

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1711 w/CS St. Lucie County Fire District
SPONSOR(S): Mayfield
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Local Affairs (Sub), 10 Y, 0 N, Mitchell, Cutchins. Row 2: 2) Local Government & Veterans' Affairs, 17 Y, 0 N w/CS, Mitchell, Cutchins. Rows 3-5 are empty.

SUMMARY ANALYSIS

This bill makes recitals and provides that the St. Lucie Fire District (Fire District) will be exempt from payment to redevelopment trust funds created by "community development agencies" in St. Lucie County effective October 1, 2007.

The Fire District is required to pay certain "incremental" tax revenues to the two community redevelopment agencies (CRAs) in St. Lucie County unless exempted from this requirement pursuant to section 163.387(2)(d), Florida Statutes.

The Fire District requested and the City of Port St. Lucie Community Redevelopment Agency has agreed to exempt the Fire District from paying incremental ad valorem taxes to it beginning in fiscal year 2006-2007.

The Fire District has requested the same exemption from the Fort Pierce Redevelopment Agency in 1998, 2000, and 2003, but the request has been denied.

In support of this exemption, the Fire District cites to its current and future service within the area of the CRA, the lack of cooperation and flow of information regarding the CRA, failure of the CRA to comply with its time requirements, incongruity of CRA expenditures with the purpose of the District, adverse impact on other taxpayers, the increased burden of the increment payments, and the exemption of all other similarly situated districts.

This exemption has been opposed because of a recent issue of \$10,280,000 in revenue bonds and concerns raised by bond counsel and the insurer related to the loss of Fire District payments. Legal ramifications as well as the purpose and activities of CRAs have also been cited as a basis for opposition.

House Rule 5.5(a)1 and 5.5(b)2 may be applicable to this bill.

1 House Rule 5.5(a) provides that if the Committee on Local Government & Veterans' Affairs determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, the committee shall not report the bill.

2 House Rule 5.5(b) provides that a local bill that provides and exemption from general law may not be placed on the special order calendar may not be placed on the Special Order Calendar in any place reserved for the expedited consideration of local bills.

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

STORAGE NAME: h1711b.lgv.doc
DATE: April 20, 2004

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:

Community Redevelopment Act of 1969

Part III of chapter 163, Florida Statutes, contains the Community Redevelopment Act of 1969. This act permits a county or municipality³ to create a community redevelopment agency (CRA) in order to allow the exercise of the provided community redevelopment powers. There are approximately 145 CRAs throughout the state.⁴

Establishing a CRA

Establishing a CRA requires a finding of necessity by the governing body through an adopted resolution that is supported by data and analysis and has legislative findings that the conditions in the area meet the required criteria.⁵ Specifically, the resolution must state:

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

Governing the CRA

When adopting the resolution declaring the need for a CRA, the governing body must appoint a board of commissioners of the CRA, which shall consist of not fewer than five or more than nine

³ *But see* Fla. Stat. § 163.410 (2003) (providing that, in charter counties, the powers conferred by the Community Redevelopment Act of 1969 shall be exercised exclusively by the governing body of such county except as delegated and as to any community redevelopment agency created by a municipality prior to the adoption of a county home rule charter. *See also* Fla. Stat. § 163.415 (2003) (prohibiting non-charter counties from exercising the powers of the Community Redevelopment Act of 1969 from within the boundaries of a municipality unless the governing body of the municipality expresses its consent by a resolution specifically enumerating the powers to be exercised by the county within the boundaries of the municipality.

⁴ See Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, *The Official List of Special Districts Online, Create Your Own Report* (visited Apr. 13, 2004) <<http://www.floridaspecialdistricts.org/OfficialList/criteria.asp>>.

