

CHAMBER ACTION

1 The Committee on Local Government & Veterans' Affairs recommends
2 the following:

3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to Boca Grande Fire Control District,
7 Charlotte and Lee Counties; codifying, reenacting,
8 amending, and repealing special laws relating to the
9 district; providing that the district is an independent
10 special district; providing legislative intent; providing
11 for applicability of chapters 191 and 189, Florida
12 Statutes, and other general laws; providing a district
13 charter; providing boundaries; providing for a district
14 board; providing authority of the board; providing for
15 staff; providing duties and powers of the board; providing
16 for elections to the board; providing salary of board
17 members; providing for the removal of board members;
18 providing for revenue raising; providing for the levying
19 of non-ad valorem special assessments; providing for
20 capital improvement impact fees; providing severability;
21 providing for liberal construction; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

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26 Section 1. Pursuant to section 191.015, Florida Statutes,
 27 this act constitutes the codification of all special acts
 28 relating to the Boca Grande Fire Control District. It is the
 29 intent of the Legislature in enacting this law to provide a
 30 single, comprehensive special act charter for the district,
 31 including all current legislative authority granted to the
 32 district by its several legislative enactments, and to conform
 33 the charter to chapter 191, Florida Statutes, the Independent
 34 Special Fire Control District Act, and other provisions of
 35 general law. It is further the intent of this act to preserve
 36 all district authority, including the authority to annually
 37 assess and levy against the taxable property in the district an
 38 ad valorem tax not to exceed the limit as herein provided.

39 Section 2. Chapters 22372 (1943), 23382 (1945), 57-1514,
 40 69-1239, 73-533, 74-523, 75-419, 79-500, and 97-340, Laws of
 41 Florida, relating to the Boca Grande Fire Control District, are
 42 codified, reenacted, amended, and repealed as herein provided.

43 Section 3. The charter for the Boca Grande Fire Control
 44 District is re-created and reenacted to read:

45 Section 1. Definitions.--As used in this act, unless
 46 otherwise specified:

47 (1) "Board" means the governing board of the Boca Grande
 48 Fire Control District.

49 (2) "District" means the Boca Grande Fire Control
 50 District.

51 (3) "Elector" means a person who is a resident of the
 52 district and is qualified to vote in a general election within

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53 | the local general-purpose government jurisdiction in which the
54 | district is located.

55 | (4) "Emergency medical service" means basic and advanced
56 | life support service as defined in section 401.23, Florida
57 | Statutes.

58 | (5) "Rescue response service" means an initial response to
59 | an emergency or accident situation including, without
60 | limitation, a plane crash, trench or building collapse, swimming
61 | or boating accidents, and motor vehicle accidents.

62 | Section 2. Creation; status; charter amendments;
63 | boundaries; district purposes.--There is hereby created an
64 | independent special taxing fire protection and rescue service
65 | district incorporating lands in Charlotte County and Lee County
66 | described in subsection (1) which shall be a public corporation
67 | having the powers, duties, obligations, and immunities herein
68 | set forth, under the name of the Boca Grande Fire Control
69 | District. The district is organized and exists for all purposes,
70 | and shall hold all powers, set forth in this act and chapters
71 | 189 and 191, Florida Statutes.

72 | (1) The lands to be included within the district are the
73 | following described lands in Charlotte County and Lee County:
74 | all that portion of Gasparilla Island located within Lee County,
75 | Florida; all that portion of Gasparilla Island located within
76 | Charlotte County, Florida; and all of Cole Island (lying
77 | northerly of Gasparilla Island), Charlotte County, Florida.

78 | (2) The purpose of the district and this act is to promote
79 | the health, welfare, and safety of the citizens and residents of
80 | Charlotte County and Lee County who reside within the

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81 geographical limits of that area known as the Boca Grande Fire
82 Control District, by providing for: firefighting equipment; the
83 establishment and maintenance of fire stations and fire
84 substations; the acquisition and maintenance of all firefighting
85 and protection equipment necessary for the prevention of fires
86 or fighting of fires; the employment and training of such
87 personnel as may be necessary to accomplish fire prevention and
88 firefighting; the establishment and maintenance of emergency
89 medical service; the establishment and maintenance of rescue
90 response service; the acquisition and maintenance of rescue and
91 other emergency equipment; and the employment and training of
92 necessary emergency personnel. The district shall have all other
93 powers necessary as to carry out the purposes of the district as
94 otherwise provided by law, including, but not limited to, the
95 power to adopt all necessary measures, rules, and regulations
96 and policies relating to said purposes.

