

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1632

SPONSOR: Senator Fasano

SUBJECT: County Governments

DATE: March 18, 2003 REVISED: 03/26/03 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill specifies additional services for which counties may create municipal service taxing or benefit units.

This bill amends s. 125.01(1)(q), Florida Statutes.

## II. Present Situation:

Section 125.01(1)(q), F.S., authorizes counties to create municipal service taxing (MSTU) or benefit (MSBU) units for all or any part of the unincorporated area of the county. It is a mechanism by which a county can fund a particular service in a particular geographic area from a levy of ad valorem taxes (MSTU) or special assessment (MSBU). The county commission is the governing body of the MSTU or MSBU. Services that are authorized to be funded by MSTUs or MSBUs include:

“...fire protection; law enforcement; beach erosion control; recreation service and facilities; water; alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems; streets; sidewalks; street lighting; garbage and trash collection and disposal; waste and sewage collection and disposal; drainage; transportation; indigent health care services; mental health care services; and other essential facilities and municipal services...”

Taxes or assessments are levied against property within the MSTU or MSBU. Non-payment of taxes or assessments can result in property liens and eventually, foreclosure.

### **Non-Mandatory Homeowners' Associations**

Chapter 702, F.S., provides statutory recognition to corporations that operate residential communities in this state, provides procedures for operating homeowners' associations, and protects the rights of association members without unduly impairing the ability of such associations to perform their functions.

Section 720.301(7), F.S., defines a "homeowners' association" as a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

However, not all homeowners associations are regulated by ch. 720, F.S. "Non-mandatory homeowners associations" are voluntary associations established to provide defined benefits or services to homeowners who chose to participate. Usually these associations are incorporated for a specific purpose, such as road paving, neighborhood beautification, etc. Such associations do not have the power to enforce assessments – all financial or other contributions are contractual or voluntary.

It is reported that Hernando County has 16 communities with non-mandatory homeowners' associations. These communities have a population of an estimated 60,000 people. In some cases, these communities were intended to have or once had mandatory associations, but were declared non-mandatory by the courts. Some of these associations assume responsibility for maintaining property in the communities or for providing limited services.

In at least one of these communities, Hernando County has established a Municipal Service Unit to provide for street lighting, maintenance of fire hydrants, and maintenance of right-of-way, parks, and common areas within the boundaries of the community. However, the ordinance creating this service unit does not provide for enforcement of deed restrictions. Residents in these communities must rely upon the county code enforcement to address related issues.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 125.01(1)(q), F.S., to specify additional services for which counties may create municipal service taxing or benefit units. These services include the protection of the health, safety, and welfare of persons in the unit; and maintenance of property to benefit the unit.

The first new service option describes the general police powers of government (the protection of the health, safety, and welfare of persons in the unit...), thus it significantly expands the services for which MSTUs and MSBUs may be created.

The second option may grant broad authority to establish MSTUs and MSBUs to provide for maintenance of community owned property in the same way that mandatory homeowners' associations provide for such maintenance.

**Section 2** provides that this act will take effect July 1, 2003.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

To the extent that a MSTU or MSBU is created to provide for “maintenance of property to benefit the unit,” property owners may be liable for taxes or assessments for such maintenance.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning:

Narrows the authority provided in the bill to create MSTUs and MSBUs for maintenance of property to the benefit of the unit.