

STORAGE NAME: h0681s1.sgc.doc
DATE: February 27, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS

BILL #: CS/HB 681
RELATING TO: Consolidated Governments
SPONSOR(S): Council for Smarter Government and Representative Davis
TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2) INSURANCE YEAS 15 NAYS 0
 - (3) FISCAL POLICY & RESOURCES YEAS 14 NAYS 0
 - (4) COUNCIL FOR SMARTER GOVERNMENT YEAS 11 NAYS 0
 - (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.

This bill authorizes a consolidated government to qualify for the receipt of an excise tax on property insurance premiums for the benefit of firefighters' pension plans collected on property outside of the consolidated government's corporate boundary. The State has only one consolidated government, the City of Jacksonville/Duval County.

This bill authorizes the City of Jacksonville to receive the benefit of this excise tax relative to property situated in Atlantic Beach and Neptune Beach, as the City of Jacksonville is providing fire protection services to properties within the municipal limits of Atlantic Beach and Neptune Beach. The excise tax authorized pursuant to s. 175.101, F.S., serves as a credit against the tax authorized pursuant to s. 624.509, F.S., resulting in zero net impact to the private sector.

However, this bill results in a decrease of funds deposited into the State General Revenue Fund and a commensurate increase in the availability of those funds to the consolidated government of the City of Jacksonville for the City's firefighters' pension plan. The Revenue Impact Conference estimated the impact of this measure at negative \$0.1 million to General Revenue for FY 2002-03, with a commensurate positive \$0.1 million to local government.

Note. The Committee on Local Government & Veterans Affairs adopted one amendment at its meeting on February 7, 2002. The amendment provides the City of Jacksonville with the authority to enact an ordinance imposing the excise tax within the municipal limits of Atlantic Beach and Neptune Beach. Additionally, the amendment provides the Department of Management Services the authority to distribute premium taxes to the consolidated government.

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"/> |

B. PRESENT SITUATION:

The state collects a premium tax from insurance companies of 1.75% of the gross receipts on specified types of insurance policy premiums written within the State pursuant to s. 624.509, F.S. Additionally, s. 175.101, F.S., authorizes municipalities and special fire control districts having a lawfully established firefighters' pension trust fund, municipal fund, or special fire control district fund, to impose on insurance companies an excise tax in the amount of 1.85% of the gross amount of receipts of premiums from policyholders within the corporate limits of that municipality or within the legally defined boundary of a special fire control district.

The City of Jacksonville/Duval County is a consolidated government that provides fire protection services outside of its corporate boundary, specifically within the municipal limits of Atlantic Beach and Neptune Beach. However, the City of Jacksonville does not qualify to impose or receive the excise tax authorized in s. 175.101, F.S, for their fire protection service provided to Atlantic Beach and Neptune Beach.

Section 624.509, F.S. Premium Tax

Pursuant to the provisions of s. 624.509, F.S., each insurer shall pay annually to the Department of Revenue a tax on insurance premiums received during the previous year equal to 1.75% of the gross amount of such receipts on account of specific types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in this state.

Section 175.101, F.S. Excise Tax

Pursuant to the provisions of s. 175.101, F.S., each municipality or special fire control district having a lawfully established firefighters' pension trust fund, municipal fund or special fire control district fund providing pension benefits to firefighters, may assess and impose an excise tax on insurance companies. The excise tax is 1.85% of the gross amount of premium receipts on property insurance policies covering property within the corporate limits of such municipality or within the legally defined boundaries of a special fire control district. The excise tax must be imposed by ordinance of the municipality or by resolution of the special fire control district.

Section 175.141, F.S. Tax Credit

Pursuant to the provisions of s. 175.141, F.S., the tax authorized pursuant to s. 175.101, F.S., is not in addition to any similar state excise or license tax, but serves rather as a credit against such

similar state excise or license tax. Thus, when the s. 175.101, F.S., excise tax is assessed and imposed, the insurer gets a credit against the s. 624.509, F.S., tax.

Consolidation

Consolidation involves combining city and county governments so that the boundaries of the county and an affected city or cities become the same. Consolidation can be total or partial. Total consolidation occurs when all independent governmental units within a county are assimilated into the consolidated government. When some of the governments remain independent, the consolidation is partial.

Nationally, few successful city-county consolidations exist. According to the National Association of Counties, only 31 of the 3,066 county governments in the United States are combined city/county governments.

Florida Constitution

Prior to 1933, the Florida Constitution of 1885 was silent on the subject of consolidation. The 1933 Legislature passed a constitutional amendment specifically declaring its own power to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters. (Florida Constitution of 1885, Article VIII, Section 9 (1934)). The electorate of Florida adopted this amendment in 1934. However, the voters of the City of Jacksonville and Duval County did not adopt a municipal charter pursuant to this constitutional provision until 1967.

To date, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate in the state of Florida.

Section 3, Article VIII, of the Florida Constitution, reads as follows:

Consolidation. —The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

Section 6 (e), Article VIII, of the Florida Constitution provides:

Consolidation and Home Rule – Article VIII, Sections 9, 10, 11, and 24, of the Constitution of 1885, as amended, shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article.

Section 9, of Article VIII, of the Constitution of 1885, establishes the Jacksonville/Duval County consolidated charter.

Statutory Authority Regarding Firefighter Pension Plans

Chapter 175.021, F.S., addresses firefighter pensions.

Section 175.041, F.S., provides authority for the creation of a Firefighter's Pension Trust Fund in each municipality and special fire control district, which has a constituted fire department, or an authorized volunteer fire department that provides firefighters' pension benefits. The law excludes unincorporated areas except for certain special fire control districts.