97 (3) Nothing herein shall prevent the district from
98 cooperating with the state or other local governments to render
99 such services to communities adjacent to the land described in
100 this section, or other such places as from time to time may be
101 deemed desirable.

102 (4) The district was created by special act of the
103 Legislature in 1943. Its charter may be amended only by special
104 act of the Legislature.

105 Section 3. Board of commissioners.--

106 (1) Pursuant to chapter 191, Florida Statutes, the
107 business and affairs of the district shall be governed and
108 administered by a board of three commissioners. The

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109 commissioners shall serve a term of 4 years each, subject to the
 110 provisions of chapter 191, Florida Statutes, and this act. Each
 111 commissioner shall hold office until his or her successor is
 112 elected and qualified under the provisions of this act. The
 113 procedures for conducting district elections and for
 114 qualification of candidates and electors shall be pursuant to
 115 chapters 189 and 191, Florida Statutes, as they may be amended
 116 from time to time.

117 (2) The board may employ such personnel as deemed
 118 necessary for the proper function and operation of a fire
 119 department. The salaries of commissioners, fire department and
 120 emergency service personnel, and any other wages, shall be
 121 determined by the board.

122 Section 4. Officers; board compensation; bond.--

123 (1) In accordance with chapter 191, Florida Statutes, each
 124 elected member of the board shall assume office 10 days
 125 following the member's election. Annually, within 60 days after
 126 the election of new members of said board, the members shall
 127 organize by electing from their number a chair, vice chair,
 128 secretary, and treasurer. However, the same member may be both
 129 secretary and treasurer, in accordance with chapter 191, Florida
 130 Statutes, as amended from time to time.

131 (2) The commissioners shall receive reimbursement for
 132 actual expenses incurred while performing the duties of their
 133 offices in accordance with general law governing per diem for
 134 public officials.

135 (3) Each commissioner, upon taking office and in
 136 accordance with chapters 189 and 191, Florida Statutes, shall

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137 execute to the Governor, for the benefit of the district, a bond
 138 conditioned upon the faithful performance of the duties of the
 139 commissioner's office. The premium for such bonds shall be paid
 140 from district funds.

141 Section 5. Powers; duties; ad valorem assessments; non-ad
 142 valorem assessments.--

143 (1) The district shall have and the board may exercise all
 144 the powers and duties set forth in this act, and chapters 189,
 145 191, and 197, Florida Statutes, as they may be amended from time
 146 to time, including, but not limited to, ad valorem taxation,
 147 bond issuance, other revenue-raising capabilities, budget
 148 preparation and approval, liens and foreclosure of liens, use of
 149 tax deeds and tax certificates as appropriate for non-ad valorem
 150 assessments, and contractual agreements. The district shall have
 151 the authority to access and utilize the public water supply
 152 system at no charge for the purposes of firefighting and fire
 153 prevention. The district may be financed by any method
 154 established in this act or chapter 189 or chapter 191, Florida
 155 Statutes, as amended from time to time.

156 (2) The board shall have the right, power, and authority
 157 to levy annually an ad valorem tax against the taxable real
 158 estate within the district to provide funds for the purposes of
 159 the district, in an amount not to exceed the limit provided in
 160 chapter 191, Florida Statutes, as amended from time to time.
 161 Although the district is authorized to levy a maximum millage
 162 rate as provided for in section 191.009(1), Florida Statutes,
 163 the district must receive referendum approval, as required by

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164 the State Constitution and section 191.009, Florida Statutes,
165 for any increase in the millage rate above 2 mills.

166 (3) The methods and procedures for assessing and
167 collecting non-ad valorem assessments, fees, or service charges
168 shall be as set forth in this act, chapter 170, chapter 189,
169 chapter 191, or chapter 197, Florida Statutes, as amended from
170 time to time.

