

By Representative Livingston

1                                   A bill to be entitled  
2           An act relating to Lee County independent fire  
3           control districts; prescribing uniform criteria  
4           for operation of independent special  
5           fire-control districts; providing definitions;  
6           preempting certain special acts and general  
7           acts of local application; providing for  
8           district boards of commissioners and for their  
9           election; providing for officers of boards;  
10          providing for commissioners' compensation and  
11          expenses; providing general and special powers  
12          of districts; providing for ad valorem taxes,  
13          non-ad valorem assessments, user charges,  
14          bonds, and impact fees; providing for  
15          referenda; providing for intergovernmental  
16          coordination; providing for expansion, merger,  
17          and dissolution of districts; providing an  
18          effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Short title.--Sections 1-13 of this act may  
23 be cited as the "Lee County Independent Special Fire Control  
24 District Act." This act shall apply to the Alva Fire Control  
25 and Rescue Service District, created pursuant to chapter  
26 76-413, Laws of Florida; Bayshore Fire Protection and Rescue  
27 Service District, created pursuant to chapter 76-414, Laws of  
28 Florida; Boca Grande Fire Control District created pursuant to  
29 chapter 22372, Laws of Florida, 1943; Bonita Springs Fire  
30 Control and Rescue District created pursuant to chapter  
31 65-1828, Laws of Florida; Estero Fire Protection and Rescue

1 Service District, created pursuant to chapter 76-408, Laws of  
2 Florida; Fort Myers Beach Fire Control District, created  
3 pursuant to chapter 27676, Laws of Florida, 1951, and chapter  
4 73-532, Laws of Florida; Fort Myers Shores Fire Protection and  
5 Rescue District, created pursuant to chapter 76-409, Laws of  
6 Florida; Iona-McGregor Fire Protection and Rescue Service  
7 District, created pursuant to chapter 75-421, Laws of Florida;  
8 Lehigh Acres Fire Control and Rescue Service District, created  
9 pursuant to chapter 63-1546, Laws of Florida; Matlacha-Pine  
10 Island Fire Control District created pursuant to chapter  
11 63-1588, Laws of Florida; North Fort Myers Fire Control and  
12 Rescue Service District, created pursuant to chapter 29240,  
13 Laws of Florida, 1953; San Carlos Park Fire Protection and  
14 Rescue Service District, created pursuant to chapter 76-411,  
15 Laws of Florida; Sanibel Fire Control District, created  
16 pursuant to chapter 30930, Laws of Florida, 1955; South Trail  
17 Fire Protection and Rescue Service District, created pursuant  
18 to chapter 76-412, Laws of Florida; Tice Fire Protection and  
19 Rescue Service District, created pursuant to chapter 76-410,  
20 Laws of Florida; Captiva Island Fire Control District, created  
21 pursuant to chapter 30929, Laws of Florida, 1955; and Upper  
22 Captiva Fire Protection and Rescue Service District, created  
23 pursuant to chapter 90-397, Laws of Florida; as all such  
24 enabling acts have been amended, shall be governed by the  
25 provisions of this act.

26 Section 2. Legislative intent.--The purpose of  
27 sections 1-13 of this act is to provide standards, direction,  
28 and procedures concerning the operations and governance of the  
29 independent special fire control districts in Lee County and  
30 to:

31

1           (1) Provide greater uniformity in independent special  
2 fire control district operations and authority in Lee County.

3           (2) Provide greater uniformity in the financing  
4 authority of independent special fire control districts in Lee  
5 County without hampering the efficiency and effectiveness of  
6 currently authorized and implemented methods and procedures of  
7 raising revenue.

8           (3) Improve communication and coordination between  
9 special fire control districts and other local governments in  
10 Lee County with respect to short-range and long-range planning  
11 to meet the demands for service delivery while maintaining  
12 fiscal responsibility.

13           (4) Provide uniform procedures for electing members of  
14 the governing boards of independent special fire control  
15 districts in Lee County to ensure greater accountability to  
16 the public.

17           Section 3. Definitions.--As used in sections 1-13 of  
18 this act, the term:

19           (1) "Board" means the governing board of a district.

20           (2) "District" means an independent special fire  
21 control district as described in section 1 of this act.

22           (3) "Emergency medical service" means basic and  
23 advanced life support service as defined in s. 401.23, Florida  
24 Statutes.

25           (4) "Rescue response service" means an initial  
26 response to an emergency or accident situation including,  
27 without limitation, a plane crash, trench or building  
28 collapse, swimming or boating accidents, and motor vehicle  
29 accidents.

30           (5) "Elector" means a person who is a resident of the  
31 district and is qualified to vote in a general election within

1 the local general-purpose government jurisdiction in which the  
2 district is located.

3 Section 4. Preemption of special acts and general acts  
4 of local application.--Each district described in section 1 of  
5 this act, regardless of any other, more specific provision of  
6 any special act or general law of local application creating  
7 the charter of said district, shall comply with sections 1-13  
8 of this act. It is the intent of the Legislature that the  
9 provisions of this part shall supersede all special acts or  
10 general laws of local application which contain the charter of  
11 any of the independent special fire control districts in Lee  
12 County described in section 1 of this act and any amendments  
13 thereto and which address the same subjects as sections 1-13  
14 of this act except as such acts, laws, or ordinances address  
15 district boundaries or authorize the levy and assessment of ad  
16 valorem taxes, special assessments, non-ad valorem  
17 assessments, impact fees, or fees or charges by a district.  
18 Further, sections 1-13 of this act do not require any  
19 modification to district financing or operations which would  
20 impair existing contracts, including collective bargaining  
21 agreements, debt obligations, or covenants and agreements  
22 relating to bonds validated or issued by the district.

23 Section 5. District boards of commissioners;  
24 membership, officers, meetings.--

25 (1)(a) The business affairs of each district shall be  
26 conducted and administered by a five-member board, except that  
27 Captiva Fire Control District, Boca Grande Fire Control  
28 District, and Sanibel Fire Control District shall remain  
29 governed by three-member boards. The board seats shall be  
30 designated seats 1, 2, and 3 in the case of the three-member  
31 boards and seats 1, 2, 3, 4, and 5 for all five-member boards.

1 Board elections shall be staggered with no more than two  
2 members of a three-member board or three members of a  
3 five-member board elected during an election year. The board  
4 shall be elected in nonpartisan elections by the electors of  
5 the district. Such elections shall be held at the time and in  
6 the manner prescribed by law for holding general elections in  
7 accordance with s. 189.405(2)(a) and (3), Florida Statutes,  
8 and each member shall be elected for a term of 4 years except  
9 as provided herein and serve until a successor assumes office.  
10 Candidates for the board of a district shall qualify for a  
11 specified seat with the county supervisor of elections. Such  
12 candidates may qualify by paying a filing fee of \$25 or by  
13 obtaining the signatures of at least 25 registered electors of  
14 the district on petition forms provided by the supervisor of  
15 elections which petitions shall be submitted and checked in  
16 the same manner as petitions filed by nonpartisan judicial  
17 candidates pursuant to s. 105.035, Florida Statutes.

18 (b) At the next general election following the  
19 effective date of this act, the members of the board shall be  
20 elected by the electors of the district in the manner provided  
21 in this section. The name of each candidate who qualifies for  
22 election to a seat on the board shall be included on the  
23 ballot, and electors may cast one vote for each seat open on  
24 the board, not to exceed one vote per candidate. The  
25 candidates who receive the most votes for the seats on the  
26 board which are on the ballot shall be elected to the board.

27 (2) If on the effective date of this act a district  
28 presently elects the members of its board, the next election  
29 shall be conducted in accordance with this section, but this  
30 section does not require the early expiration of any member's  
31 term of office by more than 60 days.

1           (3) Each member of the board must be a qualified  
2 elector at the time he qualifies and continually throughout  
3 his term.

4           (4) Each elected member of the board shall assume  
5 office on the first Tuesday following the first Monday in  
6 January of the succeeding year following election. Annually,  
7 within 60 days after the newly elected members have taken  
8 office, the board shall organize by electing from its number a  
9 chair, a vice chair, a secretary and a treasurer. The  
10 positions of secretary and treasurer may be held by one  
11 member. Funds of the district may be disbursed only upon the  
12 order or pursuant to resolution of the board, by warrant or  
13 check signed by the treasurer or other person authorized by  
14 the board. However, a "petty cash" account may be authorized  
15 by the board. The board may give the treasurer additional  
16 powers and duties that it deems appropriate.

17           (5) Members of the board may each be paid a salary or  
18 honorarium to be determined by at least a majority-plus-one  
19 vote of the board, which salary or honorarium may not exceed  
20 \$500 per month for each member. Special notice of the meeting  
21 at which the board will consider a salary change shall be  
22 published at least once at least 14 days prior thereto in a  
23 newspaper published in Lee County. Separate compensation for  
24 the board member serving as treasurer may be authorized by  
25 like vote so long as total compensation for the board member  
26 does not exceed \$500 per month. Members may be reimbursed for  
27 travel and per diem expenses as provided in s. 112.061,  
28 Florida Statutes.

29           (6) If a vacancy occurs on the board for any reason,  
30 the remaining members may appoint a qualified person to fill  
31 the seat until the next general election, at which time an

1 election shall be held to fill the vacancy for the remaining  
2 term, if any. The board shall remove any member who has three  
3 consecutive, unexcused absences from regularly scheduled  
4 meetings. The board shall adopt rules defining excused and  
5 unexcused absences.

6 (7) Each member shall, upon assuming office, take and  
7 subscribe to the oath of office prescribed by s. 5(b), Art. II  
8 of the State Constitution and s. 876.05, Florida Statutes.  
9 Each member, within 30 days of assuming office, must give the  
10 Governor a good and sufficient surety bond in the sum of  
11 \$1,000, the cost thereof being borne by the district,  
12 conditioned on his faithful performance of his duties of  
13 office.

14 (8) The board shall keep a permanent record book  
15 entitled "Record of Proceedings of (name of district)," in  
16 which the minutes of all meetings, resolutions, proceedings,  
17 certificates, bonds given by commissioners, and corporate acts  
18 shall be recorded. The record book shall be open to inspection  
19 in the same manner as state, county, and municipal records are  
20 open under ch. 119, Florida Statutes. The record book shall be  
21 kept at the office or other regular place of business  
22 maintained by the board in Lee County.

23 (9) All meetings of the board shall be open to the  
24 public consistent with ch. 286, Florida Statutes, s. 189.417,  
25 Florida Statutes, and other applicable general law.

26 Section 6. General powers.--The district shall have,  
27 and the board may exercise by majority vote, the following  
28 powers:

29 (1) To sue and be sued in the name of the district; to  
30 adopt and use a seal and authorize the use of a facsimile  
31 thereof; and to make and execute contracts and other

1 instruments necessary or convenient to the exercise of its  
2 powers.

3 (2) To provide for a pension or retirement plan for  
4 its employees. Notwithstanding the prohibition against extra  
5 compensation as provided in s. 215.425, Florida Statutes, the  
6 board may provide for an extra compensation program, including  
7 a lump-sum bonus payment program, to reward outstanding  
8 employees whose performance exceeds standards, if the program  
9 provides that a bonus payment may not be included in an  
10 employee's regular base rate of pay and may not be carried  
11 forward in subsequent years.

