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**DATE:** July 1, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
FINAL ANALYSIS – LOCAL LEGISLATION**

**BILL #:** HB 1035  
**RELATING TO:** Ft. Myers Beach Public Library District  
**SPONSOR(S):** Representative Green  
**TIED BILL(S):** None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
- (2) COUNCIL FOR SMARTER GOVERNMENT (W/D)
- (3)
- (4)
- (5)

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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill codifies all prior special acts relating to the Fort Myers Beach Public Library District of Lee County, an independent special district, into a single act.

The bill codifies, reenacts, and amends chapters 65-1823, 75-418, 79-489, 79-491, 81-414, 85-441, and 91-404, Laws of Florida, in section 2 of the bill, the charter refers to chapter 81-414, Laws of Florida, in section 2 of the charter and refers to chapter 65-1823, Laws of Florida in section 3 of the charter and repeals these chapters in section 6 of the bill. The bill appears to leave in effect, several sections of chapter laws that are later specifically repealed in the bill. This appears to defeat the purpose of codification.

This bill preserves the district's current authority to impose and collect a sum which can be raised by a tax not to exceed 1 mill on the real and tangible personal property within the district. The use is limited to library purposes within the district. One mill is the maximum that can be levied in any one year, except as may be provided in any applicable general law or special law, as the law may be amended. However, the State Constitution provides that a district may not impose a tax at a millage greater than the millage in the authorized law, unless approved by vote of the electors.

This bill preserves the district's authority to levy non-ad valorem assessments.

No fiscal impacts are anticipated according to the Economic Impact Statement (EIS).

The bill was vetoed by the Governor on May 24, 2002.

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:

**Fort Myers Beach Public Library District**

The Fort Myers Beach Library District (District) was established in 1965 by chapter 65-1823, Laws of Florida. The district's purpose is providing library services within its jurisdiction, the district is empowered to: purchase, own, and maintain library facilities; buy and own library equipment, books, and supplies; purchase any real and tangible personal property needed to carry out library purposes; contract with existing library facilities to improve and expand library facilities in the district; and levy up to 1 mill of property tax on all real and tangible personal property in the district, for expenditure on library activities.

In 1975, the board's size was reduced from a 13-member board, with each member appointed by the Governor to a 3-year term, to a 7 member board (residents of the district), elected to 4-year terms.

In 1991, chapter 91-404, Laws of Florida, amended the charter to provide that the collection and distribution of property taxes by the Lee County Tax Collector would be governed by current statutory provisions. Also, the library board was relieved of the responsibility of presenting its annual budget to the Lee County Commission or the Lee County Tax Collector. The bill changed the duties of the treasurer to stipulate that a financial status report be presented to the board at each regular meeting, instead of semiannually.

**Codification**

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be

made to a district's charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs; (3) remove the prohibition of substantive amendments in a district's codification bill; and (4) remove the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

### **Status Statement Language**

Section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform to the department's determination or declaratory statement regarding the status of the district.

### **Schedule of Submittals of Special Districts' Charters**

Special Districts with less than 2 special acts	1999 Legislative Session
Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 110 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Section 189.4065, Florida Statutes, provides for the collection of non-ad valorem assessments. Community development districts may and other special districts shall provide for the collection of annual non-ad valorem assessments in accordance with chapter 197, Florida Statutes, or monthly non-ad valorem assessments in accordance with chapter 170, Florida Statutes.

#### **C. EFFECT OF PROPOSED CHANGES:**

The bill codifies chapters 65-1823, 75-418, 79-489, 79-491, 81-414, 85-441 and 91-404, Laws of Florida, as they relate to the Fort Myers Beach Public Library District of Lee County into a single act.

The bill removes obsolete charter language which was preempted by applicable general law chapters and inserts general law language.

In compliance with section 189.404(5), Florida Statutes, this bill provides that the District is an independent special district.

The bill removes the provision that the seven board members only be residents of the district and adds language to provide Board members be seven qualified electors of the district.

The bill repeals chapter 81-414, Law of Florida, relating to elections and/or referenda and qualifying of candidates, however retains one provision in the charter that candidates are required to open depositories and appoint treasurers prior to accepting any contributions or expending any funds, and provides an exception.

The bill repeals chapter 65-1823, Laws of Florida, relating to the districts enabling act, however the one provision relating to the board's authority to buy, own, and maintain library facilities, equipment, books, and supplies; to acquire property both real and personal, and any other property as the board may deem necessary or proper in order to provide the residents within the district with the most complete library facilities as finances may permit is restored.

The bill repeals section 4 of chapter 85-441, Laws of Florida, relating to conforming the budgetary planning process of the District to that of general law and adds the language, "to adopt an annual budget for the district".

Currently, the district is limited to a sum which can be raised by a tax not to exceed 1 mill on the real and tangible personal property within the district and the use thereof shall be limited to library purposes within the district, the bill provides the board fix and cause to be levied on all property of the district a millage sufficient to meet the requirements of the adopted budget; 1 mill is the maximum that can be levied in any one year, except as may be provided in any applicable general law or special law, as the law may be amended.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Provides that this act is the codification required under section 189.429, Florida Statutes; states the intent of the Legislature is to have a single, comprehensive special act charter and the intent is to preserve all powers granted by this and previous acts.

**Section 2.** Amends, reenacts, and codifies special acts relating to the district's charter.

**Section 3.** Provides for the re-creation and reenactment of the charter for the district and the re-creation of the district and the following provisions.

Section 1: Provides for the creation and establishment of the district; states the district is an independent special district; describes the boundaries for the district.

Section 2: Preserves the seven-member board who are elected by a vote of the electors of the district; provides candidates are required to open depositories and appoint treasurers prior to accepting any contributions or expending any funds, provides exception.

Section 3: Provides the organization of the governing board of the district; provides for notices of the board meetings; provides for the district's powers; provides the district is authorized by buy, own, and maintain library facilities, equipment, books, and supplies; to acquire property both real and personal, and any other property as the board may deem necessary or proper in order to provide the residents within the district with the most complete library facilities as finances may permit; provides for the adoption of an annual budget for the district.

Section 4: Preserves the district's existing authority to levy an ad valorem tax, a millage sufficient to meet the requirements of the adopted budget; provided 1 mill is the maximum that can be levied in any one year, except as may be provided in any applicable general law or special law, as amended; provides the district has the authority to levy non-ad valorem assessments.

Section 5: Provides for the assessment and collection of taxes and assessments by the District, pursuant to general or special law, as may be amended.

**Section 4.** Provides for liberal construction of the act.

**Section 5.** Provides for the severability of any invalid or unconstitutional provisions.

**Section 6.** Repeals chapters 65-1823, 75-418, 79-489, 79-491, 81-414, 85-441, and 91-404, Laws of Florida, as said laws relate to the District.

**Section 7.** Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 21, 2001

WHERE? News-Press, Fort Myers, Florida

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:

The Governor's veto letter, dated May 24, 2002, in part, states: "This local bill was intended to codify all prior special acts of the district into one single act, as required by chapter 189, Florida Statutes. This codification is important because, over time, as special district acts are amended, they become fragmented thus making it difficult for citizens to easily find information about their government. Unfortunately, this bill is technically deficient in meeting that intent. The bill incorporates by reference prior special acts. This in essence eliminates those sections from the act entirely. The sections in question are essential elements of the district's governance structure and

functions and this bill would result in the inability of the district to conduct elections for its board members, prepare a budget, establish when the board should meet, set forth the responsibilities of the board treasurer, and establish the process for which to collect ad-valorem taxes.”

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:**

Prepared by:

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