

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1055                      Lee County Trauma Services  
**SPONSOR(S):** Green  
**TIED BILLS:** None.                      **IDEN./SIM. BILLS:** SB 2960

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	_____	_____	_____
3) <u>Health Care</u>	_____	_____	_____
4) <u>Finance &amp; Tax</u>	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

This bill provides for a Lee County Trauma Services District as an independent special district, in Lee County, Florida. According to the bill's sponsor, this bill is intended to provide financial support for trauma services in Lee County.

According to the Economic Impact Statement, the Lee Memorial Health System will be the main source of funding for the District, along with charitable donations and grants.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1055a.lgv.doc  
**DATE:** April 23, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

1. The establishment of an independent special district does not demonstrate a reduction in government.

#### B. EFFECT OF PROPOSED CHANGES:

##### Effect of Proposed Changes

This bill provides for a Lee County Trauma Services District as an independent special district, in Lee County, Florida. According to the bill's sponsor, this bill is intended to provide financial support for trauma services in Lee County.

##### Present Situation

According to the sponsor of the bill, "Lee Memorial Health System is an independent special district created by the Florida Legislature in 1963, by Chapter 63-1552, Laws of Florida; and re-codified by Chapter 2000-439, Laws of Florida. The district is governed by a ten-member Board of Directors elected by the voters of Lee County.

The district has no taxing power, and has operated for nearly 40 years without tax support. Revenues are generated from the provision of hospital and health services and has provided the financial underpinning to continue operations, provide for capital improvements, and permit the hospital district to serve a very large medically indigent population.

Lee Memorial Health System operates several health care facilities in Lee County including the Lee Memorial Hospital. Since 1994, the Level II Trauma Center has been part of the Lee Memorial Hospital in Lee County. The Trauma Center has matured into a community asset that has been responsible for saving many lives that would have otherwise been lost, and has provided a level of care for seriously injured accident and crime victims that has speeded and improved the status of their recovery. A long-term funding source is needed to continue the operations of the Trauma Services. Lee Memorial Health System is working with the community to find ways to keep this vital health care service in Lee County.

As a part of those efforts, Lee Memorial Health System is supporting efforts to seek passage of special legislation during the 2003 session of the Florida Legislature to create the Lee County Trauma Services District in order to establish a mechanism which allows Lee Memorial Health System to separate financial aspects relating to the provision of trauma services. Such a separation provides the citizens of Lee County with a clear accounting of the expenses associated with the provision of trauma services, separate and apart from other health care services provided by Lee Memorial Health System. In addition, the independent special district will have the authority to accept funds specifically designated to provide financial support for trauma services. At some future date, the Lee County Trauma Services District may seek authorization from the local government or the Florida Legislature to submit a referendum to the public requesting long-term public funding for trauma services."

The elected members of the Board of Directors of the Lee Memorial Health System will serve as the Lee County Trauma Services District Board of Directors.

The Lee County Trauma Services District is not being granted ad valorem taxing authority under the provisions of this bill. According to the Economic Impact Statement, the Lee Memorial Health System will be the main source of funding for the proposed District, along with charitable donations and grants.

#### Background

Section 189.404, F.S., relates to legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; and general-purpose local government/Governor and Cabinet creation authorizations.

It is the intent of the Legislature that, after September 30, 1989, at a minimum, the requirements of subsection (3) of s. 189.404, F.S., must be satisfied when an independent special district is created.

Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

- (a) Create independent special districts that do not, at a minimum, conform to the minimum requirements in subsection (3) of s. 189.404, F.S.;
- (b) Exempt independent special district elections from the appropriate requirements in s. 189.405, F.S.;
- (c) Exempt an independent special district from the requirements for bond referenda in s. 189.408 F.S.;
- (d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, F.S., s. 189.415, F.S., s. 189.417, F.S., or s. 189.418, F.S.;
- (e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:
  1. The purpose of the proposed district;
  2. The authority of the proposed district;
  3. An explanation of why the district is the best alternative; and
  4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

#### C. SECTION DIRECTORY:

- Section 1: Provides for the establishment of the Lee County Trauma Services District.
- Section 2: Provides for the establishment of a governing body for the Lee County Trauma Services District and also provides detail to the composition of the board.
- Section 3: Provides for the Board of Directors of the Lee County Trauma Services District to have the same officers as the Board of Directors of the Lee Memorial Health System.

