

ENROLLED
HB 1717, Engrossed 1

2004 Legislature

A bill to be entitled

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

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

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

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

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 Chapter 90-397, Laws of Florida, is codified, reenacted, amended, and repealed as provided herein.

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

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

Section 2. Boundaries.--

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

Upper Captiva Island:

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

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

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

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

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

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

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

(3) Elections shall be on a nonpartisan basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. Indebtedness; use of funds.--

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

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

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

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

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

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

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

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

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

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

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Protection and Rescue Service District, created pursuant to chapter 76-408, Laws of Florida; Fort Myers Beach Fire Control District, created pursuant to chapter 27676, Laws of Florida, 1951, and chapter 73-532, Laws of Florida; Fort Myers Shores Fire Protection and Rescue District, created pursuant to chapter 76-409, Laws of Florida; Iona-McGregor Fire Protection and Rescue Service District, created pursuant to chapter 75-421, Laws of Florida; Lehigh Acres Fire Control and Rescue Service District, created pursuant to chapter 63-1546, Laws of Florida; Matlacha-Pine Island Fire Control District, created pursuant to chapter 63-1588, Laws of Florida; North Fort Myers Fire Control and Rescue Service District, created pursuant to chapter 29240, Laws of Florida, 1953; San Carlos Park Fire Protection and Rescue Service District, created pursuant to chapter 76-411, Laws of Florida; Sanibel Fire Control District, created pursuant to chapter 30930, Laws of Florida, 1955; South Trail Fire Protection and Rescue Service District, created pursuant to chapter 76-412, Laws of Florida; Tice Fire Protection and Rescue Service District, created pursuant to chapter 76-410, Laws of Florida; and Captiva Island Fire Control District, created pursuant to chapter 30929, Laws of Florida, 1955, ~~and Upper Captiva Fire Protection and Rescue Service District, created pursuant to chapter 90-397, Laws of Florida;~~ as all such enabling acts have been amended, shall be governed by the provisions of this act.

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