⁵ See Fla. Stat. § 163.355 (2003).

commissioners for terms of office of 4 years.⁶ The governing body may, however, declare itself to be the CRA, in which case all the rights, powers, duties, privileges, and immunities vested are vested in the governing body, subject to all responsibilities and liabilities imposed or incurred.⁷

Powers of a CRA and the Governing Body

While the CRA has “all the powers necessary or convenient,” the governing body retains certain powers:

- (1) the power to determine an area to be a slum or blighted area, or combination thereof; to designate such area as appropriate for community redevelopment; and to hold any public hearings required with respect thereto;
- (2) the power to grant final approval to community redevelopment plans and modifications thereof.
- (3) the power to authorize the issuance of revenue bonds as set forth in section 163.385, Florida Statutes.
- (4) the power to approve the acquisition, demolition, removal, or disposal of property as well as the power to assume the responsibility to bear loss, as provided in section 163.370(3), Florida Statutes; and
- (5) the power to approve the development of community policing innovations.

Counties and municipalities have additional powers as set forth in section 163.370, Florida Statutes.

Funding a CRA

The funding for CRAs uses a mechanism known as “tax increment financing” (TIF). TIF takes the difference between the amount of ad valorem taxes levied each year by each taxing authority within the geographic boundaries of the CRA and the amount of ad valorem taxes which would have been produced by the levy of the taxing authority within the geographic boundaries of the CRA prior to the effective date of the ordinance providing for the funding of the trust fund.⁸

In other words, the taxable property values are “frozen” as it applies to each taxing authority within the CRA. Those taxing authorities continue to have the authority to levy their authorized ad valorem taxes on the frozen property values. The taxing authorities, however, continue to levy their ad valorem taxes on the actual value of property. The only difference is that any taxes collected by the taxing authority is based on an increase in the value of the property since the effective date of the ordinance for the trust fund must be deposited into the trust fund for use by the CRA.

By way of an example:

- There is a governing body which properly establishes a CRA and the trust fund.
- The geographic area within the CRA has a total taxable value of \$1,000.
- There are three taxing authorities each taxing at 1 mill and which continue to levy at 1 mill.
- These taxing authorities each receive \$1 as of the date of the ordinance and thereafter on the total taxable value of \$1,000.
- If the taxable value decreases to \$500, the taxing authorities receive \$0.50 and the CRA does not receive any money.

⁶ See Fla. Stat. § 163.356 (2003).

⁷ See Fla. Stat. § 163.357 (2003).

⁸ See Fla. Stat. § 163.387 (2003).

- If the taxable value increases to \$2,000, the taxing authorities each collect \$2 on their assessment of 1 mill. The taxing authorities then keep \$1 and each give \$1 to the CRA. The CRA uses this “increment” as the source of its funding, usually for the repayment of bonds.

Taxing authorities must make the annual appropriation for a period not to exceed 30 or 40 years.⁹

Exempting Taxing Authorities from the CRA

Certain taxing authorities are exempt from having to make an annual appropriation of the increment:

- (1) a special district that levies ad valorem taxes on taxable real property in more than one county;
- (2) a special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time an ordinance is adopted under this section;
- (3) a library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984;
- (4) a neighborhood improvement district created under the Safe Neighborhoods Act;
- (5) a metropolitan transportation authority; and
- (6) a water management district created under section 373.069, Florida Statutes.¹⁰

In addition, the local governing body creating a CRA may exempt a special district that levies ad valorem taxes within the CRA in its sole discretion or in response to a request of the special district.¹¹

CRAs in St. Lucie County and the St. Lucie County Fire Control District

There are currently two CRAs in St. Lucie County¹², both of which utilize TIF:

- The City of Port St. Lucie Community Redevelopment Agency was established in 2002 by City Ordinance #01-1.¹³
- The Fort Pierce Redevelopment Agency (FP-CRA) was established in 1982 by City Ordinance #H-239.¹⁴

As the boundaries of the St. Lucie County Fire District (Fire District) are the same as the boundaries for St. Lucie County, the District is required to pay any “incremental” tax revenues within the boundaries of the CRAs to the CRAs unless exempted from this requirement pursuant to section 163.387(2)(d), Florida Statutes.

City of Port St. Lucie Community Redevelopment Agency

The Fire District requested and the City of Port St. Lucie Community Redevelopment Agency has agreed to exempt the Fire District from paying its incremental ad valorem taxes to it beginning with the 2006-2007 fiscal year.

⁹ See Fla. Stat. § 163.387(2)(a) (2003).

¹⁰ See Fla. Stat. § 163.387(2)(c) (2003).

¹¹ See Fla. Stat. § 163.387(2)(d) (2003) (the local governing body must establish procedures by which a special district may request such an exemption).

¹² St. Lucie County is a non-charter county.

¹³ See Florida Department of Community Affairs, Division of Housing and Community Development, Special District Information Program, *The Official List of Special Districts Online, Create Your Own Report* (visited Apr. 7, 2004) <<http://www.floridaspecialdistricts.org/OfficialList/criteria.asp>>.

¹⁴ See *id.*

Structure of the Fire District and Fort Pierce Redevelopment Agency

The structure of both the Fire District and the FP-CRA are relevant to the exemption of the Fire District from the Fort Pierce Redevelopment Agency.

The Fire District is governed by a seven-member board of commissioners: two members to be elected by and from the Board of County Commissioners of St. Lucie County; two members to be elected by and from the City Commission of the City of Fort Pierce; two members to be elected by and from the City Council of the City of Port St. Lucie; and one member to be appointed by the Governor.

The FP-CRA is governed by the City Commission of the City of Fort Pierce.

Position of the Fire District Regarding the Fort Pierce Redevelopment Agency

The Fire District requested an exemption from further payments to the FP-CRA in 1998:

The St. Lucie County Fire District believes that its commitment of more than \$1,000,000 in funding for the construction, manning, and future operation of a new fire station which will serve the subject redevelopment area corresponds to more than 120 years worth of annual "tax increment" payments currently being demanded from the Fire District and should be deemed a sufficient benefit to the Fort Pierce Community Redevelopment Agency to justify the requested exemption.¹⁵

The Fire District made a similar request in 2000.¹⁶ The most recent request from the Fire District was in 2003:

Based upon 2002 statistics gathered from the Computer Assisted Dispatch System, 51% of the emergency responses performed by Fire Stations 1, 2, and 15, occurred in the Fort Pierce CRA area. It should be noted that Fire Stations 1 and 15 are among the nation's busiest fire stations. In 2002, the total operating costs for those three fire stations amounted to \$3,512,845, while the 51% of said operating costs attributable to the Fort Pierce CRA totaled \$1,756,422. The St. Lucie County Fire District collected within the Fort Pierce CRA area a total of \$831,294. That discrepancy between taxes generated and operating costs incurred resulted in a funding deficit of \$925,128, in the year 2002 alone. That deficit was required to be made up from ad valorem taxes paid by the taxpayers in the remaining portions of St. Lucie County.

Further, it has come to the attention of the St. Lucie County Fire District Board that the City Commission of the City of Fort Pierce has been advised that the current Fort Pierce CRA Action Plan prohibits use of CRA funds towards the construction of fire stations. If that is so, such an interpretation of the Fort Pierce CRA enabling regulations would be contrary to assurances previously stated by members of the City Commission. The St. Lucie County Fire District Board would request that the CRA Action Plan be revised or amended to allow use of Fort Pierce CRA funds to assist in the construction of future fire stations to serve the citizens of St. Lucie County living and working in the Fort Pierce CRA area.

In light of the above-described, substantial funding deficit, ever-increasing demands for fire protection, as well as the continuing need for adequate fire and EMS services throughout St.

¹⁵ See letter from Kenneth C. Crooks to Dennis Beach, City Manager, City of Fort Pierce (Dec. 22, 1998) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

¹⁶ See letter from Kenneth C. Crooks to James T. Walker, Esquire (Apr. 20, 200) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

Lucie County, the Fire Protection Board hereby requests that the City of Fort Pierce grants a full exemption from the Fort Pierce CRA trust fund and consideration for future capital projects.¹⁷

In the presenting this most recent request to the City Commission of the City of Fort Pierce, Mr. Kenneth Crooks, Fire District Attorney, raised the following issues:¹⁸