- Section 4: Provides for the books and accounts of the Lee County Trauma Services District to be audited annually by an independent certified public accountant selected by the board of the district.
- Section 5: Provides detail to meetings of the Board.
- Section 6: Authorizes powers of the Board of Directors. The Board is authorized to pay all expenses on behalf of the District; provides the Lee County Trauma Services District may sue and be sued in the name of the Lee County Trauma Services District; authorizes the board to manage and make contracts; authorizes the Board to accept gifts from any source for the benefit of the District; authorizes the Board to settle any claim brought forth against the District or any of its subsidiaries; authorizes the Board to take action efficient with the effective operation of the District consistent with the Constitution and the laws of the State of Florida.
- Section 7: Declares the operation and maintenance of the Lee County Trauma Services District to be public purpose.
- Section 8: Provides for the fiscal year of the Lee County Trauma Services District to be the same as the Lee Memorial Health System; requires the Board to prepare a budget for the ensuing fiscal year; requires the budget to include the estimated amount obligated for commitments made, but not completed; requires the provision of notice to the public of the budget to be in compliance with general law.
- Section 9: Provides for severability.
- Section 10: This act shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

- A. NOTICE PUBLISHED? Yes  No
- IF YES, WHEN? February 1, 2003.
- 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

## III. COMMENTS

- A. CONSTITUTIONAL ISSUES: Not applicable.
- B. RULE-MAKING AUTHORITY: Not applicable.
- C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

The bill, as introduced, did not clearly establish the Lee County Trauma Services District as an independent special district. Several other provisions required by law to establish an independent special district, were not evident, either in the bill, as introduced, or as documentation appended to the bill. These matters have been addressed by the sponsor of the bill and legal counsel for Lee Memorial Health Systems which allow this bill to go forward.

Notice of Publication

The bill was re-noticed on April 14, 2003, by the *News-Press*, in Fort Myers, Lee County, Florida. The re-published notice includes language relative to the intent to seek legislation during the 2003 Legislative Session which was not included in the first published notice. Although the first notice may have been legally sufficient, counsel for the Lee Memorial Health Systems chose to re-advertise.

Other Comments:

Resolution No. 03-04-18 of Lee County Board of County Commissioners:

**LEE COUNTY RESOLUTION NO. 03-04-18**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS STATING, THAT THE CREATION OF AN INDEPENDENT SPECIAL DISTRICT TO BE KNOWN AS THE LEE COUNTY TRAUMA SERVICES SPECIAL DISTRICT IS CONSISTENT WITH GENERAL LAW AND THE APPROVED LOCAL GOVERNMENT PLANS OF LEE COUNTY; AND THAT LEE COUNTY HAS NO OBJECTION TO THE CREATION OF A LEE COUNTY TRAUMA SERVICES DISTRICT; APPROVING HB 1055, WHICH CREATES THE LEE COUNTY TRAUMA SERVICES DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Lee County Legislative Delegation brought forth a proposed local bill, HB 1055, attached hereto as Exhibit A, to create an independent special district within Lee County, to be known as the Lee County Trauma Services District; and

WHEREAS, the Lee Memorial Health System desires to create the Lee County Trauma Services District for the purposes of providing certain financial support for the provision of trauma services in Lee County; and

WHEREAS, pursuant to Florida Statute, Section 189.404(2)(e)4, creation of an independent special district requires a resolution of the governing body of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district; and

WHEREAS, the Board of County Commissioners deems it to be the best alternative for providing financial support for trauma services in Lee County and in the best interest of the County to support the creation of an independent special district within Lee County, to be known as the Lee County Trauma Services District.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This resolution is authorized by Section 125.01, Florida Statutes and other applicable Florida law.
2. That the Board of County Commissioners finds that the creation of the Independent Special District, to be known as the Lee County Trauma Services District, is consistent with Florida Statute,

Section 189.404(2)(e)4, and the approved local government plans of Lee County. As the result, the Board of County Commissioners has no objection to the creation of the Lee County Trauma Services District as set forth in HB 1055, attached hereto as Exhibit A.

3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

4. If any clause, section, other part or application of this Resolution is held by any Court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portions or applications of this Resolution.

This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners at regular meeting. The foregoing was offered by Commissioner Janes, who moved its adoption. The motion was seconded by Commissioner Albion and being put to a vote, was as follows:

Bob Janes	AYE
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Andrew Coy	ABSENT

Additional Other Comments:

The following is provided by legal counsel<sup>1</sup> for Lee Memorial Health Systems:

LMHS owns and operates three acute care hospitals, a home health agency, a nursing home, outpatient treatment and diagnostic centers, physician offices, a children's hospital and a rehabilitation hospital.

Some of these operations have been placed in subagencies created by LMHS under authorization granted by its Enabling Act, by resolution of the board. The subagencies are not incorporated under the corporation laws of Florida. Examples of such subagencies are: The Rehabilitation Hospital, Lee Physician Services, Lee Memorial Auxiliary, Lee Women's Health Services, and Lee Cancer Care.

Other operations are carried out through subsidiary corporations. Cape Memorial Hospital, Inc. is a tax-exempt, not-for-profit corporation, which operates Cape Coral Hospital. The governing board of Cape Memorial Hospital, Inc. consists of the same individuals who serve as the governing board of LMHS. Similarly, Lee Memorial Home Health, Inc., is a tax-exempt, not-for-profit corporation, which operates a home health agency. The governing board of Lee Memorial Home Health, Inc. consists of the same individuals who serve as the governing board of LMHS.

#### **IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES**

The sponsor of the bill has indicated sponsorship of a strike-everything amendment in order to clarify and resolve drafting issues and conform establishment of the district with the requirements of chapter 189.404, F.S.

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<sup>1</sup> Mary McGillicuddy, Esq., Lee Memorial Health Systems, Lee County, Florida