

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1007 Lee County Tourist Development Council, Lee County

**SPONSOR(S):** Economic Affairs Committee; Rodrigues

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1796

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	17 Y, 0 N	Baker	Rojas
2) Economic Affairs Committee	14 Y, 0 N, As CS	Tecler	Creamer

### SUMMARY ANALYSIS

Current law permits a governing board of a county that levies a tourist development tax to appoint an advisory council composed of nine members. Two members of the advisory council are required to be elected municipal officials, with at least one official from the most populous municipality in the county.

The bill revises the composition of the Lee County Tourist Development Council (Council), and may provide an exemption from general law. Specifically, the bill modifies the requirements for the two seats on the Council that are filled by elected municipal officials. The bill requires the first seat to rotate biennially between elected officials from the two municipalities that generate the highest and second highest revenue from the tourist development tax. The second seat rotates biennially between elected officials from the remaining municipalities within the county. The bill does not affect the other seven seats on the Council.

No fiscal impacts are anticipated according to the Economic Impact Statement.

The bill provides an effective date of upon becoming a law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Tourist Development Councils

Current law permits a county that levies a tourist development tax (TDT) to create, by ordinance, an advisory council for the purpose of reviewing the use of revenues generated by such tax.<sup>1</sup> The council must meet at least quarterly to perform the duties required by the county ordinance, including making recommendations to the county as to the

- efficient operation of special projects;
- use of the tourist development tax revenue; and
- expenditures the council may deem unauthorized.<sup>2</sup>

Florida law also requires the county governing board to implement proper administrative and judicial measures to comply with the tourist development tax statute.<sup>3</sup> Lee County established the Lee County Tourist Development Council by an ordinance adopted pursuant to the Legislature's grant of power in s. 125.0104, F.S.<sup>4</sup>

###### *Council Membership Requirements*

Section 125.0104(4)(e), F.S., provides that council members are appointed by the governing board of the county and serve staggered terms of four years. Council structure is as follows:

- The chair of the county governing board shall serve as chair of the council or appoint a member of the county governing board as council chair.
- Two council members must be elected municipal officials, at least one of whom must be from the most populous city in the county or special taxing district in which the tourist development tax is levied.
- Six council members must be persons involved in the tourist industry with an interest in tourist development, of which three to four members must be owners or operators of tourist accommodations in the county and subject to the tax.

###### Lee County Tourist Development Council

The City of Cape Coral currently holds the member seat reserved for an elected municipal official from the most populous city in Lee County. Current practice rotates the second seat among the elected officials from Bonita Springs, Fort Myers, Fort Myers Beach, and Sanibel. According to the office of the clerk, Fort Myers Beach and Sanibel generated the highest revenue from the TDT during the last two fiscal years.<sup>5</sup>

##### Effect of Proposed Change

The bill provides an exception for Lee County related to the membership requirements of a tourist development council under s. 125.0104(4)(e), F.S. Current provisions require two elected municipal officials to serve on the council, with at least one such official from the most populous city in the county. This bill will allow the Board of County Commissioners to appoint one elected municipal official to the Lee County Tourist Development Council based on the tourist development tax revenue generated by

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<sup>1</sup> Section 125.0104(4)(e), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 125.0104, F.S., generally.

<sup>4</sup> See 07-28, Ordinances, Lee County, <http://www.leegov.com/gov/BoardofCountyCommissioners/ordinances/Pages/default.aspx>, last visited March 20, 2013.

<sup>5</sup> Lee County Clerk of Courts, Tourist Development Tax Revenue by Municipality, on file with the Economic Affairs Committee.

municipal governments. Further, the bill will allow Lee County to rotate the Council's two elected municipal officials on a two year cycle. The bill also clarifies that elected municipal officials appointed to the Council, serve two-year terms.

#### *First Seat*

The bill provides that one of the elected municipal officials must be appointed from among the two municipalities generating the highest TDT revenue. The bill provides that the prior two fiscal years shall be used to determine which municipalities were the highest generators of this tax. Every two years, this seat is rotated between the highest and second highest tax generating municipalities. Currently, the City of Cape Coral holds this first seat by virtue of being the most populous city in Lee County.<sup>6</sup> The bill will permit officials from the two cities with the highest TDT revenue to rotate within this seat, perhaps to the exclusion of Cape Coral.

#### *Second Seat*

The bill codifies into law what is the current practice for appointing the second elected municipal official to the Council. The bill provides this official will be appointed from among the municipalities not designated as the two highest TDT generators. This seat would rotate between the municipalities every two years. Currently, the four cities who are not selected to sit on the first seat, namely Sanibel, Fort Myers, Fort Myers Beach and Bonita Springs must share this second seat by a two-year rotation. This procedure is not currently expressed in s. 125.0104(4)(e), F.S., or the implementing ordinance.<sup>7</sup>

#### Securing the Terms of Other Council Members

The bill provides that it does not interrupt the current terms of any Council members who are not in the seats reserved for the two elected municipal officials.

#### Limiting the Exception Created by the Bill

The bill states that unless the bill itself provides otherwise, s. 125.0104, F.S., applies to the Council. Therefore, provisions relating to the other seven members of the Council remain unchanged. The duties of the Council would also remain unchanged.

The bill provides an effective date of upon becoming a law.

#### B. SECTION DIRECTORY:

Section 1: Creates an exception to general law that would change the appointment of two seats on the Lee County Tourist Development Council.

Section 2: Provides for an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 25, 2013

WHERE? *The News-Press*, a daily newspaper of general circulation in Lee County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

<sup>6</sup> In 2011, the City of Cape Coral's population was 155,158. 2011 Demographic and Income Profile Summary, Cape Coral, Florida, <http://www.capecoral.net/en-us/business/siteselection/capecoraldemographics.aspx>, last visited March 20, 2013.

<sup>7</sup> See 07-28, Ordinances, Lee County, supra n. 4.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

House Rule 5.5(b) states that a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. House Rule 5.5(b) may apply to this bill since s. 125.0104, F.S., is a general law that would otherwise apply to the Council's membership and this bill seeks to change the Council's current composition.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2013, the Economic Affairs Committee adopted a technical amendment, which clarifies that elected municipal officials appointed to the Lee County Tourist Development Council shall serve two-year terms. The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendment.