

**STORAGE NAME:** h2021.ca

**DATE:** April 18, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** HB 2021

**RELATING TO:** Rainbow Lake Estates, Marion and Levy Counties

**SPONSOR(S):** Representative Boyd & others

**COMPANION BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

(1) COMMUNITY AFFAIRS

(2)

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(4)

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I. SUMMARY:

This bill amends a portion of the 1969 special act that created the Rainbow Lakes Estates Municipal Service District (District) in Marion and Levy Counties to authorize the board of the District to levy and assess special assessments to fund municipal services within the District.

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

According to the attached Economic Impact Statement, Marion County anticipates a revenue increase of approximately \$15,000 beginning Fiscal Year 1998-99.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**The Rainbow Lakes Estates Municipal Service District**

The Rainbow Lakes Estates Municipal Service District (District) is an independent special district that serves an unincorporated residential area (Rainbow Lakes Estates) whose territory covers portions of Marion and Levy Counties (approximately 90 percent of the area is in Marion County). The authorization for creation of the District was granted by the Legislature by chapter 69-1298, Laws of Florida. Such authorization required a referendum involving citizens from both Marion and Levy Counties. Such a referendum was held and passed in 1969. Residents of both counties serve on the District Board. The District is listed as an independent district on the 1996 Official List of Special Districts compiled by the Department of Community Affairs.

The District provides a number of municipal services to the residents of Rainbow Lakes Estates. Among these are:

- Road maintenance and lighting.
- Maintenance and operation of public lands and public civic and recreational facilities.
- Law enforcement and fire protection.
- Zoning and the enforcement of deed restrictions and covenants.
- Arranging the provision of public utilities.

The District is also authorized to levy a special ad valorem maintenance tax upon all taxable real and personal property within their district. The rate for this tax is not to exceed 3 mills during any given year.

Because of the physical location of Rainbow Lakes Estates, confusion has arisen regarding the collection of taxes between Marion and Levy Counties. Marion and Levy Counties have different Municipal Service Taxing Units (MSTUs) for the services that they provide. As such, there is currently no uniformity of assessments for the services that are being provided to Rainbow Lakes Estates. Conflicts have arisen over which county (Marion or Levy) would fund certain services and improvements.

**Special Districts**

A special district is defined as a local unit of government that has a specific purpose and a limited boundary, and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. Special districts have unique functions and powers that are prescribed by law. In 1989, the Legislature enacted chapter 189, F.S., which governs special districts in Florida.

Special districts in Florida have either **independent** or **dependent** status. A dependent special district is defined as one that either has: 1) a governing body that is identical to

the governing body of a single county or municipality; 2) governing board members that are appointed by a single county or municipal governing board; 3) a governing body whose members may be removed by a single county or municipality; or 4) a budget that must be approved or vetoed by a single county or municipality. The millage that a dependent special district can tax is limited by the millage cap of the controlling local government. For special districts created after 1989, section 189.4041, Florida Statutes, provides that a charter for a dependent special district "shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected."

An independent special district, on the other hand, has a governing board and budget that are not controlled by a local county or municipal government. A referendum vote by the electors determines the millage levied by an independent special district, and the rate that the district can charge is not limited by the local millage cap. By definition, a special district that spans more than one county must be independent, unless the district lies wholly within the boundaries of a single municipality.

Special districts may be authorized by general or special law to impose fees, special assessments, and taxes. They may collect and enforce the fees and special assessments by any method authorized by general law or by the special act creating the district. Ad valorem taxes must be collected and enforced following the specific procedures set out in chapters 197 and 200, F.S. Special assessments must be collected and enforced using the uniform method in chapter 197, F.S.

### **Chapter 197, F.S., Requirements for Collection of Special Assessments**

According to chapter 197, F.S., a local government which is authorized to impose a non-ad valorem assessment and which uses the uniform method of collecting such assessment for the first time shall adopt a resolution at a public hearing prior to January 1 or, if the property appraiser, tax collector, and local government agree, March 1. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. 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 Department of Revenue by January 10 or, if the property appraiser, tax collector, and local government agree, March 10.

Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform, in format, to that contained on the ad valorem roll. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

A local government shall adopt a non-ad valorem assessment roll at a public hearing held between June 1 and September 15 if:

1. The non-ad valorem assessment is levied for the first time;
2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

At least 20 days prior to the public hearing, the local government shall notice the hearing by first-class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing. However, notice by mail shall not be required if notice by mail is otherwise required by general or special law governing a taxing authority and such notice is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll.

The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from time to time. 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. The local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.

By September 15 of each year, the chair of the local governing board or his or her designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem

assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chair or his or her designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he or she may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. Non-ad valorem assessments must be included in the combined notice for ad valorem taxes and non-ad valorem assessments.

**B. EFFECT OF PROPOSED CHANGES:**

This bill amends section 4 of Chapter 69-1298, Laws of Florida, to authorize the District to levy and assess special assessments to fund municipal services within the District.

In levying the assessment, the District Board shall certify each year to the tax collectors of Marion County and Levy County, respectively, a non-ad valorem assessment roll. The tax collectors of Marion and Levy County shall be ex officio tax collectors for the District, however, the assessments shall be remitted by the tax collectors to the clerk of the circuit court for Marion County as ex officio clerk and treasurer of the District. In all other respects, the special assessments shall be levied and collected pursuant to general law.

**C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:**

Chapter 69-1298, Laws of Florida.

**D. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Not applicable.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Not applicable.

(3) any entitlement to a government service or benefit?

Not applicable.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not applicable.

b. Does the bill require or authorize an increase in any fees?

Not applicable.

c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

e. Does the bill authorize any fee or tax increase by any local government?

The bill allows the Rainbow Lakes Estates Municipal Service District to levy special assessments to fund municipal services within the District. The Marion County Attorney's Office anticipates that the residents of Levy County will have an new \$5.00 per year assessment.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1:** Amends section 4 of chapter 69-1298, Laws of Florida, to:

- 1) authorize the District to levy and assess special assessments to fund municipal services within the District;
- 2) require the District Board to certify each year to the tax collectors of Marion County and Levy County, respectively, a non-ad valorem assessment roll and that the tax collectors of Marion and Levy County shall be ex officio tax collectors for the District;
- 3) require that such special assessments be levied and collected pursuant to general law; and
- 4) provide that special assessments collected be remitted by the tax collectors to the clerk of the circuit court for Marion County as ex officio clerk and treasurer of the District.

**Section 2:** Provides that the act shall take effect on October 1, 1997.



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III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? March 4, 1997

WHERE? Chiefland Citizen, Chiefland, Levy County, Florida.

Star Banner, Ocala, Marion County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

**Marion County**

According to the Assistant County Attorney for Marion County, HB 2021 lifts the burden of collecting taxes for municipal services for Rainbow Lakes Estates from Levy County by providing a mechanism for Marion County to administer special assessments for such services. Marion County will maintain the same rates within the District through special assessments as collected as approved ad valorem millage. Marion County supports HB 2021.

**Levy County**

According to the Levy County Clerk of Court, Levy County supports HB 2021, as it will improve efficiency if Marion County takes over the remittance of assessments for Rainbow Lakes Estates.

**Taxation Concerns**

The Florida Constitution and general law allow for special districts to be authorized to collect millage that has been approved by the voters in a referendum and also to be authorized to collect special assessments that have been publicly noticed and provide a direct benefit to property owners in relationship to the assessment. However, the fact that the District will now have special assessment authority in addition to ad valorem tax authority to provide the same municipal services, raises questions about whether or not residents will be taxed both through ad valorem taxes and special assessments for the same services. Since the referendum for the ad valorem tax was passed in 1969, authorizing special assessments without amending the provision for ad valorem authority allows the District to levy both and may confuse residents about the exact cost of the services that they receive.

**Delegation Issues**

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This bill was formally approved by both the Marion County Legislative Delegation and the Levy County Legislative Delegation, as noted on the attached Local Bill Certification forms.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Jenny Underwood Dietzel

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