12 (3) To contract for the services of consultants to  
13 perform planning, engineering, legal, or other professional  
14 services.

15 (4) To borrow money and accept gifts; to apply for and  
16 use grants or loans of money or other property from the United  
17 States, the state, a unit of local government, or any person  
18 for any district purposes and enter into agreements required  
19 in connection therewith; and to hold, use, sell, and dispose  
20 of such moneys or property for any district purpose in  
21 accordance with the terms of the gift, grant, loan, or  
22 agreement relating thereto.

23 (5) To adopt resolutions and procedures prescribing  
24 the powers, duties, and functions of the officers of the  
25 district; the conduct of the business of the district; the  
26 maintenance of records; and the form of other documents and  
27 records of the district. The board may also adopt ordinances  
28 and resolutions that are necessary to conduct district  
29 business.

30 (6) To maintain an office at places it designates in  
31 Lee County and to appoint an agent of record.



1           (7) To acquire, by purchase, lease, gift, dedication,  
2 devise, or otherwise, real and personal property or any estate  
3 therein for any purpose authorized by this act and to trade,  
4 sell, or otherwise dispose of surplus real or personal  
5 property. The board may purchase equipment by an installment  
6 sales contract, if funds are available to pay the current  
7 year's installments on the equipment and to pay the amounts  
8 due that year on all other installments and indebtedness.

9           (8) To hold, control, and acquire by donation or  
10 purchase any public easement, dedication to public use,  
11 platted reservation for public purposes, or reservation for  
12 those purposes authorized by sections 1-13 of this act and to  
13 use such easement, dedication, or reservation for any purpose  
14 authorized by sections 1-13 of this act consistent with  
15 applicable adopted local government comprehensive plans and  
16 land development regulations.

17           (9) To lease as lessor or lessee to or from any  
18 person, firm, corporation, association, or body, public or  
19 private, any facility or property of any nature for the use of  
20 the district to carry out any purpose authorized by sections  
21 1-13 of this act.

22           (10) To borrow money and issue bonds, revenue  
23 anticipation notes, or certificates payable from and secured  
24 by a pledge of funds, revenues, taxes, and assessments,  
25 warrants, notes, or other evidence of indebtedness and  
26 mortgage real and personal property when necessary to carry  
27 out the district's duties and authority under sections 1-13 of  
28 this act.

29           (11) To charge user and impact fees authorized by  
30 resolution of the board, in amounts necessary to conduct  
31 district activities and services, and to enforce their receipt

1 and collection in the manner prescribed by resolution not  
2 inconsistent with law.

3 (12) To exercise the right and power of eminent  
4 domain, pursuant to ch. 73 or ch. 74, Florida Statutes, over  
5 any property within the district, except municipal, county,  
6 state, special district, or federal property used for a public  
7 purpose, for the uses and purposes of the district relating  
8 solely to the establishment and maintenance of fire stations  
9 and fire substations, specifically including the power to take  
10 easements that serve such facilities consistent with  
11 applicable adopted local government comprehensive plans and  
12 land development regulations.

13 (13) To cooperate or contract with other persons or  
14 entities, including other governmental agencies, as is  
15 necessary, convenient, incidental, or proper in connection  
16 with providing effective mutual aid and furthering any power,  
17 duty, or purpose authorized by sections 1-13 of this act.

18 (14) To assess and impose upon real property in the  
19 district ad valorem taxes and special assessments as  
20 authorized by sections 1-13 of this act.

21 (15) To impose and foreclose special assessment liens  
22 as provided by sections 1-13 of this act or to impose,  
23 collect, and enforce non-ad valorem assessments pursuant to  
24 ch. 197, Florida Statutes.

25 (16) To select as a depository for its funds any  
26 qualified public depository as defined in s. 280.02, Florida  
27 Statutes, which meets all the requirements of ch. 280, Florida  
28 Statutes, and has been designated by the treasurer as a  
29 qualified public depository, upon such terms and conditions as  
30 to the payment of interest upon the funds deposited as the  
31 board deems just and reasonable.

1           (17) To provide adequate insurance on all real and  
2 personal property, equipment, employees, volunteer  
3 firefighters, and other personnel.

4           (18) To organize, participate, and contribute  
5 monetarily to organizations or associations relating to the  
6 delivery of or improvement of fire control, prevention,  
7 emergency rescue services, or district administration.

8           (19) As the exercise of the powers conferred by  
9 sections 1-13 of this act constitutes actions of a political  
10 subdivision of the state performing essential public  
11 functions, and as the property of each district constitutes  
12 public property used for public purposes, all assets and  
13 properties of the districts shall be exempt from all taxes of  
14 the state and any political subdivision, agency, or  
15 instrumentality thereof, including property acquired through  
16 the foreclosure of any tax or assessment lien.

17           Section 7. Special powers.--The independent special  
18 fire control districts of Lee County shall provide for fire  
19 suppression and prevention by establishing and maintaining  
20 fire stations and fire substations and acquiring and  
21 maintaining such fire-fighting and fire-protection equipment  
22 deemed necessary to prevent or fight fires. All construction  
23 shall be in compliance with applicable state, regional, and  
24 local regulations including adopted comprehensive plans and  
25 land development regulations. The district shall have the  
26 authority to access and utilize public water supply systems at  
27 no charge for the purposes of firefighting and fire  
28 prevention. The board shall have and may exercise, any or all  
29 of the following special powers relating to facilities and  
30 duties authorized by sections 1-13 of this act:

31

1           (1) Establish and maintain emergency medical and  
2 rescue response services and acquire and maintain rescue,  
3 medical, and other emergency equipment. Pursuant to the  
4 provisions of ch. 401, Florida Statutes, and any certificate  
5 of public convenience and necessity or its equivalent issued  
6 thereunder.

