

Finance and Tax Committee

Tuesday, February 9, 2016

3:00 p.m. – 5:30 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Committee



Steve Crisafulli
Speaker

Matt Gaetz
Chair


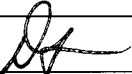
AGENDA

February 9, 2016
3:00 p.m. – 5:30 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration on the following bills:**
 - HB 773 Special Assessments on Agricultural Lands by Albritton
 - CS/HB 1133 Emergency Management by Economic Development & Tourism Subcommittee, Young
 - CS/HB 1203 Tourist Development Taxes by Economic Development & Tourism Subcommittee, Drake
 - HB 1265 Greater Naples Fire Rescue District, Collier County by Passidomo
 - CS/HB 1267 Greater Naples Fire Rescue District, Collier County by Local Government Affairs Subcommittee, Passidomo
 - PCS for HB 789 -- Local Government Finance
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 773 Special Assessments on Agricultural Lands
SPONSOR(S): Albritton
TIED BILLS: IDEN./SIM. BILLS: SB 1664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N	Gregory	Harrington
2) Finance & Tax Committee		Aldridge 	Langston 
3) State Affairs Committee			

SUMMARY ANALYSIS

A special assessment is a compulsory assessment that confers a specific benefit upon the land burdened by the assessment and is reasonably apportioned among those who must pay the assessment. Special assessments are not taxes. Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities.

Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments for other uses.

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying or collecting a special assessment for the provision of fire protection on lands classified as agricultural under Florida's greenbelt law.

The Revenue Estimating Impact Conference estimated that this bill will have no impact on state revenue and a negative \$6.9 million annual impact on local governments.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agricultural Land Classification

Section 193.461, F.S., also known as Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments for other uses.

Revenue Sources Based on Home Rule Authority

Florida provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on the context of requirements established in Florida case law.¹

Special Assessments

While similar, legally imposed special assessments are not taxes. The Florida Supreme Court explained:

Taxes and special assessments are distinguishable in that, while both are mandatory, there is no requirement that taxes provide any specific benefit to the property; instead, they may be levied throughout the particular taxing unit for the general benefit of residents and property. On the other hand, special assessments must confer a specific benefit upon the land burdened by the assessment.²

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Special districts derive their authority to levy special assessments through general law or special act creating the district.³

Case law established two requirements for the imposition of a valid special assessment:

- 1) Property assessed must derive a special benefit from the improvement or service provided; and
- 2) The assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.⁴

To determine whether a special assessment confers a special benefit on property, local governments must evaluate whether there is a "logical relationship" between the services provided and the benefit to real property.⁵ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,⁶ fire protection,⁷ fire and rescue services,⁸ and stormwater management services.⁹

¹ See Office of Economic and Demographic Research, Local Government Financial Information Handbook, at 9-15 (2013).

² City of Boca Raton v. State, 595 So. 2d 25, 29 (Fla. 1992).

³ For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.

⁴ City of Boca Raton, at 29.

⁵ Whisnant v. Stringfellow, 50 So. 2d 885, 885 (Fla. 1951).

⁶ Harris v. Wilson, 693 So. 2d 945 (Fla. 1997).

⁷ South Trail Fire Control Dist., Sarasota County v. State, 273 So. 2d 380 (Fla. 1973).

⁸ Lake County v. Water Oak Mgmt Corp., 695 So. 2d 667 (Fla. 1997).

Once an identified service or capital facility satisfies the special benefit test, the local government must fairly apportion the assessment among the benefited properties in a manner consistent with the logical relationship embodied in the special benefit requirement.¹⁰ An apportionment is considered reasonable unless it "so transcend[s] the limits of equality and reason" that it becomes extortion and confiscation of the property assessed.¹¹ "As long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts," any method of apportioning the special benefits is valid and need not be mathematically precise.¹² Courts have accepted several apportionment methods.¹³

Generally, a special assessment is collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."¹⁴

Assessments by Independent Fire Control Districts

An independent special fire control district may levy non-ad valorem assessments for district facilities, fire suppression services, fire protection services, fire prevention services, emergency rescue services, first response medical aid, emergency medical services, and emergency transport services.¹⁵ The provision of such services is recognized as constituting a benefit to real property.¹⁶ If a district levies a non-ad valorem assessment for emergency medical and emergency transport service, then the district must cease charging an ad valorem tax for the service.¹⁷

Effect of the Proposed Changes

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying or collecting a special assessment for the provision of fire protection services on lands classified as agricultural under Florida's greenbelt law.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.01, F.S., relating to the powers and duties of counties.

Section 2. Amends s. 170.01, F.S., relating to municipalities' authority to provide improvements and levy and collect special assessments.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁹ Sarasota County v. Sarasota Church of Christ, 667 So. 2d 180 (Fla. 1995).

¹⁰ City of Boca Raton, at 29.

¹¹ Atlantic Coast Line R.R. v. City of Winter Haven, 151 So. 321, 324 (Fla.1933).

¹² City of Boca Raton, at 31.

¹³ See Atlantic Coast Line R.R., at 323 (accepting front foot rule); Meyer v. City of Oakland Park, 219 So.2d 417, 419 (Fla.1969) (accepting area method); City of Naples v. Moon, 269 So. 2d 355, 358 (Fla.1972) (accepting market value method).

¹⁴ Section 197.3632(1)(d), F.S.

¹⁵ Section 191.009(2)(a) and (b), F.S.

¹⁶ Section 191.009(2)(b)2., F.S.

¹⁷ Section 191.00992)(b)1., F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Impact Conference estimated that this bill will have a negative \$6.9 million annual impact on local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some owners of lands classified as agricultural may benefit by being exempt from county and municipal special assessments for fire protection services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the authority of counties and municipalities to raise revenues by eliminating their ability to collect special assessments for fire protection services on lands classified as agricultural. If this bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

While the bill prohibits counties and municipalities from levying and collecting special assessments for fire protection services, it does not appear to capture special districts that derive their special assessment authority from separate statutes, such as independent fire control districts in s. 191.009, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to special assessments on agricultural
 3 lands; amending ss. 125.01 and 170.01, F.S.;
 4 prohibiting counties and municipalities from levying
 5 or collecting special assessments on certain
 6 agricultural lands for the provision of fire
 7 protection services; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraph (r) of subsection (1) of section
 12 125.01, Florida Statutes, is amended to read:

13 125.01 Powers and duties.—

14 (1) The legislative and governing body of a county shall
 15 have the power to carry on county government. To the extent not
 16 inconsistent with general or special law, this power includes,
 17 but is not restricted to, the power to:

18 (r) Levy and collect taxes, both for county purposes and
 19 for the providing of municipal services within any municipal
 20 service taxing unit, and special assessments; borrow and expend
 21 money; and issue bonds, revenue certificates, and other
 22 obligations of indebtedness, which power shall be exercised in
 23 such manner, and subject to such limitations, as may be provided
 24 by general law. There shall be no referendum required for the
 25 levy by a county of ad valorem taxes, both for county purposes
 26 and for the providing of municipal services within any municipal

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27 | service taxing unit. Notwithstanding any other provision of law,
28 | a county may not levy or collect special assessments for the
29 | provision of fire protection services on lands classified as
30 | agricultural lands under s. 193.461.

31 | Section 2. Subsection (4) is added to section 170.01,
32 | Florida Statutes, to read:


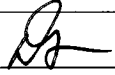
33 | 170.01 Authority for providing improvements and levying
34 | and collecting special assessments against property benefited.-

35 | (4) Notwithstanding any other provision of law, a
36 | municipality may not levy or collect special assessments for the
37 | provision of fire protection services on lands classified as
38 | agricultural lands under s. 193.461.

39 | Section 3. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1133 Emergency Management
SPONSOR(S): Economic Development & Tourism Subcommittee; Young
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N, As CS	White	Duncan
2) Finance & Tax Committee		Pewitt 	Langston 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

CS/HB1133 creates the "Facilitating Business Rapid Response to State Declared Disasters Act," defines terms, and provides that out-of-state businesses are not considered to have established a level of presence that would require a business to register, file, and remit state or local taxes or fees, or be subject to any registration, licensing, or filing requirements, when the out-of-state businesses are:

- conducting operations within the state solely to perform disaster-related work or emergency-related work during a disaster-response period, or
- in the state pursuant to a mutual aid agreement.

The bill lists specific taxes for which these out-of-state businesses are not subject to registration, filing or remittance requirements:

- Reemployment assistance taxes;
- State or local professional or occupational licensing requirements or related fees;
- Local business taxes;
- Taxes on the operation of commercial motor vehicles;
- Corporate income tax; and
- Tangible personal property tax and use tax on equipment the out-of-state business brings into the state, uses for disaster-related or emergency-related work during the disaster-response period, and then removes.

The bill provides that an out-of-state business or out-of-state employee remaining in the state after the disaster-response period is not entitled to the procedures provided in this act and is subject to the state's normal standards for establishing presence or residency or doing business in the state.

On February 5, 2016 the Revenue Estimating Conference determined the bill has no recurring state or local revenue impact, but may have a negative indeterminate impact in any given year, depending in part on the occurrence and severity of declared states of emergency.

The bill provides that the act is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Declaration of a State Emergency

The process for declaring a state of emergency is as follows:¹

- The public is alerted to and/or warned of an imminent or actual event.
- The Division of Emergency Management (DEM) initiates response plans of the Comprehensive Emergency Management Plan (CEMP) to manage the emergency or disaster.
- A county declares a local state of emergency.
- The Director of DEM determines that a state of emergency is required, and recommends that the Governor declare a state of emergency.
- Through executive order or proclamation, the Governor declares a state of emergency.² The Governor may then direct or delegate operational control over any or all parts of the emergency management functions within the state. The Governor may additionally use all resources of the state government, and of each political subdivision of the state, which are necessary to manage the emergency.³

A declared State of Emergency is limited to 60 days, unless renewed by the Governor or terminated by the Legislature.⁴

Stabilization of Disaster-Related Impacts for Businesses

All state agencies and volunteer organizations, that comprise the State Emergency Response Team (SERT), are grouped into 18 Emergency Support Functions (ESFs).⁵ ESF #18 is the unit that consolidates multiple agencies that perform functions that ensure business, industry, and economic stabilization.⁶ ESF 18 is tasked with identification and solicitation of resources to meet identified needs, and also supports SERT efforts by facilitating and coordinating intermediate and long term economic impact statements.⁷

Taxes

Reemployment Assistance Taxes

The Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.⁸ The program is administered as a partnership of the

¹ Florida Division of Emergency Management (DEM), Comprehensive Emergency Management Plan, p. 28, available at: <http://floridadisaster.org/cemp.htm>.

² Section 252.36(2) F.S.

³ Section 252.36(5) F.S.

⁴ Section 252.36(2) F.S.

⁵ DEM, Emergency Support Functions, available at: <http://www.floridadisaster.org/emtools/esf.htm> ; DEM, Comprehensive Emergency Management Plan, pg. 40-41, available at: <http://floridadisaster.org/cemp.htm> (Last visited Jan. 27, 2016.)

⁶ DEM, Comprehensive Emergency Management Plan Appendix XVIII, available at:

http://floridadisaster.org/documents/CEMP/2014/2014%20Finalized%20ESFs/2014%20ESF%2018%20Appendix_finalized.pdf.

⁷ *Id.*

⁸ United States Department of Labor, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcsecurity.doleta.gov/unemploy/uifactsheet.asp> (Last visited Jan. 26, 2016.).

federal government and the states.⁹ In general, states are permitted to set eligibility conditions for benefit recipients, the amount and duration of benefits, and the state tax structure, so long as state provisions are not in conflict with FUTA or the Social Security Act.¹⁰

Florida's Reemployment Assistance (RA) Program is funded solely by employers who pay quarterly state reemployment taxes provided in ch. 443, F.S., and annual payroll taxes under the Federal Unemployment Tax Act (FUTA).¹¹ State reemployment taxes are deposited into the Unemployment Compensation Trust Fund (UC Trust Fund), which are then used to pay reemployment benefits at no cost to eligible workers. Taxes collected from employers pursuant to FUTA fund the administrative costs of the RA Program. A portion of these funds is also used to finance the federal share of the Extended Benefits program, which is available during periods of high unemployment.

Program Administration

Florida's unemployment insurance program was created by the Legislature in 1937,¹² and rebranded as the "reemployment assistance" program in 2012.¹³ The Department of Economic Opportunity (DEO) is the agency responsible for administering the RA program.¹⁴ DEO contracts with the Department of Revenue (DOR) to provide reemployment tax collection services.¹⁵ The United States Department of Labor (USDOL) provides DEO with administrative resource grants from the taxes collected from employers pursuant to FUTA. These funds finance the processing of claims by DEO, state reemployment tax collections performed by DOR, appeals conducted by DEO and the Unemployment Appeals Commission, and related administrative functions.

Tax Structure

Through the FUTA, the IRS levies an unemployment tax of 6.0% on employers.¹⁶ This tax is applied to a taxable wage base of \$7,000 per employee. Federal law provides employers up to a 5.4% credit against that tax.¹⁷ If a state has outstanding loan balances on January 1 for two consecutive years, and does not repay the full amount of its loans by November 10 of the second year, the FUTA credit rate for employers in that state will be reduced until the loan is repaid. Due to having outstanding federal advances for more than two years, Florida had its FUTA tax credit reduced by 0.3% for the 2011 calendar year, and 0.6% for the 2012 calendar year.¹⁸

In addition to FUTA, Florida employers pay a state reemployment tax which funds the UC Trust Fund, an account used to pay weekly benefits. Currently, employers pay quarterly state reemployment taxes on the first \$7,000 of each employee's annual wages.¹⁹ An employer's initial state tax rate is 2.7 percent.²⁰ After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but may be adjusted down to a low of 1.0 percent.²¹ The adjustment in the tax rate is determined by calculating a statutory formula that incorporates an employer's experience rating,²² size of the UC Trust Fund, and other socialized costs.

⁹ There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia. Social Security Office of Retirement and Disability Policy, Annual Statistical Supplement, available at <https://www.ssa.gov/policy/docs/statcomps/supplement/2014/unemployment.html> (Last visited Jan., 26, 2016.).

¹⁰ Title III, Title IX, and Title XII of the Social Security Act.

¹¹ Federal Unemployment Tax Act is codified at 26 U.S.C. 3301-3311.

¹² Chapter 18402, L.O.F.

¹³ Chapter 2012-30, L.O.F.

¹⁴ Sections 20.60(5)(c)(3) and 443.171, F.S.

¹⁵ Section 443.1316, F.S.

¹⁶ IRS, FUTA Credit Reduction, available at <https://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/FUTA-Credit-Reduction> (Last visited Jan. 28, 2016.).

¹⁷ *Id.*

¹⁸ For Florida, there have been no FUTA credit reductions due to outstanding federal advances, since 2012. US DOL, Historical FUTA Credit Reductions, available at <http://workforcesecurity.doleta.gov/unemploy/finance.asp> (Last visited Jan. 28, 2016.).

¹⁹ Section 443.1217(2), F.S.

²⁰ Section 443.131(2)(a), F.S.

²¹ Section 443.131(2)(b), F.S.

²² Section 443.131(3)(b), F.S.

State or Local Professional or Occupational Licenses

The Florida Department of Business and Professional Regulation (DBPR) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.²³ The DBPR is the agency charged with licensing and regulating various businesses and professionals in the state, including but not limited to, electrical contractors, the construction industry, building code administrators and inspectors, cosmetologists, veterinarians, real estate agents and pari-mutuel wagering facilities.²⁴ Section 455.213, F.S., provides the general provisions for issuance of professional licensure by the DBPR.

There are 22 professions regulated by DBPR. Cumulatively, there are more than 450 fees associated with the regulation of these professions. The fees range from five dollars to \$2,500.²⁵

Local Business Taxes

The local business tax represents the taxes charged and the method by which a local government grants the privilege of engaging in or managing any business, profession, and occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government. This tax does not refer to any fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.²⁶

State law does not prohibit a county or municipality from decreasing or repealing any authorized local business tax, and a county or municipal governing body may adopt an ordinance by majority vote that repeals a local business tax or establishes new rates that decrease local business taxes and do not result in an increase in local business taxes for a taxpayer.²⁷ State law exempts, or allows local governments to exempt, certain individuals from all or some portion of local business taxes.²⁸ State law also regulates the issuance of local business tax receipts to certain individuals or businesses.

State law provides that if any person engaging in or managing a business, profession, or occupation regulated by the DBPR has paid a business tax for the current year to the county or municipality in the state where the person's permanent business location or branch is maintained, no other local governing authority may levy a business tax, or any registration or regulatory fee equivalent to the business tax, on the person for performing work or services on a temporary or transitory basis in another county or municipality.²⁹ For the purposes of the Local Business Tax Act, work or services performed in a place other than the county or municipality where the permanent business location or branch office is maintained may not be construed as creating a separate business location or branch office of that person.³⁰

Taxes on the Operation of Commercial Motor Vehicles

The Department of Highway Safety and Motor Vehicles (HSMV) administers rules related to the taxes levied for the privilege of operating a commercial motor vehicle on public highways in Florida. Section 207.002, F.S., defines a "Commercial motor vehicle" as any vehicle not owned or operated by a governmental entity, using diesel or motor fuel on public highways, and weighing over 26,000 pounds. The taxes due are those motor and diesel fuel taxes found in parts I, II, and IV of Ch. 206, F.S.

