33 organize by electing a Chair who shall preside at the meeting.
34 The Secretary of the Board of Supervisors shall be the Secretary
35 of such meeting. At all such meetings each and every acre, or
36 any fraction thereof, of land in the District, except publicly
37 owned property against which the District does not levy
38 assessments, shall represent one share, and each owner shall be
39 entitled to one vote in person or by written proxy for every
40 acre, or any fraction thereof, of land owned by him or her in
41 the District. The person receiving the highest number of votes
42 for Supervisor shall be declared and elected as such Supervisor.
43 Those landowners present or voting by proxy shall constitute a
44 quorum at any meeting of the landowners.
45 (B) Guardians may represent their wards, and personal
46 representatives may represent the estates of deceased persons.
47 Trustees may represent lands held by them in trust, and private
48 and municipal corporations may be represented by their officers
49 or duly authorized agents. Guardians, personal representatives,
50 trustees, and corporations may vote by proxy.
51 (C) To be eligible for election pursuant to this section,
52 a candidate for the office of Supervisor shall file a written
53 notice of intention to be a candidate in the office of the
54 District at least 30 days before the annual meeting of the
55 landowners.
56 Section 2. This act shall take effect upon becoming a law.

HB 1053

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1053 City of Jacksonville, Duval County
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

This bill amends the charter of the City of Jacksonville to expand the mayor's authority to transfer appropriations between City divisions, departments, agencies, or nondepartmental accounts if authorized to do so by ordinance adopted by 13 of the 19 members of the City Council. The bill requires the ordinance authorizing transfers to address:

- The type and manner of mayoral transfers that are permitted;
- Whether the council must be given prior notice of a proposed transfer; and
- Whether the council must be given an opportunity to override a proposed transfer within a specified timeframe and by a specified vote.

The ordinance may be repealed or modified upon concurrence of 13 members of the City Council.

According to the Economic Impact Statement, no fiscal impacts are anticipated in fiscal year 2005-06 or 2006-07.

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

The City of Jacksonville and Duval County merged in 1968[1], creating a single consolidated government entity (City) governing all of Duval County with the exception of the beach communities (Atlantic Beach, Neptune Beach and Jacksonville Beach) and Baldwin. The City government operates under a mayor as head of the administrative branch and the City Council as the legislative branch.

Currently, the mayor of the City of Jacksonville (City) may transfer any amount appropriated to a City division within the division; however, the mayor may not transfer funds that were appropriated to one City division to another division, or transfer funds appropriated to a services district to any other services district.

Effect of Proposed Changes

This bill amends Section 14.03 of the City Charter to provide that the mayor may not transfer funds appropriated to a City division, department, agency or nondepartmental accounts to any other such division, department, agency, or nondepartmental account unless the City Council has adopted an ordinance, approved by at least 13 of the 19 members of the City Council, authorizing the mayor to make such transfers. Repeal or modification of the ordinance requires concurrence of at least 13 members of the City Council. An ordinance must specify:

- The type and manner of mayoral transfers that are permitted;
- Whether the council must be given prior notice of a proposed transfer; and
- Whether the council must be given an opportunity to override a proposed transfer within a specified timeframe and by a specified vote.

If the ordinance is consistent with the above standards, the ordinance is deemed a grant of additional powers to the executive branch that is not in violation of Section 4.01 of the City Charter. Section 4.01 of the Charter provides that "[t]he powers of the consolidated government shall be divided among the legislative, executive, and judicial branches of the consolidated government. No power belonging to one branch of the government shall be exercised by either of the other branches, except as expressly provided in this charter."

This bill does not affect transfers of funds appropriated to a services district.

C. SECTION DIRECTORY:

Section 1. Amends s. 14.03 of the City of Jacksonville charter to expand power of mayor to transfer funds subject to authorization by the City Council.

Section 2. Provides an effective date.

[1] Ch. 67-1320, L.O.F.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? October 26, 2005

WHERE? Daily Record, City of Jacksonville, Duval 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: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

FINANCIAL NEWS &

Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA,
COUNTY OF DUVAL, } SS:

Before the undersigned authority personally appeared James F. Bailey, Jr., who on oath says that he is the Publisher of FINANCIAL NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

Notice of Intention to Apply for Local Legislation

in the matter of A Bill To Be Entitled

in the _____ Court, of Duval County, Florida, was published in said newspaper in the issues of October 26, 2005

Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, each day (except Saturday and Sunday) and has been entered as second class matter at the post office in Jacksonville, in said Duval County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Publisher

Sworn to and subscribed before me this day of October 26, 2005

ANGELA CAMPBELL
Notary Public, State of Florida
My comm. exp. Apr. 10, 2009
Comm. No. DD 398465

Angela Campbell
Notary Signature

Angela Campbell
Notary Public
DD398465

seal James F. Bailey, Jr. personally known to me

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

NOTICE IS HEREBY GIVEN that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill affecting the City of Jacksonville, Duval County, Florida, the substance of said bill being substantially as follows:

A bill to be entitled

An act relating to the Charter of the City of Jacksonville, as adopted in Chapter 92-341, Laws of Florida, as amended; expanding the mayor's transfer power with approval of the council; providing an effective date. (J-7)

Oct. 26 00 (05-6996)

1025

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2006 LOCAL BILL CERTIFICATION

BILL #: J-7

SPONSOR(S): Representative Davis

RELATING TO: Duval County regarding the Mayor's appropriations transfer power

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

NAME OF DELEGATION: Duval County Legislative Delegation

CONTACT PERSON: Susan Stewart

SUNCOM or PHONE #: (904) 630-1680 or SC 986-1680

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: 1/20/06

Location: City Hall Council Chambers – 117 W. Duval Street, Jax., FL 32202

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 the bill has beenadvertised in advance (as provided in s. 11.02, F. S.) or is conditioned to take effect only upon approval byreferendum vote of the electors in the area affected.*

Has this Constitutional requirement been met?

Notice published: YES [X] NO [ ]

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 taxingprovision 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.*
Will there be any costs or economic benefits associated with this bill?
YES [] NO [X]

Please complete the Economic Impact Statement form provided by the House Committee on Local Government & Veterans' Affairs whether or not there is an economic impact. It is the policy of the Committee that no bill will be considered without an original Economic Impact Statement. If possible, this form must accompany the bill when filed with the Clerk. In the alternative, please submit the form to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

1/26/06

Delegation Chair (*Original Signature*) Date

1053

J-7

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
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 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 #: J-7

SPONSOR(S): Representative Don Davis

RELATING TO: Article 14.03 of the Charter of the City of Jacksonville

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

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

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

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 05-06	FY 06-07
Federal:		
NA		
State:		
NA		
Local:		
NA		

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:

Advantages: The bill clarifies the Mayor's transfer authority in the Charter and rectifies the practice and Ordinance Code with the Charter.

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]:

This bill is more of an institutional bill and not a bill that lends itself to economic analysis.

PREPARED BY: 10-21-05
Brad Thoburn Date

TITLE: Chief of Government Affairs

REPRESENTING: Mayor

PHONE: (904) 630-~~1672~~ 2851

E-Mail Address: bthoburn@coj.net

1 A bill to be entitled
2 An act relating to the City of Jacksonville, Duval County;
3 amending chapter 92-341, Laws of Florida, as amended;
4 expanding the mayor's power to transfer certain
5 appropriations, subject to authorization by ordinance
6 adopted and approved by extraordinary vote of the council;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 14.03 of the charter of the City of
12 Jacksonville, as readopted in chapter 92-341, Laws of Florida,
13 as amended, is amended to read:
14 Section 14.03. Transfer of appropriations.--The mayor may
15 transfer any amount appropriated to any consolidated government
16 division within such division but may not:
17 (a) Transfer funds <u>that are</u> appropriated to any
18 consolidated government division<u>, department, agency, or</u>
19 <u>nondepartmental account</u> to any other division<u>, department,</u>
20 <u>agency, or nondepartmental account unless the council has</u>
21 <u>adopted a general ordinance, approved by at least 13 members of</u>
22 <u>the council, that authorizes the mayor to make such transfers.</u>
23 <u>Repeal or modification of such ordinance shall require the</u>
24 <u>concurrence of at least 13 members of the council. The ordinance</u>
25 <u>must specify:</u>
26 <u>(1) The type and manner of mayoral transfers that are</u>
27 <u>permitted.</u>
28 <u>(2) Whether the council must be given prior notice of a</u>

29 proposed transfer.
30 (3) Whether the council must be given an opportunity to
31 override a proposed transfer within a specified timeframe and by
32 a specified vote.
33
34 To the extent the provisions of the general ordinance are
35 consistent with these standards, they shall be deemed to be a
36 grant of additional powers to the executive branch not in
37 violation of section 4.01 of this charter; or
38 (b) Transfer funds appropriated to any services district
39 to any other services district.
40 Section 2. This act shall take effect upon becoming a law.

