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HB 1291, Engrossed 1

2005 Legislature

1 A bill to be entitled
2 An act relating to the Key Largo Fire Rescue and Emergency
3 Medical Services District, Monroe County; creating a
4 special district; providing definitions; providing for
5 creation, status, charter amendments, boundaries, and
6 purposes; providing for a board of commissioners;
7 providing for election and terms of commissioners;
8 providing for employment of district personnel; providing
9 for election of board officers; providing for
10 compensation, oath, and bonds of commissioners; providing
11 for powers, duties, and responsibilities of the board;
12 providing for ad valorem taxes; providing a cap on the
13 rate of taxation; providing for user charges; providing
14 for impact fees; providing for authority to disburse
15 funds; authorizing the board to borrow money; providing
16 for use of district funds; requiring a record of all board
17 meetings; authorizing the board to adopt policies and
18 regulations; providing for the board to make an annual
19 budget; requiring an annual report; authorizing the board
20 to enact fire prevention ordinances; authorizing the
21 district to appoint a fire marshal; authorizing the
22 district to conduct inspections, establish and operate
23 fire, rescue, and emergency medical services; providing
24 for district authority upon annexation of district lands;
25 providing for dissolution; providing immunity from tort
26 liability for officers, agents, and employees; providing
27 for district expansion; providing for construction and

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28 effect; providing for an exclusive charter; requiring a
 29 referendum; providing an effective date.

30

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

32

33 Section 1. Definitions.--As used in this act, unless
 34 otherwise specified:

35 (1) "Board" means the board of commissioners created
 36 pursuant to this act and chapter 191, Florida Statutes.

37 (2) "Commissioner" means a member of the board of
 38 commissioners of and for the district.

39 (3) "District" means the Key Largo Fire Rescue and
 40 Emergency Medical Services District.

41 Section 2. Creation; status; charter amendments;
 42 boundaries; district purposes.--

43 (1) There is hereby created an independent special fire
 44 control district incorporating lands in Monroe County described
 45 in subsection (2), which shall be a public corporation having
 46 the powers, duties, obligations, and immunities herein set forth
 47 under the name of the Key Largo Fire Rescue and Emergency
 48 Medical Services District. The district is organized and exists
 49 for all purposes and shall hold all powers set forth in this act
 50 and chapters 189 and 191, Florida Statutes.

51 (2) The lands to be included within the district are the
 52 following described lands on the island of Key Largo, in Monroe
 53 County, to wit:

54 All of Cross Key and that part of Key Largo from South
 55 Bay Harbor Drive and Lobster Lane to the southern

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56 boundary of the right-of-way County Roads 905 and
57 905A.

58 (3) The Key Largo Fire Rescue and Emergency Medical
59 Services District is organized and exists for all purposes set
60 forth in this act and chapter 191, Florida Statutes, including,
61 but not limited to, providing fire protection and firefighting
62 services, rescue services, and emergency medical services. Such
63 emergency medical services shall not be the primary function of
64 the district. The district shall have all other powers necessary
65 to carry out these purposes, including the authority to contract
66 with the Key Largo Volunteer Fire and Rescue Department, Inc.,
67 and the Key Largo Volunteer Ambulance Corps, Florida not-for-
68 profit corporations, which corporations currently provide fire,
69 rescue, and emergency medical services within the district
70 boundaries; to purchase all necessary real and personal
71 property; to purchase and carry standard insurance policies on
72 all such equipment; to employ such personnel as may be necessary
73 to carry out the purpose of said fire district; to provide
74 adequate insurance for said employees; to purchase and carry
75 appropriate insurance for the protection of all firefighters and
76 personnel as well as all equipment and personal property on loan
77 to the district; to sell surplus real and personal property in
78 the same manner and subject to the same restrictions as provided
79 for such sales by counties; and to enter into contracts with
80 qualified service providers to carry out the purposes of the
81 district.

82 (4) Nothing herein shall prevent the district from
83 cooperating with the state or other local governments to render

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84 such services to communities adjacent to the land described in
 85 this section as evidenced by an executed agreement between the
 86 cooperating agencies as approved by the board.