7           (2) Employ, train, coordinate, and equip such  
8 personnel and volunteer firefighters, as are necessary to  
9 accomplish the duties of the district. The board may employ  
10 and fix the compensation of a fire chief or chief  
11 administrator. The board shall prescribe the duties of this  
12 employee, which shall include supervision and management of  
13 the operations of the district and its employees and  
14 maintenance and operation of its facilities and equipment. The  
15 fire chief or chief administrator may employ and terminate the  
16 employment of such other persons, including, without  
17 limitation, professional, supervisory, administrative,  
18 maintenance, and clerical employees, as are necessary and  
19 authorized by the board. The compensation and other conditions  
20 of employment of the officers and employees of the district  
21 shall be provided by the board.

22           (3) Conduct public education to promote awareness of  
23 methods to prevent fires and reduce the loss of life and  
24 property from fires or other public safety concerns.

25           (4) Adopt and enforce firesafety standards and codes  
26 and enforce the rules of the State Fire Marshal consistent  
27 with the exercise of the duties authorized by ch. 553 or ch.  
28 633, Florida Statutes, with respect to fire suppression,  
29 prevention, and firesafety code enforcement.

30           (5) Conduct arson investigations and cause-and-origin  
31 investigations.

1           (6) Adopt hazardous material safety plans and  
2 emergency response plans in coordination with the county and  
3 County Emergency Management Agency pursuant to ch. 252,  
4 Florida Statutes.

5           (7) Contract with general-purpose local government for  
6 emergency management planning and services.

7           Section 8. Taxes; non-ad valorem assessments; impact  
8 fees and user charges.--

9           (1) AD VALOREM TAXES.--A board may levy and assess ad  
10 valorem taxes on all taxable property in the district to  
11 construct, operate, and maintain district facilities and  
12 services; to pay the principal of, and interest on, general  
13 obligation bonds of the district; and to provide for any  
14 sinking or other funds established in connection with such  
15 bonds. An ad valorem tax levied by the board for operating  
16 purposes, exclusive of debt service on bonds, may not exceed  
17 3.75 mills, subject to referendum as required by the State  
18 Constitution and this act, unless a higher amount has been  
19 previously authorized by law. The levy of ad valorem taxes  
20 pursuant to this section must be approved by referendum called  
21 by the board when the proposed levy of ad valorem taxes  
22 exceeds the amount authorized by prior special act or general  
23 law of local application. Nothing in this act shall require a  
24 referendum on the levy of ad valorem taxes in an amount  
25 previously authorized by special act or general law of local  
26 application. Such tax shall be assessed, levied, and collected  
27 in the same manner as county taxes. The levy of ad valorem  
28 taxes approved by referendum shall be reported within 60 days  
29 after the vote to the Department of Community Affairs.

30           (2) NON-AD VALOREM ASSESSMENTS.--A district may levy  
31 non-ad valorem assessments as defined in s. 197.3632, Florida

1 Statutes, to construct, operate, and maintain district  
2 facilities and services. The rate of such assessments must be  
3 fixed by resolution of the board of commissioners pursuant to  
4 the procedures contained in section 9 of this act. Non-ad  
5 valorem assessment rates set by the board may exceed the  
6 maximum rates established by special act or referendum in an  
7 amount not to exceed the average annual growth rate in Florida  
8 personal income over the previous 5 years. Non-ad valorem rate  
9 increases within the personal income threshold are deemed to  
10 be within the maximum rate authorized by law at the time of  
11 initial imposition. Proposed non-ad valorem assessment  
12 increases which exceed the rate set the previous fiscal year  
13 or the rate previously set by special act, whichever is more  
14 recent, by more than the average annual growth rate in Florida  
15 personal income over the last 5 years, or the first time levy  
16 of non-ad valorem assessments in a district, must be approved  
17 by referendum of the electors of the district. The referendum  
18 on the first time levy of a special assessment shall include  
19 notice of the future non-ad valorem assessment rate increases  
20 permitted by this act without referendum. Non-ad valorem  
21 assessments shall be imposed, collected, and enforced pursuant  
22 to section 9 of this act.

23 (3) USER CHARGES.--

24 (a) The board may provide a reasonable schedule of  
25 charges for emergency services, including firefighting  
26 occurring in or to structures outside the district, motor  
27 vehicles, marine vessels, aircraft, or rail cars, or as a  
28 result of the operation of such motor vehicles or marine  
29 vessels, to which the district is called to render such  
30 emergency service and may charge a fee for the services  
31 rendered in accordance with the schedule.

1           (b) The board may provide a reasonable schedule of  
2 charges for fighting fires occurring in or at refuse dumps or  
3 as a result of an illegal burn, which fire, dump, or burn is  
4 not authorized by general or special law, rule, regulation,  
5 order, or ordinance, which the district is called upon to  
6 fight or extinguish.

7           (c) The board may provide a reasonable schedule of  
8 charges for responding, standing by as a protective measure,  
9 or assisting in or mitigating emergencies that either threaten  
10 or could threaten the health and safety of persons, property,  
11 or the environment, to which the district has been called,  
12 including, without limitation, a charge for responding to  
13 false alarms.

14           (d) The board may provide a reasonable schedule of  
15 charges for inspecting structures, plans, and equipment to  
16 determine compliance with firesafety codes and standards.

17           (e) The district shall have a lien upon any real  
18 property, motor vehicle, marine vessel, aircraft, or rail car  
19 for any charge assessed under this subsection.