HB 1057

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1057 City of Jacksonville, Duval County
SPONSOR(S): Kravitz
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

In 2005, the Florida Supreme Court concluded that, absent an express prohibition in law, a municipal agency has inherent authority to contract with a private party and enter into an indemnification agreement as part of the contract, and may not invoke sovereign immunity to defeat its obligations under the contract.

This bill amends the charter of the City of Jacksonville to prohibit the City or any independent agency of the City from agreeing to waive sovereign immunity for tortious conduct of the City or of any such independent agency beyond the limitations of the legislative waiver of sovereign immunity established in section 768.28, F.S.

The bill further provides that a contract of the City or any independent agency may not agree to indemnify, defend, or hold harmless another party for the tortious conduct of any party other than the city or the independent agency, respectively. Any contractual provision for an indebtedness or liability contracted for in violation of this provision is void and must be severed from the contract.

According to the Economic Impact Statement, this bill will not have a fiscal impact in fiscal years 2005-06 or 2006-07; however, enactment of the bill will "avoid limitless liability for the tortuous conduct of third parties."

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

The City of Jacksonville and Duval County merged in 1968[1], creating a single consolidated government entity (City) governing all of Duval County with the exception of the beach communities (Atlantic Beach, Neptune Beach and Jacksonville Beach) and Baldwin. The City government operates under a mayor as head of the administrative branch and a 19-member City Council as the legislative branch.

Municipal Home Rule Power

Florida's Constitution grants municipalities "governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services ... except as otherwise provided by law."[2] The Municipal Home Rule Powers Act recognizes these same powers of municipalities, limited only when "expressly prohibited by law."[3] Given this broad grant of home rule power, the courts have held that municipalities may exercise any power for a municipal purpose "except when expressly prohibited by law."[4]

Municipalities have long possessed both the power to execute contracts and the concomitant liability for their breach.[5] In executing contracts, municipalities are presumed to be acting within the broad scope of their authority.[6] In 2005, the Florida Supreme Court concluded that, absent an express prohibition in law, a municipal agency has inherent authority to contract with a private party and enter into an indemnification agreement as part of the contract, and may not invoke sovereign immunity to defeat its obligations under the contract.[7]

Sovereign Immunity and Contractual Indemnification Clauses

The doctrine of sovereign immunity provides that a sovereign cannot be sued without its own permission. The doctrine was a part of the English common law when the State of Florida was founded and has been adopted and codified by the Legislature. Florida law has enunciated three policy considerations that underpin the doctrine of sovereign immunity: (1) preservation of the constitutional principle of separation of powers; (2) protection of the public treasury; and (3) maintenance of the orderly administration of government.[8]

Article X, s. 13 of the Florida Constitution authorizes the Legislature to waive the state's sovereign immunity, specifically providing that "[p]rovision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.". Thus, the courts have long held that only the Legislature has authority to enact a general law that waives the state's sovereign immunity,

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[1] Ch. 67-1320, L.O.F.
[2] Art. VIII, § 2(b), Fla. Const.
[3] § 166.021(1), Fla. Stat. (1997).
[4] See, e.g., *City of Ocala v. Nye*, 608 So.2d 15, 16-17 & n. 3 (Fla.1992); *City of Boca Raton v. Gidman*, 440 So.2d 1277, 1280 (Fla.1983); see also *Hargrove v. Town of Cocoa Beach*, 96 So.2d 130, 133 (Fla.1957) (noting that "[t]he modern city is in substantial measure a large business institution").
[5] *American Home Assurance Co. v. Nat'l Railroad Passenger Corp.*, 908 So.2d 459 (Fla. 2005).
[6] *Id.*
[7] *Id.*
[8] *Id.*

and that any waiver must be strictly construed.[9] Further, any waiver of sovereign immunity must be clear and unequivocal, and will not be found as a product of inference or implication.[10]

Pursuant to its constitutional authority, in 1973 the Legislature authorized a limited waiver of state sovereign immunity in tort for personal injury, wrongful death, and loss or injury of property through the enactment of s. 768.28, F.S.[11] Today, the state, counties, and municipalities are liable for tort claims in the same manner and to the same extent as a private individual under like circumstances subject to statutory limitations on the amount of liability.[12] Section 768.28(1), F.S., provides in pertinent part:

> In accordance with s. 13, Art. X, State Constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or of any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act.

Under this statute, immunity is waived for "liability for torts" caused by "the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment." [13] Additionally, subsection (5) of the statute limits state liability to $100,000 per claimant and $200,000 per accident.[14]

American Home Assurance Co. v. Nat'l Railroad Passenger Corp.,

In July 2005, the Florida Supreme Court issued its decision in the case of *American Home Assurance Company v. National Railroad Passenger Corp.*, 908 So.2d 459 (Fla. 2005), in which the court considered whether an indemnification agreement made by a municipal agency, Kissimmee Utility Authority (KUA) with CSX Corporation, Inc. (CSX) was enforceable. The court concluded that the indemnification agreement was binding and enforceable, finding that a municipal agency like KUA has the inherent authority to contract with private parties and enter into an indemnification agreement as part of a contract with a private party and may not invoke sovereign immunity to defeat its obligations under the contract.

In order to improve access to a power plant, the KUA entered into a contract with CSX whereby CSX granted KUA license to build, use, and maintain a private road grade crossing over CSX's railroad tracts. In exchange for the license, KUA agreed to an indemnity provision in the contract under which KUA "assumes all liability for, and releases and agrees to defend, indemnify, protect and save [CSX] harmless" for all loss of or damage to property of CSX or third parties at the crossing or adjacent to it, all loss and damage on account of injury to or death of any person on the crossing, and all claims and liabilities for such loss and damage. The contractual obligation applied regardless of cause and even if the injury, death, or property damage is caused solely by the negligence of CSX. Further, the contractual obligation extended to "companies and other legal entities that control, are controlled by, are subsidiaries of, or are affiliated with [CSX], and their respective officers, agents and employees."

---

[9] *Manatee County v. Town of Longboat Key*, 365 So.2d 143, 147 (Fla.1978).
[10] *Rabideau v. State*, 409 So.2d 1045, 1046 (Fla.1982); *Spangler v. Fla. State Tpk. Auth.*, 106 So.2d 421, 424 (Fla.1958).
[11] See ch. 73-313, § 1, Laws of Fla.
[12] *American Home Assurance Company v. National Railroad Passenger Corp.*, 908 So.2d 459 (Fla. 2005); *Commercial Carrier Corp. v. Indian River County*, 371 So.2d 1010, 1022 (Fla.1979).
[13] § 768.28(1), Fla. Stat. (1997); *American Home Assurance Co. v. Nat'l Railroad Passenger Corp.*, 908 So.2d 459 (Fla. 2005).
[14] § 768.28(5).

In finding the indemnification clause binding and enforceable, the court reasoned that, by its plain language, s. 768.28, F.S., applies only to "*actions at law* against the state or any of its agencies or subdivisions *to recover damages in tort*."[15] The court noted that the indemnification provision at issue in the case was based on a *contract* between KUA and CSX. As such, the court concluded that the statutory provision governing tort recovery actions was not applicable, and that the contract between KUA and CSX was not controlled by the restrictions on the waiver of sovereign immunity found in s. 768.28, F.S.

Further, the court reasoned that KUA possessed the authority of the City of Kissimmee to enter into contracts for municipal services, including the contract with CSX that contained the indemnification clause and which ensured access to the power plant. The court stated that the parties in the case failed to identify any law prohibiting KUA from executing the contract containing the indemnification provision. In fact, the court found that although KUA did not need an express statutory grant of authority to execute the contract in light of its broad home rule powers, s. 163.01, F.S., grants specific authority to KUA to contract with private parties regarding electrical projects.[16]

The court concluded that the contract requiring the KUA to indemnify CSX was not controlled by statutory restrictions on the waiver of sovereign immunity and was binding and enforceable against KUA.

Effect of Proposed Changes

This bill amends the charter of the City of Jacksonville contained in ch. 92-341, L.O.F., to prohibit the City or any independent agency of the City from agreeing to waive sovereign immunity for tortious conduct of the City or of any such independent agency beyond the limitations of the legislative waiver of sovereign immunity established in section 768.28, F.S. The City charter defines "independent agencies" as the Duval County School Board, the Jacksonville Port Authority, the Jacksonville Transportation Authority, the Jacksonville Electric Authority, the Jacksonville Downtown Development Authority, and the Jacksonville Police and Fire Pension Board of Trustees. [17] This provision of the bill appears to be consistent with existing general law regarding legislative waivers of sovereign immunity, the Florida Constitution which requires legislative waiver of sovereign immunity, and case law interpreting the constitutional requirement.

In addition, the bill provides that a contract of the City or any independent agency may not agree to indemnify, defend, or hold harmless another party for the tortious conduct of any party other than the city or the independent agency, respectively. Any contractual provision for an indebtedness or liability contracted for in violation of this provision is void and must be severed from the contract.

Lastly, the bill provides that it is effective upon becoming law, and does not contain explicit expression of a legislative intent to apply the provisions retroactively. It is a well-established rule of construction that, in the absence of clear legislative intent to the contrary, a law is presumed to act prospectively only. [18] The basis for retrospective interpretation must be unequivocal and leave no doubt as the legislative intent.[19] Therefore, the courts may consider the provisions of the bill applicable only to contracts entered into on or after this bill's effective date.

C. SECTION DIRECTORY:

---

[15] § 768.28(1), Fla. Stat. (1997) [emphasis added]; see also *Provident Mgmt. Corp. v. City of Treasure Island*, 796 So.2d 481, 486 (Fla.2001) (concluding that section 768.28 "applies only when the governmental entity is being sued in tort"; thus, limitations of section 768.28 did not apply to restrict award of damages against governmental entity for the erroneous issuance of a temporary injunction).

[16] Section 163.01, F.S., expressly authorizes public agencies to contract with private parties regarding electrical projects.

[17] ch. 92-341, L.O.F. (Art. 18, s. 18.07)

[18] *State Farm Mutual Automobile Ins. Co. v. Laforet,* 658 So.2d 55 (Fla. 1995); *State v. Zukerman-Vernon Corp.*, 354 So.2d 353 (Fla. 1977), *Walker & LaBerge, Inc. v. Halligan*, 344 So.2d 239 (Fla. 1977).

[19] *Larson v. Independent Life & Acc. Ins. Co.,* 158 Fla. 623 (Fla. 1947).

Section 1. Amends the City of Jacksonville charter in ch. 92.341, L.O.F., prohibiting waiver of sovereign immunity and limiting the City's authority to execute certain contractual indemnification agreements.

Section 2. Provides that the bill is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? October 26, 2005

WHERE? Daily Record, Jacksonville, Duval 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: Article X, section 13 of the Florida Constitution provides that "[p]rovision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating." Based upon this section, it may be argued that a general bill must be enacted, rather than a local bill, to limit the City's authority to contractually agree to indemnify third parties for the tortuous conduct of any party other than the city or an independent agency of the City. On the other hand, the bill may be characterized not as a law regarding bringing suit against the state but as a law expressly limiting the City's inherent authority to contract.

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

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

FINANCIAL NEWS &

Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA,
COUNTY OF DUVAL, } SS:

Before the undersigned authority personally appeared James F. Bailey, Jr., who on oath says that he is the Publisher of FINANCIAL NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

Notice of Intention to Apply for Local Legislation

in the matter of A Bill To Be Entitled

in the _____ Court, of Duval County, Florida, was published in said newspaper in the issues of October 26, 2005

Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, each day (except Saturday and Sunday) and has been entered as second class matter at the post office in Jacksonville, in said Duval County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Publisher

Sworn to and subscribed before me this day of October 26, 2005

ANGELA CAMPBELL
Notary Public, State of Florida
My comm. exp. Apr. 10, 2009
Comm. No. DD 398465

Angela Campbell
Notary Signature

Angela Campbell
Notary Public
DD398465

seal

James F. Bailey, Jr. personally known to me

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

NOTICE IS HEREBY GIVEN that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill affecting the City of Jacksonville, Duval County, Florida, the substance of said bill being substantially as follows:

A bill to be entitled

An act relating to Chapter 92-341, Laws of Florida, as amended, that being the Charter of the City of Jacksonville; amending Chapter 18 of said Charter to create a new Section 18.12 prohibiting the city and independent agencies from waiving sovereign immunity beyond the limitations of the legislative waiver of sovereign immunity established in Section 768.28, Florida Statutes; prohibiting the city and independent agencies from idemnifying contracting parties for the tortious actions of another party; declaring contractual provisions in violation to be null and void and providing for severability; providing an effective date. (J-6)

Oct. 26 00 (05-6995)

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2006 LOCAL BILL CERTIFICATION

BILL #: J-6

SPONSOR(S): Representative Kravitz

RELATING TO: Duval County and sovereign Immunity/Indemnification of 3rd Parties

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

NAME OF DELEGATION: Duval County Legislative Delegation

CONTACT PERSON: Susan Stewart

SUNCOM or PHONE #: (904) 630-1680 or SC 986-1680

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: 1/20/06

Location: **City Hall Council Chambers – 117 W. Duval Street, Jax., FL 32202**

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 the bill has beenadvertised in advance (as provided in s. 11.02, F. S.) or is conditioned to take effect only upon approval byreferendum vote of the electors in the area affected.*

Has this Constitutional requirement been met?

Notice published: YES [X] NO [ ]

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 taxingprovision 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.*
Will there be any costs or economic benefits associated with this bill?
YES [X] NO [ ]

Please complete the Economic Impact Statement form provided by the House Committee on Local Government & Veterans' Affairs whether or not there is an economic impact. It is the policy of the Committee that no bill will be considered without an original Economic Impact Statement. If possible, this form must accompany the bill when filed with the Clerk. In the alternative, please submit the form to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

1/20/06

Delegation Chair (*Original Signature*) Date

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
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 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 #: _____

SPONSOR(S): Representtive Dick Kravitz

RELATING TO: An act relating to sovereign immunity and indemnification of third parties

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

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

	FY 05-06	FY 06-07
Expenditures:		
NA		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 05-06	FY 06-07
Federal:		
NA		
State:		
NA		
Local:		
NA		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 05-06	FY 06-07
Revenues:		
NA		

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

Advantages: Avoid limitless liability for the tortious conduct of third parties and retain the traditional sovereign immunity protection as set forth in the Florida Constitution and Chapter 768.28, F.S.

Disadvantages: None

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

NA

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

NA

PREPARED BY: _____ 10/20/05
Anthony B. Zebouni Date
[Must be signed by Preparer]

TITLE: Assistant General Counsel

REPRESENTING: City of Jacksonville

PHONE: (904) 630-1840

E-MAIL ADDRESS: azebouni@coj.net

1 A bill to be entitled
2 An act relating to the City of Jacksonville, Duval County;
3 amending chapter 92-341, Laws of Florida, as amended;
4 prohibiting the city and independent agencies from waiving
5 sovereign immunity beyond the limitations of the
6 legislative waiver of sovereign immunity established in
7 Florida Statutes; prohibiting the city and independent
8 agencies from indemnifying, defending, or holding harmless
9 contracting parties for the tortious actions of any party
10 other than the city or the independent agency; declaring
11 contractual provisions in violation to be void; providing
12 severability; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Section 18.12 is added to article 18 of chapter
17 92-341, Laws of Florida, as amended, to read:
18 ARTICLE 18. MISCELLANEOUS PROVISIONS
19 Section 18.12. Waiver of sovereign immunity;
20 indemnification.--
21 (a) No contract of the city or any independent agency may
22 agree to waive sovereign immunity for tortious conduct of the
23 city or of any such independent agency beyond the limitations of
24 the legislative waiver of sovereign immunity established in
25 section 768.28, Florida Statutes.
26 (b) No contract of the city or any independent agency may
27 agree to indemnify, defend, or hold harmless another party for

28 the tortious conduct of any party other than the city or the
29 independent agency, respectively.
30 (c) Any contractual provision for an indebtedness or
31 liability contracted for in violation of this section shall be
32 void and shall be severed from the contract.
33 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1081 Lee County Hyacinth Control District, Lee County
SPONSOR(S): Kyle
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 1081 amends ch. 98-462, L.O.F., to provide that all work done under the provisions of the district's charter will be under the supervision of a person determined qualified to administer the programs by the district board. Currently, the law requires such work to be done under the supervision of a competent, professional engineer employed by the district board.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The District was created in 1961 by ch. 61-2404, L.O.F., providing aquatic weed control throughout all of Lee County, Florida. The District provides for an *engineer as the director* whose duty is to supervise maintenance and construction work performed under the current provisions of the law. The Board may also directly have work performed with or without a contract and with or without advertisement.

The bill amends ch. 98-462, L.O.F., to provide that all work done under the provisions of the district's charter will be under the supervision of a *person determined qualified* to administer the programs by the district board.

C. SECTION DIRECTORY:

Section 1. Amends s. 12 of ch. 98-42, L.O.F., provides that all work done under the provisions of the district's charter will be under the supervision of a person determined qualified by the district board instead of an engineer.