²³ Chapter 93-220, L.O.F.

²⁴ Department of Business and Professional Regulation, *available at*: <http://www.myfloridalicense.com/dbpr/index.html> (Last visited January 28, 2016.).

²⁵ Florida Estimating Conference, 2016 Florida Tax Handbook, p. 148, *available at*: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2016.pdf>.

²⁶ Florida Legislature, Office of Economic and Demographic Research, 2015 Local Government Financial Information Handbook, December 2015, p. 148, *available at* <http://edr.state.fl.us/Content/local-government/reports/index.cfm#local-government> (Last visited Jan. 28, 2016.).

²⁷ Section s. 205.0535(5), F.S.

²⁸ *See* ch. 205, F.S., relating to local business taxes.

²⁹ Section 205.065, F.S.

³⁰ *Id.*

Penalties³¹ with interest³² exist for delinquent taxes, as well as the possibility of suspension of registration and punishments for third degree felony if a fraudulent report is filed.³³

The Division of Motor Vehicles (DMV) within HSMV ensures commercial carriers are properly registered and pay the appropriate gasoline tax for intrastate and interstate commerce. The Office of Motor Carrier Size and Weight within the HSMV is staffed by regulatory weight inspectors that perform commercial vehicle safety and weight enforcement. These inspectors weigh trucks and check registration and fuel tax compliance at 20 fixed-scale locations along major highways, and statewide by using portable scales. Over 20 million vehicles are weighed annually.³⁴

Corporate Income Taxes

Florida levies a corporate income tax on corporations at 5.5 percent of income earned in Florida.³⁵ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.³⁶ After certain addbacks and subtractions to federal taxable income, as required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.³⁷ The Florida corporate income tax uses a three-factor apportionment formula consisting of property – 25%, payroll -25%, and sales – 50% (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.³⁸ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.³⁹

Tangible Personal Property

“Tangible Personal Property” means all goods, chattels, and other articles of value (excluding some vehicular items) capable of manual possession and whose chief value is intrinsic to the article itself. Inventory and household goods are excluded.⁴⁰

In Florida property taxes (i.e., “ad valorem taxes”) are levied by local governments on real and tangible personal property. In order for tangible personal property to be subject to ad valorem tax in a given year it must have been present in the state for at least one month as of January 1 of the tax year.

Florida's sales and use tax is a six percent levy on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles.⁴¹ There are currently more than 250 different exemptions, exclusions, deductions, and credits from sales and use tax.⁴² Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale. If tangible personal property is imported to Florida for use in Florida it may, under some circumstances, be subject to a “use tax” at the same rate as the sales tax.

Effect of Proposed Changes

The bill creates the “Facilitating Business Rapid Response to State Declared Disasters Act.”

Definitions

The bill defines the following terms as follows:

³¹ Sections 207.007(1), 207.012, 207.013, and 207.014, F.S.

³² Section 207.007(2), F.S.

³³ Section 207.007(3), F.S.

³⁴ FDOT, Motor Carrier Size and Weight, *available at* <http://www.dot.state.fl.us/statemaintenanceoffice/motorcarrier.shtml> (Last visited Jan. 28, 2016).

³⁵ s. 220.11, F.S.

³⁶ s. 220.12, F.S.

³⁷ *See* s. 220.15, F.S.

³⁸ s. 220.15, F.S. *See* Florida Revenue Estimating Conference, 2016 Florida Tax Handbook, p. 62, *available at* <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2016.pdf>.

³⁹ Section 220.14, F.S.

⁴⁰ Section 192.001(11)(d), F.S.

⁴¹ *See* ch. 212, F.S.

⁴² *Supra* note 25 at 164-167.

- “Emergency-related work” means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by an event that has resulted in a declaration of a state of emergency.
- “Disaster-response period” means:
 - A period that begins 10 calendar days before the first day of a declared state of emergency and ends on the 60th calendar day after the end of the declared state of emergency; or
 - A period that begins on the date that an out-of-state business enters this state in good faith under a mutual aid agreement and in anticipation of a disaster, regardless of whether a state of emergency is declared, and ends on the date that the work is concluded, or 7 calendar days after the out-of- state business enters this state, whichever occurs first.
- “Infrastructure” means public roads; public bridges; property and equipment owned or used by communication networks, electric generating systems, transmission and distribution systems, gas distribution systems, or water pipelines; and related support facilities that serve multiple persons which include, but are not limited to, buildings, offices, power and communication lines and poles, pipes, structures, and equipment.
- “Mutual aid agreement” means an agreement to which one or more business entities are parties and under which a public utility, municipally owned utility, electric cooperative, or joint agency owning, operating, or owning and operating infrastructure used for electric generation, transmission, or distribution in this state may request that an out-of-state business perform work in this state in anticipation of a disaster or an emergency.
- “Out-of-state business” means a business entity that:
 - Does not have a presence in this state, except with respect to the performance of emergency-related work, and conducts no business in this state, and whose services are requested by a registered business or by a unit of state or local government for purposes of performing emergency-related work in this state; and
 - Is not registered and does not have tax filings or presence sufficient to require the collection or payment of a tax in this state in the tax year before the disaster-response period.

The term also includes a business entity that is affiliated with a registered business solely through common ownership.
- “Out-of-state employee” means an employee who does not work in this state, except for emergency-related work during a disaster-response period.
- “Registered business” means a business entity that is registered to do business in this state before the disaster-response period begins.

Insufficient level of presence for Out-of-State Businesses and Employees

The bill provides that an out-of-state business conducting operations within the state solely to perform emergency-related work during a disaster-response period or pursuant to a mutual aid agreement is not considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or fees or require that business to be subject to any registration, licensing, or filing requirements in this state.

The bill further provides that for purposes of any state or local tax on or measured, in whole or in part, by net or gross income or receipts, the activity of the out-of-state business conducted in this state during the disaster-response period must be disregarded with respect to any filing requirements for such tax, including the filing required for a consolidated group of which the out-of-state business is a subsidiary.

The bill lists specific taxes that the above provisions apply to:

- Reemployment assistance taxes.
- State or local professional or occupational licensing requirements or related fees.
- Local business taxes.
- Taxes on the operation of commercial motor vehicles.
- Corporate income tax.
- Tangible personal property tax and use tax on equipment that is brought into the state by the out-of-state business, used by the out-of-state business only to perform emergency-related work during the disaster-response period, and removed from the state by the out-of-state business following the disaster-response period.

An out-of-state employee whose only employment in this state is for the performance of emergency-related work during a disaster-response period is not required to: register, file, or remit state or local taxes; and comply with state or local occupational licensing requirements or related fees.

Obligations after Disaster-Response Period

An out-of-state employee or out-of-state business that remains in the state after the disaster-response period is not entitled to the aforementioned procedures for any activities performed after the disaster-response period ends, and is subject to the state's normal standards for establishing presence or residency or doing business in the state.

The bill provides that it is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Creates s. 252.64, F.S., the "Facilitating Business Rapid Response to State Declared Disasters Act."

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On February 5, 2016 the Revenue Estimating Conference determined the bill has no recurring state revenue impact, but may have a negative indeterminate impact in any given year, depending in part on the occurrence and severity of declared states of emergency.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On February 5, 2016 the Revenue Estimating Conference determined the bill has no recurring local revenue impact, but may have a negative indeterminate impact in any given year, depending in part on the occurrence and severity of declared states of emergency.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that out-of-state businesses respond to emergencies in Florida and are exempt from paying the enumerated taxes during declared state emergencies, these businesses may operate at lower costs. If, as a result of the bill, out-of-state businesses can respond to Florida emergencies faster, then the private sector may resume normal operations faster than they would have been able to otherwise.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipal mandates provision of Art. VII, section 18 of the Florida Constitution may apply because the bill may result in occasional reductions in authority to raise certain revenue through the local business tax and ad valorem tax on tangible personal property. However, an exemption may apply because the frequency of the reductions is unknown and likely insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Economic Development & Tourism Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Relocates the bill language from ch. 252, F.S., relating emergency management, to ch. 213, F.S., relating to state revenue laws.
- Replaces the term "disaster-related work," with "emergency-related work."
- Removes the provisions requiring notification to the Division of Emergency Management.
- Removes a provision providing that, during a disaster-response period, out-of-state employees and out-of-state businesses performing disaster-related or emergency-related work are still subject to motor and other fuel taxes imposed pursuant to ch. 206, F.S, and sales and use taxes imposed pursuant to ch. 212, F.S.

This analysis has been updated to reflect the amendment.

1 A bill to be entitled
 2 An act relating to emergency management; amending s.
 3 213.055, F.S.; providing definitions; providing
 4 exemptions from certain registration and licensing
 5 requirements and taxes for out-of-state businesses and
 6 employees that enter the state in response to a
 7 disaster or an emergency; specifying the applicability
 8 of certain transaction taxes and fees; specifying the
 9 obligations of an out-of-state business or employee
 10 after the disaster-response period; providing an
 11 effective date.

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

15 Section 1. Subsection (3) is added to section 213.055,
 16 Florida Statutes, to read:

17 213.055 Declared emergency; waiver or suspension of
 18 specified revenue laws.—The following actions to waive or
 19 suspend a revenue law may be implemented only when the Governor
 20 has declared a state of emergency pursuant to s. 252.36.

21 (3)(a) As used in this subsection, the term:

22 1. "Disaster-response period" means:

23 a. A period that begins 10 calendar days before the first
 24 day of a declared state of emergency and ends on the 60th
 25 calendar day after the end of the declared state of emergency;
 26 or

27 b. A period that begins on the date that an out-of-state
 28 business enters this state in good faith under a mutual aid
 29 agreement and in anticipation of a disaster, regardless of
 30 whether a state of emergency is declared, and ends on the date
 31 that the work is concluded, or 7 calendar days after the out-of-
 32 state business enters this state, whichever occurs first.

33 2. "Emergency-related work" means repairing, renovating,
 34 installing, building, rendering services, or other business
 35 activities that relate to infrastructure that is damaged,
 36 impaired, or destroyed by an event resulting in a declaration of
 37 a state of emergency.

38 3. "Infrastructure" means public roads; public bridges;
 39 property and equipment owned or used by communication networks,
 40 electric generating systems, transmission and distribution
 41 systems, gas distribution systems, or water pipelines; and
 42 related support facilities that serve multiple persons which
 43 include, but are not limited to, buildings, offices, power and
 44 communication lines and poles, pipes, structures, and equipment.

45 4. "Mutual aid agreement" means an agreement to which one
 46 or more business entities are parties and under which a public
 47 utility, municipally owned utility, electric cooperative, or
 48 joint agency owning, operating, or owning and operating
 49 infrastructure used for electric generation, transmission, or
 50 distribution in this state may request that an out-of-state
 51 business perform work in this state in anticipation of a
 52 disaster or an emergency.

53 5. "Out-of-state business" means a business entity that:

54 a. Does not have a presence in this state, except with
 55 respect to the performance of emergency-related work, and
 56 conducts no business in this state, and whose services are
 57 requested by a registered business or by a unit of state or
 58 local government for purposes of performing emergency-related
 59 work in this state; and

60 b. Is not registered and does not have tax filings or
 61 presence sufficient to require the collection or payment of a
 62 tax in this state during the tax year immediately before the
 63 disaster-response period. The term also includes a business
 64 entity that is affiliated with a registered business solely
 65 through common ownership.

66 6. "Out-of-state employee" means an employee who does not
 67 work in this state, except for emergency-related work during a
 68 disaster-response period.

69 7. "Registered business" means a business entity that is
 70 registered to do business in this state before the disaster-
 71 response period begins.

72 (b)1. Notwithstanding any other provision of law, an out-
 73 of-state business that is conducting operations within this
 74 state during a disaster-response period solely for purposes of
 75 performing emergency-related work or pursuant to a mutual aid
 76 agreement is not considered to have established a level of
 77 presence that would require that business to register, file, and
 78 remit state or local taxes or fees or require that business to

79 be subject to any registration, licensing, or filing
 80 requirements in this state. For purposes of any state or local
 81 tax on or measured, in whole or in part, by net or gross income
 82 or receipts, the activity of the out-of-state business conducted
 83 in this state during the disaster-response period must be
 84 disregarded with respect to any filing requirements for such
 85 tax, including the filing required for a consolidated group of
 86 which the out-of- state business may be a part. This includes
 87 the following:

- 88 a. Reemployment assistance taxes.
- 89 b. State or local professional or occupational licensing
 90 requirements or related fees.
- 91 c. Local business taxes.
- 92 d. Taxes on the operation of commercial motor vehicles.
- 93 e. Corporate income tax.
- 94 f. Tangible personal property tax and use tax on equipment
 95 that is brought into the state by the out-of-state business,
 96 used by the out-of-state business only to perform emergency-
 97 related work during the disaster-response period, and removed
 98 from the state by the out-of-state business after the disaster-
 99 response period.

100 2. Notwithstanding any other provision of law, an out-of-
 101 state employee whose only employment in this state is for the
 102 performance of emergency-related work or pursuant to a mutual
 103 aid agreement during a disaster-response period is not required
 104 to:

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2016

105 | a. Register, file, or remit state or local taxes.

106 | b. Comply with state or local occupational licensing
107 | requirements or related fees.

108 | (c) An out-of-state business or out-of-state employee that
109 | remains in this state after the disaster-response period is not
110 | entitled to the procedures provided in this subsection for
111 | activities performed after the disaster-response period ends and
112 | is subject to the state's normal standards for establishing
113 | presence or residency or doing business in the state.

114 | Section 2. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1133 (2016)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Finance & Tax Committee

2 Representative Young offered the following:

3

4 **Amendment**

5 Remove line 40 and insert:

6 electric generating systems, electric transmission and

7 distribution

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1203 Tourist Development Taxes
SPONSOR(S): Economic Development & Tourism Subcommittee; Drake
TIED BILLS: IDEN./SIM. BILLS: SB 1520

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	9 Y, 4 N	White	Duncan
2) Finance & Tax Committee		Pewitt <i>gl</i>	Langston <i>ls</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Local Option Tourist Development Act authorizes counties to levy tourist development taxes on transient rentals of living quarters or accommodations, such as hotel stays. The bill authorizes the use of up to ten percent of revenues from existing transient rental taxes to fund public safety services, in coastal counties that:

- Have at least three municipalities.
- Have an estimated population of less than 225,000.
- Generate a minimum of \$10 million in annual proceeds from the taxes authorized in 125.0104, F.S.
- Have not received revenues from taxes levied pursuant to s. 125.0108, F.S.

Three counties - Bay, Okaloosa, and Walton - meet the requirements of the bill.

The bill specifies that public safety services include emergency medical services or law enforcement services. Reimbursement for these services must be approved by the board of county commissioners (Board). The Board is required to establish requirements for requests for reimbursement and specify procedures for the approval or denial of such requests.

The bill has no fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Local Option Tourist Development Act¹ authorizes counties to levy five separate taxes on transient rental transactions. Depending on a county's eligibility to levy, the maximum tax rate varies from a minimum of three percent to a maximum of six percent. The levies may be authorized by vote of the county's governing authority or referendum approval. The revenues generated by the taxes may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy. These taxes are:

- The tourist development tax may be levied at the rate of 1 or 2 percent (s. 125.0104(3)(c), F.S.).²
- An additional tourist development tax of 1 percent may be levied by counties who have previously levied a tourist development tax at the 1 or 2 percent rate for at least three years (s. 125.0104(3)(d)).³
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁴
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁵
- A high tourism impact tax may be levied at an additional 1 percent.⁶

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S., must be used only for purposes listed in s. 125.0104(5), F.S. These purposes are:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promotion and advertising of tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.
- In counties with populations less than 750,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement,

¹ Section 125.0104, F.S.

² Section 125.0104(3)(c), F.S. Sixty-two counties levy this tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited Jan. 16, 2016).

³ Section 125.0104(3)(d), F.S. Forty-eight of the 59 eligible counties levy this tax. Florida Revenue Estimating Conference, 2016 Florida Tax Handbook, p. 268.

⁴ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism. Thirty-nine of the 67 eligible counties levy this additional tax. *Id.*

⁵ Section 125.0104(3)(n) F.S. Twenty-four of the 65 eligible counties levy the additional professional sports franchise facility tax. *Id.*

⁶ Section 125.0104(3)(m), F.S. Of the seven counties eligible to levy this tax, only Monroe, Orange, Osceola, and Palm Beach levy it. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.

maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.

- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

The use of tourist development tax revenue for any purpose not expressly authorized in statute is prohibited.⁷

Section 125.0104(10), F.S., authorizes a county levying taxes on transient rentals to self-administer the tax, if the county adopts an ordinance providing for the local collection and administration of the tax. A county that chooses to self-administer the taxes must choose whether to assume all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate this authority to the Department of Revenue.

Local option transient rental taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion.⁸

Transient Rental Taxes in Bay, Okaloosa, and Walton Counties

Bay, Okaloosa, and Walton Counties have chosen local administration of the transient rental taxes.⁹ Bay and Okaloosa counties impose the taxes in s. 125.0104, F.S. at a total rate of five percent, while Walton County imposes the taxes at a total rate of four percent.¹⁰

For Fiscal Year 2015-2016,¹¹ the Florida Office of Economic & Demographic Research (EDR) estimates the total taxable sales reported by transient rental facilities to be \$355.1 million for Bay County, \$304.1 million for Okaloosa County, and \$435.9 million for Walton County.