87 (5) The district charter may be amended only by special
 88 act of the Legislature.

89 Section 3. Board of commissioners.--

90 (1) Pursuant to chapter 191, Florida Statutes, the
 91 business and affairs of the district shall be governed and
 92 administered by a board of five commissioners, who shall be
 93 qualified electors residing within the district and shall be
 94 elected by the qualified electors residing within the district,
 95 subject to the provisions of chapters 189 and 191, Florida
 96 Statutes, and this act. Each commissioner shall hold office
 97 until his or her successor is elected and qualified under the
 98 provisions of this act. The procedures for conducting district
 99 elections and for qualification of candidates and electors shall
 100 be pursuant to chapters 189 and 191, Florida Statutes. The
 101 members of the board shall serve on a nonpartisan basis for a
 102 term of 4 years each and shall be eligible for reelection.

103 (2) Notwithstanding section 191.005, Florida Statutes, the
 104 five members of the initial board shall be elected by the
 105 qualified electors residing within the district at a special
 106 election conducted by the Supervisor of Elections of Monroe
 107 County to be held on or before October 4, 2005. At the initial
 108 election of the governing board, the candidate receiving the
 109 highest number of votes shall hold seat 1, the candidate
 110 receiving the second highest number of votes shall hold seat 3,
 111 the candidate receiving the third highest number of votes shall

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112 hold seat 5, the candidate receiving the fourth highest number
113 of votes shall hold seat 2, and the candidate receiving the
114 fifth highest number of votes shall hold seat 4. The three
115 elected members for seats 1, 3, and 5 in the initial election
116 under this act shall serve terms of 3 years each. The remaining
117 two elected members for seats 2 and 4 in the initial election
118 shall serve terms of 1 year each.

119 (3) Subsequent elections of board members shall coincide
120 with the general elections of this state.

121 (4) Vacancies in office shall be filled by election, said
122 election to be held coincidental with the next countywide
123 general election to fill the remaining term of the seat vacated.
124 The board may appoint a qualified elector of the district to act
125 as commissioner until the vacancy is filled by election. A
126 commissioner may be removed from office as provided by chapter
127 191, Florida Statutes, or for any reason that a state or county
128 officer may be removed.

129 (5) All elections shall be noticed, called, and held
130 pursuant to the provisions of the general laws of the state. The
131 board shall, to the extent possible, coordinate all elections
132 with countywide general or special elections in order to
133 minimize cost. Elections shall be called through the adoption of
134 an appropriate resolution of the district directed to the Board
135 of County Commissioners of Monroe County, the Supervisor of
136 Elections of Monroe County, and other appropriate officers of
137 the county. The district shall reimburse county government for
138 the actual cost of district elections. No commissioner shall be
139 a paid employee of the district while holding said position.

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140 (6) The board may employ such personnel as deemed
141 necessary for the proper function and operation of the district.

142 (7) The salaries of district personnel and any other wages
143 shall be determined by the board.

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

145 (1) In accordance with chapter 191, Florida Statutes, each
146 elected member of the board shall assume office 10 days
147 following the member's election. Within 60 days after election
148 of new members of said board as herein provided, the newly
149 elected members shall organize by electing from their number a
150 chair, vice chair, secretary, and treasurer. However, the same
151 member may be both secretary and treasurer, in accordance with
152 chapter 191, Florida Statutes. Nothing shall prevent the
153 commissioners from electing a chair, vice chair, secretary, and
154 treasurer annually.

155 (2) Three members of the board shall constitute a quorum.
156 A quorum shall be necessary for the transaction of business.

157 (3) The commissioners may receive reimbursement for actual
158 expenses incurred while performing the duties of their offices
159 in accordance with general law governing per diem for public
160 officials. Each commissioner shall receive from the funds of the
161 district compensation for his or her services in the amount of
162 \$200 per month. Members may be reimbursed for travel and per
163 diem expense as provided in section 112.061, Florida Statutes.
164 Authorization for any additional compensation shall be pursuant
165 to chapter 191, Florida Statutes.