- First, the Fire District has been disappointed in the level of cooperation and flow of information from the City and the CRA to the various taxing authorities including the Fire District. CRA's were created under Chapter 163.330 of the Florida Statutes and that State Statute envisions a joint effort in the planning and execution of matters pertaining to the CRA between the City and the various taxing authorities from which the CRA derives its TIF funding. This statute requires the City take certain actions, including written notices of proposed actions to be sent by registered mail to each taxing authority concerning plans, amendments to plans, and the issuance of bonds, together with the filing of annual reports including specified financial statements setting forth the CRA's assets, liabilities, income, and operating expenses, with newspaper publication of notice of such filings. The Fire District believes that the CRA has been lacking in compliance with those statutory requirements.
- Further, on November 6, 2003, the Fire District was sent an invoice for \$195,950.44 from Mr. Coke as Chairman of the CRA. The invoice did not include any supporting information. So on November 17th the Fire District submitted a letter to Mr. Coke seeking clarification as to how he had determined what the Fire District owed the CRA for this year...The only response that the Fire District received was a handwritten note from Mr. Bergalis sent on December 10th and a phone call.
- The Fire District is also frustrated that the City has failed to comply with one of the few time requirements it imposed upon itself concerning the procedure for obtaining an exemption from the CRA under Section 2-296(e) of the City code which requires the City to either grant or deny an exemption requested by special district within 120 days after the date the written request was first submitted. That is what this City code provides...The Fire District first submitted its request for an exemption on October 15, 2003...The City has exceeded its 120 day time limitation even though it has had four months within which to hold this public hearing and to make a decision on the Fire District's exemption request.
- In addition, including the Fire District in the TIF funding scheme for the City's CRA violates the terms of the legislatively imposed Charter for the Fire District. Chapter 96-532, Laws of Florida, as well as every Charter for the Fire District enacted since 1955, has stated in pertinent part as follows. At the present time it is under Section 8(b). It says, "No funds of the District shall be used for any purpose other than the administration of the affairs and business of said district for the construction, care, maintenance, upkeep, operation, and purchase of fire fighting and emergency equipment and for the best interest of the District as the Fire Board may determine"...Providing the means to combat slums and blighted areas is a noble cause; however, using the Fire District's tax revenues for that purpose does not constitute use of funds for "...the construction, care, maintenance, upkeep, operation, and purchase of fire fighting and emergency equipment..."
- And certainly the Fire District Board has not determined that paying the City of Fort Pierce's CRA is in the best interest of the District. Further, granting the requested exemption would not severely impact the CRA. The CRA's amended budget approved on November 12, 2003 indicates the total net operating funds for the CRA this year would be \$224,000; which means

¹⁷ See letter from Kenneth C. Crooks to the Honorable Edward D. Enns, Mayor, City of Fort Pierce (Apr. 20, 200) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

¹⁸ See Minutes of a Regular Postponed Meeting of the City Commission of the City of Fort Pierce, Florida (Feb. 17, 2004) (available at <http://www.cityoffortpierce.com/fp032.html>).

that the CRA could grant the Fire District requested exemption, reimburse the District TIF monies that have already been paid, then pay out everything else listed in the CRA budget including its scheduled bond payment, and still have funds left over.

