

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: PCS for HB 957 Marion County
SPONSOR(S): Military & Local Affairs Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------|---|---------------|----------------|-----------------------|
| Orig. Comm.: | Military & Local Affairs Policy Committee | | Nelson | Hoagland |
| 1) | Military & Local Affairs Policy Committee | | | |
| 2) | Finance & Tax Council | | | |
| 3) | Economic Development & Community Affairs Policy Council | | | |
| 4) | | | | |
| 5) | | | | |

SUMMARY ANALYSIS

This PCS for HB 957 repeals a 1985 chapter law relating to special assessments in Marion County. This special act provided that the board of county commissioners had the authority to levy special assessments on a per parcel, per structure, and per acre basis against real estate lying within the territorial bounds of municipal service taxing units established pursuant to a referendum or petition.

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

The bill has an effective date of upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Marion County

Chapter 85-467, L.O.F., provides that the board of county commissioners of Marion County, as authorized by s. 125.01(1)(q), F.S., has the right, power and authority to levy special assessments on a per parcel, per structure, and per acre basis against taxable real estate lying within the territorial bounds of municipal service taxing units (MSTU) established pursuant to a referendum or a petition signed by at least 51 percent of the land owners in said unit. The rate of such assessments is required to be fixed by an ordinance based on land use classification set forth in a schedule as part of the ordinance.

The Marion County property appraiser is required to furnish the board with a tax roll covering all taxable properties within the territorial limits of the municipal service taxing units. A property owner in the MSTU has the right to file written protest of the proposed assessments, the amount and rate thereof and to appear before the board. The board is required to hold a meeting or meetings to consider and act upon any such protest.

The board is required to adopt a resolution fixing the rate of the assessments. The county property appraiser then includes the assessments in the county tax roll, and collects the taxes and pays the taxes to the board, subject to a total commission of three percent. Time periods for placing the levy, the filing of protest, and adoption of the resolution fixing the rate of assessment are required to be set out in the ordinance establishing the amounts of assessment.

The act provides that special assessments for road improvements are a lien upon the assessed land until the assessments have been paid, and if the assessments become delinquent, are considered a part of the county tax subject to the same penalties, charges, fees and remedies for enforcement and collection, and will be enforced and collected as provided by the laws of the state for the collection of such taxes.

According to the Office of the Marion County Attorney, in the 1980s, the county mistakenly believed that the only methodology available for levying special assessments for road and drainage improvements was on a "front foot" basis. Therefore, the county requested enactment of the above-

referenced special act to provide specific legal authority to levy special assessments on a per parcel, per structure and per acre basis.¹

Recently, a Rainbow Springs property owner sued Marion County. The lawsuit alleged that the commissioners violated state law when they established a municipal services benefit unit to fund road paving without a petition of support from 51 percent of the landowners.

Special Assessments

The legislative and governing body of a county has the authority pursuant to s. 125.01(1)(r), F.S., to levy and collect special assessments in such manner and subject to such limitations as may be provided by general law. For a special assessment to be valid and enforceable, it must be made pursuant to legislative authority and the method prescribed by the legislature must be substantially followed. *Madison County v. Foxx*, 636 So.2d 39 (1994). To be valid as a special assessment, the assessed property must derive a direct, special benefit from the service provided and the assessment must be fairly and reasonably apportioned among properties. *Donnelly v. Marion County*, 851 So. 2d 256 (2003).

Counties are also authorized by statute to levy special assessments to fund certain services provided through a municipal service taxing unit. Section 125.01(1)(q), F.S., provides, in relevant part, that the governing body may establish MSTUs "for any part or all of the unincorporated area of the county, within which may be provided...streets...and other essential facilities and municipal services from funds derived from....special assessments...within such unit only."

Effect of Proposed Changes

The PCS for HB 957 repeals ch. 85-467, L.O.F., relating to the authority of the Marion County Board of County Commissioners to levy special assessments on a per parcel, per structure, and per acre basis against real estate lying within the territorial bounds of municipal service taxing units established pursuant to a referendum or petition.

The act has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 85-467, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 8, 2010

WHERE? The *Star-Banner*, a daily newspaper published in Marion County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

¹ March 15, 2010, memorandum from Robert J. Fowler, Assistant County Attorney, to the Marion County Delegation, and March 19, 2010, telephone conversation.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill will have no effect on individuals, business or governments. The adoption of this local bill will place Marion County in the same position as all other local governments with regard to their ability to impose non-ad valorem assessments for road improvements.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Military & Local Affairs Policy Committee will meet and consider the Proposed Committee Substitute for HB 957. The PCS departs from HB 957 in the following area:

- The PCS removes language which ratified, validated and confirmed special assessments levied by the board of county commissioners that were invalidated or subject to invalidation for failure to follow the requirements of ch. 85-467, L.O.F., prior to its repeal by HB 957.