171 (4) The district shall levy and collect ad valorem taxes
172 in accordance with chapter 200, Florida Statutes, as amended
173 from time to time.

174 (5) The district is authorized to levy and enforce non-ad
175 valorem assessments in accordance with chapters 170, 189, 191,
176 and 197, Florida Statutes, as amended from time to time.

177 (6) The district's planning requirements shall be as set
178 forth in this act and chapters 189 and 191, Florida Statutes, as
179 amended from time to time.

180 (7) Requirements for financial disclosure, meeting
181 notices, reporting, public records maintenance, and per diem
182 expenses for officers and employees shall be as set forth in
183 this act and chapters 112, 119, 189, 191, and 286, Florida
184 Statutes, as amended from time to time.

185 Section 6. Impact fees.--

186 (1) Pursuant to section 191.009(4), Florida Statutes, it
187 is hereby declared that the cost of new facilities for fire
188 protection and emergency service should be borne by new users of
189 the district's services to the extent new construction requires
190 new facilities, but only to that extent. It is the legislative
191 intent of this section to transfer to the new users of the

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192 district's fire protection and emergency services a fair share
 193 of the costs that new users impose on the district for new
 194 facilities. This section shall only apply in the event that the
 195 general purpose local government in which the district is
 196 located has not adopted an impact fee for fire services which is
 197 distributed to the district for construction within its
 198 jurisdictional boundaries.

199 (2) The impact fees collected by the district pursuant to
 200 this section shall be kept as a separate fund from other
 201 revenues of the district and shall be used exclusively for the
 202 acquisition, purchase, or construction of new facilities or
 203 portions thereof required to provide fire protection and
 204 emergency service to new construction. "New facilities" means
 205 land, buildings, and capital equipment, including, but not
 206 limited to, fire and emergency vehicles and radio telemetry
 207 equipment. The fees shall not be used for the acquisition,
 208 purchase, or construction of facilities which must be obtained
 209 in any event, regardless of growth within the district. The
 210 board shall maintain adequate records to ensure that impact fees
 211 are expended only for permissible new facilities. The board may
 212 enter into agreements with general purpose local governments to
 213 share in the revenues from fire protection impact fees imposed
 214 by such governments.

215 Section 7. Ad valorem taxes a lien.--The taxes levied and
 216 assessed by the district shall be a lien upon the land so
 217 assessed along with the county taxes assessed against such land
 218 until said assessments and taxes have been paid, and if the
 219 taxes levied by the district become delinquent, such taxes shall

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220 be considered a part of the county tax subject to the same
 221 penalties, charges, fees, and remedies for enforcement and
 222 collection and shall be enforced and collected as provided by
 223 general law, including but not limited to chapter 191, Florida
 224 Statutes, for the collection of such taxes.

225 Section 8. Deposit of taxes, assessments, fees; authority
 226 to disburse funds.--

227 (1) The funds of the district shall be deposited in
 228 qualified public depositories, in accordance with chapters 191
 229 and 280, Florida Statutes, as they may be amended from time to
 230 time.

231 (2) All warrants for the payment of labor, equipment, and
 232 other expenses of the board, and in carrying into effect this
 233 act and the purposes thereof, shall be payable by the treasurer
 234 of the board on accounts and vouchers approved and authorized by
 235 the board.

236 Section 9. Authority to borrow money.--

237 (1) The board of commissioners shall have the power and
 238 authority to borrow money or issue other evidences of
 239 indebtedness, including, but not limited to bonds, for the
 240 purpose of the district in accordance with chapters 189 and 191,
 241 Florida Statutes, as amended from time to time.

242 (2) The board of commissioners shall not be personally or
 243 individually liable for the repayment of such loan. Such
 244 repayment shall be made out of the tax receipts of the district
 245 subject to the provisions of chapters 189 and 191, Florida
 246 Statutes.

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247 Section 10. Use of district funds.--No funds of the
 248 district shall be used for any purposes other than the
 249 administration of the affairs and business of the district; the
 250 construction, care, maintenance, upkeep, operation, and purchase
 251 of firefighting and rescue equipment or a fire station or
 252 stations; the payment of public utilities; and the payment of
 253 salaries of district personnel as the board may from time to
 254 time determine to be necessary for the operations and
 255 effectiveness of the district.

