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DATE: May 10, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-330, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 943

RELATING TO: Immokalee Fire Control District

SPONSOR(S): Representative Spratt

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 6 NAYS 0
 - (2) FISCAL POLICY & RESOURCES (FRC) YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill provides specific authorization to the Immokalee Fire Control District to impose, collect and use impact fees for fire services.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Immokalee Fire Control District/Collier County

The Immokalee Fire Control District (District) is an independent special district located in Collier County. The District's current charter may be found in chapter 2000-393, Florida Statutes. Collier County is one of the fastest growing areas in the nation, and new construction and the resulting population growth are placing a strain upon the capabilities of the District to continue to provide the high level of professional fire protection and related emergency services for which the residents of the District pay. It is apparent that additional equipment and facilities will be needed to meet the expanded commercial and residential growth within the District, at a cost beyond that which can be provided from current and anticipated ad valorem tax revenues assessed, collected, and received by the District. Collier County currently does not impose a fire impact fee that is distributed to the District for construction within the District's boundaries.

Chapter 191, Florida Statutes, Provisions

Chapter 191, Florida Statutes, is the "Independent Special Fire Control District Act" (Act). The Act's purpose is to establish standards and procedures concerning the operations and governance of the 53 independent special fire control districts, and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of such districts to ensure greater accountability to the public. The Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply. The section provides that it is the intent of the Legislature that this Act supersedes all special acts or general laws of local application provisions that contain the charter of an independent special fire control district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted. Chapter 191, Florida Statutes, also does not repeal any authorization providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other charges.

Taxes and Assessments

Districts are authorized to levy ad valorem taxes and non-ad valorem assessments for district purposes. Each district is authorized by this general provision to levy ad valorem taxes up to 3.75 mills, upon voter approval, notwithstanding lower millage caps in the special acts of individual districts. This provision applies unless a higher amount has previously been authorized. In that

event, the higher, previously authorized rate applies. With respect to user charges, the board is permitted to provide a schedule of charges for emergency services, including firefighting occurring in or to structures outside the district.

The board may establish a schedule of impact fees, if the general-purpose local government has not adopted an impact fee for fire services. Section 191.006(11), Florida Statutes, provides that districts have the power, upon majority vote of the board, to impose user and impact fees. However, in order to impose impact fees, the imposition of such fees must be authorized pursuant to section 191.009(4), Florida Statutes. This section allows districts, not located within a jurisdiction that imposes impact fees for fire services and distributes them to the district, to impose an impact fee if the Legislature has authorized it to impose impact fees by special act or general law *other than chapter 191, Florida Statutes*. The schedule of impact fees must be in compliance with any standards set by general law for new construction to pay for the cost of new facilities and equipment. The board may enter into agreements with general-purpose local governments to share in the revenues from fire protection impact fees imposed by such governments.

Attorney General Opinion 2001-02

In an opinion dated January 12, 2001, the Florida Attorney General released an opinion relating to impact fees for the Holley-Navarre Fire Protection District, an independent special district. The district asked whether section 191.009(4), Florida Statutes, authorized the district to impose impact fees in the absence of any other statutory authorization. The opinion stated that a district's authority to impose impact fees is based on the following two factors: (1) the district is not located within a jurisdiction that imposes impact fees for fire services and distributes them to the district; and (2) the district has been authorized by the Legislature to impose impact fees, either by special act or general law other than chapter 191, Florida Statutes. The opinion concludes that in absence of enabling legislation or general law, the Holley-Navarre Fire Protection District is not authorized to impose impact fees pursuant to section 191.009(4), Florida Statutes.

Impact Fees

Impact fees are charges imposed by local governments against new development. The charges represent a total or partial reimbursement for the cost of additional facilities or services necessary as the result of new development. The purpose of these charges is to shift the capital expense burden of growth from the general public to the developer and new residents. To withstand legal challenge, there must be a reasonable connection or rational nexus between the anticipated need for additional capital facilities and the growth in population generated by the new development. See *Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126 (Fla. 2000). In addition, the government must show a reasonable connection between the expenditures of the funds collected and the benefits accruing to the new development. The following are four characteristics of legally sufficient impact fees:

- The impact fee is imposed on new development or new expansion of existing development.
- The impact fee is a one-time charge (collection may be spread out over time).
- The impact fee is earmarked for capital outlay only (operating costs may not be included).
- The impact fee represents a proportional share of the cost of the facilities needed to serve the new development.

C. EFFECT OF PROPOSED CHANGES:

This bill provides specific authorization to the Immokalee Fire Control District to impose, collect and use impact fees for fire services.

The bill authorizes the District's board to establish an impact fee schedule for new construction to pay for new facilities and equipment that is a result, in whole or part, of the new development. Impact fees collected must be separated from other District revenues. In addition, the bill requires that the impact fees must be used exclusively to acquire, construct, or purchase new facilities needed to provide fire protection and emergency services to the new development. "New facilities" is defined and includes lands, buildings and capital equipment. Finally, the bill requires the District's board to maintain records to ensure that impact fees are expended only for permissible purposes.

The District estimates that the impact fee will generate \$60,000 and \$63,000 revenues in fiscal years 2001 and 2002. The cost of implementing and collecting the impact fees is \$900 and \$950 in those years. Collier County will collect and distribute the impact fee and charges a fee of 1.5% of the collected impact fee amount.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section amends section 6 of section 3 of chapter 2000-393, Laws of Florida, to provide specific authorization to the District to impose, collect and use impact fees. It states that the District is located in a local government that has not adopted a fire service impact fee that is distributed to the District. Due to rapid population growth and new construction, it is recognized that the District needs to impose impact fees for new construction to pay for increased demands.

The District's board is authorized to establish an impact fee schedule for new construction to pay for new facilities and equipment that is a result, in whole or part, of the new development. Impact fees collected must be separated from other District revenues. In addition, the impact fees must be used exclusively to acquire, construct, or purchase new facilities needed to provide fire protection and emergency services to the new development. "New facilities" is defined and includes lands, buildings and capital equipment. Finally, the District's board is required to maintain records to ensure that impact fees are expended only for permissible purposes.

Section 2: The act becomes effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 5, 2001

WHERE?

Naples Daily News; Naples, Collier County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

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