

1 A bill to be entitled

2 An act relating to the Upper Captiva Fire Protection and  
 3 Rescue Service District, Lee County; providing legislative  
 4 intent; codifying, reenacting, and amending all prior  
 5 special acts pertaining to the district; re-creating and  
 6 reenacting an independent fire protection, control, and  
 7 rescue service district in said county; fixing boundaries  
 8 of the district; providing powers; providing for a  
 9 governing body, officers, budget and taxing authority, and  
 10 indebtedness; providing for planning; providing  
 11 construction and severability; repealing a prior special  
 12 act relating to the district; amending chapter 97-340,  
 13 Laws of Florida; correcting a reference; providing an  
 14 effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Pursuant to section 191.015, Florida Statutes,  
 19 this act constitutes the codification of all special acts  
 20 relating to the Upper Captiva Fire Protection and Rescue Service  
 21 District (hereinafter called the "district"). It is the intent  
 22 of the Legislature to provide a single, comprehensive, special  
 23 act charter for the district, including all current legislative  
 24 authority granted to the district by its several legislative  
 25 enactments, and any additional authority granted by this act. It  
 26 is further the intent of this act to preserve all district  
 27 authority, including the authority to annually assess and levy  
 28 taxes, impact fees, and non-ad valorem assessments as authorized

29 by chapter 191, Florida Statutes, or any other applicable  
 30 general or special law, and to conform the charter to chapter  
 31 191, Florida Statutes, the Independent Special Fire Control  
 32 District Act, and other provisions of general law.

33 Section 2. Chapter 90-397, Laws of Florida, is codified,  
 34 reenacted, amended, and repealed as provided herein.

35 Section 3. The charter for the Upper Captiva Fire  
 36 Protection and Rescue Service District is re-created and  
 37 reenacted to read:

38 Section 1. Name.--The name of the district shall be the  
 39 Upper Captiva Fire Protection and Rescue Service District.

40 Section 2. Boundaries.--

41 (1) The lands to be included within the district are the  
 42 following described lands in Lee County, Florida:

43 Upper Captiva Island:

44 All that part of North Captiva Island lying in  
 45 Sections 4,5,8,9, 15, and 16, Township 45 South, range  
 46 21 East, and Section 32, Township 44 South, Range 21  
 47 East, bounded on the North by Captiva Pass, West by  
 48 the Gulf of Mexico, South by Redfish Pass, and East by  
 49 Pine Island Sound.

50 (2) Nothing in this charter shall deny the right of the  
 51 fire chief or governing officials of the district to render such  
 52 services in the waters adjacent to the land, or to communities  
 53 adjacent to the land, described in subsection (1), or to such  
 54 other places as from time to time may be deemed advisable.

55       (3) The boundaries of the district may be modified,  
56 extended, or enlarged upon approval or ratification by the  
57 Legislature.

58       Section 3. Powers.--The district shall have, and the board  
59 may exercise by majority vote, all powers that an independent  
60 special fire control district is authorized by law to have,  
61 specifically including, without limitation, all powers set forth  
62 in chapter 189, Florida Statutes, to the extent applicable, and  
63 chapter 191, Florida Statutes, as it may be amended from time to  
64 time. Without limiting any general or special powers otherwise  
65 granted by law, the district shall have the power to establish  
66 and maintain fire suppression and control services; provide  
67 emergency medical services and rescue response services; acquire  
68 and maintain fire stations and equipment pursuant to law;  
69 acquire and maintain rescue, medical, and other emergency  
70 equipment pursuant to the provisions of chapter 401, Florida  
71 Statutes, and provide or obtain any certificate of public  
72 convenience and necessity or its equivalent issued thereunder;  
73 employ such personnel and engage services of such persons as are  
74 deemed necessary for the proper function and operation of the  
75 district; provide or require maintenance of roadways, rights-of-  
76 way, alleyways, and pathways and docking facilities for fire  
77 safety and rescue purposes and to impose fees, impact fees, or  
78 assessments upon real property for such purposes; and adopt  
79 ordinances and resolutions necessary to conduct district  
80 business, provided that they are not in conflict with any  
81 ordinances of Lee County.