Section 2. Provides that the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 24, 2006

WHERE? *News-Press*, Fort Myers, Lee 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: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

NEWS-PRESS

Published every morning – Daily and Sunday

Fort Myers, Florida

Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared
Kathy Allebach
who on oath says that he/she is the
Legal Assistant of the News-Press, a
daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a
Notice
In the matter of
Notice to Intent
In the court was published in said newspaper in the issues of
January 10, 2006

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County; Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the 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.

Kathy Allebach

Sworn to and subscribed before me this

24th day of January 2006 by

Kathy Allebach
personally known to me or who has produced

_____

as identification, and who did or did not take an oath.

Notary Public Gladys D Vanderbeck

Print Name _____

My commission Expires

NOTARY PUBLIC STATE OF FLORIDA
Gladys D. Vanderbeck
Commission # DD378967
Expires December 13, 2008
Bonded Troy Fain - Insurance, Inc 800-385-7019

Notice of Intent to File Legislation Pertaining to the Lee County Hyacinth Control District:

Representative Bruce Kyle does hereby give notice of intent to file legislation for any regular, special or subsequent legislative session in 2006 seeking to change the local enabling act, Laws of Florida, Chapter 98-462, Section 12.

The short title shall be: An act relating to the Lee County Hyacinth Control District, Lee County; amending chapter 98-462, Laws of Florida; providing that all work done under the provisions of the district's charter shall be under the supervision of a person determined qualified by the Hyacinth Board; providing an effective date.

Jan 10 No. 983759

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1081

SPONSOR(S): Representative Bruce Kyle

RELATING TO: Lee County Mosquito Control District (Hyacinth Control)

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

NAME OF DELEGATION: Lee County Legislative Delegation

CONTACT PERSON: Ashley Long

PHONE # and E-Mail: 850/488-1541

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: November 17, 2005

Location: Edison College, Fort Myers, FL

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

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

Has this constitutional notice requirement been met?

Notice published: YES [✓] NO [ ] DATE [January 10. 2006 **]**

Where? News-Press **County** Lee

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 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 Local Government Council that no bill will be considered by a subcommittee or the Council 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 Council as soon as possible after the bill is filed.

BILL #: 1081

SPONSOR(S): Bruce Kyle

RELATING TO: Lee County

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

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

	FY 05-06	FY 06-07
Expenditures:	N/A	N/A

II. ANTICIPATED SOURCE(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:	N/A	N/A

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

Advantages: N/A

Disadvantages: N/A

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

Increase Competition for Position of Director by removing a requirement for a candidate to be a professional engineer.

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

N/A

PREPARED BY: _____ November 1, 2005
[Must be signed by Preparer] Date

TITLE: Director

REPRESENTING: Lee Co. Hyacinth Control District

PHONE: (239-694-2174)

E-Mail Address: OPP@LCMCD.ORG

1 A bill to be entitled
2 An act relating to the Lee County Hyacinth Control
3 District, Lee County; amending chapter 98-462, Laws of
4 Florida; providing that all work done under the provisions
5 of the district's charter shall be under the supervision
6 of a person determined qualified by the Hyacinth Board;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 12 of chapter 98-462, Laws of Florida,
12 is amended to read:
13 Section 12. Engineer as director; advertisement of
14 contracts.--All work done under the provisions of this act, both
15 in construction and maintenance, shall be carried on under the
16 supervision of a person determined ~~competent, professional~~
17 ~~engineer to be employed~~ by the board to be well qualified to
18 administer the programs authorized by this act. The board may
19 have all work performed by contract with or without
20 advertisement, or without contract, by machinery, equipment and
21 labor employed directly by the board.
22 Section 2. This act shall take effect upon becoming a law.

HB 1085

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1085 Hillsborough County School District
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

HB 1085 repeals an obsolete special law authorizing a 1998 referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The bill also contained transition language that phased in the new single member districts.

This bill provides that consistent with this referendum, and with the consent of the United States Department of Justice, Civil Rights Division, the governing body of the District School Board of Hillsborough County shall consist of seven members. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census, and applied to the election held the following year. The bill also states that the election of district school board members shall be conducted in accordance with general law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional Provision/School Districts

Section 4(a), Art, IX of the State Constitution, **School districts; school boards.**—provides:

Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

Statutory Provisions/School Districts

Section 1001.36, F.S., **District school board member residence areas.**— provides:

(1) For the purpose of electing district school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven district school board members, the district may be divided into five district school board member residence areas, with two district school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

(b) For those school districts which have seven district school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board.

(2) Any district school board may make any change that it deems necessary in the boundaries of any district school board member residence area at any meeting of the district school board, provided that such changes shall be made only in odd-numbered years and that no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent member during the term for which he or she is elected.

(3) Such changes in boundaries shall be shown by resolutions spread upon the minutes of the district school board, shall be recorded in the office of the clerk of the circuit court, and shall be published at least once in a newspaper published in the district within 30 days after the adoption of the resolution, or, if there be no newspaper published in the district, shall be posted at the county courthouse door for 4 weeks thereafter. A certified copy of this resolution shall be transmitted to the Department of State.

Section 1001.361, F.S., **Election of board by districtwide vote.**—provides:

Notwithstanding any provision of local law or any county charter, the election of members of the district school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as

provided in chapter 105. Each candidate for district school board member shall, at the time she or he qualifies, be a resident of the district school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot shall be listed according to the district school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each district school board member residence area. The candidate from each district school board member residence area who receives the highest number of votes in the general election shall be elected to the district school board.

Effect of Proposed Changes

In 1998, the Legislature passed a special act (ch. 98-465, L.O.F.) authorizing a referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The bill also contained transition language that phased in the new single member districts.

HB 1085 repeals this obsolete special law, and provides that consistent with the referendum held in Hillsborough County on November 3, 1998, and with the consent of the United States Department of Justice, Civil Rights Division,[1] dated January 24, 2000, the governing body of the District School Board of Hillsborough County shall consist of seven members, five of whom are elected from single-member residence areas (designated as Districts 1, 2, 3, 4 and 5) and two of whom are elected from the district at large. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census in accordance with s.1001.36(2), F.S., and applied to the election held the following year. The bill also states that the election of members of the district school board shall be conducted in accordance with general law.

The bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for membership of district school board, and reapportionment.

Section 2: Provides for election of district school board members in accordance with general law.

Section 3: Repeals ch. 98-465, L.O.F.

Section 4: Provides for effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 11, 2006.

WHERE? *The Tampa Tribune*, a daily newspaper published in Hillsborough County.

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

[1] Pursuant to the Voting Rights Act of 1965, Hillsborough County is required to obtain a preclearance determination from the United States Department of Justice that the election changes do not have the purpose and/or effect of denying the right to vote on account of race, color or language minority group.

IF YES, WHEN?

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

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

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11, Art. III of the State Constitution lists a number of subjects which may not be addressed in a special act or general bill of local application. This list includes prohibitions on such bills which involve the:

> election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies. See, s. 11(1), Art. III of the State Constitution.

In Kane v. Robbins, 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis.

However, in School Board of Palm Beach County v. Winchester, 565 So.2d 1350 (Fla. 1990), the Court ruled that s. 11(a) 1, Art. III, of the State Constitution did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

Hillsborough County is a charter county.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

THE TAMPA TRIBUNE
Published Daily
Tampa, Hillsborough County, Florida

State of Florida }
County of Hillsborough } ss.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Supervisor of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of advertisement being a

LEGAL NOTICE IN THE TAMPA TRIBUNE

in the matter of NOTICE OF LEGISLATION

was published in said newspaper in the issues of

JANUARY 11, 2006

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough 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, this advertisement for publication in the said newspaper.

C Pugh

Sworn to and subscribed by me, this 12 day of JANUARY, A.D. 2006

Personally Known_____ or Produced Identification_____
Type of Identification Produced_____

Jean E. Lantaigne

JEAN E. LANTAIGNE
MY COMMISSION EXPIRES July 7, 2008
#DD 335276
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida at its regular session held in the year 2006, or at a subsequent special session, for passage of a bill to be entitled

An act relating to the Hillsborough County School District; providing for a seven-member district school board, with five members elected from single-member residence areas and two members elected from the county at large; providing for reapportionment; providing that elections shall be held in accordance with general law; repealing chapter 98-465, Laws of Florida; providing an effective date.

DATED at Tampa, Florida, the 11th day of January, 2006.