166 (4) Each commissioner upon taking office shall take and
167 subscribe to the oath of office prescribed by s. 5(b), Art. II,

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168 of the State Constitution and general law. Upon taking office
 169 and in accordance with chapters 189 and 191, Florida Statutes,
 170 each commissioner shall execute to the Governor, for the benefit
 171 of the district, a bond of \$5,000 with a qualified personal or
 172 corporate surety, conditioned upon the faithful performance of
 173 the duties of the commissioner's office and upon an accounting
 174 for all funds which come into his or her hands as commissioner.
 175 The premium for such bonds shall be paid from district funds.

176 Section 5. Powers; duties; responsibilities.--

177 (1) The district shall have and the board may exercise by
 178 majority vote all the powers and comply with the duties set
 179 forth in this act and chapters 189, 191, and 197, Florida
 180 Statutes, including, but not limited to, ad valorem taxation,
 181 bond issuance, and other revenue capabilities; budget
 182 preparation and approval; liens and foreclosure of liens;
 183 contractual agreements; and the adoption of ordinances and
 184 resolutions that are necessary to conduct district business if
 185 such ordinances do not conflict with any ordinance of a local
 186 general-purpose government within whose jurisdiction the
 187 district is located.

188 (2) The board shall have the right, power, and authority
 189 to levy annually ad valorem taxes against the taxable property
 190 within the district to provide funds for the purposes of the
 191 district in an amount not to exceed the limit provided in
 192 chapter 191, Florida Statues.

193 (3) The methods for assessing and collecting ad valorem
 194 taxes, impact fees, or user charges shall be as set forth in

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195 this act and chapter 170, chapter 189, chapter 191, chapter 197,
 196 or chapter 200, Florida Statutes.

197 (4) The district's planning requirements shall be as set
 198 forth in this act and chapters 189 and 191, Florida Statutes.

199 (5) Requirements for financial disclosure, meeting
 200 notices, reporting, public records maintenance, and per diem
 201 expenses for officers and employees shall be as set forth in
 202 this act and chapters 112, 119, 189, 191, and 286, Florida
 203 Statutes.

204 Section 6. Ad valorem taxes.--

205 (1) The board shall have the authority to levy ad valorem
 206 taxes annually against all taxable property within the district
 207 to provide funds for the purposes of the district only upon the
 208 approval by a majority vote of those qualified electors of the
 209 district voting in a referendum election authorizing the use of
 210 ad valorem taxation not to exceed 1 mill.

211 (2) A referendum election of the electors of the district
 212 to authorize the use of ad valorem taxation not to exceed 1 mill
 213 shall be held by the supervisor of elections at the same time as
 214 the initial election of district commissioners in accordance
 215 with the provisions of general law relating to elections.

216 (3) Upon the approval of a majority of the electors voting
 217 at the initial election or at an election called by the board,
 218 the rate of taxation shall thereafter be fixed annually by
 219 resolution of the board without further approval by the
 220 electors, provided the rate of taxation shall not exceed 1 mill.
 221 The board shall have the authority to increase the millage rate
 222 above 1 mill only if a majority of the electors voting in a

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223 referendum election approve the increased millage rate in an
 224 amount not to exceed the limit provided in chapter 191, Florida
 225 Statutes.

226 (4) The levy and collection of ad valorem taxes shall
 227 proceed pursuant to general law.

228 Section 7. User charges.--The board shall have the
 229 authority to provide a reasonable schedule of charges for
 230 providing the following services:

231 (1) Special emergency services, including firefighting
 232 occurring in or to structures outside the district, motor
 233 vehicles, marine vessels, or aircraft or as a result of the
 234 operation of such motor vessels or marine vessels to which the
 235 district is called to render such emergency service.

236 (2) Fighting fires occurring in or at refuse dumps or as a
 237 result of an illegal burn, which fire, dump, or burn is not
 238 authorized by general or special law, rule, regulation, order,
 239 or ordinance and which the district is called upon to fight or
 240 extinguish.