Proposed Changes

The bill creates s. 125.0104(5)(c), F.S., authorizing certain coastal counties to use up to ten percent of revenues from transient rental taxes to fund public safety services, including emergency medical services, as defined in s. 401.107(2), F.S., and law enforcement services as these services are needed to address the impacts related to increased tourism and visitors to an area.

In order to qualify, a coastal county must have a population of less than 225,000; have at least 3 municipalities; and generate a minimum of \$10 million in annual proceeds from transient rental taxes. Additionally, the bill prohibits a county from qualifying if it receives revenues from taxes levied from the tourist impact tax found in s. 125.0108, F.S.¹²

⁷ Section 125.0104(5)(d), F.S.

⁸ Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at <http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf> (last visited Jan. 16, 2016).

⁹ EDR, 2015 Local Government Financial Information Handbook, at 242, available at <http://edr.state.fl.us/Content/local-government/reports/lgfi15.pdf> (last visited Jan. 19, 2016).

¹⁰ *Id.*, at 245-246.

¹¹ The State fiscal year ends June 30. *Id.*, at 244.

¹² Currently, Monroe county receives revenues from this one percent tax on transient rentals in areas of critical state concern. DOR, Tourist Impact Tax, available at http://dor.myflorida.com/dor/taxes/local_option.html#tourist_impact (last visited Jan. 25, 2016).

Currently, three counties - Bay, and Okaloosa, and Walton - meet the requirements of the bill.¹³

The bill authorizes a board of county commissioners to reimburse expenditures on public safety services, upon the approval of a request for reimbursement, according to the requirements and procedures the Board develops.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.0104, F.S., to allow certain coastal counties to use transient rental tax revenue to fund public safety services, including emergency medical services and law enforcement services.

Section 2: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill authorizes affected counties to use an existing source of revenue to fund expenditures for public safety services. In the alternative, these services likely would continue to be funded by county general revenue funds.¹⁴

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to

¹³ EDR, Florida Population by County, *available at* <http://edr.state.fl.us/Content/population-demographics/data/> (last visited Jan. 16, 2016). See also, Florida Association of Counties, Florida Cities by County, *available at* <http://www.fl-counties.com/about-floridas-counties/florida-cities-by-county> (last visited Jan 16, 2016).

¹⁴ Ad valorem property taxes are a significant source for a county's general revenue fund.

raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Economic Development and Tourism Subcommittee adopted one amendment to the bill. The amendment:

- Clarifies that a board of county commissioners of a qualifying county is authorized to approve reimbursements for expenditures on public safety services, including emergency medical services and law enforcement services.
- Limits reimbursements for public safety services to ten percent of the total transient rental tax revenues that are received.
- Directs a board of county commissioners to establish requirements for requests for reimbursement and establish procedures for the approval or denial of such requests.
- Extends applicability to Walton County. The original bill applied to Okaloosa and Bay counties.

This analysis has been updated to reflect the amendment.

1 A bill to be entitled
 2 An act relating to tourist development taxes; amending
 3 s. 125.0104, F.S.; specifying additional uses for
 4 revenues received from tourist development taxes for
 5 certain coastal counties; conforming a cross-
 6 reference; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:
 9

10 Section 1. Paragraph (c) of subsection (5) of section
 11 125.0104, Florida Statutes, is redesignated as paragraph (d),
 12 present paragraph (d) is amended, and a new paragraph (c) is
 13 added to that subsection, to read:

14 125.0104 Tourist development tax; procedure for levying;
 15 authorized uses; referendum; enforcement.—

16 (5) AUTHORIZED USES OF REVENUE.—

17 (c) A coastal county, except a county that receives
 18 revenue from taxes levied pursuant to s. 125.0108, that meets
 19 the following criteria may use up to 10 percent of the tax
 20 revenue received pursuant to this section to reimburse expenses
 21 incurred in providing public safety services, including
 22 emergency medical services as defined in s. 401.107(2), and law
 23 enforcement services, which are needed to address impacts
 24 related to increased tourism and visitors to an area. To receive
 25 reimbursement, the county must:

26 1. Generate a minimum of \$10 million in annual proceeds

27 from any tax, or any combination of taxes, authorized to be
 28 levied pursuant to this section;

29 2. Have at least three municipalities; and

30 3. Have an estimated population of less than 225,000
 31 according to the most recent population estimate prepared
 32 pursuant to s. 186.901, excluding the inmate population.

33
 34 Reimbursement made pursuant to this paragraph must be approved
 35 by the board of county commissioners. The board of county
 36 commissioners must establish requirements for requesting
 37 reimbursement and specify procedures for approving or denying
 38 such requests for reimbursement.

39 (e)~~(d)~~ Any use of the local option tourist development tax
 40 revenues collected pursuant to this section for a purpose not
 41 expressly authorized by paragraph (3)(l) or paragraph (3)(n) or
 42 paragraph (a), paragraph (b), or paragraph (d) ~~(e)~~ of this
 43 subsection is expressly prohibited.

44 Section 2. This act shall take effect July 1, 2016.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1203 (2016)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Drake offered the following:

3

4 **Amendment**

5 Remove line 17 and insert:

6 (c) A county located adjacent to the Gulf of Mexico,
7 except a county that receives

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1203 (2016)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Drake offered the following:

3

4 **Amendment**

5 Remove line 22 and insert:

6 emergency medical services as defined in s. 401.107(3), and law

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1265 Greater Naples Fire Rescue District, Collier County
SPONSOR(S): Passidomo
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N	Darden	Miller
2) Finance & Tax Committee		Pewitt <i>JP</i>	Langston <i>DL</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Greater Naples Fire Rescue District was formed in 2014 by the merger of the East Naples Fire Control and Rescue District and Golden Gate Fire Control and Rescue District. The District serves approximately 147,000 residents in an area of 283 square miles. The Isles of Capri Municipal Rescue and Fire Services Capital Improvement District is a municipal services taxing unit (MSTU) created by Collier County to provide fire and rescue services in an unincorporated area of the County.

The bill proposes to annex the area currently serviced by the Isles of Capri MSTU into the Greater Naples Fire Rescue District subject to approval in a referendum by a majority of resident electors in the affected area. The merger should result in a reduced tax burden for residents in the annexed area and improved response time.

The bill provides for a referendum to be held in conjunction with a general, special, or other election in Collier County no later than December 31, 2016. The bill takes effect only upon approval by the majority of the resident electors in the area to be annexed into the district, except for the provision for the referendum, which takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district¹ created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.² Chapter 191, F.S., the “Independent Special Fire Control District Act,” is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating a district’s charter.⁴ The Chapter requires every district be governed by a five member board⁵ and provides for:

- General powers;⁶
- Special powers;⁷
- Authority and procedures for the assessment and collection of ad valorem taxes;⁸
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees;⁹ and
- Issuance of district bonds and evidences of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”¹² Chapter 189 prohibits the following types of special laws or general laws of local application:¹³

- Creating special districts that do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴

¹ A “special district” is a local government unit of “special purpose, as opposed to general purpose, operat[ed] within a limited boundary and created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” S. 189.012(6), F.S. An “independent special district” is any special district that is not a “dependent special district,” which is defined as a special district in which: the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the special district’s governing body are removable at will during their unexpired terms by the governing body of a single county or municipality, or the district’s budget is subject to the approval of the governing body of a single county or municipality. S. 189.012(3), F.S.

² Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ Section 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section.

⁵ Section 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

⁶ Section 191.006, F.S. (such as the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

⁷ Section 191.008, F.S.

⁸ Section 191.006(14); s. 191.009(1), F.S.

⁹ Section 191.006(11), (15); s. 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹² Section 189.031, F.S.

¹³ Art. III, s. 11(a)(21), Fla. Const. (enabling the prohibition of any special law or general law of local application on a subject, if such prohibition is passed as a general law approved by three-fifths vote of the membership of each house. A general law passed in this manner may be amended or repealed by “like vote.” The Uniform Special District Accountability Act (Ch. 89-169, s. 67, Laws of Fla.) was originally passed by a three-fifths majority in each house.

- Exempting district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempting a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempting a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Creating a district for which a statement documenting the following is not submitted to the Legislature:
 - The purpose of the proposed district;
 - The authority of the proposed district;
 - An explanation of why the district is the best alternative; and
 - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ Therefore, any boundary expansion must be approved by the Legislature.²⁰ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²¹

Greater Naples Fire Rescue District: Creation and Today

The Greater Naples Fire Rescue District (GNFD) was created by the merger of two fire control districts in Collier County, the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. The merger was passed by the Legislature during the 2014 session²² and approved by the voters of each district on November 4, 2014.²³

At the time the merger was approved by the voters, the East Naples Fire Control and Rescue District served approximately 70,000 residents in a territory spanning 150 square miles.²⁴ ENFD had 75 employees, including 56 shift personnel manning five fire stations, and responded to 10,235 emergency calls annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with revenues of \$10,724,348 in FY 2013-2014.²⁵ The Golden Gate Fire Control and Rescue District (GGFD) served approximately 77,000 residents in a territory spanning 133 square miles.²⁶ GGFD had 75 employees, including 65 shift personnel manning four fire stations, and responded to 6,056 emergency calls

¹⁴ Section 189.031(2)(a), F.S.

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

¹⁹ *Board of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ Section 191.014(2), F.S. ("The territorial boundaries of [an independent special fire control] district may be modified, extended, or enlarged with the approval or ratification of the Legislature.").

²¹ Art. VII, s. 9(b), Fla. Const.

²² Ch. 2014-240, Laws of Fla.

²³ Collier County Supervisor of Elections, *2014 General Election*, <http://www.colliervotes.com/?id=240> (last visited Jan. 15, 2016).

Residents of the East Naples Fire Control District approved of the merger 67.5 percent to 32.5 percent, while the residents of the Golden Gate Fire Control District approved 70 percent to 30 percent.

²⁴ East Naples – Golden Gate Fire Control and Rescue Districts, *Golden Gate/East Naples Merger Playbook*. [hereinafter "Merger Playbook"].

²⁵ *Local Government General Ad Hoc Report for East Naples Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Jan. 17, 2016). Each special district with revenues (or total expenditures and expenses) exceeding \$100,000 must file an audited financial report within 9 months from the end of the fiscal year being reported. Section 218.39(1), F.S. A copy of the audit report must be filed with the Auditor General per s. 218.39(7), F.S., and accompany the district's annual financial report filed with the Department of Financial Services, per s. 218.32(1), F.S. Because the financial report for GNFD's FY 2014-2015 has not yet been filed, this analysis uses the most recent information available from the reports of its predecessor districts.

²⁶ Merger Playbook, *supra* note 25.

annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with projected revenues of \$6,912,610 in FY 2013-2014.²⁷

Before the 2014 merger, ENFD and GGFD had operated for a year under an interlocal agreement as a consolidated entity.²⁸ In the first year of operation under the interlocal agreement, the districts saved \$612,998.²⁹

The GNFD today contains the former territories of the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. In 2014, the merged entity received more than 17,100 calls for service.³⁰ Sixty-three percent of calls related to medical emergencies, while thirty-seven percent related to fires and other types of calls of service.³¹ GNFD also conducted over 6,000 fire and life safety inspections.

The district is currently administered by an eight-member Board of Fire Commissioners.³² The size of the board will change from eight members to five members after elections in November 2018, consistent with s. 191.005(1)(a).³³ The GNFD charter maintains a distinction between the former territory of the East Naples and Golden Gate special fire control districts for the purpose of interim board elections.³⁴

Isles of Capri Municipal Rescue and Fire Services Capital Improvement District

The Isles of Capri Municipal Rescue and Fire Services Capital Improvement District (Isles of Capri MSTU) is an MSTU created and existing pursuant to Collier County ordinance.³⁵ The purpose of the MSTU is to provide fire and rescue services within a specific area of unincorporated Collier County.

The present millage rate imposed in the Isles of Capri MSTU is 2 mills. This prompted residents of 280 homes in part of a subdivision called "Fiddler's Creek" to seek annexation of their property into ENFD, which already provides service to the remainder of that subdivision. At its meeting on September 10, 2013, the Collier County Board of County Commissioners approved the negotiation of an interlocal agreement for the Isles of Capri MSTU to be operationally managed by the ENFD, pending discussions between the county and the Legislature on expanding the ENFD's boundaries.³⁶

Chapter 2014-239, Laws of Fla., would have merged the Isles of Capri MSTU into the ENFD, but the merger was rejected by Isles of Capri residents in a referendum held August 26, 2014.³⁷ The residents of the Fiddler's Creek subdivision, however, voted strongly in favor of annexation.³⁸ The Legislature

²⁷ *Local Government General Ad Hoc Report for Golden Gate Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Jan. 17, 2016).

²⁸ Merger Playbook, *supra* note 25.

²⁹ *Id.*

³⁰ 2014 GNFD Annual Report, available at <http://www.greaternaplesfire.org/who-we-are/annual-report.html> (last visited Jan. 15, 2016).

³¹ *Id.*

³² Art. IV, s. 4.01, Charter of Greater Naples Fire Rescue District, as codified in s.4, Ch. 2014-240, Laws of Fla. [hereinafter "Greater Naples Fire Charter"].

³³ *Id.* S. 191.004(1)(a) requires independent special fire control districts to have a five-member board.

³⁴ See art. II, s. 2.01, Greater Naples Fire Charter (drawing a distinction between the "Golden Gate Division" and "East Naples Division") and art. IV, s. 4.01, Greater Naples Fire Charter (reserving board seats for each previous district's territory on an interim basis).

³⁵ Collier County, Florida, Code of Ordinances, Part I, Ch. 122, Art. LXVII, section 122-1876, at <http://library.municode.com/index.aspx?clientId=10578&stateId=9&stateName=Florida> (last visited Jan. 15, 2016).

³⁶ Collier County Board of County Commissioners Minutes, Nov. 12, 2013, Agenda Item 11C. Available at <http://www.colliergov.net/Index.aspx?page=2280>.

³⁷ Collier County Supervisor of Elections, *2014 Primary Election*, <http://www.colliervotes.com/?id=239> (last visited Jan. 17, 2016).

³⁸ *Isle of Capri voters oppose fire merger*, NBC 2, available at <http://www.nbc-2.com/story/26378921/isle-of-capri-voters-oppose-fire-merger#.Vpu6MEIgnct> (last visited Jan. 17, 2016).

approved the annexation of Fiddler's Creek in 2015,³⁹ subject to a referendum to be held in conjunction with the Presidential Preference Primary on March 15, 2016.⁴⁰

Effect of Proposed Changes

The bill incorporates the present area included within the Isles of Capri MSTU, with the exception of the Fiddler's Creek area, into the GNFD as part of the "East Naples Division." This will bring residents in the area under the service duties and taxing authority of the district. The bill also provides for a referendum of qualified electors residing within the annexed area at the time of a general, special, or other election held in Collier County before December 31, 2016. Unless a majority of the electors in the affected area vote to approve the expansion, the remainder of the bill will not go into effect.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2014-240, Laws of Fla., to annex the Isles of Capri MSTU into the Greater Naples Fire Rescue District and deletes obsolete language concerning a previous annexation referendum.

Section 2: Provides that the bill shall take effect upon approval by a majority vote of those qualified electors residing in the area being transferred into the Greater Naples Fire Rescue District voting in a referendum to be held in conjunction with a general, special, or other election to be held in Collier County no later than December 31, 2016, except that this section shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? In conjunction with a general, special, or other election in Collier County held before December 31, 2016.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not provide rulemaking authority or require executive branch rulemaking.

³⁹ Ch. 2015-188, Laws of Fla.

⁴⁰ See Editorial: *Right idea, wrong approach and bad timing on Collier straw ballot*, Naples Daily News, Jan. 14, 2016, available at <http://www.naplesnews.com/opinion/editorials/editorial-right-idea-wrong-approach-and-bad-timing-on-collier-straw-ballot-293ad942-b69a-3aa6-e053-0-365290591.html> (last visited Jan. 17, 2016).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to the Greater Naples Fire Rescue
District, Collier County; amending chapter 2014-240,
Laws of Florida; expanding district boundaries;
deleting obsolete provisions; requiring a referendum;
providing an effective date.

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

Section 1. Article II of section 4 of chapter 2014-240,
Laws of Florida, is amended to read:

ARTICLE II

BOUNDARIES OF THE DISTRICT

Section 2.01 The lands to be incorporated within the
Greater Naples Fire Rescue District consist of the following
described lands in Collier County:

- A. Township 48 South, Range 26 East, Sections 25, 26,
27, 28, 33, 34, 35, 36. Township 48 South, Range 27
East, Sections 29, 30, 31, 32. Township 49 South,
Range 26 East, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13,
14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28,
33, 34, 35, 36. Township 49 South, Range 27 East,
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26,
27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Township 49

27 South, Range 28 East, Sections 4, 5, 6, 7, 8, 9, 16,
 28 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33. Township
 29 50 South, Range 26 East, Sections 2, 3, 4, 9, 10, 11,
 30 14, 15, 16.

31
 32 Hereinafter referred to as the "Golden Gate Division;"
 33
 34 and also,

35
 36 B. All that land located within Sections 19, 20, 21,
 37 27, 28, 29, 30, 31, 32, 33 and 34 of Township 51
 38 South, Range 26 East, the south 1/2 (S 1/2) of Section
 39 22, Township 51 South, Range 26 East, and those
 40 portions of Sections 4, 5 and 6 of Township 52 South,
 41 Range 26 East, which lie north of the Marco River,
 42 Collier County, Florida. Bearings are based on the
 43 west line of said Tract M being South 00°20'09" East.