Section 175.101, F.S., authorizes a qualifying municipality or special fire control district which has a firefighters' pension trust fund, or certain other funds, to assess and impose on every insurance company, corporation, or other property insurer, an excise tax, in addition to any other excise taxes, in the amount of 1.85 percent of the gross amounts of receipts of premiums from policyholders on all premiums collected on property insurance policies, covering property within the municipality or the boundaries of the fire control district. The law requires the excise tax to be paid March 1 of every year, following passage of the ordinance or resolution which establishes such a tax.

Section 175.032, F.S., provides the following definitions: Firefighters' Pension Trust Fund – a trust fund established for the purpose of aiding municipalities and special fire control districts in implementing and maintaining a retirement plan for firefighters; Property Insurance – insurance on real or personal property of every kind, whether on land, water, or in the air, against loss or damage from any and all hazard or cause, and against loss consequential upon such loss or damage, excepting non-contractual legal liability for any such loss or damage; covers real and personal property within the corporate limits of any municipality or within the boundaries of any special fire control district.

Consolidated Government of Jacksonville/Duval County

When the consolidated government of Jacksonville/Duval County was formed, four cities retained their identity. These are Neptune Beach, Baldwin, Atlantic Beach, and Jacksonville Beach. *Albury v. City of Jacksonville*, 295 So.2d 297 (Fla. 1974).

The consolidated City of Jacksonville furnishes consolidated government services, including fire protection, throughout the consolidated area, except where such service is provided otherwise. The City of Atlantic Beach was providing certain fire protection services to both Atlantic Beach and Neptune Beach, but these services are now provided by the City of Jacksonville to both areas.

Currently, the City of Jacksonville qualifies for the receipt of state excise tax on insurance premiums on property insurance policies covering property only within the corporate limits of Jacksonville but not within those portions of the consolidated government, that are within the corporate limits of Atlantic Beach, Neptune Beach, Jacksonville Beach or Baldwin.

C. EFFECT OF PROPOSED CHANGES:

Because the consolidated government of the City of Jacksonville provides fire protection services to Atlantic Beach and Neptune Beach, this bill, with the adopted amendment, authorizes the City of Jacksonville to qualify for a state excise tax on insurance premiums collected on property insurance policies within the municipal limits of Atlantic Beach and Neptune Beach.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection 175.041(3), Florida Statutes, to provide that the provisions of the chapter regarding firefighter pensions apply to consolidated governments as described in s. 175.101, F.S.

Section 2. Amends s. 175.101, F.S., to provide that the section, regarding state excise tax on property insurance premiums applies to property within the boundaries of a consolidated government:

- Which consists of a single consolidated government, consolidated pursuant to s. 3, Art. VII, or s. 6(e), Art. VII, State Constitution;
- Regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government;
- Provided that the properties are being provided with fire protection services by the consolidated government.

Section 3. Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Management Services' analysis, revenues resulting from state premium excise tax generated from the state excise tax on insurance companies selling property insurance previously paid to local governments maintaining a ch. 175 pension plan will now be paid to the consolidated government (the City of Jacksonville) instead of remaining in the General Revenue Fund. The Revenue Impact Conference estimated the impact of this measure at negative \$0.1 million to General Revenue for FY 2002-03.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Department of Management Services Analysis, this bill has the effect of decreasing the amount transmitted to the General Revenue Fund and increases the distribution to the City of Jacksonville as the state's only consolidated government. The Revenue Impact Conference estimated the impact of this measure at positive \$0.1 million to local government for FY 2002-03.

The source of these funds is the state premium tax revenue generated from the state excise tax on insurance companies selling property insurance on properties located within the boundaries of the consolidated government of Jacksonville. Gross amounts reported for calendar year 1999 are as follows (Note: No moneys were reported for Atlantic Beach or Neptune Beach for calendar year 2000 as these cities have been removed from the Department of Revenue tax form since they are no longer participating under ch. 175, F.S.):

Atlantic Beach = \$65,985.88

City of Jacksonville = \$1,963,442.08

Jacksonville Beach = \$154,269.68

Neptune Beach = \$31,914.49

The City of Baldwin does not currently participate under ch. 175, F.S., so there is no way to estimate the amount of revenue that might be generated from insurance premiums sold covering property within their corporate limits. Currently, any such revenue is being paid to the General Revenue Fund. Since 1979, the amount collected for property insurance has risen by an average of 7.58% per year.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require the expenditure of funds by counties or municipalities or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not appear to have an impact on the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not appear to reduce state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

It appears that the bill as filed does not provide the City of Jacksonville with the authority to impose the excise tax by ordinance as required by s. 175.101(3), F.S. (See section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES").

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs adopted one amendment at its meeting on February 7, 2002. The amendment provides authority to participate in the receipt of the excise tax provided for in ch. 175, F.S., to a single consolidated government which is made up of a former county and one or more municipalities, which was consolidated pursuant to s. 3, Art. VIII, or s. 6(e), Art. VIII of the State Constitution. This amendment appears to resolve the issue raised in the COMMENTS section above.

Additionally, the amendment provides that the consolidated government shall notify the Division of Retirement of the Department of Management Services when the consolidated government has entered into an interlocal agreement to provide fire services to a municipality within its boundaries. The Division is then authorized to distribute premium taxes to the consolidated government as long as the interlocal agreement is in effect.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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Staff Director:

Joan Highsmith-Smith

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