20           (4) IMPACT FEES.--If the general purpose local  
21 government has not adopted an impact fee for fire services  
22 which is distributed to the district for construction within  
23 its jurisdictional boundaries, the board may establish a  
24 schedule of impact fees in compliance with any standards set  
25 by general law for new construction, to pay for the cost of  
26 new facilities and equipment, the need for which is in whole  
27 or in part the result of new construction. The impact fees  
28 collected by the district under this subsection must be kept  
29 separate from other revenues of the district and must be used  
30 exclusively to acquire, purchase, or construct new facilities  
31 or portions thereof needed to provide fire protection and

1 emergency services to new construction. As used in this  
2 subsection, the term "new facilities" means land, buildings,  
3 and capital equipment, including, without limitation, fire and  
4 emergency vehicles, radiotelemetry equipment, and other  
5 firefighting or rescue equipment. The board shall maintain  
6 adequate records to ensure that impact fees are expended only  
7 for permissible new facilities or equipment. The board may  
8 enter into agreements with local general-purpose governments  
9 to share in the revenues from fire protection impact fees  
10 imposed by such governments.

11 Section 9. Procedures for the levy and collection of  
12 assessments.--

13 (1) A district may provide for the levy of non-ad  
14 valorem assessments under this act on the lands and real  
15 estate benefited by the exercise of the powers authorized in  
16 this act, or any part thereof, for all or any part of the cost  
17 thereof. Non-ad valorem assessments may be levied only on  
18 benefited real property at a rate of assessment based on the  
19 special benefit accruing to such property from such services  
20 or improvements. The district may use any assessment  
21 apportionment methodology that meets the "fair apportionment"  
22 standards.

23 (2) The board may determine to exercise any power  
24 authorized by this act and defray the whole or any part of the  
25 expense thereof by non-ad valorem assessments. A district  
26 shall adopt a non-ad valorem assessment roll pursuant to the  
27 procedures contained in this section or in s. 197.3632,  
28 Florida Statutes, if:

29 (a) The non-ad valorem assessment is levied for the  
30 first time;

31



1           (b) The non-ad valorem assessment is increased beyond  
2 the maximum rate authorized by general law or special act at  
3 the time of initial imposition pursuant to section 8 of this  
4 act;

5           (c) The local government's boundaries have changed,  
6 unless all newly affected property owners have provided  
7 written consent for such assessment to the local governing  
8 board; or

9           (d) There is a change in the purpose for such  
10 assessment or in the use of the revenue generated by such  
11 assessment.

12  
13 The board shall so declare by resolution stating the nature of  
14 the proposed service, the location of any capital facilities,  
15 personnel, and equipment needed to provide the service, and  
16 any other projected expense of providing the service or  
17 improvement, and the part or portion of the expense thereof to  
18 be paid by non-ad valorem assessments, the manner in which  
19 said assessments shall be made, when said assessments are to  
20 be paid, and what part, if any, shall be apportioned to be  
21 paid from other revenues or funds of the district. Said  
22 resolution shall also designate the lands upon which the  
23 non-ad valorem assessments shall be levied. Such lands may be  
24 designated by an assessment plat. Such resolution shall also  
25 state the total estimated costs of the service and/or  
26 improvement. Such estimated cost may include the cost of  
27 operations including personnel, equipment, construction or  
28 reconstruction, the cost of all labor and materials, the cost  
29 of all lands, property, rights, easements, and franchises  
30 acquired, financing charges, interest prior to and during  
31 construction and for 1 year after completion of construction,

1 discount on the sale of assessment bonds, cost of plans and  
2 specifications, surveys of estimates of costs and of revenues,  
3 cost of engineering and legal services, and all other expenses  
4 necessary or incident to determining the feasibility or  
5 practicability of such construction or reconstruction,  
6 administrative expense, and such other expense may be  
7 necessary or incident to the financing herein authorized.

8           (3) At the time of the adoption of the resolution  
9 provided for in subsection (2), there shall be on file at the  
10 district's offices, an assessment plat showing the area to be  
11 assessed, with construction and operational plans and  
12 specifications, and an estimate of the cost of the proposed  
13 service and/or improvement, which assessment plat, plans and  
14 specifications, and estimate shall be open to the inspection  
15 of the public.

16           (4) Upon adoption of the resolution provided for in  
17 subsection (2), or completion of the preliminary assessment  
18 roll provided for in subsection (5), whichever is later, the  
19 board shall publish notice of the resolution once in a  
20 newspaper of general circulation in Lee County. The notice  
21 shall state in brief and general terms a description of the  
22 proposed service and/or improvements and that the plans,  
23 specifications, and estimates are available to the public at  
24 the district's offices. The notice shall also state the date  
25 and time of the hearing to hear objections provided for in  
26 subsection (7), which hearing shall be no earlier than 15 days  
27 after publication of said notice. Such publication shall be  
28 verified by the affidavit of the publisher and filed with the  
29 secretary to the board.

30           (5) Upon the adoption of the resolution provided for  
31 in subsection (2), the board shall cause to be made a

1 preliminary assessment roll in accordance with the method of  
2 assessment provided for in said resolution, said assessment  
3 roll shall show the lots and lands assessed and the amount of  
4 the benefit to and the assessment against each lot or parcel  
5 of land, and, if said assessment is to be paid in  
6 installments, the number of annual installments in which the  
7 assessment is divided shall also be entered and shown upon  
8 said assessment roll.

9           (6) Upon the completion of said preliminary assessment  
10 roll, the board shall by resolution fix a time and place at  
11 which the owners of the property to be assessed or any other  
12 persons interested therein may appear before said board and be  
13 heard as to the advisability of providing said service or,  
14 making such improvements, as to the cost thereof, as to the  
15 manner of payment therefor, and as to the amount thereof to be  
16 assessed against each property so improved. Ten days' notice  
17 in writing of such time and place shall be given to such  
18 property owners. The notice shall include the amount of the  
19 assessment and shall be served by mailing a copy to each of  
20 such property owners at his last known address, the names and  
21 addresses of such property owners to be obtained from the  
22 records of the property appraiser, proof of such mailing to be  
23 made by the affidavit of the secretary.