256 Section 11. Record of board meetings; authority to adopt
 257 policies and regulations; annual reports; budget.--

258 (1) A record shall be kept of all meetings of the board,
 259 and in such meetings concurrence of a majority of the
 260 commissioners present shall be necessary to any affirmative
 261 action by the board.

262 (2) The board shall have the authority to adopt and amend
 263 policies and regulations for the administration of the affairs
 264 of the district under the terms of this act, chapters 189 and
 265 191, Florida Statutes, and all other applicable provisions of
 266 Florida law, which shall include, but not be limited to, the
 267 authority to adopt the necessary policies and regulations for
 268 the administration and supervision of the property and personnel
 269 of the district and for the prevention of fires, fire control,
 270 and rescue work within the district. Said commissioners shall
 271 have all the lawful power and authority necessary to implement
 272 the purposes for which the said fire district is created, which
 273 power and authority shall include, but not be limited to, the
 274 power to purchase or lease all necessary fire equipment, rescue

275 equipment, and all other equipment necessary to carry out the
 276 purposes of said fire district; to purchase all necessary real
 277 and personal property; to purchase and carry standard insurance
 278 policies on all such equipment; to employ such personnel as may
 279 be necessary to carry out the purpose of said fire district; to
 280 provide adequate insurance for said employees; to purchase and
 281 carry appropriate insurance for the protection of all
 282 firefighters and personnel as well as all equipment and personal
 283 property on loan to the district; to provide benefits to
 284 employees and commissioners, to sell surplus real and personal
 285 property in the same manner and subject to the same restrictions
 286 as provided for such sales by counties; and to enter into
 287 contracts with qualified service providers, other fire
 288 departments, municipalities, and state and federal governmental
 289 units for the purpose of obtaining financial aid, assistance, or
 290 benefits, expanding services, providing effective mutual aid,
 291 and for otherwise carrying out the purposes of the district. The
 292 commissioners shall adopt a fiscal year for said fire district
 293 which shall be October 1 to September 30.

294 (3) For the purposes of carrying into effect this act, the
 295 board shall annually prepare, consider, and adopt a district
 296 budget pursuant to the applicable requirements of chapters 189,
 297 191, and 200, Florida Statutes, as they may be amended from time
 298 to time.

299 Section 12. Authority to enact fire prevention ordinances;
 300 appoint fire marshal; acquire land; enter contracts; establish
 301 salaries; general and special powers; authority to provide
 302 emergency medical and rescue services.

303 (1) The board of commissioners shall have the right and
 304 power to enact fire prevention ordinances in the same manner
 305 provided for the adoption of policies and regulations in section
 306 11(2), and when the provisions of such fire prevention
 307 ordinances are determined by the board to be violated, the
 308 office of the state attorney, upon written notice of such
 309 violation issued by the board, is authorized to prosecute such
 310 person or persons held to be in violation thereof. Any person
 311 found guilty of a violation may be punished as provided in
 312 chapter 775, Florida Statutes, as a misdemeanor of the second
 313 degree. The cost of such prosecution shall be paid out of the
 314 district funds unless otherwise provided by law.

315 (2) The board shall have the power to appoint a fire
 316 marshal, who shall be a person experienced in all types of
 317 firefighting and fire prevention and who shall work with and
 318 cooperate with the Florida State Fire Marshal in which the
 319 district is situated in the prevention of fires of all types.
 320 The district fire marshal shall be authorized to enter, at all
 321 reasonable hours, any building or premises for the purpose of
 322 making any inspection or investigation which the State Fire
 323 Marshal is authorized to make pursuant to state law and
 324 regulation. The owner, lessee, manager, or operator of any
 325 building or premises shall permit the district fire marshal to
 326 enter and inspect the building or premises at all reasonable
 327 hours. The district fire marshal shall report any violations of
 328 state fire safety law or regulations to the appropriate
 329 officials.