44
 45 C.B. Beginning at the northeast corner of the
 46 Northwest quarter of Section 27, Township 49 South,
 47 Range 25 East, thence along the north line of said
 48 Section 27, east 45 feet to the east right-of-way line
 49 of C-851 (also known as Goodlette-Frank Road), (which
 50 right-of-way line lies 45 feet east of, measured at
 51 right angles to, and parallel with the north and south
 52 quarter section line of said Section 27), to the north

53 line of Lot 11, Naples Improvement Company's Little
 54 Farms, Plat Book 2, Page 2; thence east to the east
 55 section line of Section 27, Township 49 South, Range
 56 25 East; then north along the east line of said
 57 Section 27 to the northeast corner of said Section 27;
 58 said point also being the southeast corner of Section
 59 23 Township 49 South, Range 25 East thence east along
 60 the north line of Section 26, Township 49 South, Range
 61 25 East to a point 990.0 feet west of the west right-
 62 of-way line of Airport-Pulling Road; thence south
 63 01°30'00" East, 1320.0 feet; thence north 89°25'40"
 64 East, 660.0 feet; thence north 01°30'00" West, 1320.0
 65 feet to the north line of said Section 26; thence east
 66 along said north line of Section 26 to the west right-
 67 of-way line of Airport-Pulling Road; to the south line
 68 of said Section 26 (said right-of-way line lying 50
 69 feet west of the southeast corner of said Section 26);
 70 thence westerly along said south line to the southwest
 71 corner of said Section 26; thence northerly along the
 72 west line of said Section 26; to the southerly right-
 73 of-way line of Golden Gate Parkway (100 feet wide);
 74 thence easterly along said southerly right-of-way line
 75 to a point lying 1220.00 feet west of the west line of
 76 said Airport-Pulling Road; thence northerly parallel
 77 with said west right-of-way line to the northerly
 78 right-of-way line of said Golden Gate Parkway; thence

79 westerly along the north right-of-way of Golden Gate
 80 Parkway to a point 620 feet east and 235.46 feet south
 81 of the northwest corner of Lot 8, Naples Improvement
 82 Company's Little Farms; thence north 235.46 feet to
 83 the north line of Lot 8; thence west along said north
 84 line 620 feet to the northwest corner of said Lot 8;
 85 thence southerly to that angle point in said east
 86 right-of-way line which lies on a line 400.00 feet
 87 northerly of (measured at right angles to) and
 88 parallel with the north line of Section 34, Township
 89 49 South, Range 25 East; thence continuing along said
 90 east right-of-way to the north line of Gordon River
 91 Homes Subdivision; thence east along the north line of
 92 Lots 50, 49, and 48 to a point 22.5 feet east of the
 93 northwest corner of Lot 48; thence south parallel to
 94 the west line of Lot 48 to the south line of Lot 48;
 95 thence west along the south line of Lots 48, 49, and
 96 50 to the east right-of-way line of Goodlette-Frank
 97 Road; thence continuing along said east right-of-way
 98 line, which line lies 100.00 feet east of, measured at
 99 right angles to, and parallel with the north and south
 100 quarter section line of said Section 34; thence
 101 continuing along said east right-of-way line to a
 102 point on the north line of the southwest quarter of
 103 the northeast quarter of Section 34, Township 49
 104 South, Range 25 East; thence continue on said right of

105 way line 460.0 feet; thence north 89°41'30" East
 106 494.99 feet; thence south 0°34'06" East 615.88 feet to
 107 a point of curvature; thence southwesterly 343.97 feet
 108 along the arc of a tangential circular curve, concave
 109 to the northwest have a radius of 243.97 feet and
 110 subtended by a chord which bears south 44°33'25" West
 111 345.84 feet; thence south 89°41'30" West 250.0 feet to
 112 the easterly right of way line of Goodlette-Frank
 113 Road; thence south along said right-of-way line to a
 114 point 48.41 feet south of the north line of the south
 115 half of Section 34, Township 49 South, Range 25 East;
 116 thence north 89°56'59" East 249.79 feet; thence
 117 northeasterly 173.98 feet along the arc of a circular
 118 curve concave to the northwest having a radius of
 119 293.97 feet and being subtended by a chord which bears
 120 north 72°59'41" East 171.46 feet; thence south
 121 89°47'31" East 808.79 feet; thence north 89°55'05"
 122 East 993.64 feet to a point on that bulkhead line as
 123 shown on Plate recorded in Bulkhead Line Plan Book 1,
 124 Page 25 Collier County Public Records, Collier County,
 125 Florida; thence run the following courses along the
 126 said Bulkhead line, 47.27 feet along the arc of a non-
 127 tangential circular curve concave to the west, having
 128 a radius of 32.68 feet and subtended by a chord having
 129 a bearing of south 14°08'50" East and a length of
 130 43.26 feet to a point of tangency; south 27°17'25"

131 West for 202.44 feet to a point of curvature; 296.89
 132 feet along the arc of a curve concave to the
 133 southeast, having a radius of 679.46 feet and
 134 subtended by a chord having a bearing of south
 135 14°46'21" West and a length of 294.54 feet to a point
 136 of reverse curvature; 157.10 feet along the arc of a
 137 curve concave to the northwest, having a radius of
 138 541.70 feet, and subtended by a chord having a bearing
 139 of south 10°33'47" West and a length of 156.55 feet to
 140 a point of reverse curvature; 307.67 feet along the
 141 arc of a curve concave to the northeast; having a
 142 radius of 278.30 feet, and subtended by a chord having
 143 a bearing of south 12°47'59" East and a length of
 144 292.24 feet to a point of reverse curvature; 135.31
 145 feet along the arc of a curve concave to the southwest
 146 having a radius of 100.00 feet and subtended by a
 147 chord having a bearing of south 05°42'27" East and a
 148 length of 125.21 feet to a point of tangency; thence
 149 South 33°03'21" West for 295.10 feet; and South
 150 33°27'51" West 1.93 feet to the north line of the
 151 River Park East Subdivision which is also the north
 152 line of the south half of the southeast quarter of
 153 Section 34, Township 49 South, Range 25 East; thence
 154 along the north line of the south half of the
 155 southeast quarter of said Section 34, easterly to the
 156 west line of Section 35, Township 49 South, Range 25

157 East; thence along the west line of said Section 35,
 158 northerly 1320 feet more or less to the northwest
 159 corner of the south half of said Section 35; thence
 160 along the north line of the south half of said Section
 161 35, easterly to the west right-of-way line of State
 162 Road No. 31 (Airport Road), which right-of-way lies
 163 50.0 feet west of, measured at right angles to, and
 164 parallel with the east line of said Section 35; thence
 165 along said right-of-way line of State Road No. 31,
 166 south 00°13'57" West 1800 feet more or less to a point
 167 on said west right-of-way line, which lies north
 168 00°13'57" East 848.02 feet and south 89°46'03" West
 169 50.00 feet from the southeast corner of said Section
 170 35; thence continuing along said west right-of-way
 171 line southerly 325.02 feet along the arc of a
 172 tangential circular curve concave to the east, radius
 173 2914.93 feet, subtended by a chord which bears south
 174 2°57'43" East 324.87 feet; thence continuing along
 175 said west right-of-way line, tangentially south
 176 6°09'22" East 3.13 feet, thence southerly along a
 177 curve concave to the southwest, having a central angle
 178 of 6°23'18" and a radius of 1860.08 feet, a distance
 179 of 207.34 feet; thence south 0°13'57" West 313.03 feet
 180 more or less to a point on the north line of and 20
 181 feet west of the northeast corner of Section 2,
 182 Township 50 South, Range 25 East; thence

183 southeasterly, 300.7 feet more or less to a point on
 184 the east line of said Section 2 which point lies 300.0
 185 feet south of the northeast corner of said Section 2;
 186 thence along the east line of the north half of said
 187 Section 2, southerly to the southeast corner of the
 188 north half of said Section 2; thence along the south
 189 line of the north half of said Section 2; westerly to
 190 the northeast corner of the southeast quarter of
 191 Section 3, Township 50 South, Range 25 East; thence
 192 southerly along the east line of the southeast corner
 193 of said Section 3 for a distance of 2013.98 feet;
 194 thence North 89°37'20" East 662.04 feet; thence South
 195 00°17'20" East 119.26 feet; thence South 89°27'40"
 196 West 322.00 feet; thence South 00°17'20" East 10.00
 197 feet; thence South 89°27'40" West 68.00 feet; thence
 198 South 00°17'20" East 361.00 feet; thence North
 199 89°27'40" East 68.00 feet; thence South 00°17'20" East
 200 140.00 feet; thence South 89°27'40" West 221.81 feet;
 201 thence North 01°05'56" West 6.99 feet; thence westerly
 202 along the arc of a non-tangential circular curve
 203 concave to the north having a radius of 370.00 feet
 204 through a central angle of 18°34'13" and being
 205 subtended by a chord which bears North 81°50'17" West
 206 119.40 feet for a distance of 119.92 feet to a point
 207 on the east line of said Section 3; thence southerly
 208 along the east line of Section 3, and along the east

209 lines of Sections 10, 15, 22, and 27, all in Township
 210 50 South, Range 25 East, to the southeast corner of
 211 said Section 27, Township 50 South, Range 25 East;
 212 thence westerly along the south line of said Section
 213 27, Township 50 South, Range 25 East, and along the
 214 western prolongation of said south line to a point
 215 1,000 feet west of the mean low water line of the Gulf
 216 of Mexico; thence southeasterly along said shoreline
 217 to the south line of Section 3, Township 51 South,
 218 Range 25 East, thence easterly along the south line of
 219 said Section 3, Section 2, Section 1, Township 51
 220 South; thence along the south corner of said Section
 221 5; thence north along the east line of Section 5,
 222 Township 51 South, Range 26 East; thence continue on
 223 the north line of Section 25, 26 and part of Section
 224 27, Township 49 South, Range 25 East to the point of
 225 beginning and also,

226
 227 D.C. All those lands in Collier County described as:
 228 Sections 21, 22, 23, 26, 27, 28, 33, 34 and 35,
 229 Township 50 South, Range 26 East; Section 2, 3, 4, 9,
 230 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 26, 35
 231 and 36, Township 51 South, Range 26 East; Sections 1,
 232 2, 3 and those portions of Sections 10, 11, 12, and
 233 13, Township 52 South, Range 26 East, that lie North
 234 of the Marco River; those portions of Sections 5, 6, 7

235 and 18, Township 52 South, Range 27 East, that lie
 236 West and North of State Road 92; and Sections 7, 8,
 237 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30 and 31,
 238 Township 51 South, Range 27 East, and those portions
 239 of Sections 32 and 33, Township 51 South, Range 27
 240 East, that lie west and North of State Road 92,

241
 242 E.D. Less and except the North 1/2 of Section 2 of
 243 Township 50 South, Range 25 East and the South 1/2 of
 244 Section 35 of Township 49 South, Range 25 East.

245
 246 F.E. Less and except approximately 21.99 acres, more
 247 or less: A portion of Lots 7 through 9 of Naples
 248 Improvement Company's Little Farms as recorded in Plat
 249 Book 2 at page 2 of the Public Records of Collier
 250 County, Florida, being more particularly described as
 251 follows:

252
 253 Commence at the intersection of the East right-of-way
 254 of Goodlette-Frank Road (C.R. 851) and the South
 255 right-of-way of Golden Gate Parkway; thence run along
 256 said South right-of-way for the following four (4)
 257 courses:

258
 259 (1) Thence run North 44°42'45" East, for a distance
 260 of 35.36 feet;

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(2) Thence run North 89°42'45" East, for a distance of 122.57 feet;

(3) Thence run North 80°12'12" East, for a distance of 159.63 feet;

(4) To a point on a circular curve concave northwest, whose radius point bears North 11°26'26" West, a distance of 813.94 feet therefrom; thence run Northeasterly along the arc of said curve to the left, having a radius of 813.94 feet, through a central angle of 22°36'33", subtended by a chord of 319.10 feet at a bearing of North 67°15'18" East, for an arc length of 321.18 feet to the intersection of the South right-of-way of said Golden Gate Parkway and the West line of the East 338.24 feet of the West 958.34 feet of Lot 7 of Naples Improvements Company's Little Farms Subdivision as recorded in Plat Book 2 at page 2 of the Public Records of Collier County, Florida, also being the point of beginning of the parcel of land herein described; thence run South 00°16'32" East, along the West line of the East 338.24 feet of the West 958.34 feet of said Lot 7, for a distance of 302.90 feet to a point on the South line of said Lot

286 7; thence run along said South line for the following
 287 two (2) courses:

288

289 (1) Thence run North 89°41'51" East, for a distance
 290 of 338.41 feet;

291

292 (2) Thence run North 89°50'24" East, for
 293 approximately 850 feet to a point on the mean high
 294 water line of the west bank of Gordon River, said
 295 point herein called Point "A", thence return to the
 296 aforementioned point of beginning, thence run along
 297 the south right-of-way of said Golden Gate Parkway for
 298 the following four (4) courses:

299

300 (1) Beginning at a point on a circular curve concave
 301 northwest, whose radius point bears North 34°02'58"
 302 West a distance of 813.94 feet therefrom; thence run
 303 Northeasterly along the arc of said curve to the left,
 304 having a radius of 813.94 feet, through a central
 305 angle of 05°09'09", subtended by a chord of 73.17 feet
 306 at a bearing of North 53°22'27" East, for an arc
 307 length of 73.20 feet to the end of said curve;

308

309 (2) Thence run North 50°47'53" East, for a distance
 310 of 459.55 feet

311

312 (3) To the beginning of a tangential circular curve
 313 concave south; thence run Easterly along the arc of
 314 said curve to the right, having a radius of 713.94
 315 feet; through a central angle of 38°52'20"; subtended
 316 by a chord of 475.13 feet at a bearing of North
 317 70°14'03" East, for an arc length of 484.37 feet to
 318 the end of said curve;

319
 320 (4) Thence run North 89°40'13" East, for
 321 approximately 724 feet to a point on the mean high
 322 water line of the west bank of Gordon River; thence
 323 meander Southwesterly along the mean high water line
 324 for approximately 900 feet to the aforementioned Point
 325 "A" and the point of ending.

326
 327 G.F. Less and except approximately 112.82 acres, more
 328 or less: All of East Naples Industrial Park, according
 329 to the plat thereof recorded in Plat Book 10, Pages
 330 114 and 115, of the Public Records of Collier County,
 331 Florida; all of East Naples Industrial Park Replat No.
 332 1, according to the Plat thereof recorded in Plat Book
 333 17, Pages 38 and 39, of the Public Records of Collier
 334 County, Florida; and the Northerly 200 feet of the
 335 Southerly 510 feet of the Easterly 250 feet of the
 336 Northeast 1/4 of Section 35, Township 49 South, Range

337 25 East, Collier County, Florida, less and excepting
 338 the Easterly 50 feet thereof.

339

340 H.G. Less and except approximately 6.17 acres, more
 341 or less: All that part of Lots 12, 13, and 14, Naples
 342 Improvement Company's Little Farms, as recorded in
 343 Plat Book 2, Page 2 of the Public Records of Collier
 344 County, Florida, being more particularly described as
 345 follows:

346

347 Commencing at the Southwest corner of Lot 12, thence
 348 along the South line of said Lot 12, North 89°26'51"
 349 East 20.00 feet to the East right-of-way line of
 350 Goodlette-Frank Road; thence along the East right-of-
 351 way line North 00°39'49" East 10.00 feet to the Point
 352 of Beginning of the herein described parcel; thence
 353 continue along said East right-of-way North 00°39'49"
 354 West 580.00 feet; thence leaving said East right-of-
 355 way North 89°20'11" East 260.12 feet; thence North
 356 59°31'13" East, 153.66 feet; thence South 30°28'42"
 357 East, 119.01 feet; thence South 00°33'09" East, 554.02
 358 feet to a line lying 10 feet North of and parallel
 359 with said South line of Lot 12; thence along the said
 360 parallel line South 89°26'51" West, 451.54 feet to the
 361 point of beginning of the herein described parcel.

362

363 Bearings are based on the said East line Goodlette-
 364 Frank Road being North 00°33'49" East.

365
 366 I.H. Less and except approximately 12.77 acres, more
 367 or less: The West one-half (W 1/2) of the Northwest
 368 one-quarter (NW 1/4) of the Northwest one-quarter (NW
 369 1/4) of Section 11, Township 50 South, Range 25 East,
 370 lying South of State Road 90 (Tamiami Trail, U.S. 41),
 371 in Collier County, Florida, except the South 264 feet,
 372 and All that part of the South 264 feet of the
 373 Southwest one-quarter (SW 1/4) of the Northwest one-
 374 quarter (NW 1/4) of the Northwest one-quarter (NW 1/4)
 375 of Section 11, Township 50 South, Range 25 East, in
 376 Collier County, Florida, lying north of the north line
 377 of Walker's Subdivision as delineated on a Plat of
 378 record in plat book 1, at page 36, of the Public
 379 Records of Collier County, Florida.