24           (7) At the time and place named in the notice provided  
25 for in subsection (4), the board shall meet and hear testimony  
26 from affected property owners as to the advisability of  
27 providing the service and/or making the improvements and  
28 funding them with non-ad valorem assessments on property.  
29 Following the testimony, the board shall make a final decision  
30 on whether to levy the non-ad valorem assessments, adjusting  
31 assessments as may be warranted by information received at or

1 prior to the hearing. If any property which may be chargeable  
2 under this section shall have been omitted from the  
3 preliminary roll or if the prima facie assessment shall not  
4 have been made against it, the board may place on such roll an  
5 apportionment to such property. The owners of any property so  
6 added to the assessment roll shall be mailed a copy of the  
7 notice provided for in subsection (6), and granted 15 days  
8 from such date of mailing to file any objections with the  
9 board. When so approved by resolution of the board, a final  
10 assessment roll shall be filed with the vice chair of the  
11 board, and such assessments shall stand confirmed and remain  
12 legal, valid, and binding first liens upon the property  
13 against which such assessments are made until paid. The  
14 assessment so made shall be final and conclusive as to each  
15 lot or parcel assessed unless proper steps be taken within 30  
16 days of the filing of the final assessment roll in a court of  
17 competent jurisdiction to secure relief. If the assessment  
18 against any property shall be sustained or reduced or abated  
19 by the court, the vice chair shall note that fact on the  
20 assessment roll opposite the description of the property  
21 affected thereby and notify the county property appraiser and  
22 the tax collector in writing. The amount of the non-ad valorem  
23 assessment against any lot or parcel which may be abated by  
24 the court, unless the assessment upon the entire district be  
25 abated, or the amount by which such assessment is so reduced,  
26 may by resolution of the board be made chargeable against the  
27 district at large, or, at the discretion of the board, a new  
28 assessment roll may be prepared and confirmed in the manner  
29 hereinabove provided for the preparation and confirmation of  
30 the original assessment roll. The board may by resolution  
31 grant a discount equal to all or a part of the payee's

1 proportionate share of services or the cost of a capital  
2 project consisting of bond financing costs, such as  
3 capitalized interest, funded reserves, and bond discount  
4 included in the estimated cost of the project, upon payment in  
5 full of any assessment during such period prior to the time  
6 such financing costs are incurred as may be specified by the  
7 board.

8           (8) The non-ad valorem assessments shall be payable at  
9 the time and in the manner stipulated in the resolution  
10 providing for the improvement or services; shall remain liens,  
11 coequal with the lien of all state, county, district, and  
12 municipal taxes, superior in dignity to all other liens,  
13 titles, and claims, until paid; shall bear interest, at a rate  
14 authorized by law, or, if bonds have been issued, at a rate  
15 not to exceed 1 percent above the rate of interest at which  
16 the bonds authorized pursuant to this act and used for a  
17 capital improvement are sold, from the date of the acceptance  
18 of the improvement; and may, by the resolution aforesaid and  
19 only for capital outlay projects, be made payable in equal  
20 installments over a period not to exceed 20 years, to which,  
21 if not paid when due, there shall be added a penalty at the  
22 rate of 1 percent per month, until paid. However, the  
23 assessments may be paid without interest at any time within 30  
24 days after the improvement is completed and a resolution  
25 accepting the same has been adopted by the board.

26           (9) The non-ad valorem assessments approved by the  
27 board may be levied, assessed, and collected pursuant to ss.  
28 197.3631-197.3635, Florida Statutes. The collection and  
29 enforcement of the non-ad valorem assessment levied by the  
30 district shall be at the same time and in like manner as  
31 county taxes.

1           (10) All assessments shall constitute a lien upon the  
2 property so assessed from the date of confirmation of the  
3 resolution ordering the improvement of the same nature and to  
4 the same extent as the lien for general county, municipal, or  
5 district taxes falling due in the same year or years in which  
6 such assessments or installments thereof fall due, and any  
7 assessment or installment not paid when due may be collected  
8 with such interest and with a reasonable attorney's fee and  
9 cost, but without penalties, by the district by proceedings in  
10 a court of equity to foreclose the lien of assessment as a  
11 lien for mortgages is or may be foreclosed under the laws of  
12 the state; provided that any such proceedings to foreclose  
13 shall embrace all installments of principal remaining unpaid  
14 with accrued interest thereon, which installments shall, by  
15 virtue of the institution of such proceedings, immediately  
16 become due and payable. Nevertheless, if, prior to any sale of  
17 the property under decree of foreclosure in such proceedings,  
18 payment be made of the installment or installments which are  
19 shown to be due under the provisions of the resolution passed  
20 pursuant to subsection (9), and by this subsection and all  
21 costs including attorney's fees, such payment shall have the  
22 effect of restoring the remaining installments to their  
23 original maturities and the proceedings shall be dismissed. It  
24 shall be the duty of the district to enforce the prompt  
25 collection of assessments by the means herein provided, and  
26 such duty may be enforced at the suit of any holder of bonds  
27 issued under this act in a court of competent jurisdiction by  
28 mandamus or other appropriate proceedings or action. Not later  
29 than 30 days after the annual installments are due and  
30 payable, it shall be the duty of the board to direct the  
31 attorney or attorneys whom the board shall then designate, to