Rep. Trey Traviesa
Hillsborough County
Legislative Delegation
P.O. Box 1110
Tampa, FL 33601

2764 01/11/06

LB01 School Bd/single member
no Senate

1/7/6

LB1 → School Board Traviesa

Representative Kevin Ambler

ABSENT

Representative Frank Peterman

Representative Trey Treviesa

Representative Faye Culp

#58

Representative Bob Henriquez

Representative Arthenia Joyner

Representative Ed Homan

#61

Representative Ken Littlefield

Representative Rich Glorioso

Representative Dennis Ross

Representative Ron Reagan

Representative Bill Galvano

emailed 1/11/06 David

Include Peterman by request

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE

2006 LOCAL BILL CERTIFICATION

BILL #:
SPONSOR(S): Rep. Trey Traviesa
RELATING TO: Hillsborough School District board member districts
[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 [X] NO [ ]

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]

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

Kevin C. Ambler

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): Rep.Trey Traviesa
RELATING TO: **Hillsborough County School District; single-member districts**
[Indicate Area Affected (City, County, Special District) and Subjec]

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

	FY 05-06	FY06-07
Expenditures:		
Cost of enacting a local bill.		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 05-06	FY06-07
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 05-06	FY06-07
Revenues:	N/A	N/A

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

Advantages: Conforms school district elections and reapportionment to general law.

Disadvantages: None known.

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

None known.

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

None required.

PREPARED BY: _____
Candace Hundley, Director Date: 09/21/05

TITLE: Director

REPRESENTING: The Office of the Hillsborough County Legislative Delegation

PHONE: 813-272-5865 (SC: 543)
hundleyc@hillsboroughcounty.org

1 A bill to be entitled
2 An act relating to the Hillsborough County School
3 District; providing for a seven-member district school
4 board, with five members elected from single-member
5 residence areas and two members elected from the district
6 at large; providing for reapportionment; providing that
7 elections shall be held in accordance with general law;
8 repealing chapter 98-465, Laws of Florida, relating to the
9 calling of a referendum to authorize such a district
10 school board, to conform; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. (1) Consistent with the referendum held in
15 Hillsborough County on November 3, 1998, and with the consent of
16 the United States Department of Justice, Civil Rights Division,
17 dated January 24, 2000, the governing body of the District
18 School Board of Hillsborough County shall consist of seven
19 members, five of whom shall be elected from single-member
20 residence areas and two of whom shall be elected from the
21 district at large, as provided in this act.
22 (2) Two seats shall be filled from the district at large,
23 and five seats shall be filled from single-member residence
24 areas that are designated District 1, District 2, District 3,
25 District 4, and District 5, respectively. The single-member
26 residence areas shall be reapportioned by the district school
27 board by resolution, in consultation with the county supervisor
28 of elections, in the odd-numbered year immediately following

29 each decennial census in accordance with section 1001.36(2),
30 Florida Statutes, and applied to the election held the following
31 year.
32 Section 2. The election of members of the district school
33 board shall be conducted in accordance with general law.
34 Section 3. Chapter 98-465, Laws of Florida, is repealed.
35 Section 4. This act shall take effect upon becoming a law.

HB 1133

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1133 Key Largo Wastewater Treatment District, Monroe County
SPONSOR(S): Sorensen
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) State Resources Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Key Largo Wastewater Treatment District is currently authorized to impose fees, rental, and other charges for the use of any wastewater management system facilities. If a property owner fails to timely pay any such charge, the District is authorized to impose penalties and interest, discontinue service, and recover delinquent charges in a court of competent jurisdiction.

This bill provides that delinquent fees, rentals, or other charges, together with interest, penalties, and charges for shutting off, discontinuing, and restoring such services, and reasonable attorneys' fees and other expenses constitute a lien, subject to the limitations in s. 4, Art. X of the State Constitution, on the real property against which such fees, rentals, or other charges were assessed, coequal with any lien of state, county, or municipal taxes and superior and paramount to all other liens, titles, and claims against such property. The District retains all current authority to collect delinquent fees, rentals, or other charges. Imposition of liens and foreclosure of such liens against homestead and exempt personal property may be limited by s. 4, Art. X of the State Constitution depending upon whether the fees, rentals, or other charges imposed by the District are considered "assessments" for purposes of the constitutional limitation.[1]

According to the Economic Impact Statement, this bill will not have fiscal impact in FY 06-07 or FY 07-08.

[1] 48 Fla. Jur 2d Special Assessments § 3

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility - This bill authorizes imposition of a lien against property if the owner of the property fails to timely pay fees, rentals, or other charges lawfully imposed by the District.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Key Largo Wastewater Treatment District

The Key Largo Wastewater Treatment District (District) was created by the Legislature in 2002[2] as an independent special district to construct and operate facilities for the collection and treatment of wastewater in an area within Monroe County consisting of all lands east of Tavernier Creek, including Key Largo and Cross Key, with the exception of Ocean Reef. The District is authorized to exercise all powers within its boundaries for the collection and treatment of wastewater formerly exercised by the Florida Keys Aqueduct Authority pursuant to ch. 76-441, L.O.F., as amended.

The District is authorized by its charter[3] to fix and collect rates, rentals, fees, and charges for the use of any wastewater management system facilities. The District may provide for reasonable penalties against any user for any such rates, fees, rentals, or other charges that are delinquent. In the event that such delinquency occurs and such fees, rentals, or other charges are not paid and remain delinquent for 30 days or more, the district may discontinue and shut off services until such fees, rentals, or other charges, including interest, penalties, and charges for shutting off, discontinuing, and restoring such services, are fully paid. The District may enter on lands, waters, and premises of any person, firm, corporation, or other body for the purpose of discontinuing and shutting off services under such circumstances. Further, such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for shutting off, discontinuing, and restoring such services, and reasonable attorneys' fees and other expenses may be recovered by the District by suit in any court of competent jurisdiction. The District may also enforce payment by any other lawful method of enforcement.

Liens Against Property Generally

Article X, section 4 of the State Constitution provides in pertinent part as follows:

> (a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:
>
> (1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;
>
> (2) personal property to the value of one thousand dollars.
>
> (b) These exemptions shall inure to the surviving spouse or heirs of the owner.

---

[2] Ch. 2002-337, L.O.F.

[3] Ch. 2002-337, L.O.F., Section 4(2)(j) of Section 1.

Under this provision of the Constitution, a debtor's homestead and personal property is exempt from forced sale under process of any court, and no judgment, decree, or execution will constitute a lien on the property, except for the payment of taxes and assessments, obligations contracted for the purchase, improvement, or repair thereof, or obligations contracted for the house or field, or other labor performed on the realty.[4]

Chapter 222, F.S., provides procedures for homeowners and personal property owners who wish to avail themselves of the constitutional and statutory exemption from forced sale and provides judicial procedures for determining qualification for the exemptions.

Effect of Proposed Changes

This bill provides that delinquent fees, rentals, or other charges, together with interest, penalties, and charges for shutting off, discontinuing, and restoring such services, and reasonable attorneys' fees and other expenses constitute a lien, subject to the limitations in s. 4, Art. X of the State Constitution, on the real property against which such fees, rentals, or other charges were assessed, coequal with any lien of state, county, or municipal taxes and superior and paramount to all other liens, titles, and claims against such property. The District retains all current authority to collect delinquent fees, rentals, or other charges.

Imposition of liens and foreclosure of such liens against homestead and exempt personal property may be limited by s. 4, Art. X of the State Constitution depending upon whether the fees, rentals, or other charges imposed by the District are considered "assessments" for purposes of the constitutional limitation.[5]

C. SECTION DIRECTORY:

Section 1. Amends ch. 2002-337, L.O.F., to authorize imposition of liens against the real property against which delinquent fees, rentals or other charges were assessed.

Section 2. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 13, 2006

WHERE? The Reporter, Tavernier, Monroe 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 []

---

[4] 24A Fla. Jur 2d Executions § 28

[5] 48 Fla. Jur 2d Special Assessments § 3

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

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

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

Your Upper Keys Connection

THE REPORTER

P.O. Box 1197 • Tavernier, Florida 33070-1197
(305) 852-3216 Fax: (305) 852-0199

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF MONROE

Before the undersigned authority personally appeared JON O'NEILL who on oath, says that he is EDITOR of THE REPORTER, a weekly newspaper entitled to publish legal advertising published at Tavernier, Monroe County, Florida: that the attached copy of advertisement, being LEGAL NOTICE in said newspaper in the issue of:

January 13th 2006

Affiant further says that THE REPORTER is a newspaper published at Tavernier, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in the said Monroe County, Florida, each week (on Friday), and has been entered as second class mail matter at the Post Office in Tavernier, in said County of Monroe, 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 firm, person, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper and that The Reporter is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 9th day of February 2006.

MARGARET J. WHISENHUNT
MY COMMISSION #DD443753
EXPIRES: JUN 22, 2009
Bonded through 1st State Insurance

Margaret J. Whisenhunt

Notary

2-10-06

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: (Tracking # 14751)

SPONSOR(S): Rep. Ken Sorensen

RELATING TO: Key Largo Wastewater District Board
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Monroe County

CONTACT PERSON: Ken Sorensen

PHONE # and E-Mail: (305) 853-1947 ken.sorensen@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: January 20, 2006

Location: Key Largo

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

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

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [January 13, 2006 **]**

Where? Key Largo **County** Monroe

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.