- If the City does not grant the requested exemption, the Fire District will continue to provide fire fighting and emergency medical services for the CRA area as well as the remainder of St. Lucie County. The number of residents and developed units within the CRA area will continue to drastically increase from such projects as the already sold out 864 unit Harbour Isle. The increased cost of providing those services by the Fire District will be borne by everyone outside of the CRA area. This is unfair.
- It was not burdensome for the Fire District in earlier years up until 2001 when the annual TIF amounts for the Fire District were just \$5,000 to \$17,000. But now the TIF amounts have jumped exponentially with a 623% increase in 2002 alone. The projections from this point forward using very conservative estimates indicate that the Fire District will be asked to pay over \$500,000 a year by 2008...That is just for the Fort Pierce CRA. Add in Port St. Lucie and the amounts will exceed \$1 million by 2007. That is why the Fire District is concerned about the CRA's TIF financing scheme. At the same time, the Fire District will be experiencing drastic rollbacks in ambulance billing that are already scheduled by Medicare. It is not the Fire District, it is Medicare determining the amounts that the Fire District can charge for ambulance billing is being reduced. This will be a very tenuous situation for the Fire District and nothing was caused by the Fire District to make this up.
- Finally, there are 38 independent Fire Districts in the State of Florida that are funded by ad valorem tax dollars...The St. Lucie County Fire District is the only Fire District in the State that is being forced to contribute tax dollars through a CRA and they now have two of them with which to contend. All other counties and municipalities have found ways to exempt independent Fire Districts from the fiscal impacts caused by CRA. Port St. Lucie realized the error of their ways and they have recently come to an acceptable compromise. The question then becomes, what is it that every other county and city in the State of Florida understands that the City of Fort Pierce has failed to grasp?

Opposition from the FP-CRA/City of Fort Pierce

The FP-CRA/City of Fort Pierce has denied each exemption request of the Fire District. On April 2, 2004, Dennis Beach, the City Manager for the City of Fort Pierce provided four sets of documents to the Committee on Local Government & Veterans' Affairs:

1. Letter to Senator Ken Pruitt from Edward G. Enns, Mayor City of Fort Pierce (Jan. 5, 2004)

The Community Redevelopment Agency recently issued \$10,280,000 in revenue bonds to be repaid with revenue anticipated from the tax increment generated within the CRA and includes a portion applicable to the Fire District...the contract documents and bond covenants agreed to by the City of Fort Pierce would be violated by the removal of the Fire District from the revenue stream. It is our belief that existing state law would prohibit the passage of legislation that would diminish the revenue stream committed by the Agency and impair the existing bond contracts...

Please also be aware that the Fort Pierce City Commission and the Community Redevelopment Agency have both unanimously agreed to assist the Fire District with costs generated by increased population or increased activity within the Community Redevelopment Agency area. We believe those to be legitimate expenses of the Agency and a realistic expectation of the Fire District. If this requires an amendment to the CRA plan, those amendments could be accomplished within a ninety (90) day period of time...

2. Interoffice Memorandum to George J. Bergalis, Director of Finance from Dennis W. Beach, City Manager (Oct. 31, 2003)

Requesting the Director of Finance to ask the bond consultants and legal advisors to report as to the obligations related to the recent \$10 million bond issue.

3. Letter to City Commissioners, City of Fort Pierce, Florida from Michael D. Williams, Akerman Senterfitt (Nov. 18, 2003)

...We have been asked to review the Resolution to determine if the request of the Fire District can be accomplished within the provisions of the Resolution.

Section 5.9 of the Resolution provides, in part, that the Issuer, which is the Fort Pierce Redevelopment Agency, "will not take any action or enter into any agreement that shall result in reducing the level of Tax Increment Revenues distributed to the Issuer from that prevailing at the time the Issuer takes such action or enters into such agreement." This provision in and of itself prevents the Fort Pierce Redevelopment Agency from being a party to an agreement such as the one we understand the St. Lucie County Fire District has proposed.

Absent consent of the bond insurer to an amendment to the resolution, which request the bond insurer can deny in its sole discretion, the City would be legally prohibited from granting the Fire District's request.

4. Letter to Mr. Nate Eckloff, Managing Director, RBC Dain Rauscher from Phyllis A. Santry, First Vice President, Public Finance, Portfolio Risk Management, Ambac Assurance Corporation (Dec. 16, 2003).

...The City proposes to exempt the St. Lucie County Fire District from participation in the CRA. This will result in a 15% reduction in property tax revenue pledged to the Bonds.

Ambac Assurance Corp. cannot agree to this amendment. Our policies for new issue insurance and debt service reserve surety were issued based on representations made by the CRA of a given security for the Bonds. We believe that the loss of a major participant in the CRA is a substantive diminution in the security for the Bonds and that a 15% reduction in revenue pledged to the CRA Bonds represents a substantial change in the risk profile.