1 institute actions within 3 months after such direction to  
2 enforce the collection of all non-ad valorem assessments  
3 remaining due and unpaid at the time of such direction. Such  
4 action shall be prosecuted in the manner and under the  
5 conditions in and under which mortgages are foreclosed under  
6 the laws of the state. It shall be lawful to join in one  
7 action the collection of assessments against any or all  
8 property assessed by virtue of the same assessment roll unless  
9 the court shall deem such joinder prejudicial to the interest  
10 of any defendant. The court shall allow a reasonable  
11 attorney's fee for the attorney or attorneys of the district,  
12 and the same shall be collectible as a part of or in addition  
13 to the costs of the action. At the sale pursuant to decree in  
14 any such action, the district may be a purchaser to the same  
15 extent as an individual person or corporation, except that the  
16 part of the purchase price represented by the assessments sued  
17 upon and the interest thereon need not be paid in cash.  
18 Property so acquired by the district may be sold or otherwise  
19 disposed of, the proceeds of such disposition to be placed in  
20 the fund provided by subsection (11). However, no sale or  
21 other disposition thereof shall be made unless the notice  
22 calling for bids therefor to be received at a stated time and  
23 place shall have been published in a newspaper of general  
24 circulation in the district once in each of 4-successive weeks  
25 prior to such disposition.

26 (11) All assessments and charges made under the  
27 provisions of this section for the payment of all or any part  
28 of the cost of any improvements or services for which  
29 assessment bonds shall have been issued under the provisions  
30 of this act are hereby pledged to the payment of the principal  
31 of and the interest on such assessment bonds and shall, when

1 collected, be placed in a separate fund, properly designated,  
2 which fund shall be used for no other purpose than the payment  
3 of such principal and interest.

4 Section 10. District may issue bonds, notes, or other  
5 evidences of indebtedness.--

6 (1) A district may issue general obligation bonds,  
7 assessment bonds, revenue bonds, notes, or other evidences of  
8 indebtedness, collectively bonds, to finance all or a part of  
9 any proposed improvements authorized to be undertaken under  
10 this act or under general or special law, provided that the  
11 total annual payments for principal and interest on such  
12 indebtedness shall not exceed 50 percent of the total annual  
13 budgeted revenues of the district. The bonds shall be issued  
14 in such denominations, mature on such dates and in such  
15 amounts, and may be subject to optional and mandatory  
16 redemption, all as shall be determined by resolutions adopted  
17 by the governing board of said district. Bonds of said  
18 district may bear interest at a fixed or floating or  
19 adjustable rate and may be issued as interest-bearing,  
20 interest-accruing bonds or zero-coupon bonds at such rate or  
21 rates not exceeding the maximum rate permitted by general law,  
22 all as shall be determined by resolutions of the governing  
23 board of said district. Principal and interest shall be  
24 payable in the manner determined by the governing board. The  
25 bonds shall be signed by manual or facsimile signature of the  
26 chair or vice chair of the governing board, attested with the  
27 seal of said district and by the manual or facsimile signature  
28 of the secretary or assistant secretary of said governing  
29 board.

30 (2) The bonds shall be payable from the non-ad valorem  
31 assessments, or other non-ad valorem revenues including



1 without limitation, user fees or charges or rental income  
2 authorized to be levied or collected or received pursuant to  
3 this act or general law. General obligation bonds payable from  
4 ad valorem taxes may also be issued by such district only  
5 after compliance with s. 12, Art. VII of the State  
6 Constitution. Subject to referendum approval, a district may  
7 pledge its full faith and credit for the payment of principal  
8 and interest on such general obligation bonds and for any  
9 reserve funds provided therefor and may unconditionally and  
10 irrevocably pledge itself to levy ad valorem taxes on all  
11 property in the district, to the extent necessary for the  
12 payment thereof. A district is authorized, after notice and  
13 opportunity to be heard has been afforded to those affected,  
14 to impose, charge and collect non-ad valorem revenues in  
15 connection with any of the improvements authorized under this  
16 act and to pledge the same for the payment of bonds.

17 (3) In connection with, or incidental to, the sale and  
18 issuance of bonds, the district may enter into any contracts  
19 which the governing board determines to be necessary or  
20 appropriate to achieve a desirable effective interest rate in  
21 connection with the bonds by means of, but not limited to,  
22 contracts commonly known as investment contracts, funding  
23 agreements, interest rate swap agreements, currency swap  
24 agreements, forward payment conversion agreements, futures, or  
25 contracts providing for payments based on levels of or changes  
26 in interest rates, or contracts to exchange cash flows or a  
27 series of payments, or contracts, including, without  
28 limitation, options, puts, or calls to hedge payment, rate,  
29 spread, or similar exposure. Such contracts or arrangements  
30 may also be entered into by the district in connection with,  
31 or incidental to, entering into any agreement which secures

1 bonds or provides liquidity therefor. Such contracts and  
2 arrangements shall be made upon the terms and conditions  
3 established by the governing board, after giving due  
4 consideration for the credit worthiness of the counterparties,  
5 where applicable, including any rating by a nationally  
6 recognized rating service or any other criteria as may be  
7 appropriate.

8 (4) In connection with, or incidental to, the sale and  
9 issuance of the bonds, or entering into any of the contracts  
10 or arrangements referred to in subsection (3), the district  
11 may enter into such credit enhancement or liquidity  
12 agreements, with such payment, interest rate, security,  
13 default, remedy, and any other terms and conditions as the  
14 governing board shall determine.

15 (5) Notwithstanding any provisions of state law  
16 relating to the investment or reinvestment of surplus funds of  
17 any governmental unit, proceeds of the bonds and any money set  
18 aside or pledged to secure payment of the principal of,  
19 premium, if any, and interest on the bonds, or any of the  
20 contracts entered into pursuant to subsection (3), may be  
21 invested in securities or obligations described in the  
22 resolution providing for the issuance of bonds.

23 (6) The bonds shall be sold in the manner not  
24 inconsistent with general law, shall show the purpose for  
25 which they are issued, and shall be payable out of the money  
26 pledged therefor. The funds derived from the sale of bonds  
27 shall be used for the purpose of paying the cost of the  
28 improvements and such costs, expenses, fees, and salaries as  
29 may be authorized by law.

30 (7) The non-ad valorem assessments or portion thereof  
31 levied to pay principal on bonds issued pursuant to this act

1 with respect to improvements financed therewith shall not  
2 exceed the benefits assessed regarding such services or  
3 improvements. In the event the bonds are sold at a discount,  
4 the amount of the discount shall not be treated as principal,  
5 but shall be treated as interest. Premium payable upon the  
6 redemption of bonds shall also be treated as interest.  
7 Interest to accrue on account of issuing bonds shall not be  
8 construed as a part of the costs of the works or improvements  
9 in determining whether or not the costs of making such  
10 improvements are equal to or in excess of the benefits  
11 assessed. In the event the property appraiser and tax  
12 collector deduct their fees and charges from the amount of  
13 non-ad valorem assessments levied and collected, and in the  
14 event the landowners receive the statutorily permitted  
15 discount for early payment of such non-ad valorem assessments,  
16 the amount of such fees, charges, and discount shall not be  
17 included in the amount of non-ad valorem assessments levied by  
18 the district in determining whether such assessments are equal  
19 to or in excess of the benefits assessed.

20 (8) A district may, whenever in the judgment of the  
21 governing body thereof finds it is advisable and for the best  
22 interests of the citizens of the district, issue bonds to  
23 refund any or all of the then outstanding bonded indebtedness  
24 of such district.

25 (9) The principal amount of refunding bonds may be in  
26 any amount not in excess of the benefits assessed against the  
27 lands with respect to which the refunded bonds were issued  
28 less the principal amount of the refunded bonds previously  
29 paid from non-ad valorem assessments. The proceeds of such  
30 refunding bonds shall only be used to pay the principal,  
31 premium, if any, and interest on the bonds to be refunded, any

1 discount or expense of such sale of the refunding bonds and to  
2 provide a debt service reserve fund for such refunding bonds.  
3 The district may also use other available revenues to pay  
4 costs associated with the issuance or administration of such  
5 refunding bonds.

6 (10) Assessments shall be levied for the payment of  
7 the refunding bonds in the same manner as the assessments were  
8 levied for the refunded bonds and the refunding bonds shall be  
9 secured by the same lien as the refunded bonds, and any  
10 additional interest which will accrue on account of such  
11 refunding bonds shall be included and added to the original  
12 assessment and shall be secured by the same lien; but the  
13 interest to accrue shall not be considered as a part of the  
14 cost of construction in determining whether the assessment  
15 exceeds the benefits assessed.

16 (11) No proceedings shall be required for the issuance  
17 of bonds or refunding bonds other than those provided by this  
18 section and by general law.

19 Section 11. Facility plans.--Each independent special  
20 fire control district shall adopt a 5-year plan to identify  
21 the facilities, equipment, personnel, and revenue needed by  
22 the district over the next 5-year period. The plan shall be  
23 updated in accordance with s. 189.415, Florida Statutes, and  
24 satisfies the requirement for a public facilities report  
25 required by s. 189.415(2), Florida Statutes.

26 Section 12. District expansion, merger, and  
27 dissolution.--The boundaries of a district may be modified,  
28 extended, or enlarged as follows:

29 (1) Lands may be added or deleted from a district only  
30 by special act of the Legislature, subject to a referendum  
31 vote. Lands added to a district shall also require a board

1 resolution approving the addition of lands to the district.  
2 The addition or deletion of lands may be effective only upon  
3 an affirmative majority vote of the electors in the lands to  
4 be included or deleted in the district.

5 (2) The merger of a district with all or a portion of  
6 another independent special district or a dependent fire  
7 control district is effective only upon ratification by the  
8 Legislature. A district may not, solely by reason of a merger  
9 with another governmental entity, increase ad valorem taxes on  
10 property within the original limits of the district beyond the  
11 maximum established by the district's enabling legislation,  
12 unless approved by the electors of the district by referendum.

13 (3) A district may only be dissolved by special act of  
14 the Legislature, subject to referendum vote of the electors of  
15 the district, which may be conducted by mail ballot. If  
16 legislative dissolution of a district is proposed in order to  
17 consolidate fire services under county or municipal  
18 government, the county or municipality shall prepare a report  
19 setting forth the plans for merger, and the report shall  
20 address the following factors in evaluating the proposed  
21 merger:

22 (a) Whether, in light of independent fiscal analysis,  
23 level-of-service implications, and other public policy  
24 considerations, the proposed merger is the best alternative  
25 for delivering fire services and facilities to the affected  
26 area.

27 (b) Whether the fire services and facilities to be  
28 provided pursuant to the merger will be compatible with the  
29 capacity and uses of existing local services and facilities.

30 (c) Whether the merger is consistent with applicable  
31 provisions of the state comprehensive plan, the strategic

1 regional policy plan, and the local government comprehensive  
2 plans of the affected area.

3 (d) Whether the proposed merger adequately provides  
4 for the assumption of all indebtedness.

5  
6 The county commission shall consider the report in a public  
7 hearing held within the jurisdiction of the district. If  
8 adopted by the county commission, the request for legislative  
9 dissolution of the district may proceed. The adopted report  
10 shall be filed as an attachment to the economic impact  
11 statement regarding the proposed special act or general act of  
12 local application dissolving a district.

13 Section 13. This act shall take effect upon becoming a  
14 law.

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