Ken Sorensen 1/20/2006

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

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

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

BILL #: (Tracking # 74751)

SPONSOR(S): Sorensen

RELATING TO: KEY LARGO WASTEWATER TREATMENT DISTRICT

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

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

	FY 06-07	FY 07-08
Expenditures:	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	0	0
State:	0	0
Local:	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	0	0

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

Advantages: This legislation will lower District borrowing costs, making utility rates lower.

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]:

No calculations made

PREPARED BY: Thomas McAllen 1/20/2006
[Must be signed by Preparer] Date

TITLE: District Counsel

REPRESENTING: Key Largo Wastewater Treatment Dist.

PHONE: (305-453-5804)

E-Mail Address: lawtmd@bellsouth.net

1 A bill to be entitled
2 An act relating to Key Largo Wastewater Treatment
3 District, Monroe County; amending chapter 2002-337, Laws
4 of Florida; providing for liens against real property
5 under certain circumstances involving delinquent fees,
6 rentals, or other charges; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (j) of subsection (2) of section 4 of
11 section 1 of chapter 2002-337, Laws of Florida, is amended to
12 read:
13 Section 4. District powers, functions, and duties.--
14 (2) The district is hereby authorized and empowered:
15 (j) To fix and collect rates, rentals, fees, and charges
16 for the use of any wastewater management system facilities. The
17 district may provide for reasonable penalties against any user
18 for any such rates, fees, rentals, or other charges that are
19 delinquent. In the event that such delinquency occurs and such
20 fees, rentals, or other charges are not paid and remain
21 delinquent for 30 days or more, the district may discontinue and
22 shut off services until such fees, rentals, or other charges,
23 including interest, penalties, and charges for shutting off,
24 discontinuing, and restoring such services, are fully paid. The
25 district may enter on lands, waters, and premises of any person,
26 firm, corporation, or other body for the purpose of
27 discontinuing and shutting off services under such
28 circumstances. Further, such delinquent fees, rentals, or other

29 charges, together with interest, penalties, and charges for
30 shutting off, discontinuing, and restoring such services, and
31 reasonable attorneys' fees and other expenses shall constitute a
32 lien, subject to the limitations in s. 4, Art. X of the State
33 Constitution, on the real property against which such fees,
34 rentals, or other charges were assessed, coequal with any lien
35 of state, county, or municipal taxes and superior and paramount
36 to all other liens, titles, and claims against such property,
37 and may be recovered by the district by suit in any court of
38 competent jurisdiction. The district may also enforce payment by
39 any other lawful method of enforcement.
40 Section 2. This act shall take effect upon becoming a law.

HB 1151

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1151 Collier County
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Judiciary Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

Collier County (County) is a non-charter county. The County only has the powers of self-government as provided in general or special law. Special law has given the County's board of county commissioners the power to designate employees of the County's Department of Parks and Recreation as county park enforcement officers (park rangers). Park rangers have the authority to issue citations for violations of County ordinances in county parks, public beaches, beach access areas adjacent to county parks, county operated parking facilities, and public areas immediately adjacent to county parks. Currently, violators who are issued a citation must either pay the fine and waive court appearance, or appear before the county court.

General law gives counties and municipalities the authority to establish administrative boards (or special magistrates) with authority to impose administrative fines and other non criminal penalties.

This bill requires violators of County ordinances, in areas under the jurisdiction of the County park rangers, who receive citations, to appear before a Code Enforcement Special Master.

This bill would take effect upon becoming law.

According the Economic Impact Statement, Collier County expects an increase of $16,000 in revenue in fiscal year 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill grants the Enforcement Code Special Master authority over violations of the Collier County Ordinances under specific circumstances.

B. EFFECT OF PROPOSED CHANGES:

Non-charter Counties

Collier County (County) is a non-charter county. Counties not operating under a county charter only have the powers of self-government provided in general or special law. The board of county commissioners of a non-charter county may enact county ordinances not inconsistent with general or special law. If a county ordinance conflicts with a municipal ordinance, the county ordinance is not effective within the municipality to the extent of the conflict. Section 125.01, F.S., is a general law grant of expansive home rule authority to all Florida counties. All counties have the home rule authority to enact ordinances for any public purpose, absent preemption by the Legislature.

In 1989, Collier County received authority to authorize its Board of County Commissioners (Board) to designate employees of the County's Department of Parks and Recreation as county park enforcement officers (park rangers).[1] Park rangers were given the authority to issue citations within the boundaries of any of the County's parks for violations of County ordinances, or provisions of special acts, and regulating acts within county parks. The form of the citations is prescribed by the Board, but must include the following:

- Date and time of issuance.
- Name and address of the person in violation.
- The date of the violation.
- Description of the violation.
- The County ordinance and section violated.
- Name of citing park ranger.
- A date and time at which the violator shall appear in county court.

If issued a citation, a violator had a mandatory court appearance in the county court.

Chapter 97-347, L.O.F., made amendments to chapter 89-449, L.O.F., in regards to areas in which park rangers could regulate activities. It increased the area from county parks to include public beaches, beach access areas adjacent to county parks, county operated parking facilities, and public areas immediately adjacent to county parks. The amendment also gave violators the option to elect to pay the fine and not appear in court.

Administrative boards are provided for in general law, chapter 162, F.S. Section 162.03, F.S., allows charter or non-charter counties to adopt an alternate code enforcement system by ordinance. The code enforcement boards and/or special magistrates designated by the local governing body are authorized to hold hearing and assess fines against violations of the respective municipal or county codes and ordinances. Neither a member of a code enforcement board or a special magistrate can initiate enforcement proceedings. At the conclusion of a hearing, the enforcement board or special magistrate is required to issue findings of fact, based on evidence of record and conclusions of law, and

[1] Chapter 89-449, L.O.F.

issue an order affording proper relief. An aggrieved party may appeal a final administrative order of an enforcement board to the circuit court.[2]

Collier County has created a Code Enforcement Board (Enforcement Board) to provide an administrative alternative to judicial hearings. The Enforcement Board is comprised of seven members and two alternates. The Enforcement Board hears evidence from Code Enforcement, the alleged violator, and witnesses. If the Enforcement Board determines the accused committed a violation, the enforcement option used is dependent upon the degree and severity of the violation.[3]

Effect of Bill

This bill changes the forum in which a violator would appear. Instead of electing to appear before a county court, this bill provides for appearance before the Collier County Code Enforcement Special Master. Because this is an administrative proceeding in a non-charter county, the proceedings will have to follow the rule in chapter 162, F.S., and County ordinances, to the extent they are not inconsistent with general law.

C. SECTION DIRECTORY:

Section 1: Section 4 of chapter 89-449, L.O.F., as amended by chapter 97-347, L.O.F., is amended to give judicatory authority to Collier County Code Enforcement Special Master.

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? January 16, 2006

WHERE? *Naples Daily News*, Naples, 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 []

The Economic Impact Statement indicates that by moving these issues of minor infractions from the court to a special master, the County expects $16,000 in increased revenue for fiscal year 2007-08. This data is based on past revenue from parking citations.[4]

---

[2] Sections 162.06, 162.07, and 162.11, F.S.
[3] http://www.colliergov.net/codeenf/EnforcementOptions.htm
[4]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Access To Courts

Article I, section 21 of the Florida Constitution provides "The courts shall be open to every person for redress of any injury, and justice shall not be administered without sale, denial, or delay." Where citizens have enjoyed a historical right of access, the Legislature can only eliminate a judicial remedy in two circumstances: Valid Public Purpose Coupled with a Reasonable Alternative and/or Overriding Public Necessity.

The Florida Legislature has chosen to allow counties and municipalities to allow administrative boards to have the authority to impose administrative fines and other non-criminal penalties with the goal of promoting, protecting, and improving the health, safety, and welfare of the citizens of the state. This asserts both a public purpose and reasonable alternative.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

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0
NAPLES DAILY NEWS
Published Daily
Naples, FL 34102

Affidavit of Publication

State of Florida
County of Collier

Before the undersigned they serve as the authority, personally appeared B. Lamb, who on oath says that they serve as the Assistant Corporate Secretary of the Naples Daily, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

PUBLIC NOTICE

in the matter of Public Notice
as published in said newspaper 1

time(s) in the issue January 16th, 2006

NOTICE OF INTENT TO SEEK LEGISLATION
(2006 FLORIDA LEGISLATURE)

BOARD OF COUNTY COMMISSIONERS, COLLIER COUNTY, FLORIDA
W/REPRESENTATIVE MIKE DAVIS, FLORIDA HOUSE OF REPRESENTATIVES

2006 LEGISLATURE AND ANY SPECIAL OR EXTENDED SESSIONS

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature and any Special or Extended Sessions for passage of an act relating to Collier County, amending s.4, chapter 89-449, Laws of Florida, to authorize a citing county park enforcement officer (park ranger) to file a citation before the Collier County Code Enforcement Special Master; providing an effective date.

