

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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"/> |

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

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Ad Valorem Taxes

The Florida Constitution expressly authorizes counties, school districts, and municipalities to levy ad valorem taxes. Article VII, section 9(a), of the Florida Constitution provides:

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

The Florida Constitution limits the millage of ad valorem taxes. Article VII, section 9(b), of the Florida Constitution, provides in part:

Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, ten mills;

School District Millage

Section 1011.71, F.S., relates to district school tax. Section 1011.71(1), F.S., provides:

If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each district school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 1011.62(9) shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 1011.62(4)(a)1.

Section 1011.71(1), F.S., further provides that in addition to the required local effort millage levy, each district school board may levy a nonvoted current operating discretionary millage, in an amount not to

exceed the maximum amount of millage prescribed annually by the Legislature in the appropriations act. Section 1011.71(2), F.S., provides that in addition to the maximum millage levy provided in s. 1011.71(1), F.S., each school board may levy not more than 2 mills against the taxable value for school purposes to additional specified purposes.

Community Development Districts

Chapter 190, F.S., provides for community development districts (CDDs) and the Uniform Community Development District Act of 1980. In adopting the act, the Legislature expressed concern that there was a need for uniform procedures in state law to authorize the establishment of CDDs to provide for the planning, management, and financing of capital infrastructure.

Specifically, the Uniform Community Development District Act allows developers to create independent special districts with a broad range of governmental powers as a means of financing various types of infrastructure and delivering urban community services for planned developments. The districts are intended to benefit the taxpayers of counties and municipalities in which the districts are located by shifting the burden of paying for infrastructure to those buying land in the districts. However, CDDs do not have the power of a local government to adopt a comprehensive plan, building code, or land development code.

CDDs have limited authority and may only exercise those powers expressly granted to them by law or those necessarily implied because they are essential to carry into effect those powers granted. Thus, CDDs are authorized to accomplish special, limited purposes and do not possess the broader home rule powers that municipalities and counties have in Florida. Section 190.011, F.S., provides the general corporate powers that CDDs may exercise. Section 190.012, F.S., provides special powers of CDDs. Upon obtaining consent of the local governments within their jurisdiction, CDDs may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

- parks and facilities for indoor and outdoor recreation, cultural, and educational uses;
- fire prevention and control;
- school buildings and related structures;
- control and elimination of mosquitoes and the like;
- security such as guardhouses, fences, electronic intrusion systems, and patrol cars;
- waste collection and disposal.

Educational Facilities Benefit Districts

Section 1013.355, F.S., provides for educational facilities benefit districts (EFBDs). Section 2013.355(1), F.S., provides that EFBDs are intended to encourage and authorize public cooperation among district school boards, affected local general purpose governments, and benefited private interests in order to implement financing for timely construction and maintenance of school facilities, including facilities identified in individual district facilities work programs or proposed by charter schools.

Section 1013.355(3), F.S., provides that EFBDs may be created by a county or municipality upon entering into an interlocal agreement with the school board and any local general purpose government within whose jurisdiction a portion of the district is located, and adoption of an ordinance. Further, an EFBD may only be created upon consent of the district school board, all local general purpose governments within whose jurisdiction any portion of the educational facilities benefit district is located, and all landowners within the district. The membership of the governing board of any benefit district must include representation of the school board, each cooperating local general purpose government, and the landowners within the district. In the case of the benefit district's decision to create a charter school, the board of directors of the charter school will constitute the members of the governing board for the benefit district.

Section 1013.355(4), F.S., provides for the powers of benefit districts, including the power to finance and construct educational facilities within the boundaries of the district, levy special assessments, issue bonds, and the power of eminent domain.

Charter Schools

Section 1002.33, F.S., provides for charter schools. Charter schools are public schools operated pursuant to a performance contract (or charter) that frees them from many of the statutes and rules that govern traditional public schools, but which holds the school strictly accountable for academic and financial results. Section 1002.33(1), F.S., provides that a charter school may be formed by creating a new school or by converting an existing public school to charter status.