380
 381 TOGETHER WITH:

382
 383 Lots 1 to 8, inclusive, COL-LEE-CO TERRACE, according
 384 to plat in Plat Book 1, Page 32, Public Records of
 385 Collier County, Florida.

386
 387 LESS AND EXCEPT

388

389 Those parcels described in Official Records Book 1969,
 390 Page 977, and Official Records Book 2119, Page 1344
 391 both of the Public Records of Collier County, Florida.

392
 393 ~~J.±~~ Less and except approximately 6.16 acres, more
 394 or less: Being a part of Estuary at Grey Oaks Roadway,
 395 Clubhouse and Maintenance Facility Tract, Plat Book
 396 36, pages 9-16, Estuary at Grey Oaks Tract B, Plat
 397 Book 37, pages 13-18 and part of Section 26, Township
 398 49 South, Range 25 East, Collier County, Florida.

399
 400 All that part of Estuary at Grey Oaks Roadway,
 401 Clubhouse and Maintenance Facility Tracts according to
 402 the plat thereof as recorded in Plat Book 36, pages 9-
 403 16, Estuary at Grey Oaks Tract B according to the plat
 404 thereof as recorded in Plat Book 37, pages 13-18,
 405 Public Records of Collier County, Florida, and part of
 406 Section 26, Township 49 South, Range 25 East, Collier
 407 County, Florida being more particularly described as
 408 follows:

409
 410 Commencing at the northwest corner of Tract M of said
 411 Estuary at Grey Oaks Roadway, Clubhouse and
 412 Maintenance Facility Tracts;

413

414 Thence along the west line of said Tract M South
 415 00°East 613.48 feet to the Point of Beginning of the
 416 parcel herein described;

417
 418 Thence continue South 00°20'09" East 406.67 feet;
 419 Thence North 89°24'29" West 660.00 feet;

420
 421 Thence North 00°20'09" West 406.66 feet to a point on
 422 the boundary of Golf Course Tract 1 of said Estuary at
 423 Grey Oaks Tract B;

424
 425 Thence along said boundary South 89°24'33" East 660.00
 426 feet to the Point of Beginning of the parcel herein
 427 described;

428
 429 Bearings are based on the west line of said Tract M
 430 being South 00°20'09" East.

431
 432 Hereinafter referred to as the "East Naples Division."

433
 434 ~~Section 2.02 If the annexation authorized by HB 949, 2014~~
 435 ~~Regular Session, is approved at referendum, the East Naples~~
 436 ~~Division shall also include the following described lands in~~
 437 ~~Collier County.~~

438



439 ~~All that land located within Sections 19, 20, 21, 22,~~
 440 ~~27, 28, 29, 30, 31, 32, 33 and 34 of Township 51~~
 441 ~~South, Range 26 East, and those portions of Sections~~
 442 ~~4, 5 and 6 of Township 52 South, Range 26 East, which~~
 443 ~~lie north of the Marco River, Collier County, Florida.~~
 444 ~~Bearings are based on the west line of said Tract M~~
 445 ~~being South 00°20'09" East.~~

446
 447 Section 2.02 ~~2.03~~ Chapter 171, Florida Statutes, shall
 448 apply to all annexations by a municipality within the district's
 449 boundaries.

450 Section 2. This act shall take effect only upon its
 451 approval by a majority vote of those qualified electors residing
 452 within the area being transferred from Collier County to the
 453 Greater Naples Fire Rescue District described in section 1
 454 voting in a referendum to be held in conjunction with a general,
 455 special, or other election to be held in Collier County no later
 456 than December 31, 2016, except that this section shall take
 457 effect upon becoming law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1267 Greater Naples Fire Rescue District, Collier County
SPONSOR(S): Local Government Affairs Subcommittee; Passidomo
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N, As CS	Darden	Miller
2) Finance & Tax Committee		Pewitt 	Langston 
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Greater Naples Fire Rescue District was formed in 2014 by the merger of the East Naples Fire Control and Rescue District and Golden Gate Fire Control and Rescue District. The District serves approximately 147,000 residents in an area of 283 square miles. Collier County Fire District One is part of a municipal services taxing unit (MSTU) created by Collier County to provide fire and rescue services in an unincorporated area of the County.

The bill proposes to annex the area currently serviced by Collier County Fire District One into the Greater Naples Fire Rescue District subject to approval in a referendum by a majority of resident electors in the affected area. The bill should result in a reduced tax burden for residents in the annexed area with no change in response time.

The bill provides for a referendum to be held in conjunction with a general, special, or other election in Collier County no later than December 31, 2016. The bill takes effect only upon approval by the majority of the resident electors in the area to be annexed into the district, except for the provision for the referendum, which takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district¹ created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.² Chapter 191, F.S., the "Independent Special Fire Control District Act," is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating a district's charter.⁴ The Chapter requires every district be governed by a five member board⁵ and provides for:

- General powers;⁶
- Special powers;⁷
- Authority and procedures for the assessment and collection of ad valorem taxes;⁸
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees;⁹ and
- Issuance of district bonds and evidences of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."¹² Chapter 189 prohibits the following types of special laws or general laws of local application:¹³

- Creating special districts that do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴

¹ A "special district" is a local government unit of "special purpose, as opposed to general purpose, operat[ed] within a limited boundary and created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." S. 189.012(6), F.S. An "independent special district" is any special district that is not a "dependent special district," which is defined as a special district in which: the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the special district's governing body are removable at will during their unexpired terms by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality. S. 189.012(3), F.S.

² Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ Section 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section.

⁵ Section 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

⁶ Section 191.006, F.S. (such as the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

⁷ Section 191.008, F.S.

⁸ Section 191.006(14); s. 191.009(1), F.S.

⁹ S. 191.006(11), (15), s. 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹² Section 189.031, F.S.

¹³ Art. III, s. 11(a)(21), Fla. Const. (enabling the prohibition of any special law or general law of local application on a subject, if such prohibition is passed as a general law approved by three-fifths vote of the membership of each house. A general law passed in this manner may be amended or repealed by "like vote." The Uniform Special District Accountability Act (Ch. 89-169, s. 67, Laws of Fla.) was originally passed by a three-fifths majority in each house.

- Exempting district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempting a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempting a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Creating a district for which a statement documenting the following is not submitted to the Legislature:
 - The purpose of the proposed district;
 - The authority of the proposed district;
 - An explanation of why the district is the best alternative; and
 - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ Therefore, any boundary expansion must be approved by the Legislature.²⁰ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²¹

Greater Naples Fire Rescue District: Creation and Today

The Greater Naples Fire Rescue District (GNFD) was created by the merger of two fire control districts in Collier County, the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. The merger was passed by the Legislature during the 2014 session²² and approved by the voters of each district on November 4, 2014.²³

At the time the merger was approved by the voters, the East Naples Fire Control and Rescue District served approximately 70,000 residents in a territory spanning 150 square miles.²⁴ ENFD had 75 employees, including 56 shift personnel manning five fire stations, and responded to 10,235 emergency calls annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with revenues of \$10,724,348 in FY 2013-2014.²⁵ The Golden Gate Fire Control and Rescue District (GGFD) served approximately 77,000 residents in a territory spanning 133 square miles.²⁶ GGFD had 75 employees, including 65 shift personnel manning four fire stations, and responded to 6,056 emergency calls

¹⁴ Section 189.031(2)(a), F.S.

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

¹⁹ *Board of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ Section 191.014(2), F.S. ("The territorial boundaries of [an independent special fire control] district may be modified, extended, or enlarged with the approval or ratification of the Legislature.").

²¹ Fla. Const. art. VII, s. 9(b).

²² Ch. 2014-240, Laws of Fla.

²³ Collier County Supervisor of Elections, *2014 General Election*, <http://www.colliervotes.com/?id=240> (last visited Jan. 17, 2016).

Residents of the East Naples Fire Control District approved of the merger 67.5 percent to 32.5 percent, while the residents of the Golden Gate Fire Control District approved 70 percent to 30 percent.

²⁴ East Naples – Golden Gate Fire Control and Rescue Districts, *Golden Gate/East Naples Merger Playbook*. [hereinafter "Merger Playbook"].

²⁵ *Local Government General Ad Hoc Report for East Naples Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Jan. 17, 2016). Each special district with revenues (or total expenditures and expenses) exceeding \$100,000 must file an audited financial report within 9 months from the end of the fiscal year being reported. Section 218.39(1), F.S. A copy of the audit report must be filed with the Auditor General per s. 218.39(7), F.S., and accompany the district's annual financial report filed with the Department of Financial Services, per s. 218.32(1), F.S. Because the financial report for GNFD's FY 2014-2015 has not yet been filed, this analysis uses the most recent information available from the reports of its predecessor districts.

²⁶ Merger Playbook, *supra* note 25.

annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with projected revenues of \$6,912,610 in FY 2013-2014.²⁷

Before the merger, ENFD and GGFD had operated for a year under an interlocal agreement as a consolidated entity.²⁸ In the first year of operation under the interlocal agreement, the districts saved \$612,998.²⁹

The GNFD today contains the former territories of the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. In 2014, the merged entity received more than 17,100 calls for service.³⁰ Sixty-three percent of calls related to medical emergencies, while thirty-seven percent related to fires and other types of calls of service.³¹ GNFD also conducted over 6,000 fire and life safety inspections.

The district is currently administered by an eight-member Board of Fire Commissioners.³² The size of the board will change from eight members to five members after elections in November 2018, consistent with s. 191.005(1)(a).³³ The GNFD charter maintains a distinction between the former territory of the East Naples and Golden Gate special fire control districts for the purpose of interim board elections.³⁴

Collier County Fire District One

Collier County Fire District One was created in the early 1970s to provide fire protection in unincorporated areas of the county.³⁵ Originally extending from the Lee County line to portions of the line with Broward and Miami-Dade counties, the district today mostly covers protected lands such the Picayune State Forest, Collier Seminole State Park, the Fakahatchee Preserve, Florida Panther Preserve, and the Big Cypress National Preserve.³⁶ Services in the district are provided by the GNFD and Ochopee Fire Control Districts,³⁷ but are financed by an MSTU.³⁸ The current millage rate for Collier County Fire District One is two mills.

Effect of Proposed Changes

The bill incorporates the present area included in Collier County Fire District One into the GNFD as part of the “East Naples Division.” This will bring residents in the area under the service duties and taxing authority of the district. Since the current millage rate for the GNFD is 1.5 mills, annexation should result in a tax reduction for residents. The bill also provides for a referendum of qualified electors residing within the annexed area at the time of a general, special, or other election held in Collier County before December 31, 2016. Unless a majority of the electors in the affected area vote to approve the expansion, the remainder of the bill will not go into effect.

²⁷ *Local Government General Ad Hoc Report for Golden Gate Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Jan. 17, 2016).

²⁸ *Id.*

²⁹ *Id.*

³⁰ 2014 GNFD Annual Report, available at <http://www.greaternaplesfire.org/who-we-are/annual-report.html> (last visited Jan. 17, 2016).

³¹ *Id.*

³² Art. IV, s. 4.01, Charter of Greater Naples Fire Rescue District, as codified in s.4, Ch. 2014-240, Laws of Fla. [hereinafter “Greater Naples Fire Charter”].

³³ *Id.* S. 191.004(1)(a) requires independent special fire control districts to have a five-member board.

³⁴ See art. II, s. 2.01, Greater Naples Fire Charter (drawing a distinction between the “Golden Gate Division” and “East Naples Division”) and art. IV, s. 4.01, Greater Naples Fire Charter (reserving board seats for each previous district’s territory on an interim basis).

³⁵ Collier County, *Fire Services*, <https://www.colliergov.net/index.aspx?page=7674> (last visited Jan. 17, 2016).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Collier County, Florida, Code of Ordinances, Part I, Ch. 122, Art. XLI, section 122-1131, at <http://library.municode.com/index.aspx?clientId=10578&stateId=9&stateName=Florida> (last visited Jan. 17, 2016).

The bill also removes language from the GNFD charter concerning lands that would have been annexed by the district if voters of the Isles of Capri MSTU had approved ch. 2014-239, Laws of Fla.

B. SECTION DIRECTORY:

Section 1: Amends article II of section 4 of ch. 2014-240, Laws of Florida, describing the boundaries of the Greater Naples Fire Rescue District, to expand the boundaries of the district and remove obsolete language describing the territory of a failed referendum.

Section 2: Provides the bill shall take effect only upon its approval by a majority vote of those qualified electors of Collier County residing in the area to be annexed, as described in section 1 of the bill, voting in a referendum held in conjunction with a general, special, or other election to be held in Collier County no later than December 31, 2016, except that this section shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? In conjunction with a general, special, or other election in Collier County held before December 31, 2016.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment corrected an error in the property description of the MSTU to be annexed, ensuring that the entire area of the MSTU would be included in the GNFD.

This analysis is drawn to the bill as amended.

1 A bill to be entitled
2 An act relating to the Greater Naples Fire Rescue
3 District, Collier County; amending chapter 2014-240,
4 Laws of Florida; expanding district boundaries;
5 deleting obsolete provisions; requiring a referendum;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Article II of section 4 of chapter 2014-240,
11 Laws of Florida, is amended to read:

12 ARTICLE II

13 BOUNDARIES OF THE DISTRICT

14 Section 2.01 The lands to be incorporated within the
15 Greater Naples Fire Rescue District consist of the following
16 described lands in Collier County:

- 17
18 A. Township 48 South, Range 26 East, Sections 25, 26,
19 27, 28, 33, 34, 35, 36. Township 48 South, Range 27
20 East, Sections 29, 30, 31, 32. Township 49 South,
21 Range 26 East, Sections 1, 2, 3, 4, 9, 10, 11, 12, 13,
22 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28,
23 33, 34, 35, 36. Township 49 South, Range 27 East,
24 Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
25 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26,
26 27, 28, 29, 30, 31, 32, 33, 34, 35, 36. Township 49

27 South, Range 28 East, Sections 4, 5, 6, 7, 8, 9, 16,
28 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33. Township
29 50 South, Range 26 East, Sections 2, 3, 4, 9, 10, 11,
30 14, 15, 16.

31
32 Hereinafter referred to as the "Golden Gate Division;"

33
34 and also,

35
36 B. That portion of Sections 11, 14, 23, 24 and 25,
37 Township 51 South, Range 25 East, that lie east of the
38 Gulf of Mexico;

39
40 All of Sections 12 and 13 Township 51 South, Range 25
41 East;

42
43 All of Sections 1, 12, 13, 24, 25, and 36, Township 50
44 South, Range 26 East;

45
46 All of Sections 7 and 8 Township 51 South, Range 26
47 East;

48
49 That portion of Sections 24 through 29, Township 52
50 South, Range 26 East, that lies east and South of the
51 Marco Island City limits;

52

53 All of Sections 33, 34, and 35, Township 52 South,
 54 Range 26 East;

56 All of Sections 3, 4, 5, 9, 10, and 11, Township 53
 57 South, Range 26 East;

59 All of Sections 1 through 36, Township 50 South, Range
 60 27 East;

62 All of Sections 1 through 6, 9 through 15, 23 through
 63 26, and that portion of Sections 32 and 33, that lies
 64 South and East of the North and West right-of-way line
 65 of State Road 92, Township 51 South, Range 27 East;

67 All of Sections 2 through 4, that portion of Sections
 68 5, 7 and 8 that lies East of the West right-of-way
 69 line of State Road 92, all of Sections 9 through 17,
 70 that portion of Section 18 that lies East and South of
 71 the West and North right-of-way line of State Road 92,
 72 less that portion of Section 18 located in Ordinance
 73 No. 98-114, all of Section 19, less that portion
 74 located in Ordinance No. 98-114, all of Sections 20
 75 through 36, Township 52 South, Range 27 East;

77 All of Sections 1, 2, 3 11, 12, and 13, Township 53
 78 South, Range 27 East;

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All of Sections 25, 26, 27, 34, 35 and 36, Township 49 South, Range 28 East;

All of Sections 1 through 36, Township 50 South, Range 28 East;

All of Sections 1 through 36, Township 51 South, Range 28 East;

All of Sections 1, 2, 7, 12, 15 through 23 and 25 through 36, Township 52 South, Range 28 East;

All of Sections 1 through 36, Township 53 South, Range 28 East;

All of Sections 25 through 36, Township 49 South, Range 29 East;

All of Sections 3 through 10, 15 through 22, and 27 through 34, Township 50 South, Range 29 East;

All of Sections 3 through 10, 15 through 22, and 27 through 34, Township 51 South, Range 29 East;

All of Sections 3 through 10, 15 through 17, and 29

105 through 34, Township 52 South, Range 29 East;
 106
 107 All of Sections 3 through 10, all of Section 15, less
 108 that portion of 15 located in Ordinance No. 92-100,
 109 all of Sections 16 through 22, that portion of Section
 110 23 not included in Ordinance No. 92-100, that portion
 111 of Section 26 not included in Ordinance No. 92-100,
 112 all of Sections 27 through 35 and that portion of
 113 Section 36 not included in Ordinance 92-100, Township
 114 53 South, Range 29 East;
 115
 116 All of Sections 1 through 36, Township 49 South, Range
 117 30 East;
 118
 119 All of Sections 1 through 36, Township 49 South, Range
 120 31 East;
 121
 122 All of Sections 1 through 36, Township 49 South, Range
 123 32 East;
 124
 125 All of Sections 1 through 36, Township 49 South, Range
 126 33 East;
 127
 128 All of Sections 1 through 36, Township 49 South, Range
 129 34 East; Collier County, Florida.
 130