If the CRA wants to resubmit revised documents encompassing the proposed change and demonstrating no change in the security of the bond issue, we would consider revisiting the issue. First, we would require that the issue be given the same shadow ratings by the rating agencies, as this affects our cost of capital. Second, this review would entail an additional fee being paid to Ambac for review of the documents. Third, if the change could be approved, this would also result in adjustment to our bond insurance and surety premiums because of the change in security.

On April 7, 2004, Robert P. Franke, AICP, Community Redevelopment Agency Director, also provided the letter to Senator Pruitt, the letter from Michael D. Williams, and the letter from Phyllis A. Satnry, as provided by Mr. Beach, to the Committee on Local Government & Veterans' Affairs. Mr. Franke also raised the following points:

There are two important issues relating to the Fire District's request that I would like to address: 1) impact of the exemption of the Fire District's tax increments and the effect on the recently issued bonds; and 2) the activities of a CRA in older neighborhoods.

As you know, bonds used by community redevelopment agencies are typically revenue bonds and use tax increments as security for repaying these bonds. Our bond counsel clearly points

out that the City is bound by Bond Resolution FPCRA 03-01 and Section 5.9 in particular. This section clearly states that the CRA (the Issuer):

...will not take any action or enter into any agreement that shall result in reducing the level of Tax Increment Revenues distributed to the Issuer from that prevailing at the time the Issuer takes such action or enters into such agreement.

Further support for Mr. Williams' conclusion is supplied by Ambac Assurance Corporation, who insured the bonds. Ambac Assurance Corporation has not agreed to the amendment of security as proposed by the Fire District (see letter dated December 16, 2003).

The second issue is directly related to the goals of the Community Redevelopment Act of 1969, F.S. 163, Part III...The City has prepared several Findings; the most recent was updated in February 2001 (due to expanded boundary of the CRA)...The Finding concluded that the study area did meet the criteria for slum and blight as defined by F.S. 163.340...

The goals of the CRA and the Fire District coincide on many points, most importantly reducing the loss of life and property. However, the means to do so, I would argue, are more effectively pursued through the statutory authority granted to CRAs...

...the Statute clearly puts the burden on the Fire District to show how the granting of an exemption would not adversely impact the CRA. Please note that the most recent request for an exemption has been denied for this fiscal year.

Support from the City of Fort Pierce

On January 15, 2004, the new Mayor of the City of Fort Pierce, Robert J. Benton, sent a letter to Representative Mayfield indicating support for exempting the Fire District from the CRA:

The Fire District is not asking to be exempt from the CRA immediately. It is willing to work with the city and has asked for exemption beginning October 2007. This I feel will allow new development and redevelopment in the area to create a tax base that will exceed the revenue now being drawn from the Fire District's budget and will replace it without missing a beat. I realize the issue of the CRA being able to make their bond payments seems to be the factor. By the requested exemption date of 2007, new development and redevelopment will be on line and paying taxes with increased property values that would not interfere with any payment requirement.

New development and redevelopment will be placing challenges to the Fire District for the construction of new stations, more personnel, and require the newest of technology for local and homeland security equipment and training. Adding to this, we have wage increases and an increase of health insurance costs. Financial concerns for the Fire District need to be addressed. By exempting the CRA, it will allow for the district to plan and expand.

...I feel the CRA will survive without the revenue from the Fire District. Having been educated with all the facts, I believe exempting the Fire District from the CRA is the right decision to make.

Recitals and Exemption

Based on this background, this bill makes the following recitals:

- The St. Lucie County Fire District is solely responsible for fire suppression, prevention, rescue, and emergency medical services throughout St. Lucie County;

- The St. Lucie County Fire District derives a substantial portion of its revenues from ad valorem taxes and a substantial portion of its expenses are personnel costs;
- The implementation of community redevelopment plans by community redevelopment agencies in St. Lucie County creates an increasing demand for fire and rescue services without providing the revenues to support such services; and
- The continued payments to redevelopment trust funds created by community redevelopment agencies in St. Lucie County will adversely affect the ability of the St. Lucie County Fire District to provide critical public safety services to the citizens and visitors of St. Lucie County.