Pursuant to s. 1002.33(3), F.S., an application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state. Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.

CHANGES TO CHARTER SCHOOL PROVISIONS

The bill amends s. 1002.33(3), F.S., to allow EFBDs and CDDs to apply for charter school conversion of an existing public school or group of public schools located within the geographic boundaries of such district. The bill allows EFBD charter schools to limit eligibility for student enrollment in such converted charter schools to students who reside within the EFBD.

CHANGES TO EFBD and CDD PROVISIONS

The bill amends s. 1013.355(3), F.S., to provide that decisions of the school district regarding the establishment of an EFBD may be appealed pursuant to s. 1002.33(6)(b), F.S. The bill provides that an EFBD may be created by the local general purpose government within its jurisdictional boundaries pursuant to the adoption of a local ordinance to establish the EFBD.

The bill amends ss. 1013.355 and 1013.356, F.S., to allow EFBDs to expend facilities funding for the acquisition and operation of school facilities within their boundaries in addition to the currently authorized purposes relating to construction and maintenance of school facilities. Additionally, the bill creates a new subsection (3) for s. 1013.356, F.S., which relates to local funding for EFBDs and CDDs. The new subsection allows EFBDs and CDDs to elect to receive the proportionate share of the ad valorem property taxes paid within its boundaries based upon the number of student stations they provide within their districts. Such election must be made in lieu of the authorization to receive funds for construction and capital maintenance costs as specified in s. 1013.356(2), F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.33(3), F.S., which relates to the application for charter status; revises provisions related to the application by an educational facilities benefit district or community development district; revises criteria relating to student eligibility.

Section 2. Amends s. 1013.355, F.S., which relates to educational facilities benefit districts; provides that decisions of the school district regarding the establishment of an EFBD may be appealed; provides that an EFBD may be created by the local general purpose government.

Section 3. Amends s. 1013.356, F.S., which relates to local funding for educational facilities benefit districts or community development districts; provides additional authority associated with the acquisition

and operation of educational facilities; specifies circumstances in which such districts may elect to receive the proportionate share of local effort ad valorem taxes paid by properties located within such districts.

Section 4. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please refer to the “**Fiscal Comments**” section of the bill analysis, below.

2. Expenditures:

Please refer to the “**Fiscal Comments**” section of the bill analysis, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

EFBDs are intended to encourage and authorize public cooperation among district school boards, affected local general purpose governments, and benefited private interests in order to implement financing for timely construction and maintenance of school facilities, including facilities identified in individual district facilities work programs or proposed by charter schools to impose special assessments on property owners. Creation of a benefit district is conditioned upon the approval of all landowners.

The bill may have a direct impact on the private sector to the extent that the bill may provide additional incentives for developers to participate in the creation of benefit districts, as well as community development districts, to assist in financing the construction and maintenance of educational facilities that will benefit their property.

D. FISCAL COMMENTS:

To the extent that the bill results in an increased use of the benefit district program, the bill could result in a positive fiscal impact associated certain costs that would be avoided by the school district.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not require counties or municipalities to spend or take action requiring the expenditure of funds.

2. Other:

As originally filed, the bill raised constitutional concerns to the extent that the bill authorized the creation of EFBDs without the necessity of consent by the local school district, and further authorized such districts to unilaterally elect to receive a proportionate share of county ad valorem property taxes. These concerns appear to have been resolved by the strike-all amendment adopted by the Committee on Education K-20 on April 14, 2003.

B. RULE-MAKING AUTHORITY:

The bill does not grant additional rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, 2003, the Committee on Education K -20 adopted a strike-all amendment that removed language from the original bill that provided for the creation of an educational facilities benefit district without necessity of obtaining the consent of the local school district board, the general purpose governments, and the affected landowners. The strike-all amendment also reinstated the requirement in current law that the governing board of an educational facilities benefit district must include representatives of the local school board, of each cooperating local general government, and all landowners. The strike-all amendment resulted in the changes explained above.