330 (3) The board shall have the power to acquire, by gift,
 331 lease or purchase, lands or rights in lands, and any other
 332 property, real and personal, tangible or intangible, necessary,
 333 desirable, or convenient for carrying out the purposes of the
 334 district, and to pay any and all costs of same out of the funds
 335 of the district.

336 (4) The board shall have the power to enter into contracts
 337 or to otherwise join with any other district, city, town, the
 338 United States of America, or any agency or authority thereunder,
 339 for the purpose of expanding services, providing effective
 340 mutual aid, and accomplishing and carrying out the purposes for
 341 which the district was created and for the further purpose of
 342 specifically obtaining financial aid, assistance, or subsidy.

343 (5) The district is authorized to establish and maintain
 344 emergency medical and rescue response services and to acquire
 345 and maintain rescue, medical, and other emergency equipment,
 346 subject to the provisions of chapter 401, Florida Statutes.

347 Section 13. Annexations.--If any municipality or other
 348 fire control district annexes any land included in the district,
 349 such annexation shall follow the procedures set forth in section
 350 171.093, Florida Statutes, as amended from time to time.

351 Section 14. Immunity from tort liability.--

352 (1) The district and its officers, agents, and employees
 353 shall have the same immunity from tort liability as other
 354 agencies and subdivisions of the state. The provisions of
 355 chapter 768, Florida Statutes, as from time to time amended,
 356 shall apply to all claims asserted against the district.

357 (2) The district commissioners and all officers, agents,
 358 and employees of the district shall have the same immunity and
 359 exemption from personal liability as is provided by general law
 360 of the state for state, county, and municipal officers.

361 (3) The district shall defend all claims against the
 362 commissioners, officers, agents, and employees which arise
 363 within the scope of employment or purposes of the district and
 364 shall pay all judgments against said persons, except where said
 365 persons acted in bad faith or with malicious purpose or in a
 366 manner exhibiting wanton and willful disregard of human rights,
 367 safety, or property.

368 Section 15. District expansion; merger; dissolution.--The
 369 district boundaries may be modified, extended, or enlarged as
 370 follows:

371 (1) Lands may be added or deleted from the district only
 372 by special act of the Legislature, subject to a referendum vote.
 373 Lands added to the district shall also require a board
 374 resolution approving the addition of lands to the district. The
 375 addition or deletion of lands may be effective only upon an
 376 affirmative majority vote of the electors in the lands to be
 377 included or deleted in the district.

378 (2) The merger of the district with all or portions of
 379 another independent special district or dependent fire district
 380 is effective only upon ratification by the Legislature. The
 381 district may not, solely by merger with another governmental
 382 entity, increase ad valorem taxes on property within the
 383 original limits of the district beyond the maximum established

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384 by chapter 191, Florida Statutes, unless approved by the
 385 electors of the district by referendum.

386 (3) The district may only be dissolved by special act of
 387 the Legislature, subject to referendum vote of the electors of
 388 the district, which may be conducted by mail ballot. If
 389 legislative dissolution of a district is proposed in order to
 390 consolidate fire services under a county or municipal
 391 government, the county or municipality shall prepare a report
 392 setting forth the plans for merger, and the report shall address
 393 the following factors in evaluating the proposed merger:

394 (a) Whether, in light of independent fiscal analysis,
 395 level-of-service implications, and other public policy
 396 considerations, the proposed merger is the best alternative for
 397 delivering fire services and facilities to the affected area.

398 (b) Whether the fire services and facilities to be
 399 provided pursuant to the merger will be compatible with the
 400 capacity and uses of existing local services and facilities.

401 (c) Whether the merger is consistent with the applicable
 402 provisions of the state comprehensive plan, the strategic
 403 regional policy plan, and the local government comprehensive
 404 policy plans of the affected area.

405 (d) Whether the proposed merger adequately provides for
 406 the assumption of all indebtedness.

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

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410 Section 5. In the event that any part of this act should
 411 be held void for any reason, such holding shall not affect any
 412 other part thereof.

413 Section 6. Chapters 22372 (1943), 23382 (1945), 57-1514,
 414 69-1239, 73-533, 74-523, 75-419, 79-500, and 97-340, Laws of
 415 Florida, are repealed.

416 Section 7. This act shall take effect upon becoming a law.