131 C.B. Beginning at the northeast corner of the
 132 Northwest quarter of Section 27, Township 49 South,
 133 Range 25 East, thence along the north line of said
 134 Section 27, east 45 feet to the east right-of-way line
 135 of C-851 (also known as Goodlette-Frank Road), (which
 136 right-of-way line lies 45 feet east of, measured at
 137 right angles to, and parallel with the north and south
 138 quarter section line of said Section 27), to the north
 139 line of Lot 11, Naples Improvement Company's Little
 140 Farms, Plat Book 2, Page 2; thence east to the east
 141 section line of Section 27, Township 49 South, Range
 142 25 East; then north along the east line of said
 143 Section 27 to the northeast corner of said Section 27;
 144 said point also being the southeast corner of Section
 145 23 Township 49 South, Range 25 East thence east along
 146 the north line of Section 26, Township 49 South, Range
 147 25 East to a point 990.0 feet west of the west right-
 148 of-way line of Airport-Pulling Road; thence south
 149 01°30'00" East, 1320.0 feet; thence north 89°25'40"
 150 East, 660.0 feet; thence north 01°30'00" West, 1320.0
 151 feet to the north line of said Section 26; thence east
 152 along said north line of Section 26 to the west right-
 153 of-way line of Airport-Pulling Road; to the south line
 154 of said Section 26 (said right-of-way line lying 50
 155 feet west of the southeast corner of said Section 26);
 156 thence westerly along said south line to the southwest

157 corner of said Section 26; thence northerly along the
 158 west line of said Section 26; to the southerly right-
 159 of-way line of Golden Gate Parkway (100 feet wide);
 160 thence easterly along said southerly right-of-way line
 161 to a point lying 1220.00 feet west of the west line of
 162 said Airport-Pulling Road; thence northerly parallel
 163 with said west right-of-way line to the northerly
 164 right-of-way line of said Golden Gate Parkway; thence
 165 westerly along the north right-of-way of Golden Gate
 166 Parkway to a point 620 feet east and 235.46 feet south
 167 of the northwest corner of Lot 8, Naples Improvement
 168 Company's Little Farms; thence north 235.46 feet to
 169 the north line of Lot 8; thence west along said north
 170 line 620 feet to the northwest corner of said Lot 8;
 171 thence southerly to that angle point in said east
 172 right-of-way line which lies on a line 400.00 feet
 173 northerly of (measured at right angles to) and
 174 parallel with the north line of Section 34, Township
 175 49 South, Range 25 East; thence continuing along said
 176 east right-of-way to the north line of Gordon River
 177 Homes Subdivision; thence east along the north line of
 178 Lots 50, 49, and 48 to a point 22.5 feet east of the
 179 northwest corner of Lot 48; thence south parallel to
 180 the west line of Lot 48 to the south line of Lot 48;
 181 thence west along the south line of Lots 48, 49, and
 182 50 to the east right-of-way line of Goodlette-Frank

183 Road; thence continuing along said east right-of-way
 184 line, which line lies 100.00 feet east of, measured at
 185 right angles to, and parallel with the north and south
 186 quarter section line of said Section 34; thence
 187 continuing along said east right-of-way line to a
 188 point on the north line of the southwest quarter of
 189 the northeast quarter of Section 34, Township 49
 190 South, Range 25 East; thence continue on said right of
 191 way line 460.0 feet; thence north 89°41'30" East
 192 494.99 feet; thence south 0°34'06" East 615.88 feet to
 193 a point of curvature; thence southwesterly 343.97 feet
 194 along the arc of a tangential circular curve, concave
 195 to the northwest have a radius of 243.97 feet and
 196 subtended by a chord which bears south 44°33'25" West
 197 345.84 feet; thence south 89°41'30" West 250.0 feet to
 198 the easterly right of way line of Goodlette-Frank
 199 Road; thence south along said right-of-way line to a
 200 point 48.41 feet south of the north line of the south
 201 half of Section 34, Township 49 South, Range 25 East;
 202 thence north 89°56'59" East 249.79 feet; thence
 203 northeasterly 173.98 feet along the arc of a circular
 204 curve concave to the northwest having a radius of
 205 293.97 feet and being subtended by a chord which bears
 206 north 72°59'41" East 171.46 feet; thence south
 207 89°47'31" East 808.79 feet; thence north 89°55'05"
 208 East 993.64 feet to a point on that bulkhead line as

209 shown on Plate recorded in Bulkhead Line Plan Book 1,
 210 Page 25 Collier County Public Records, Collier County,
 211 Florida; thence run the following courses along the
 212 said Bulkhead line, 47.27 feet along the arc of a non-
 213 tangential circular curve concave to the west, having
 214 a radius of 32.68 feet and subtended by a chord having
 215 a bearing of south 14°08'50" East and a length of
 216 43.26 feet to a point of tangency; south 27°17'25"
 217 West for 202.44 feet to a point of curvature; 296.89
 218 feet along the arc of a curve concave to the
 219 southeast, having a radius of 679.46 feet and
 220 subtended by a chord having a bearing of south
 221 14°46'21" West and a length of 294.54 feet to a point
 222 of reverse curvature; 157.10 feet along the arc of a
 223 curve concave to the northwest, having a radius of
 224 541.70 feet, and subtended by a chord having a bearing
 225 of south 10°33'47" West and a length of 156.55 feet to
 226 a point of reverse curvature; 307.67 feet along the
 227 arc of a curve concave to the northeast; having a
 228 radius of 278.30 feet, and subtended by a chord having
 229 a bearing of south 12°47'59" East and a length of
 230 292.24 feet to a point of reverse curvature; 135.31
 231 feet along the arc of a curve concave to the southwest
 232 having a radius of 100.00 feet and subtended by a
 233 chord having a bearing of south 05°42'27" East and a
 234 length of 125.21 feet to a point of tangency; thence

235 South 33°03'21" West for 295.10 feet; and South
 236 33°27'51" West 1.93 feet to the north line of the
 237 River Park East Subdivision which is also the north
 238 line of the south half of the southeast quarter of
 239 Section 34, Township 49 South, Range 25 East; thence
 240 along the north line of the south half of the
 241 southeast quarter of said Section 34, easterly to the
 242 west line of Section 35, Township 49 South, Range 25
 243 East; thence along the west line of said Section 35,
 244 northerly 1320 feet more or less to the northwest
 245 corner of the south half of said Section 35; thence
 246 along the north line of the south half of said Section
 247 35, easterly to the west right-of-way line of State
 248 Road No. 31 (Airport Road), which right-of-way lies
 249 50.0 feet west of, measured at right angles to, and
 250 parallel with the east line of said Section 35; thence
 251 along said right-of-way line of State Road No. 31,
 252 south 00°13'57" West 1800 feet more or less to a point
 253 on said west right-of-way line, which lies north
 254 00°13'57" East 848.02 feet and south 89°46'03" West
 255 50.00 feet from the southeast corner of said Section
 256 35; thence continuing along said west right-of-way
 257 line southerly 325.02 feet along the arc of a
 258 tangential circular curve concave to the east, radius
 259 2914.93 feet, subtended by a chord which bears south
 260 2°57'43" East 324.87 feet; thence continuing along

261 | said west right-of-way line, tangentially south
 262 | 6°09'22" East 3.13 feet, thence southerly along a
 263 | curve concave to the southwest, having a central angle
 264 | of 6°23'18" and a radius of 1860.08 feet, a distance
 265 | of 207.34 feet; thence south 0°13'57" West 313.03 feet
 266 | more or less to a point on the north line of and 20
 267 | feet west of the northeast corner of Section 2,
 268 | Township 50 South, Range 25 East; thence
 269 | southeasterly, 300.7 feet more or less to a point on
 270 | the east line of said Section 2 which point lies 300.0
 271 | feet south of the northeast corner of said Section 2;
 272 | thence along the east line of the north half of said
 273 | Section 2, southerly to the southeast corner of the
 274 | north half of said Section 2; thence along the south
 275 | line of the north half of said Section 2; westerly to
 276 | the northeast corner of the southeast quarter of
 277 | Section 3, Township 50 South, Range 25 East; thence
 278 | southerly along the east line of the southeast corner
 279 | of said Section 3 for a distance of 2013.98 feet;
 280 | thence North 89°37'20" East 662.04 feet; thence South
 281 | 00°17'20" East 119.26 feet; thence South 89°27'40"
 282 | West 322.00 feet; thence South 00°17'20" East 10.00
 283 | feet; thence South 89°27'40" West 68.00 feet; thence
 284 | South 00°17'20" East 361.00 feet; thence North
 285 | 89°27'40" East 68.00 feet; thence South 00°17'20" East
 286 | 140.00 feet; thence South 89°27'40" West 221.81 feet;

287 | thence North 01°05'56" West 6.99 feet; thence westerly
 288 | along the arc of a non-tangential circular curve
 289 | concave to the north having a radius of 370.00 feet
 290 | through a central angle of 18°34'13" and being
 291 | subtended by a chord which bears North 81°50'17" West
 292 | 119.40 feet for a distance of 119.92 feet to a point
 293 | on the east line of said Section 3; thence southerly
 294 | along the east line of Section 3, and along the east
 295 | lines of Sections 10, 15, 22, and 27, all in Township
 296 | 50 South, Range 25 East, to the southeast corner of
 297 | said Section 27, Township 50 South, Range 25 East;
 298 | thence westerly along the south line of said Section
 299 | 27, Township 50 South, Range 25 East, and along the
 300 | western prolongation of said south line to a point
 301 | 1,000 feet west of the mean low water line of the Gulf
 302 | of Mexico; thence southeasterly along said shoreline
 303 | to the south line of Section 3, Township 51 South,
 304 | Range 25 East, thence easterly along the south line of
 305 | said Section 3, Section 2, Section 1, Township 51
 306 | South; thence along the south corner of said Section
 307 | 5; thence north along the east line of Section 5,
 308 | Township 51 South, Range 26 East; thence continue on
 309 | the north line of Section 25, 26 and part of Section
 310 | 27, Township 49 South, Range 25 East to the point of
 311 | beginning and also,
 312 |

313 D.C. All those lands in Collier County described as:
 314 Sections 21, 22, 23, 26, 27, 28, 33, 34 and 35,
 315 Township 50 South, Range 26 East; Section 2, 3, 4, 9,
 316 10, 11, 12, 13, 14, 15, 16, 17, 18, 23, 24, 25, 26, 35
 317 and 36, Township 51 South, Range 26 East; Sections 1,
 318 2, 3 and those portions of Sections 10, 11, 12, and
 319 13, Township 52 South, Range 26 East, that lie North
 320 of the Marco River; those portions of Sections 5, 6, 7
 321 and 18, Township 52 South, Range 27 East, that lie
 322 West and North of State Road 92; and Sections 7, 8,
 323 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30 and 31,
 324 Township 51 South, Range 27 East, and those portions
 325 of Sections 32 and 33, Township 51 South, Range 27
 326 East, that lie west and North of State Road 92,
 327

328 E.D. Less and except the North 1/2 of Section 2 of
 329 Township 50 South, Range 25 East and the South 1/2 of
 330 Section 35 of Township 49 South, Range 25 East.
 331

332 F.E. Less and except approximately 21.99 acres, more
 333 or less: A portion of Lots 7 through 9 of Naples
 334 Improvement Company's Little Farms as recorded in Plat
 335 Book 2 at page 2 of the Public Records of Collier
 336 County, Florida, being more particularly described as
 337 follows:
 338

339 Commence at the intersection of the East right-of-way
 340 of Goodlette-Frank Road (C.R. 851) and the South
 341 right-of-way of Golden Gate Parkway; thence run along
 342 said South right-of-way for the following four (4)
 343 courses:

344
 345 (1) Thence run North 44°42'45" East, for a distance
 346 of 35.36 feet;

347
 348 (2) Thence run North 89°42'45" East, for a distance
 349 of 122.57 feet;

350
 351 (3) Thence run North 80°12'12" East, for a distance
 352 of 159.63 feet;

353
 354 (4) To a point on a circular curve concave northwest,
 355 whose radius point bears North 11°26'26" West, a
 356 distance of 813.94 feet therefrom; thence run
 357 Northeasterly along the arc of said curve to the left,
 358 having a radius of 813.94 feet, through a central
 359 angle of 22°36'33", subtended by a chord of 319.10
 360 feet at a bearing of North 67°15'18" East, for an arc
 361 length of 321.18 feet to the intersection of the South
 362 right-of-way of said Golden Gate Parkway and the West
 363 line of the East 338.24 feet of the West 958.34 feet
 364 of Lot 7 of Naples Improvements Company's Little Farms

365 Subdivision as recorded in Plat Book 2 at page 2 of
 366 the Public Records of Collier County, Florida, also
 367 being the point of beginning of the parcel of land
 368 herein described; thence run South 00°16'32" East,
 369 along the West line of the East 338.24 feet of the
 370 West 958.34 feet of said Lot 7, for a distance of
 371 302.90 feet to a point on the South line of said Lot
 372 7; thence run along said South line for the following
 373 two (2) courses:

374
 375 (1) Thence run North 89°41'51" East, for a distance
 376 of 338.41 feet;

377
 378 (2) Thence run North 89°50'24" East, for
 379 approximately 850 feet to a point on the mean high
 380 water line of the west bank of Gordon River, said
 381 point herein called Point "A", thence return to the
 382 aforementioned point of beginning, thence run along
 383 the south right-of-way of said Golden Gate Parkway for
 384 the following four (4) courses:

385
 386 (1) Beginning at a point on a circular curve concave
 387 northwest, whose radius point bears North 34°02'58"
 388 West a distance of 813.94 feet therefrom; thence run
 389 Northeasterly along the arc of said curve to the left,
 390 having a radius of 813.94 feet, through a central

391 angle of 05°09'09", subtended by a chord of 73.17 feet
 392 at a bearing of North 53°22'27" East, for an arc
 393 length of 73.20 feet to the end of said curve;

394

395 (2) Thence run North 50°47'53" East, for a distance
 396 of 459.55 feet

397

398 (3) To the beginning of a tangential circular curve
 399 concave south; thence run Easterly along the arc of
 400 said curve to the right, having a radius of 713.94
 401 feet; through a central angle of 38°52'20"; subtended
 402 by a chord of 475.13 feet at a bearing of North
 403 70°14'03" East, for an arc length of 484.37 feet to
 404 the end of said curve;

405

406 (4) Thence run North 89°40'13" East, for
 407 approximately 724 feet to a point on the mean high
 408 water line of the west bank of Gordon River; thence
 409 meander Southwesterly along the mean high water line
 410 for approximately 900 feet to the aforementioned Point
 411 "A" and the point of ending.

412

413 ~~G.F.~~ Less and except approximately 112.82 acres, more
 414 or less: All of East Naples Industrial Park, according
 415 to the plat thereof recorded in Plat Book 10, Pages
 416 114 and 115, of the Public Records of Collier County,

417 Florida; all of East Naples Industrial Park Replat No.
 418 1, according to the Plat thereof recorded in Plat Book
 419 17, Pages 38 and 39, of the Public Records of Collier
 420 County, Florida; and the Northerly 200 feet of the
 421 Southerly 510 feet of the Easterly 250 feet of the
 422 Northeast 1/4 of Section 35, Township 49 South, Range
 423 25 East, Collier County, Florida, less and excepting
 424 the Easterly 50 feet thereof.

425
 426 H.G. Less and except approximately 6.17 acres, more
 427 or less: All that part of Lots 12, 13, and 14, Naples
 428 Improvement Company's Little Farms, as recorded in
 429 Plat Book 2, Page 2 of the Public Records of Collier
 430 County, Florida, being more particularly described as
 431 follows:

432
 433 Commencing at the Southwest corner of Lot 12, thence
 434 along the South line of said Lot 12, North 89°26'51"
 435 East 20.00 feet to the East right-of-way line of
 436 Goodlette-Frank Road; thence along the East right-of-
 437 way line North 00°39'49" East 10.00 feet to the Point
 438 of Beginning of the herein described parcel; thence
 439 continue along said East right-of-way North 00°39'49"
 440 West 580.00 feet; thence leaving said East right-of-
 441 way North 89°20'11" East 260.12 feet; thence North
 442 59°31'13" East, 153.66 feet; thence South 30°28'42"

443 East, 119.01 feet; thence South 00°33'09" East, 554.02
 444 feet to a line lying 10 feet North of and parallel
 445 with said South line of Lot 12; thence along the said
 446 parallel line South 89°26'51" West, 451.54 feet to the
 447 point of beginning of the herein described parcel.

448

449 Bearings are based on the said East line Goodlette-
 450 Frank Road being North 00°33'49" East.

451

452 I.H. Less and except approximately 12.77 acres, more
 453 or less: The West one-half (W 1/2) of the Northwest
 454 one-quarter (NW 1/4) of the Northwest one-quarter (NW
 455 1/4) of Section 11, Township 50 South, Range 25 East,
 456 lying South of State Road 90 (Tamiami Trail, U.S. 41),
 457 in Collier County, Florida, except the South 264 feet,
 458 and All that part of the South 264 feet of the
 459 Southwest one-quarter (SW 1/4) of the Northwest one-
 460 quarter (NW 1/4) of the Northwest one-quarter (NW 1/4)
 461 of Section 11, Township 50 South, Range 25 East, in
 462 Collier County, Florida, lying north of the north line
 463 of Walker's Subdivision as delineated on a Plat of
 464 record in plat book 1, at page 36, of the Public
 465 Records of Collier County, Florida.