Copies of the proposed legislation will be made available to the press and may be obtained at the Collier County Attorney's Office, located 2800 N. Horseshoe Drive, Suite 300, Naples, Florida 34104.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

MIKE DAVIS,
FLORIDA HOUSE OF REPRESENTATIVES
Frank Halas, Chairman
DWIGHT E. BROCK, CLERK
By: Heidi R. Rockhold
Deputy Clerk
January 16 No. 1298908

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

(Signature of affiant)

Sworn to and subscribed before me
This January 24th, 2006

(Signature of notary public)

Harriett Bushong
MY COMMISSION # DD234667 EXPIRES
July 24, 2007
BONDED THRU TROY FAIN INSURANCE, INC

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1151

SPONSOR(S): Representative Mike Davis, Florida House of Representatives

RELATING TO: Collier County Park Rangers
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Collier County

CONTACT PERSON: Linda Burke (Linda.Burke@myfloridahouse.gov)

PHONE # and E-Mail: (850) 488-1028

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: December 14, 2005

Location: Collier County Commission Chambers
3301 E. Tamiami Trail, Naples, Florida 34112

(3) 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 by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [x] NO [ ] DATE [January 16, 2006 **]**

Where? Naples Daily News **County** Collier

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

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

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

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

Mike Davis 3/13/06

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

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

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

BILL #: 1151

SPONSOR(S): Representative Mike Davis, Fl. House of Representatives

RELATING TO: Collier County Park Rangers

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

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

	FY 06-07	FY 07-08
Expenditures:		
None. Park Rangers currently have the enforcement authority. This will move from court system to a special master.	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	$16,000

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

Advantages:

Eliminates the cited individuals from appearing in court for a minor infraction. This is beneficial for both citizens and court system alike.

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]:

Past revenue from parking citations.

PREPARED BY: _____ 3/10/06
[Must be signed by Preparer] Date

TITLE: Assistant County Attorney

REPRESENTING: Collier County, FL

PHONE: (239-403-2305)

E-Mail Address: stevengriffin@colliergov.net

1 A bill to be entitled
2 An act relating to Collier County; amending chapter 89-
3 449, Laws of Florida, as amended; providing for persons
4 cited by county park enforcement officers to appear before
5 the Collier County Code Enforcement Special Master instead
6 of in county court; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 4 of chapter 89-449, Laws of Florida,
11 as amended by chapter 97-347, Laws of Florida, is amended to
12 read:
13 Section 4. Enforcement.--A citation issued by a county
14 park enforcement officer (park ranger) under the provisions of
15 this act shall be in a form prescribed by the board of county
16 commissioners. Such citations shall state the date and time of
17 issuance, name and address of the person in violation, the date
18 of the violation, description of the violation, the Collier
19 County Ordinance and section violated, name of the citing county
20 park enforcement officer (park ranger), and a date and time at
21 which the violator shall appear <u>before the Collier County Code</u>
22 <u>Enforcement Special Master</u> ~~in county court~~. The violator may
23 elect a nonmandatory ~~court~~ appearance and pay the fine as
24 prescribed by county ordinance.
25 Section 2. This act shall take effect upon becoming a law.

HB 1195

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1195 Manatee County
SPONSOR(S): Galvano
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

This bill extends the expiration date of the Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board by extending the repeal date of the original special act from July 1, 2006 to July 1, 2011.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board were created in 1985 with the passage of ch. 85-461, L.O.F. The Fire Prevention Code Enforcement Board has the exclusive authority to enforce the fire codes of the fire control districts within the county. The Fire Marshal Appeals Board hears appeals from the decisions of the fire marshals of the fire district within the county. The Enforcement Board's and the Appeals Board's annual budgets are derived from a percentage of the fire districts' budgets in the county. Both of these boards are scheduled to be repealed on July 1, 2006.

Effect of Proposed Changes

This bill extends the expiration date of the Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board by extending the repeal date of the original special act from July 1, 2006 to July 1, 2011.

C. SECTION DIRECTORY:

Section 1. Section 3 of ch. 85-461, L.O.F., as amended by chapters 86-387, 91-387, 96-446, and 2001-341, L.O.F., is amended to provide for the act to be repealed on July 1, 2011, rather than July 1, 2006.

Section 2. An effective date of upon becoming a law is provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? November 30, 2005.

WHERE? *The Herald*, Bradenton, 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 []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

THE 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, **11/30,'05**
Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

NOTICE OF INTENT TO SEEK LEGISLATION

The Fire Commissioners Association in Manatee County, hereby gives notice pursuant to Article III, Section 10 of the Florida Construction and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2006 Florida Legislation to amend Chapter 85-461 which would otherwise sunset on July 1, 2006. Chapter 85-461 relates to the Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board. This legislation conforms to all applicable special acts and general laws. This legislation will extend Chapter 85-461, Laws of Florida, until July 1, 2011, and provide an effective date.
11/30/05

Sandy Riley
(Signature of Affiant)

Sworn to and subscribed before me this
1st Day of Dec., 2005

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 1195
SPONSOR(S): Rep. Bill Galvano
RELATING TO: Manatee County
[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: November 17, 2005
Location: Manatee County Commission Chambers, Manatee 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:** November 30, 2005

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: MANATEE COUNTY FIRE PREVENTION CODE ENFORCEMENT BOARD AND MANATEE COUNTY FIRE MARSHAL APPEALS BOARD, 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: EXTENDS THE TERM OF THE BOARD FROM 2006 TO 2011.

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 BOARD STAFF, AND PRIOR REPRESENTATION OF SPECIAL DISTRICTS.

PREPARED BY: David E. Ramba 1/24/06
[Must be signed by Preparer] Date

TITLE: David E. Ramba, District Special Counsel

REPRESENTING: CEDAR HAMMOCK FIRE CONTROL DISTRICT

PHONE: (850) 222-5702

E-Mail Address: dramba@llw-aw.com

1 A bill to be entitled
2 An act relating to Manatee County; amending chapter 85-
3 461, Laws of Florida, as amended, which created the
4 Manatee County Fire Prevention Code Enforcement Board and
5 the Manatee County Fire Marshal Appeals Board; revising
6 the repeal date of the act, to continue such boards;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 3 of chapter 85-461, Laws of Florida,
12 as amended, is amended to read:
13 Section 3. This act shall be repealed on July 1, 2011
14 ~~2006~~.
15 Section 2. This act shall take effect upon becoming a law.

Local Government Council

Wednesday, March 15, 2006
2:30 p.m.
404 House Office Building

REVISED

Addendum A (3/15/2006 12:22 PM)

Allan G. Bense
Speaker

Ken Sorensen
Chair

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 Altman offered the following:
3 **Amendment (with title amendment)**
4 Remove everything after the enacting clause and insert:
5 Section 1. Paragraph (b) of subsection (2) of section
6 212.055, Florida Statutes, is amended to read:
7 212.055 Discretionary sales surtaxes; legislative intent;
8 authorization and use of proceeds.-- It is the legislative
9 intent that any authorization for imposition of a discretionary
10 sales surtax shall be published in the Florida Statutes as a
11 subsection of this section, irrespective of the duration of the
12 levy. Each enactment shall specify the types of counties
13 authorized to levy; the rate or rates which may be imposed; the
14 maximum length of time the surtax may be imposed, if any; the
15 procedure which must be followed to secure voter approval, if
16 required; the purpose for which the proceeds may be expended;
17 and such other requirements as the Legislature may provide.
18 Taxable transactions and administrative procedures shall be as
19 provided in s. 212.054.
20 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--
21 (a)1. The governing authority in each county may levy a
22 discretionary sales surtax of 0.5 percent or 1 percent. The levy

