

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 939 County Governments/Taxing & Benefit Units
SPONSOR(S): Russell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>15 Y, 0 N</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
3) <u>Finance and Tax</u>	<u>23 Y 0 N w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill amends existing law to add functions for which municipal service taxing or benefit units may be established, merged or abolished by county governments. The bill adds "maintenance of property to benefit the unit" to the list of functions a municipal service taxing or benefit unit can be created to serve.

The bill does not appear to have an impact on the state budget. As the bill provides discretionary authority to local governments to create new types of municipal service taxing or benefit units, it is unknown whether or how many local governments will exercise this authority.

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 checked="" type="checkbox"/> | N/A <input 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:

1. This bill expands the types and functions for which municipal service taxing or benefit units (MSTUs or MSBUs) may be created, thus increasing government functions.
2. As this bill increases government functions to create new taxing or benefit units, it is arguable that these new units might result in additional assessments or fees for properties within these units.

B. EFFECT OF PROPOSED CHANGES:

Section 125.01(1)(q), F.S., lists the functions that a municipal service taxing or benefit unit can serve. This bill amends that section to add to the types and functions for which municipal service taxing or benefit service units may be established, merged or abolished by county governments. The bill adds “maintenance of property to benefit the unit” to those functions.

Background

According to the Sponsor¹, many of Hernando County’s non-mandatory homeowner associations were not originally designed as non-mandatory. Many were formed by property developers as mandatory associations and assigned to property owners as such. However, some of these organizations were eventually found not to meet various requirements and lost their mandatory status.

These non-mandatory associations rely on voluntary membership and dues to exercise their obligations and responsibilities under recorded restrictive covenants, to all property owners within the community.

These obligations may include maintenance of common areas, such as subdivision entrances, club houses and pools, parks, as well as enforcement of recorded restrictive covenants to protect the health, safety and welfare of citizens within the community and to maintain the subdivision as a viable unit.

In this respect, these non-mandatory associations must function in the same manner and provide a similar array of services as the mandatory association; however, they lack much of the requisite resources to do so.

The introduction of MSTUs and MSBUs in these non-mandatory association communities has helped to alleviate some of the shortfall of services experienced in these developments, however the provisions of s. 125.01(1)(q), F.S., limit the types of services that MSTUs and MSBUs can provide.

Current Law

Section 125.01, F.S., specifies the powers and duties of Florida’s county governmental bodies. Section 125.01(1), F.S., provides that a county’s legislative and governing body shall have the power to carry

¹ Information provided by Sponsor’s office. 3/12/03.

on county government. Further, the section provides that to the extent not inconsistent with general or special law, the power includes 29 enumerated functions and areas of responsibility. Section 125.01(2), F.S, provides that county commissioners are the governing body of a municipal taxing or benefit unit created pursuant to s. 125.01(1)(q), F.S.

Section 125.01(1)(q), F.S, empowers county governments to establish, fund and operate various municipal service taxing units (MSTUs) to provide for a broad range of services which accrue to the benefit of health, safety and welfare of the citizens in a designated community.

The establishment of MSBUs allows non-mandatory association communities to provide, through special assessments collected by the county, services which they could not otherwise furnish.

Unlike mandatory association communities, the non-mandatory association communities lack the ability to assess property owners for such services. There are currently sixteen such communities in Hernando County consisting of some 60,000 parcels.²

C. SECTION DIRECTORY:

Section 1. Amends s. 125.01(1)(q), F.S., to add to the types and functions for which municipal service taxing or service units may be established, merged or abolished by county governments.

Section 2. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow non-mandatory homeowners associations to pay for certain services, through the imposition and collection of special assessments by newly created MSTUs and MSBUs. This bill may also compel homeowners to pay for these services even if they did not choose to belong to the non-mandatory homeowners association.

D. FISCAL COMMENTS:

None.

² Information provided by Sponsor's office. 3/12/03.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 22, 2003, the Committee on Finance and Tax adopted one amendment to this bill. That amendment conformed the House bill to the Senate bill by eliminating "protection of the health, safety, and welfare of persons in the unit" from the list of purposes a MSTU or MSBU could be created to serve.