466

467 TOGETHER WITH:

468

469 Lots 1 to 8, inclusive, COL-LEE-CO TERRACE, according
 470 to plat in Plat Book 1, Page 32, Public Records of
 471 Collier County, Florida.

472

473 LESS AND EXCEPT

474

475 Those parcels described in Official Records Book 1969,
 476 Page 977, and Official Records Book 2119, Page 1344
 477 both of the Public Records of Collier County, Florida.

478

479 ~~J.F.~~ Less and except approximately 6.16 acres, more
 480 or less: Being a part of Estuary at Grey Oaks Roadway,
 481 Clubhouse and Maintenance Facility Tract, Plat Book
 482 36, pages 9-16, Estuary at Grey Oaks Tract B, Plat
 483 Book 37, pages 13-18 and part of Section 26, Township
 484 49 South, Range 25 East, Collier County, Florida.

485

486 All that part of Estuary at Grey Oaks Roadway,
 487 Clubhouse and Maintenance Facility Tracts according to
 488 the plat thereof as recorded in Plat Book 36, pages 9-
 489 16, Estuary at Grey Oaks Tract B according to the plat
 490 thereof as recorded in Plat Book 37, pages 13-18,
 491 Public Records of Collier County, Florida, and part of
 492 Section 26, Township 49 South, Range 25 East, Collier
 493 County, Florida being more particularly described as
 494 follows:

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520

Commencing at the northwest corner of Tract M of said Estuary at Grey Oaks Roadway, Clubhouse and Maintenance Facility Tracts;

Thence along the west line of said Tract M South 00°East 613.48 feet to the Point of Beginning of the parcel herein described;

Thence continue South 00°20'09" East 406.67 feet;
Thence North 89°24'29" West 660.00 feet;

Thence North 00°20'09" West 406.66 feet to a point on the boundary of Golf Course Tract 1 of said Estuary at Grey Oaks Tract B;

Thence along said boundary South 89°24'33" East 660.00 feet to the Point of Beginning of the parcel herein described;

Bearings are based on the west line of said Tract M being South 00°20'09" East.

Hereinafter referred to as the "East Naples Division."

~~Section 2.02 If the annexation authorized by HB 949, 2014~~

521 ~~Regular Session, is approved at referendum, the East Naples~~
 522 ~~Division shall also include the following described lands in~~
 523 ~~Collier County:~~

524

525 ~~All that land located within Sections 19, 20, 21, 22,~~
 526 ~~27, 28, 29, 30, 31, 32, 33 and 34 of Township 51~~
 527 ~~South, Range 26 East, and those portions of Sections~~
 528 ~~4, 5 and 6 of Township 52 South, Range 26 East, which~~
 529 ~~lie north of the Marco River, Collier County, Florida.~~
 530 ~~Bearings are based on the west line of said Tract M~~
 531 ~~being South 00°20'09" East.~~


532

533 Section 2.02 ~~2.03~~ Chapter 171, Florida Statutes, shall
 534 apply to all annexations by a municipality within the district's
 535 boundaries.

536 Section 2. This act shall take effect only upon its
 537 approval by a majority vote of those qualified electors residing
 538 within the area being transferred from Collier County to the
 539 Greater Naples Fire Rescue District as described in section 1
 540 voting in a referendum to be held in conjunction with a general,
 541 special, or other election to be held in Collier County no later
 542 than December 31, 2016, except that this section shall take
 543 effect upon becoming law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 789 Local Government Finance
SPONSOR(S): Finance & Tax Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Dugan RD	Langston 

SUMMARY ANALYSIS

The Florida Constitution grants local governments broad home rule authority, which allows them to use a variety of revenue sources to fund services and improvements without express statutory authorization. Special assessments, impact fees, franchise fees, and user fees or service charges are examples of these home rule revenue sources.

The bill creates section 166.225, F.S., to grant certain municipalities the explicit authorization to levy special assessments for law enforcement services so long as the municipality:

- apportions the costs of the special assessment among parcels proportionately;
- reduces the municipal ad valorem taxes for the first year of the special assessment levy;
- levies and collects the special assessment pursuant to the statutory procedure in s. 197.3632; and
- does not adopt an ad valorem millage rate in the future that exceeds the rate set in the first year.

The bill also creates section 166.30, F.S., to create an enforcement process for municipalities to recover delinquent revenue sources. The bill provides that, after October 1, 2016, any municipality which has designated delinquent revenues that meet at least one the following criteria must issue a procurement request to a collection agency within 30 days of first meeting the criterion. The criteria are:

- Total designated revenues are more than 90 days delinquent and at least \$10,000,000;
- Total designated revenues are more than 180 days delinquent and at least \$5,000,000; or
- Total designated revenues are more than 270 days delinquent and at least \$1,000,000.

A municipality must issue an additional procurement request if it still meets the above criterion one year after issuing a procurement request, exclusive of any amount turned over to a collection agency in response to the first procurement request. However, if a municipality's delinquent designated revenues make up less than 20 percent of its total designated revenues billed during the previous year, it is not required to issue a procurement request. Additionally, a municipality is not required to enter into a contractual relationship with any company responding to the procurement request, and may continue to collect delinquent designated revenues by any method allowed by law.

The Revenue Estimating Conference has not reviewed this bill. The bill may require some additional local government expenditures related to issuance of procurement requests, but that provision might improve certain local government revenue collections. The law enforcement special assessment provision will likely have an indeterminate impact on municipal revenues because levy of the authorized assessment is optional. By design, the bill is expected to have minimal net revenue impacts on any municipality that chooses to levy the new assessment.

The bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Local Government Finance - Generally

Under the Florida Constitution, local governments may not levy taxes except for ad valorem taxes or as otherwise authorized by the Legislature.¹ However, the Florida Constitution grants local governments broad home rule authority. Municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform its functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.² Non-charter county governments are granted powers of self-government pursuant to general or special law,³ and charter counties are granted all powers of self-government which do not conflict with general or special law.⁴ Local governments may use a variety of revenue sources to fund services and improvements without express statutory authorization. Special assessments, impact fees, franchise fees, and user fees or service charges are examples of these home rule revenue sources. While local governments may have independent, home-rule authority to levy these fees or assessments, there are also Florida statutes that authorize specific types of fees.⁵

Law Enforcement Special Assessment (Section 1 of the bill)

Current Situation

Special Assessments – Generally

Special assessments are a revenue source that may be used by local governments to fund certain services and maintain capital facilities. Unlike taxes, these assessments are directly linked to a particular service or benefit. Examples of special assessments include fees for garbage disposal, sewer improvements, fire protection, and rescue services.⁶ Counties and municipalities have the authority to levy special assessments based on their home rule powers. Special districts derive their authority to levy these assessments through general law or special act.

As established in Florida case law, an assessment must meet two requirements in order to be classified as a valid special assessment: (1) the property assessed must derive a special benefit from the service provided, and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.⁷

Chapter 125, F.S., allows counties to establish municipal service taxing or benefit units for any part or all of the county's unincorporated area in order to provide a number of county or municipal services. Such services can be funded, in whole or in part, from special assessments.⁸ To the extent not inconsistent with general or special law, counties may also create special districts to include both incorporated and unincorporated areas, upon the approval of the affected municipality's governing

¹ Fla. Const. art VII, s. 1(a) and 9(a).

² Fla. Const. art VIII, 2(b). *See also* s. 166.021, F.S.

³ Fla. Const. art VIII, 1(f). *See also* chapter 125, F.S.

⁴ Fla. Const. art VIII, 1(g).

⁵ The Florida Legislature's Office of Economic and Demographic Research, 2014 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, 15 (Dec. 2014).

⁶ *See Harris v. Wilson*, 693 So. 2d 945 (Fla. 1997); *City of Hallandale v. Meekins*, 237 So. 2d 578 (Fla. 2d DCA 1977); *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973); and *Sarasota County v. Sarasota Church of Christ*, 641 So. 2d 900 (Fla. 2d DCA 1994).

⁷ *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992).

⁸ s. 125.01(1)(q)-(r), F.S.

body, which may be provided municipal services and facilities from funds derived from service charges, special assessments, or taxes within the district only.⁹

Section 197.3632 Procedure to Create a Non-Ad Valorem Assessment

Special assessments are commonly collected on the annual ad valorem tax bills, characterized as a “non-ad valorem assessments” under the statutory procedures in ch. 197, F.S.¹⁰ Section 197.3632(1)(d), F.S., defines a non-ad valorem assessment as those assessments that are not based upon millage and which can become a lien against a homestead as permitted in article X, section 4 of the Florida Constitution.¹¹

A municipality which elects to levy the special assessment may do so through the adoption of a resolution at a public hearing pursuant to the requirements in s. 197.3632. The municipality must publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within that county for four consecutive weeks preceding the hearing.¹² If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the DOR.¹³

In addition, s. 197.3632(4)(a) requires a municipality levying a non-ad valorem assessment for the first time to adopt the non-ad valorem assessment roll at a public hearing between January 1 and September 15. At least 20 days prior to the public hearing, the municipality shall notice the hearing by first-class United States mail and by publication in a newspaper generally circulated within that county.¹⁴ The notice by mail shall be sent to each person owning property subject to the assessment.¹⁵ At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons.¹⁶ If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment.¹⁷ By September 15 of each year, the chair of the local governing board shall certify the non-ad valorem assessment roll to the tax collector.¹⁸

Supplemental Method of Making Local Improvements

In addition to a municipality’s authority to impose special assessments under its home rule powers, ch. 170, F. S., provides a supplemental and alternative method for making municipal improvements. Specifically, s. 170.201(1), F.S., provides that:

The governing body of a municipality may levy and collect special assessments to fund capital improvements and municipal services including, but not limited to, fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement and parking facilities. The governing body of a municipality may apportion costs of such special assessment on:

- a) The front or square footage of each parcel of land; or
- b) An alternative methodology, so long as the amount of the assessment for each parcel of land is not in excess of the proportional benefits as compared to other assessments on other parcels of land.

⁹ s. 125.01(5), F.S.

¹⁰ Nabors, Giblin and Nickerson, *Primer on Home Rule & Local Government Revenue Sources*, at 35 (June 2008).

¹¹ Article X, section 4(a) of the Florida Constitution, provides, in pertinent part that “[t]here 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 ...”

¹² s. 197.3632(3)(a), F.S.

¹³ *Id.*

¹⁴ s. 197.3632(4)(b), F.S.

¹⁵ *Id.*

¹⁶ s. 197.3632(4)(c), F.S.

¹⁷ *Id.*

¹⁸ s. 197.3632(5)(a), F.S.

Although subsection (1) of s. 170.201, F.S., does not explicitly list law enforcement services, the language “including, but not limited to” provides that this is not an exclusive list.

Special Assessments for Law Enforcement Services

In 1998, the Attorney General’s Office issued Opinion 98-57, stating that “the imposition of special assessments to fund general law enforcement would not appear to be permissible in light of the” Florida Supreme Court decision, *Lake County v. Water Oak Management*.¹⁹ In Lake County, the Fifth District Court of Appeal struck down a special assessment for fire protection services provided by the county on the grounds that there was no special benefit to the properties on which the fire protection special assessment was imposed.

On appeal, the Florida Supreme Court stated that the “test is not whether the services confer a ‘unique’ benefit or are different in type or degree . . . rather the test is whether there is a logical relationship between services provided and the benefit to real property.”²⁰ In support of a previous 1969 Supreme Court decision, the court held that “fire protection services do, at a minimum, specifically benefit real property by providing for lower insurance premiums and enhancing the value of the property.”²¹ The Court further stated that the assessment still must meet the second prong of the test and be properly apportioned to the benefit received. Absent the proper apportionment, the assessment becomes an unauthorized tax.

In conclusion the court held that:

Clearly, services such as general law enforcement activities, the provision of courts, and indigent health care are, like fire protection services, functions required for an organized society. However, unlike fire protection services, those services provide no direct, special benefit to real property.²²

In 2005, the First District Court of Appeal held that special assessments for law enforcement services in a MSTU that benefited leaseholds were a valid special assessment.²³ In that case, the leaseholds subject to the special assessment were located on an island with “unique tourist and crowd control needs requiring specialized law enforcement services to protect the value of the leasehold property.” For these reasons, the court held that the “unique nature and needs of the subject leaseholds” made the special assessments valid.

Based on these court decisions and the 1998 Attorney General Opinion, it would appear that, absent a unique condition of the properties benefited, a municipality currently does not have the authority to levy assessments for general law enforcement services even if the assessment provides a special benefit to the property.

Proposed Changes

Section 1 of the bill authorizes a municipality to levy a special assessment to fund the costs of providing law enforcement services so long as the municipality:

- apportions the costs among parcels proportionately;
- levies ad valorem taxes in the fiscal year immediately preceding the fiscal year in which the special assessment is first collected;
- reduces the municipal ad valorem taxes for the first year the municipality levies the special assessment by an amount sufficient to offset the additional revenues from the assessment;

¹⁹ Op. Atty. Gen. Fla. 98-57 (Sept. 18, 1998) *citing* 695 So. 2d 667 (Fla. 1997).

²⁰ *Lake County* 695 So. 2d at 669.

²¹ *Lake County* 695 So. 2d at 669 (citing *Fire Dist. No. 1 v. Jenkins*, 221 So. 2d 740, 741 (Fla. 1969)).

²² *Lake County* 695 So. 2d at 670.

²³ *Quietwater Entertainment, Inc. v. Escambia County*, 890 So. 2d 525 (Fla. 1st DCA 2005).

- levies and collects the special assessment under the statutory procedure in s. 197.3632; and
- does not adopt an ad valorem millage rate in the future that exceeds the rate set in the initial year of the assessment.

Apportionment Methodology

Section 1 of the bill also provides that the municipality must have an apportionment methodology which allocates the cost of law enforcement services among the parcels of real property in the municipality in reasonable proportion to the benefit each parcel receives. The apportionment may consider the following factors:

- the size of structures on the parcel;
- the location and use of the parcel;
- the projected amount of time that the municipal law enforcement agency will spend protecting the property, grouped by neighborhood, zone, or category of use; and
- any other factor that reasonably may be used to determine the benefit of law enforcement services to a parcel of property.

Ad Valorem Reduction Requirements

Further, section 1 of the bill provides that the municipality must reduce its ad valorem millage as follows:

- In the first year the municipality levies the special assessment, the municipality must reduce its ad valorem millage by the millage that would be required to collect revenue equal to the revenue that is forecast to be collected from the special assessment.
- The special assessment revenues cannot be greater than an amount that would result in a proposed millage rate of zero for the first year of the assessment
- When preparing notice of proposed property taxes²⁴ in the first year of the assessment, the governing body of the municipality calculates the rolled-back millage rate²⁵ and determines the preliminary proposed millage rate as if there were no law enforcement services assessment. The preliminary proposed millage rate shall then be reduced by the amount of the law enforcement services assessment.
- After the first year of the assessment, the municipality's governing body will calculate the millage rate and rolled-back rate for the notice of proposed property taxes, based on the adopted millage rate from the previous year.
- However, a municipality's authority to levy the special assessment is terminated beginning in any fiscal year for which the municipality's final adopted millage rate exceeds the proposed millage rate for the first year of the assessment.

Property appraisers must list the special assessment on the notice of proposed property taxes pursuant to ss. 200.065 and 200.069, Florida Statutes.

The levy of the law enforcement services special assessment under section 1 of the bill is to be construed as being authorized by general law under article VII, sections 1 and 9 of the Florida Constitution, relating to local government authority to levy taxes.

Capital Recovery – Uncollected Municipal Revenue Sources (Sections 2 and 3 of the bill)

Current Situation

Municipal Code Enforcement & Other Fees & Fines

Code enforcement fees are one example of a specific local fee authorized by state statute. Chapter 162, Florida Statutes, outlines a process by which local governments may appoint code enforcement

²⁴ Pursuant to s. 200.069, F.S.

²⁵ Pursuant to s. 200.065(5), F.S.

boards to assess fines against property owners as a way to enforce a municipal code or ordinance. Local governments are also authorized to hire code enforcement inspectors who may levy such fines.²⁶ Any such fine, including any repair costs incurred to bring the property into compliance with code, may also constitute a lien against the owner of the property and any other real property owned by such owner.²⁷ However the statute states that local governments are not prevented by statute from enforcing codes and ordinances by any other means.²⁸

Municipally Owned Utilities

Under their home rule power and as otherwise provided or limited by law or agreement, municipalities provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even other municipalities. Current law provides that municipalities or an agency of a municipality may be a "joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction, and operation of electrical energy generating or transmission facilities with any corporation, association, partnership or person."²⁹ Additionally, municipalities are expressly authorized by general law to provide water and sewer utility services.³⁰ With respect to public works projects, including water and sewer utility services,³¹ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare" to accomplish the purposes of ch. 180, F.S.³² Current law requires municipalities providing telecommunication services to abide by certain requirements.³³ Municipal utilities are subject to limited oversight by the Public Service Commission (PSC).³⁴ PSC regulation of municipal electric utilities is limited to oversight of safety, reliability, territorial, and rate structure issues.³⁵ PSC regulation of municipal natural gas utilities is limited to territorial issues.³⁶ Municipal utilities that provide water and/or wastewater service are exempt from PSC regulation.³⁷

Uncollected Fees & Fines

Many fees and fines imposed by counties and municipalities are difficult to collect in a timely manner. However, because municipalities have the authority to file liens against the property as part of code and ordinance enforcement activities, collection rates over the long run are very high as most properties are likely to be sold at some point in time. Consequently, at any given time, a municipality can have a large balance of uncollected fees and fines. In a survey of large cities in Florida performed by a private company in 2013, seven cities reported a total of \$421,885,684 in uncollected utility charges and code enforcement, abatement, administrative and other fines backed by property liens.