241 (3) Responding to or assisting or mitigating emergencies
 242 that either threaten or could threaten the health and safety of
 243 persons, property, or the environment to which the district has
 244 been called, including charge for responding to false alarms.

245 (4) Inspecting structures, plans, and equipment to
 246 determine compliance with fire safety codes.

247 Section 8. Impact fees.--

248 (1) Pursuant to section 191.009(4), Florida Statutes, it
 249 is hereby declared that the cost of new facilities should be
 250 borne by new users of the district's services to the extent new

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251 construction requires new facilities, but only to that extent.
 252 It is the legislative intent of this section to transfer to the
 253 new users of the district's fire protection and emergency
 254 services a fair share of the costs that new users impose on the
 255 district for new facilities. This shall only apply in the event
 256 that the general-purpose local government in which the district
 257 is located has not adopted an impact fee for fire services which
 258 is distributed to the district for construction within its
 259 jurisdictional boundaries.

260 (2) The impact fees collected by the district pursuant to
 261 this section shall be kept as a separate fund from other
 262 revenues of the district and shall be used exclusively for the
 263 acquisition, purchase, or construction of new facilities or
 264 portions thereof required to provide fire protection and
 265 emergency services to new construction. "New facilities" means
 266 land, buildings, and capital equipment, including, but not
 267 limited to, fire and emergency vehicles and radio telemetry
 268 equipment. The fees shall not be used for the acquisition,
 269 purchase, or construction of facilities which must be obtained
 270 in any event, regardless of growth within the district. The
 271 board of fire commissioners shall maintain adequate records to
 272 ensure that impact fees are expended only for permissible new
 273 facilities.

274 Section 9. Authority to borrow money.--

275 (1) The board of commissioners shall have the power and
 276 authority to borrow money or issue other evidences of
 277 indebtedness for the purpose of the district in accordance with
 278 chapters 189 and 191, Florida Statutes, provided, however, that

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279 the total payments in any one year, including principal and
 280 interest, on any indebtedness incurred by the district shall not
 281 exceed 50 percent of the total annual budgeted revenues of the
 282 district.

283 (2) The board of commissioners as a body, or any of the
 284 members of the board as individuals, shall not be personally or
 285 individually liable for the repayment of such loan. Such
 286 repayment shall be made out of the receipts of the district,
 287 except as provided in this subsection. The commissioners shall
 288 not create any indebtedness or incur obligations for any sum or
 289 amount which they are unable to repay out of district funds
 290 available to them at that time, except as otherwise provided in
 291 this act, provided, however, that the commissioners may make
 292 purchases of equipment on an installment basis as necessary if
 293 funds are available for the payment of the current year's
 294 installment on such equipment plus the amount due in that year
 295 on any other installments and the repayment of any bank loan or
 296 other existing indebtedness which may be due that year.

297 Section 10. Use of district funds.--No funds of the
 298 district shall be used for any purposes other than the
 299 administration of the affairs and business of the district; the
 300 payment of salaries and expenses to commissioners; the
 301 construction, care, maintenance, upkeep, operation, and purchase
 302 of firefighting and rescue equipment or a fire station or
 303 emergency medical station; the payment of public utilities; the
 304 payment of salaries of district personnel; the payment of
 305 expenses of volunteers; the payment to the Key Largo Volunteer
 306 Fire and Rescue Department, Inc., and the Key Largo Volunteer

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307 Ambulance Corps; and such other payment and expenses as the
 308 board may from time to time determine to be necessary for the
 309 operations and effectiveness of the district.

310 Section 11. Record of board meetings; authority to adopt
 311 rules and regulations; annual reports; budget.--

312 (1) A record shall be kept of all meetings of the board,
 313 and in such meetings concurrence of a majority of the
 314 commissioners present shall be necessary to any affirmative
 315 action by the board.