23 of the surtax shall be pursuant to ordinance enacted by a
24 majority of the members of the county governing authority and
25 approved by a majority of the electors of the county voting in a
26 referendum on the surtax. If the governing bodies of the
27 municipalities representing a majority of the county's
28 population adopt uniform resolutions establishing the rate of
29 the surtax and calling for a referendum on the surtax, the levy
30 of the surtax shall be placed on the ballot and shall take
31 effect if approved by a majority of the electors of the county
32 voting in the referendum on the surtax.
33 2. If the surtax was levied pursuant to a referendum held
34 before July 1, 1993, the surtax may not be levied beyond the
35 time established in the ordinance, or, if the ordinance did not
36 limit the period of the levy, the surtax may not be levied for
37 more than 15 years. The levy of such surtax may be extended only
38 by approval of a majority of the electors of the county voting
39 in a referendum on the surtax.
40 (b) A statement which includes a brief general description
41 of the projects to be funded by the surtax and which conforms to
42 the requirements of s. 101.161 shall be placed on the ballot by
43 the governing authority of any county which enacts an ordinance
44 calling for a referendum on the levy of the surtax or in which
45 the governing bodies of the municipalities representing a
46 majority of the county's population adopt uniform resolutions
47 calling for a referendum on the surtax. <u>If in addition to the</u>
48 <u>other uses authorized for the surtax, a county, municipality or</u>
49 <u>school district proposes to use the proceeds either to replace</u>
50 <u>or supplant existing ad valorem taxes or existing user fees as</u>
51 <u>provided in subparagraph (f) or to fund operating expenses of</u>
52 <u>infrastructure as provided in subparagraph (d)1, or both, the</u>
53 <u>ballot summary shall also state an estimate of the ad valorem</u>

54 taxes or user fees to be reduced or the infrastructure to be
55 operated. The following question shall be placed on the ballot:
56
57 _____FOR the _____-cent sales tax
58 _____AGAINST the _____-cent sales tax
59
60 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
61 levied under this subsection shall be distributed to the county
62 and the municipalities within such county in which the surtax
63 was collected, according to:
64 1. An interlocal agreement between the county governing
65 authority and the governing bodies of the municipalities
66 representing a majority of the county's municipal population,
67 which agreement may include a school district with the consent
68 of the county governing authority and the governing bodies of
69 the municipalities representing a majority of the county's
70 municipal population; or
71 2. If there is no interlocal agreement, according to the
72 formula provided in s. 218.62.
73
74 Any change in the distribution formula must take effect on the
75 first day of any month that begins at least 60 days after
76 written notification of that change has been made to the
77 department.
78 (d)1. The proceeds of the surtax authorized by this
79 subsection and any interest accrued thereto shall be expended by
80 the school district or within the county and municipalities
81 within the county, or, in the case of a negotiated joint county
82 agreement, within another county, to finance, plan, and
83 construct infrastructure and to acquire land for public
84 recreation or conservation or protection of natural resources

85 and to finance the closure of county-owned or municipally owned
86 solid waste landfills that are already closed or are required to
87 close by order of the Department of Environmental Protection.
88 Any use of such proceeds or interest for purposes of landfill
89 closure prior to July 1, 1993, is ratified. Neither the proceeds
90 nor any interest accrued thereto in excess of 10 percent of the
91 proceeds of the surtax shall be used for operational expenses of
92 any infrastructure, except that any county with a population of
93 less than 75,000 that is required to close a landfill by order
94 of the Department of Environmental Protection may use the
95 proceeds or any interest accrued thereto for long-term
96 maintenance costs associated with landfill closure. Counties, as
97 defined in s. 125.011(1), and charter counties may, in addition,
98 use the proceeds and any interest accrued thereto to retire or
99 service indebtedness incurred for bonds issued prior to July 1,
100 1987, for infrastructure purposes, and for bonds subsequently
101 issued to refund such bonds. Any use of such proceeds or
102 interest for purposes of retiring or servicing indebtedness
103 incurred for such refunding bonds prior to July 1, 1999, is
104 ratified.
105 2. For the purposes of this paragraph, "infrastructure"
106 means:
107 a. Any fixed capital expenditure or fixed capital outlay
108 associated with the construction, reconstruction, or improvement
109 of public facilities which have a life expectancy of 5 or more
110 years and any land acquisition, land improvement, design, and
111 engineering costs related thereto.
112
113 b. A fire department vehicle, an emergency medical service
114 vehicle, a sheriff's office vehicle, a police department
115 vehicle, or any other vehicle, and such equipment necessary to

116 outfit the vehicle for its official use or equipment that has a
117 life expectancy of at least 5 years.
118 c. Any expenditure for the construction, lease, or
119 maintenance of, or provision of utilities or security for,
120 facilities as defined in s. 29.008.
121 3. Notwithstanding any other provision of this subsection,
122 a discretionary sales surtax imposed or extended after the
123 effective date of this act may provide for an amount not to
124 exceed 15 percent of the local option sales surtax proceeds to
125 be allocated for deposit to a trust fund within the county's
126 accounts created for the purpose of funding economic development
127 projects of a general public purpose targeted to improve local
128 economies, including the funding of operational costs and
129 incentives related to such economic development. The ballot
130 statement must indicate the intention to make an allocation
131 under the authority of this subparagraph.
132 (e) School districts, counties, and municipalities
133 receiving proceeds under the provisions of this subsection may
134 pledge such proceeds for the purpose of servicing new bond
135 indebtedness incurred pursuant to law. Local governments may use
136 the services of the Division of Bond Finance of the State Board
137 of Administration pursuant to the State Bond Act to issue any
138 bonds through the provisions of this subsection. In no case may
139 a jurisdiction issue bonds pursuant to this subsection more
140 frequently than once per year. Counties and municipalities may
141 join together for the issuance of bonds authorized by this
142 subsection.
143 (f). <u>A school district, county and municipality may use</u>
144 <u>up to 35 percent of the proceeds to replace or supplant</u>
145 <u>existing property tax levies, and any debt related thereto, or</u>
146 <u>user fees that have been levied specifically for the purpose of</u>

147 providing infrastructure as defined above, or to purchase
148 environmentally sensitive lands. In the year following the
149 imposition of the surtax, the county, municipality or school
150 district that uses a portion of the proceeds of the surtax to
151 replace or supplant existing property tax levies or that uses a
152 portion of the proceeds for operating expenses of infrastructure
153 as specified in subparagraph (d)(1) shall reduce property taxes
154 by the amount of the proceeds used for those purposes.
155 (g) ~~(f)~~1. Notwithstanding paragraph (d), a county that has
156 a population of 50,000 or less on April 1, 1992, or any county
157 designated as an area of critical state concern on the effective
158 date of this act, and that imposed the surtax before July 1,
159 1992, may use the proceeds and interest of the surtax for any
160 public purpose if:
161 a. The debt service obligations for any year are met;
162 b. The county's comprehensive plan has been determined to
163 be in compliance with part II of chapter 163; and
164 c. The county has adopted an amendment to the surtax
165 ordinance pursuant to the procedure provided in s. 125.66
166 authorizing additional uses of the surtax proceeds and interest.
167 2. A municipality located within a county that has a
168 population of 50,000 or less on April 1, 1992, or within a
169 county designated as an area of critical state concern on the
170 effective date of this act, and that imposed the surtax before
171 July 1, 1992, may not use the proceeds and interest of the
172 surtax for any purpose other than an infrastructure purpose
173 authorized in paragraph (d) unless the municipality's
174 comprehensive plan has been determined to be in compliance with
175 part II of chapter 163 and the municipality has adopted an
176 amendment to its surtax ordinance or resolution pursuant to the
177 procedure provided in s. 166.041 authorizing additional uses of

178 the surtax proceeds and interest. Such municipality may expend
179 the surtax proceeds and interest for any public purpose
180 authorized in the amendment.
181 3. Those counties designated as an area of critical state
182 concern which qualify to use the surtax for any public purpose
183 may use only up to 10 percent of the surtax proceeds for any
184 public purpose other than for infrastructure purposes authorized
185 by this section.
186 (g) Notwithstanding paragraph (d), a county having a
187 population greater than 75,000 in which the taxable value of
188 real property is less than 60 percent of the just value of real
189 property for ad valorem tax purposes for the tax year in which
190 an infrastructure surtax referendum is placed before the voters,
191 and the municipalities within such a county, may use the
192 proceeds and interest of the surtax for operation and
193 maintenance of parks and recreation programs and facilities
194 established with the proceeds of the surtax throughout the
195 duration of the surtax levy or while interest earnings accruing
196 from the proceeds of the surtax are available for such use,
197 whichever period is longer.
198 (h) Notwithstanding any other provision of this section, a
199 county shall not levy local option sales surtaxes authorized in
200 this subsection and subsections (3), (4), and (5) in excess of a
201 combined rate of 1 percent.
202 Section 2. This act shall take effect July 1, 2006.
203
204 ========== T I T L E A M E N D M E N T ==========
205 Remove the entire title and insert:
206 An act relating to the local government infrastructure
207 surtax; amending s. 212.055, F.S.; amending s. 212.055,
208 F.S.; revising ballot summary requirement; authorizing the

209 use of surtax proceeds for operational expenses;
210 authorizing the use of surtax proceeds to supplant or
211 replace existing revenue sources and related debt and
212 requiring corresponding reduction in property taxes;
213 providing an effective date.