The bill then provides that the St. Lucie Fire District will be exempt from payment to redevelopment trust funds created by community redevelopment agencies in St. Lucie County effective October 1, 2007.

The bill also requires the Fire District to appropriate to the redevelopment trust fund established for bonds authorized and issued under section 163.385, Florida Statutes, prior to the effective date of this bill and which remain outstanding, an amount sufficient to pay, when due, its annual pro rata share to cover debt service, *to the extent funds deposited into the redevelopment trust fund by other taxing authorities pursuant to section 163.387, Florida Statutes, are insufficient to cover debt service.* This obligation, however, does not arise for any bonds authorized and issued subsequent to the effective date of the bill.

C. SECTION DIRECTORY:

Section 1: Exempts the District from payment to redevelopment trust funds created by community development agencies in St. Lucie County effective October 1, 2007.

Section 2: Requires the Fire District to appropriate to the redevelopment trust fund established for bonds authorized and issued under section 163.385, Florida Statutes, prior to the effective date of this bill and which remain outstanding, an amount sufficient to pay, when due, its annual pro rata share to cover debt service, to the extent funds deposited into the redevelopment trust fund by other taxing authorities pursuant to section 163.387, Florida Statutes, are insufficient to cover debt service; provides that this obligation does not arise for any bonds authorized and issued subsequent to the effective date of the bill.

Section 3: Provides that the bill takes effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in the Fort Pierce/Port St. Lucie Tribune on December 12, 2003.

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

The Economic Impact Statement completed by St. Lucie County Fire District Fire Chief Jay Sizemore cites advantages and disadvantages:

Advantages - All St. Lucie County Fire District Ad Valorem taxes levied and collected in Community Redevelopment Areas within St. Lucie County will be utilized by the District in accordance with its charter and the provisions of FSS 191 after FY 06-07.

Disadvantages - In 2007 the tax increment revenue to the Ft. Pierce Community Redevelopment Agency will be reduced from 5.4 times its debt obligation to 4.4 times its debt obligation.

Without Fire District Exemption

	<u>Fire District Payment</u>	<u>Total Revenue</u>	<u>Bond Payment</u>	<u>Excess/Debt Service</u>
2004	\$195,950	\$1,284,904	\$764,422	\$520,482
2005	\$226,478	\$1,485,083	\$764,362	\$720,721
2006	\$257,922	\$1,691,268	\$761,262	\$929,406
2007	\$290,309	\$1,903,639	\$764,262	\$1,139,490
2008	\$501,579	\$3,289,002	\$764,512	\$2,524,490

With Fire District Exemption

	<u>Fire District Payment</u>	<u>Total Revenue</u>	<u>Bond Payment</u>	<u>Excess/Debt Service</u>
2004	\$195,950	\$1,284,904	\$764,422	\$520,482
2005	\$226,478	\$1,485,083	\$764,362	\$720,721
2006	\$257,922	\$1,691,268	\$761,262	\$929,406
2007	\$290,309	\$1,903,639	\$764,262	\$1,139,490
2008	EXEMPT	\$2,787,423	\$764,512	\$2,022,911

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Impairment of Contracts

Article I, section 10 of the Florida Constitution prohibits any law "impairing the obligation of contracts" from being passed.

In a letter to Kenneth C. Crooks, Fire District Attorney, Robert L. Nabors reviews the relevant court cases for evaluating an impairment of contract claim under the Florida Constitution.¹⁹ The letter also includes examples of "hold harmless" statutory provisions which have been utilized in laws passed by the Legislature in the past five years which were designed to protect bondholders from such impairment.²⁰ The letter ends with the following conclusion:

¹⁹ See letter from Robert L. Nabors, Nabors, Giblin & Nickerson, P.A., to Kenneth C. Crooks, Fire District Attorney (Jan. 21, 2004) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs); see also *Pomponio v. Claridge of Pompano Condo, Inc.*, 378 So.2d 774 (Fla. 1979); *United States Fed. & Guar. Co. v. Dep't of Ins.*, 453 So.2d 1355 (Fla. 1984); *State v. City of Coral Gables*, 248 So.2d 641 (Fla. 1971); *Keefe v. Clark*, 322 U.S. 393 (1944).