316 (2) The board shall have the authority to adopt and amend
 317 policies and regulations for the administration of the affairs
 318 of the district under the terms of this act and chapters 189 and
 319 191, Florida Statutes, which shall include, but not be limited
 320 to, the authority to adopt the necessary rules and regulations
 321 for the administration and supervision of the property and
 322 personnel of the district; for the prevention of fires, fire
 323 control, fire hydrant placement, and flow testing in accordance
 324 with current NFPA rules; and for rescue work within the
 325 district.

326 (3) The board of commissioners shall have the authority to
 327 adopt uniform fire prevention ordinances. Such ordinances shall
 328 be signed, dated, and recorded with the Clerk of the Court of
 329 Monroe County and published as provided by state law. Ordinances
 330 shall be effective after publication, which constitutes legal
 331 notice of same.

332 (4) The board shall, on or before November 1, make an
 333 annual report of its actions and accounting of its funds as of
 334 September of that year and shall file said report in the office

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335 of the Clerk of the Circuit Court of Monroe County, whose duty
 336 it shall be to receive and file said report and hold and keep
 337 the same as a public record.

338 (5) For the purposes of carrying into effect this act, the
 339 board shall annually prepare, consider, and adopt a district
 340 budget pursuant to the applicable requirements of chapters 189
 341 and 191, Florida Statutes. The board shall, at the same time as
 342 it makes its annual report, file its estimated budget for the
 343 fiscal year beginning October 1, which budget shall show the
 344 estimated revenue to be received by the district and the
 345 estimated expenditures to be incurred by the district in
 346 carrying out its operations. The commissioners shall adopt a
 347 fiscal year for said fire district, which shall be October 1 to
 348 September 30.

349 Section 12. Authority to enact fire prevention ordinances
 350 and enter land; authority to provide fire, rescue, and emergency
 351 medical services.--

352 (1) The board of commissioners shall have the right and
 353 power to enact fire prevention ordinances as provided by general
 354 law. When the provisions of such fire prevention ordinances are
 355 determined by the board to be violated, the office of the state
 356 attorney, upon written notice of such violation issued by the
 357 board, is authorized to prosecute such person or persons held to
 358 be in violation thereof. Any person found guilty of a violation
 359 may be punished as provided in chapter 775, Florida Statutes, as
 360 a misdemeanor of the second degree. The cost of such prosecution
 361 shall be paid out of the district funds, unless otherwise
 362 provided by law. The district shall have the authority to

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363 appoint a fire marshal, who may be a member of the Key Largo
 364 Fire Rescue Department, to carry out the responsibilities of the
 365 district fire marshal.

366 (2) The fire marshal or duly authorized inspector shall be
 367 authorized to enter, at all reasonable hours, any building or
 368 premises for the purpose of making any inspection or
 369 investigation which the State Fire Marshal is authorized to make
 370 pursuant to state law and regulation. The owner, lessee,
 371 manager, or operator of any building or premises shall permit
 372 the district fire marshal or duly authorized inspector to enter
 373 and inspect the building or premises at all reasonable hours.
 374 The fire marshal or duly authorized inspector shall report any
 375 violations of state fire safety laws or regulations to the
 376 appropriate officials.

377 (3) The district is authorized to establish and maintain
 378 emergency medical and rescue response services and acquire and
 379 maintain rescue, medical, and other emergency equipment, subject
 380 to the provisions of chapter 401, Florida Statutes.

381 Section 13. Annexations.--If any municipality or other
 382 fire control district annexes any land included in the district,
 383 such annexation shall follow the procedures set forth in section
 384 171.093, Florida Statutes.

385 Section 14. Dissolution.--The district shall exist until
 386 dissolved in the same manner as it was created.

387 Section 15. Immunity from tort liability.--

388 (1) The district and its officers, agents, and employees
 389 shall have the same immunity from tort liability as other
 390 agencies and subdivisions of the state. The provisions of

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391 chapter 768, Florida Statutes, shall apply to all claims
 392 asserted against the district.

393 (2) The district commissioners and all officers, agents,
 394 and employees of the district shall have the same immunity and
 395 exemption from personal liability as is provided by chapter 768,
 396 Florida Statutes.