²⁶ s. 162.21, F.S.

²⁷ s. 162.09, F.S.

²⁸ s. 162.21, F.S.

²⁹ Fla. Const. art. VII, s. 10(d). *See* ss. 361.10-361.18, F.S.

³⁰ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes).

³¹ s. 180.06, F.S., authorizes other public works projects, including alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes.

³² s. 180.02(2), F.S. However, a municipality may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions. *See* s. 180.19, F.S.

³³ *See* s. 166.047, F.S. (setting forth certain requirements for municipal telecommunication services); s. 350.81, F.S. (providing conditions under which local governments may provide telecommunications services).

³⁴ *See* s. 366.011(1), F.S. (exemption for municipal utilities); s. 367.022(2), F.S. (exempting governmental entities that provide water and/or wastewater service from PSC regulation).

³⁵ ss. 366.04(2), (5), and (6), F.S. According to the PSC's most recent "Facts and Figures of the Florida Utility Industry" (March 2014), there are 35 municipal electric utilities in Florida that are subject to this limited jurisdiction. Available at <http://www.psc.state.fl.us/publications/pdf/general/factsandfigures2014.pdf> (last visited 02/5/2016).

³⁶ s. 366.04(3), F.S. According to the PSC's most recent "Facts and Figures of the Florida Utility Industry" (March 2014), there are 27 municipal electric utilities and 4 special gas districts in Florida that are subject to this limited jurisdiction. Available at <http://www.psc.state.fl.us/publications/pdf/general/factsandfigures2014.pdf> (last visited 02/5/2016).

³⁷ s. 367.022(2), F.S.

Collection Agencies

Municipalities are authorized to contract with collection agencies to collect delinquent fees and fines, and typically do so on a contingency basis.³⁸ When done on a contingency basis, fees paid to the collection agency may not exceed 40 percent of the amount originally owed to the municipality.

Florida law requires that businesses engaged in the practice of collecting debts from consumers be registered with the Office of Financial Regulation.³⁹ As of June 30, 2015 there were 1,365 registered collection agencies in Florida.⁴⁰

Practices of collection agencies are governed by the federal Fair Debt Collection Practices Act⁴¹ and the Florida Consumer Collection Practices Act.⁴² Both acts define “debt collector” narrowly, and exclude persons such as original creditors and their in-house collectors and persons serving legal process in connection with the judicial enforcement of any debt. Both acts also provide private civil remedies to debtors for violations; if successful, the consumer may recover actual and statutory damages and reasonable attorney’s fees and costs.

Annual Financial Audit Report

Section 218.32, F.S., requires that each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.403, F.S., submit to the Florida Department of Financial Services (DFS) a copy of its annual financial report (AFR) for the previous fiscal year in a format prescribed by DFS.⁴³ The AFR must include any component units, as defined by generally accepted accounting principles, and each component unit must provide the local governmental entity, within a reasonable time period, financial information necessary to comply with the AFR reporting requirements. Some entities, including municipalities, are required to provide a financial audit report along with its AFR, and must do so within 45 days after completion of the audit report, but no later than 9 months after the end of the fiscal year.⁴⁴ AFRs provide local government revenue and expenditure information in more detail than is included in audit reports and is useful for detailed financial analysis.

Proposed Changes

Section 2 of the bill creates section 166.30, Florida Statutes, relating to municipal capital recovery. The bill provides a specified list of local government revenue sources, including:

- Abatement fines, which are amounts billed to an owner of real property by a municipality to recover funds expended by the municipality to bring the property into compliance with a municipal ordinance by taking some action at the property;
- Administrative fines, which are amounts other than abatement or property fines billed to an individual for the violation of a municipal ordinance or code unrelated to real property;
- Property fines, which are amounts other than abatement fines which are billed to a property owner due to the property being out of compliance with an ordinance or code; and
- Utility charges, which are amounts billed to a customer, other than a governmental entity, by a government-owned utility for providing utility service.

³⁸ s. 938.35, F.S.

³⁹ s. 559.555, F.S.

⁴⁰ Telephone conversation with OFR (October 29, 2015).

⁴¹ 15 U.S.C. §§ 1692-1692p. The federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-201, 124 Stat. 1376 § 1024(c)(3), directs that the FTC coordinate its law enforcement activities with the Consumer Financial Protection Bureau. The FDCPA is also enforced by other federal agencies with respect to specific industries subject to other federal laws, such as financial institutions (such as banks, savings associations, and credit unions).

⁴² Part VI of Chapter 559, F.S.

⁴³ Pursuant to s. 218.32(1)(c), F.S., regional planning councils; local government finance commissions, boards, or councils; and municipal power corporations created as a separate legal or administrative entity by interlocal agreement under s. 163.01(7), F.S., are also required to submit an AFR and audit report to DFS.

⁴⁴ ss. 218.32(1)(d)-(e), F.S.

These revenue sources are collectively referred to as “designated revenues” by the bill. The bill defines “procurement request” as an invitation to bid, invitation to negotiate, or request for proposal issued pursuant to a municipality’s procurement policy.

Section 2 of the bill also provides that, after October 1, 2016, any municipality which meets at least one the following criteria must issue a procurement request within 30 days of first meeting the criterion. The municipality must seek bids from licensed collection agencies. The criteria are:

- The sum of the municipality’s designated revenues which are more than 90 days delinquent is at least \$10 million;
- The sum of the municipality’s designated revenues which are more than 180 days delinquent is at least \$5 million; or
- The sum of the municipality’s designated revenues which are more than 270 days delinquent is at least \$1 million.

If a municipality issues a procurement request, it must reevaluate the amount of its delinquent designated revenues one year after making the request, exclusive of any amount turned over to a collection agency that submitted a bid in response to the procurement request,. If, at that time, the municipality continues to meet any of the three criteria, it must issue an additional procurement request.

If the municipality’s delinquent designated revenues make up less than 20 percent of its total designated revenues billed during the previous year, it is not required to issue a procurement request.

A municipality is not required to enter into a contractual relationship with any company responding to a procurement request, and may continue to collect delinquent designated revenues by any method allowed by law.

Any municipality issuing a procurement request pursuant to this provision is required to file a copy of all responses to the procurement request with the Department of Financial Services, which must maintain a copy of all such bids for a period of at least 5 years.

Section 3 of the bill requires all municipalities to include, as part of the management letter submitted with the annual financial audit report, a discussion of the municipality’s delinquent designated revenues and the efforts undertaken by the municipality to collect these revenues.

B. SECTION DIRECTORY:

- Section 1: Creates section 166.225, F.S., to allow a municipal law enforcement special assessment.
- Section 2. Creates section 166.30, F.S., specifying the requirements for municipal capital recovery.
- Section 3: Amends section 218.39, F.S. to require a discussion of capital recovery as part of the management letter accompanying the annual financial auditing report.
- Section 4: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

The bill may, in certain circumstances, require an expenditure of funds by a municipality to issue a procurement request.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals that reside in municipalities that levy special assessments for law enforcement services as provided in this bill may be required to pay such special assessments for the law enforcement services they receive, which may or may not be fully offset by property tax reductions required by the bill, depending on each taxpayer's ad valorem tax circumstances.

D. FISCAL COMMENTS:

The bill may result in improved revenue collections if it encourages additional local government revenue collection efforts.

The law enforcement special assessment provision will likely have an indeterminate impact on municipal revenues because levy of the authorized assessment is optional. By design, the bill is expected to have minimal net revenue impacts on any municipality that chooses to levy the new assessment.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill requires counties and municipalities, in some circumstances, to issue a procurement request, which may require the expenditure of funds; however, an exemption may apply, as the expenditure of funds to issue an invitation to bid is most likely insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides authorization for the DOR to adopt rules and forms necessary to administer provision of this bill related to the law enforcement special assessment.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to local government finance; creating
 3 s. 166.225, F.S.; authorizing a municipality to levy a
 4 special assessment to fund the costs of providing law
 5 enforcement services under certain circumstances;
 6 requiring that a municipality meet certain criteria to
 7 levy and collect the special assessment; providing a
 8 methodology for the apportionment of the special
 9 assessment and the reduction of the ad valorem
 10 millage; requiring the property appraiser to list the
 11 special assessment on the notice of property taxes;
 12 providing for termination of a municipality's
 13 authority to levy the special assessment; authorizing
 14 the Department of Revenue to adopt rules and forms;
 15 providing for construction; creating s. 166.30, F.S.;
 16 providing definitions; requiring municipalities that
 17 meet certain thresholds for specified delinquent
 18 revenues to issue a procurement request to collect
 19 such revenues; requiring procurement requests to be
 20 sent to consumer collection agencies; providing that
 21 municipalities issuing procurement requests are not
 22 required to enter into a contract; excluding certain
 23 delinquent revenues from threshold calculations under
 24 certain circumstances; requiring that copies of all
 25 bids received be filed with the Department of
 26 Financial Services; amending s. 218.39, F.S.;

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27 requiring that a discussion of capital recovery
 28 efforts be included in the management letter
 29 accompanying a municipality's annual financial audit
 30 report; providing an effective date.

31
 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. Section 166.225, Florida Statutes, is created
 35 to read:

36 166.225 Law enforcement services special assessment.—

37 (1) GENERAL.—The governing body of a municipality may levy
 38 a law enforcement services special assessment to fund all or a
 39 portion of its costs of providing law enforcement services, if
 40 the governing body:

41 (a) Apportions the cost of law enforcement services among
 42 the parcels of real property in the municipality in reasonable
 43 proportion to the benefit received by each parcel;

44 (b) Levies ad valorem taxes for the fiscal year
 45 immediately preceding the fiscal year in which the special
 46 assessment is first collected;

47 (c) Reduces its ad valorem millage pursuant to subsection
 48 (3); and

49 (d) Levies and collects the special assessment pursuant to
 50 s. 197.3632.

51 (2) APPORTIONMENT METHODOLOGY.—The methodology used to
 52 determine the benefit that a parcel of real property derives

53 from law enforcement services may be based on the following:
 54 (a) The square footage of structures on the parcel.
 55 (b) The location of the parcel.
 56 (c) The use of the parcel.
 57 (d) The projected amount of time that the municipal law
 58 enforcement agency will spend serving and protecting the parcel,
 59 grouped by neighborhood, zone, or category of use, which may
 60 include the projected amount of time that will be spent
 61 responding to calls for law enforcement services and the
 62 projected amount of time that law enforcement officers will
 63 spend patrolling or regulating traffic on the streets that
 64 provide access to the parcel.
 65 (e) Any other factor that may reasonably be used to
 66 determine the benefit of law enforcement services to a parcel of
 67 real property.
 68 (3) REDUCTION IN AD VALOREM MILLAGE.—
 69 (a) In the first year that the special assessment is
 70 levied, the governing body of the municipality must reduce its
 71 ad valorem millage, calculated as if there were no law
 72 enforcement services assessment, by the millage that would be
 73 required to collect revenue equal to the revenue that is
 74 forecast to be collected from the special assessment.
 75 (b) When preparing the notice of proposed property taxes
 76 pursuant to s. 200.069 in the first year of the assessment, the
 77 governing body of the municipality shall calculate the rolled-
 78 back millage rate pursuant to s. 200.065(5) and shall determine

79 the preliminary proposed millage rate as if there were no law
 80 enforcement services special assessment. The governing body
 81 shall then adopt the proposed law enforcement services special
 82 assessment and determine the equivalent millage rate pursuant to
 83 paragraph (a). The preliminary proposed millage rate must then
 84 be reduced by the amount of the law enforcement services special
 85 assessment equivalent millage rate and the resulting millage
 86 rate reported to the property appraiser, together with the
 87 amount of the law enforcement services special assessment,
 88 pursuant to the notice requirements of ss. 200.065 and 200.069.
 89 The property appraiser shall list the law enforcement services
 90 special assessment on the notice of proposed property taxes
 91 below the line in the columns reserved for non-ad valorem
 92 assessments. After the first year of the assessment, the millage
 93 rate and rolled-back rate for the notice of proposed property
 94 taxes shall be calculated pursuant to s. 200.065(5) and must be
 95 based on the adopted millage rate from the previous year.

96 (c) The special assessment revenues must not be greater
 97 than an amount that would result in a proposed millage rate of
 98 zero for the first year of the assessment reported to the
 99 property appraiser under paragraph (b).

100 (4) TERMINATION OF AUTHORITY.—A municipality's authority
 101 to levy the special assessment is terminated beginning in any
 102 fiscal year for which the municipality's final adopted millage
 103 rate exceeds the proposed millage rate for the first year of the
 104 assessment reported to the property appraiser under paragraph

105 (3) (b) .

106 (5) RULES AND FORMS.—The Department of Revenue may adopt
 107 rules and forms necessary to administer this section.

108 (6) CONSTRUCTION.—The levy of a law enforcement services
 109 special assessment pursuant to this section shall be construed
 110 as being authorized by general law in accordance with ss. 1 and
 111 9, Art. VII of the State Constitution.

112 Section 2. Section 166.30, Florida Statutes, is created to
 113 read:

114 166.30 Municipal capital recovery.—

115 (1) As used in this section, the term:

116 (a) "Abatement fine" means an amount billed to an owner of
 117 real property by a municipality after the municipality brings
 118 such real property or a portion thereof into compliance with a
 119 municipal ordinance or code by removing, repairing,
 120 rehabilitating, demolishing, improving, remediating, storing,
 121 transporting, or disposing of any portion of the real property
 122 or any tangible personal property located thereon, regardless of
 123 whether a lien was attached to the property related to such
 124 fine.

125 (b) "Administrative fine" means an amount billed to an
 126 individual for a violation of a municipal ordinance or code
 127 unrelated to real property.

128 (c) "Delinquent" means unpaid after the due date listed on
 129 the original billing of an abatement fine, administrative fine,
 130 property fine, or utility charge, regardless of whether the

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131 municipality has contracted with a collection agency pursuant to
 132 s. 938.35 for the collection of the unpaid fines or charges.

133 (d) "Designated revenues" means abatement fines,
 134 administrative fines, property fines, and utility charges.

135 (e) "Procurement request" means an invitation to bid, an
 136 invitation to negotiate, or a request for proposals issued by a
 137 municipality pursuant to its procurement policies.

138 (f) "Property fine" means an amount, other than an
 139 abatement fine, billed to a property owner due to the property
 140 owner's property being out of compliance with a municipal
 141 ordinance or code, regardless of whether a lien was attached to
 142 the property related to such fine.

143 (g) "Utility charge" means an amount billed to a customer,
 144 other than a government entity as defined in s. 768.295, by a
 145 municipally owned utility for providing utility service.

146 (2) Beginning October 1, 2016, a municipality shall issue
 147 a procurement request meeting the requirements of subsection (4)
 148 if the municipality has designated revenues totaling at least:

149 (a) Ten million dollars which are more than 90 days
 150 delinquent;

151 (b) Five million dollars which are more than 180 days
 152 delinquent; or

153 (c) One million dollars which are more than 270 days
 154 delinquent.

155 (3) A municipality that meets at least one of the criteria
 156 in subsection (2) 1 year after issuing a procurement request

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157 pursuant to this section must issue an additional procurement
 158 request meeting the requirements of subsection (4).

159 (4) A procurement request issued pursuant to this section
 160 must be issued no later than 30 days after the criteria set
 161 forth in subsection (2) or subsection (3) are met and must seek
 162 bids from consumer collection agencies registered pursuant to s.
 163 559.553.

164 (5) Subsections (2) and (3) do not apply to a municipality
 165 whose delinquent designated revenues are less than 20 percent of
 166 the total designated revenues billed by the municipality in the
 167 previous 12 months.

168 (6) A municipality is not required to enter into a
 169 contract for services with any consumer collection agency that
 170 responds to the procurement request.

171 (7) Any delinquent designated revenues that a consumer
 172 collection agency has contracted to collect in response to a
 173 procurement request issued pursuant to this section shall be
 174 excluded from the calculation made by the municipality when
 175 determining whether any of the criteria in subsection (2) are
 176 met.

177 (8) The municipality shall forward a copy of all bids that
 178 it has received in response to any procurement request issued
 179 pursuant to this section to the Department of Financial
 180 Services. The Department of Financial Services shall keep all of
 181 the bids on file for at least 5 years.

182 Section 3. Subsection (4) of section 218.39, Florida

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183 Statutes, is amended to read:

184 218.39 Annual financial audit reports.—

185 (4) A management letter shall be prepared and included as
 186 a part of each financial audit report. For each municipal
 187 financial audit report, the letter must include a discussion of
 188 the current balance of the municipality's delinquent designated
 189 revenues as defined in s. 166.30 and the efforts that the
 190 municipality has undertaken to collect such.

191 Section 4. This act shall take effect July 1, 2016.