

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:

This bill amends existing law 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: 1) protection of the health, safety, and welfare of persons in the unit; and 2) maintenance of property to benefit the unit to add to those current 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.

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 on county government. Further, the section provides that to the extent not inconsistent with general or

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

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, many of the essential municipal 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 essential 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:

Undetermined. The bill provides local governments with the discretion to establish municipal service taxing or benefit units. It is unclear how many local governments would exercise that discretion.

2. Expenditures:

Undetermined. The bill provides local governments with the discretion to establish municipal service taxing or benefit units. It is unclear how many local governments would exercise that discretion.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow non-mandatory community associations the ability to pay for certain services not otherwise available to them, through the imposition and collection of special assessments.

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

D. FISCAL COMMENTS:

None.

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:

Drafting Issues

There do not appear to be any technical drafting issues.

Other Comments

According to the Sponsor, an expansion of the ability to provide such municipal services and safeguards with an equitable distribution of costs to all affected property owners, will help bridge the current gap between rights and protections afforded mandatory versus non-mandatory association properties.³

A representative of the Florida Association of Counties indicates that the Association is still reviewing the potential of this bill.⁴

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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

⁴ Bob McKee, Governmental Liaison, Florida Association of Counties, 3/14/03.