397 (3) In accordance with chapter 768, Florida Statutes, the
 398 district shall defend all claims against the commissioners,
 399 officers, agents, and employees which arise within the scope of
 400 employment or purposes of the district and shall pay all
 401 judgments against said persons, except where said persons acted
 402 in bad faith or with malicious purpose or in a manner exhibiting
 403 wanton and willful disregard of human rights, safety, or
 404 property.

405 Section 16. District expansion.--The corporate limits of
 406 the Key Largo Fire Rescue and Emergency Medical Services
 407 District may be extended and enlarged from time to time pursuant
 408 to the following procedure:

409 (1) (a) A definitely described tract of land lying
 410 contiguous to the boundaries of the district described in
 411 section 1, or as the same may from time to time exist, or one or
 412 more tracts of land lying contiguous to the boundaries, or one
 413 or more tracts of land lying contiguous to each other with one
 414 of the tracts lying contiguous to the boundaries of the
 415 district, may be included in the district when a written
 416 petition for inclusion signed by a majority of the owners of the
 417 real property within the tract or tracts to be included in the
 418 district has been presented to the board of commissioners and

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419 the proposal has been approved by the affirmative vote of no
 420 fewer than three members of the board of commissioners at a
 421 regular meeting.

422 (b) The petition must contain the legal description of the
 423 property sought to be added to the District and the names and
 424 addresses of the owners of the property.

425 (2) If a proposal to add an area to the district as
 426 defined in subsection (1) is approved by the affirmative vote of
 427 no fewer than three members of the board of commissioners at a
 428 regular meeting, the board of commissioners shall thereafter
 429 adopt a resolution describing the lands to be included within
 430 the district and shall cause such resolution to be duly enrolled
 431 in the record of the meeting and a certified copy of the
 432 resolution to be recorded in the office of the Clerk of the
 433 Circuit Court in Monroe County.

434 (3) Upon adoption of the resolution by the board, the
 435 district shall, pursuant to chapter 191, Florida Statutes,
 436 request its legislative delegation to approve said addition and
 437 sponsor legislation amending the district boundary. Upon
 438 approval by the Legislature, the boundary shall be amended.

439 (4) In lieu of a petition from the property owners, the
 440 Board of County Commissioners of Monroe County by affirmative
 441 resolution and the Board of Commissioners of the Key Largo Fire
 442 Rescue and Emergency Medical Services District by affirmative
 443 resolution may jointly request its legislative delegation to
 444 approve the addition of land lying contiguous to the boundaries
 445 of the district and sponsor legislation amending the district

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446 boundary. Upon approval by the Legislature, the boundary shall
447 be amended.

448 Section 17. Construction.--This act shall be construed as
449 remedial and shall be liberally construed to promote the purpose
450 for which it is intended.

451 Section 18. Effect.--In the event that any part of this
452 act should be held void for any reason, such holding shall not
453 affect any other part thereof.

454 Section 19. Exclusive charter.--This act constitutes the
455 exclusive charter of the Key Largo Fire Rescue and Emergency
456 Medical Services District.

457 Section 20. On or before October 4, 2005, the Board of
458 County Commissioners of Monroe County shall call and the
459 Supervisor of Elections of Monroe County shall conduct a
460 referendum, to be held in conjunction with a special election,
461 of the qualified voters of the Key Largo Fire Rescue and
462 Emergency Medical Services District on the question of whether
463 the Key Largo Fire Rescue and Emergency Medical Services
464 District may levy ad valorem taxation up to 1 mill pursuant to
465 section 6 of this act.

466 Section 21. This act shall take effect upon becoming a
467 law, except that the provisions of section 6 which authorize the
468 levy of ad valorem taxation shall take effect only upon express
469 approval by a majority vote of those qualified electors of the
470 Key Largo Fire Rescue and Emergency Medical Services District,
471 as required by Section 9 of Article VII of the State
472 Constitution, voting in the referendum held pursuant to section

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473 | 20. Such election shall be held in accordance with the
474 | provisions of general law relating to elections.