82        Section 4. Governing body; elections; vacancies; no  
 83        compensation; oath; bond.--

84        (1) The district shall be governed by a board of five  
 85        commissioners who shall be qualified electors residing within  
 86        the district, be elected by the qualified electors residing  
 87        within the district, and serve terms of 4 years each or until a  
 88        successor takes office. Terms shall be staggered, with two  
 89        commissioners elected by seats pursuant to section 191.005,  
 90        Florida Statutes, in one election cycle and three commissioners  
 91        elected in the other election cycle, in accordance with term  
 92        expiration schedules in place at the time of adoption of this  
 93        charter. Seats 1, 2, and 3 shall be elected in 2004, and seats 4  
 94        and 5 shall be elected in 2006. Candidates shall qualify in  
 95        accordance with section 191.005, Florida Statutes, except that  
 96        candidates are not required to open campaign depositories or  
 97        appoint a treasurer where the only expenditures are the campaign  
 98        filing fee or the supervisor's fee for checking signatures.

99        (2) Elections shall be on the first Tuesday next  
 100        succeeding the first Monday in November of even-numbered years,  
 101        unless otherwise required by law or by action of the Lee County  
 102        Supervisor of Elections pursuant to law.

103        (3) Elections shall be on a nonpartisan basis.

104        (4) If a vacancy occurs on the board for any reason, the  
 105        remaining commissioners may appoint a qualified person to fill  
 106        the seat until the next general election, at which time an  
 107        election shall be held to fill the vacancy for the remaining  
 108        term, if any.

109       (5) Commissioners shall continue to serve without  
 110 compensation, but shall be entitled to payment or reimbursement  
 111 of actual and necessary expenses incurred in performance of  
 112 their duties, to the extent authorized by board bylaws. Any  
 113 future provision for payment of any salary or honorarium shall  
 114 be determined in accordance with and subject to limitations set  
 115 forth in section 191.005(4), Florida Statutes.

116       (6) Each commissioner shall, upon assuming office, take  
 117 and subscribe to the oath of office prescribed by s. 5(b), Art.  
 118 II of the State Constitution and section 876.05, Florida  
 119 Statutes.

120       (7) Each commissioner, within 30 days after assuming  
 121 office, must give the Governor a good and sufficient surety bond  
 122 in the sum of \$5,000, and the treasurer the sum of \$10,000, or  
 123 as otherwise may be required by law, the cost thereof being  
 124 borne by the district, conditioned on his or her faithful  
 125 performance of his or her duties of office.

126       Section 5. Officers; bylaws; removal; disbursements;  
 127 records; open meetings; quorum.--

128       (1) The commissioners, immediately upon their election or  
 129 within 10 days thereafter, and annually in November, shall  
 130 organize by electing from their number a chair, a vice chair, a  
 131 secretary, and a treasurer. The same commissioner may be both  
 132 secretary and treasurer. The board shall adopt bylaws to provide  
 133 policies and procedures for conducting its business and  
 134 exercising its powers granted herein. The bylaws shall define  
 135 excused and unexcused absences. The board shall remove any

136 commissioner who has three consecutive, unexcused absences from  
 137 regularly scheduled meetings.

138 (2) Funds of the district may be disbursed only upon the  
 139 order or pursuant to resolution of the board, by warrant or  
 140 check signed by the treasurer or other person or persons  
 141 authorized by the board. However, a petty cash account may be  
 142 authorized by the board. The board may give the treasurer  
 143 additional powers and duties that it deems appropriate.

144 (3) The board, through its secretary, shall keep a  
 145 permanent record book entitled "Record of Proceedings of Upper  
 146 Captiva Fire Protection and Rescue Service District" in which  
 147 the minutes of all meetings, resolutions, proceedings,  
 148 certificates, bonds given by commissioners, and corporate acts  
 149 shall be recorded. The record book shall be open to inspection  
 150 in the same manner as state, county, and municipal records are  
 151 open under chapter 119, Florida Statutes. The record book shall  
 152 be kept at the office or other regular place of business  
 153 maintained by the board in Lee County. All meetings of the board  
 154 shall be open to the public as may be required by chapters 189  
 155 and 286, Florida Statutes, and other applicable general law.

156 (4) Unless otherwise required by law, a majority of  
 157 commissioners in office shall constitute a quorum for the  
 158 conduct of business. Action may be taken only by a majority vote  
 159 of a quorum present.

160 Section 6. Fiscal year; budget; millage; taxes;  
 161 assessments.--The fiscal year begins on October 1 of each year  
 162 and extends until September 30 of the ensuing year.

163       (1) The board shall annually prepare, consider, and adopt  
 164 a district budget pursuant to the applicable requirements of  
 165 chapter 200, Florida Statutes, as it may be amended from time to  
 166 time, for purposes of providing funds for the district.

167       (2) The board shall fix and cause to be levied on all  
 168 taxable property of the district a millage sufficient to meet  
 169 the requirements of the budget. The millage rate shall not  
 170 exceed 3.75 mills per year, except as otherwise provided in  
 171 section 191.009, Florida Statutes. All taxes shall be levied,  
 172 assessed, and collected in the same manner as county taxes.

173       (3) Non-ad valorem assessments and user and impact fees  
 174 shall be levied and collected in accordance with the provisions  
 175 of sections 191.009 and 191.011, Florida Statutes.

176       Section 7. Indebtedness; use of funds.--

177       (1) The district may incur debt and issue bonds or any  
 178 other evidences of indebtedness as provided and to the extent  
 179 limited by s. 12, Art. VII of the State Constitution and section  
 180 191.012, Florida Statutes.

181       (2) Funds of the district may be used for any purpose of  
 182 the district in accordance with this charter and with provisions  
 183 of any other applicable general laws and special acts.

184       (3) The district is specifically authorized to expend  
 185 funds to purchase, lease, own, and maintain a fire department  
 186 and rescue service within the district's jurisdiction; to  
 187 construct one or more fire stations or rescue service facilities  
 188 as the board deems necessary in the exercise of its powers; and  
 189 to dispose of surplus real or personal property and to enter

190 into interlocal agreements or other arrangements to assist in  
191 achievement of the powers and purposes of the district.

192 Section 8. Plan.--The district shall adopt a 5-year plan  
193 to identify the facilities, equipment, personnel, and revenue  
194 needed by the district over the next 5-year period. The plan  
195 shall be updated in accordance with section 189.415, Florida  
196 Statutes, and satisfies the requirement for a public facilities  
197 report required by section 189.415(2), Florida Statutes.

198 Section 4. This act shall be construed as remedial and  
199 shall be liberally construed to promote the purpose for which  
200 it is intended.

201 Section 5. It is declared to be the intent of the  
202 Legislature that if any section, subsection, sentence, clause,  
203 phrase, or portion of this act is held invalid or  
204 unconstitutional for any reason, by any court of competent  
205 jurisdiction, such holding shall not affect the validity of the  
206 remaining portions hereof.

207 Section 6. Chapter 90-397, Laws of Florida, is repealed.

208 Section 7. Section 1 of chapter 97-340, Laws of Florida,  
209 is amended to read:

210 Section 1. Short title.--Sections 1-13 of this act may be  
211 cited as the "Lee County Independent Special Fire Control  
212 District Act." This act shall apply to the Alva Fire Control and  
213 Rescue Service District, created pursuant to chapter 76-413,  
214 Laws of Florida; Bayshore Fire Protection and Rescue Service  
215 District, created pursuant to chapter 76-414, Laws of Florida;  
216 Bonita Springs Fire Control and Rescue District, created  
217 pursuant to chapter 65-1828, Laws of Florida; Estero Fire



218 Protection and Rescue Service District, created pursuant to  
 219 chapter 76-408, Laws of Florida; Fort Myers Beach Fire Control  
 220 District, created pursuant to chapter 27676, Laws of Florida,  
 221 1951, and chapter 73-532, Laws of Florida; Fort Myers Shores  
 222 Fire Protection and Rescue District, created pursuant to chapter  
 223 76-409, Laws of Florida; Iona-McGregor Fire Protection and  
 224 Rescue Service District, created pursuant to chapter 75-421,  
 225 Laws of Florida; Lehigh Acres Fire Control and Rescue Service  
 226 District, created pursuant to chapter 63-1546, Laws of Florida;  
 227 Matlacha-Pine Island Fire Control District, created pursuant to  
 228 chapter 63-1588, Laws of Florida; North Fort Myers Fire Control  
 229 and Rescue Service District, created pursuant to chapter 29240,  
 230 Laws of Florida, 1953; San Carlos Park Fire Protection and  
 231 Rescue Service District, created pursuant to chapter 76-411,  
 232 Laws of Florida; Sanibel Fire Control District, created pursuant  
 233 to chapter 30930, Laws of Florida, 1955; South Trail Fire  
 234 Protection and Rescue Service District, created pursuant to  
 235 chapter 76-412, Laws of Florida; Tice Fire Protection and Rescue  
 236 Service District, created pursuant to chapter 76-410, Laws of  
 237 Florida; and Captiva Island Fire Control District, created  
 238 pursuant to chapter 30929, Laws of Florida, 1955, ~~and Upper~~  
 239 ~~Captiva Fire Protection and Rescue Service District, created~~  
 240 ~~pursuant to chapter 90-397, Laws of Florida;~~ as all such  
 241 enabling acts have been amended, shall be governed by the  
 242 provisions of this act.

243 Section 8. This act shall take effect upon becoming a law.