²⁰ See letter from Robert L. Nabors, Nabors, Giblin & Nickerson, P.A., to Kenneth C. Crooks, Fire District Attorney (Jan. 21, 2004) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs); see also §11, ch. 2000-173, Laws of Fla. and § 54, ch. 2000-260, Laws of Florida.

Based upon the above analysis and our review of similar efforts by the Legislature when balancing the public interest resulting from changes in tax statutes with the rights of bondholders, it is our opinion that the proposed special act with the incorporation of the amendment...would not violate the constitutional prohibitions on the impairment of contract obligations.

While the committee substitute includes the referenced amendment language, this may not entirely resolve the impairment of contracts issue.

B. RULE-MAKING AUTHORITY:

This bill does not appear to provide any rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments - Applicability of House Rule 5.5(a)

House Rule 5.5(a) provides that if the Committee on Local Government & Veterans' Affairs determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, the committee shall not report the bill. This rule *may* apply to this bill as paragraph (d) of subsection (2) of section 163.387, Florida Statutes, gives the *local governing body* that creates the CRA the power to exempt a special district that levies ad valorem taxes with the area of the CRA from the annual appropriation of increment to the trust fund. No such determination has, however, been made by the Committee on Local Government & Veterans' Affairs.

Other Comments - Applicability House Rule 5.5(b)

House Rule 5.5(b) provides that a local bill that provides an exemption from general law may not be placed on the special order calendar may not be placed on the Special Order Calendar in any place reserved for the expedited consideration of local bills. This bill appears to provide an exemption from general law.

Other Comments - Florida Redevelopment Association

The Florida Redevelopment Association expressed opposition to this bill:

Regardless of the policy issue involved, the attempt of any entity to ask the legislature to fix local conflicts (that can be resolved at the local level) has consistently been opposed by the Florida Redevelopment Association (FRA). In fact, our 2004 legislative policy statement addresses this issue. Our understanding is that the St. Lucie Fire District has negotiated, through an interlocal agreement, with the City of Port St. Lucie on this exact same issue, to the satisfaction of both parties. Therefore, it is a fact that this can be resolved at the local level.²¹

Other Comments – Florida Professional Firefighters

The Florida Professional Firefighters, on behalf of the firefighters from the St. Lucie County Fire District, supports the bill:

The St. Lucie County Fire District is the only independent fire Control district in the state that is included in the CRA's increment funding. Bonita Springs, Destin, and Ft. Meyers Beach have all received exemptions from their local CRAs.

²¹ See e-mail from Carol Westmoreland, Executive Director, Florida Redevelopment Association (Apr. 7, 2004, 16:20 EST) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

There are two CRAs within the St. Lucie County Fire District. One is in the City of Ft. Pierce, and the other is in the City of Port St. Lucie. The services provided by the St. Lucie County Fire District are not provided by either of these cities, nor are they provided by the CRAs. The City of Port St. Lucie has already agreed to an exemption starting with the 2006-2007 fiscal year.

The firefighters and the St. Lucie County Fire District have attempted to correct this situation with the City of Ft. Pierce to no avail. Continued inclusion in this TIF will adversely affect the Fire District's ability to provide public safety services to the community. The CRAs do not generate enough revenue to cover the services provided by the St. Lucie Fire District to their area.

In light of last year's dramatic increase in property value, the 10/1/2007 exclusion of the St. Lucie County Fire District will not impact the CRAs long-range financial plan.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On April 15, 2004, the Committee on Local Government & Veterans' Affairs adopted a strike-everything amendment which added a new section to the bill to address concerns that the provisions of the bill may impair the bonds issued by any affected CRAs. The new section provides that the Fire District shall continue to pay funds to the CRA in the event that the available funds are insufficient to cover the debt service on any bonds currently outstanding. The bill was then reported favorably with committee substitute.