

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/CS/HB 511

Collier County

**SPONSOR(S):** Economic Development & Community Affairs Policy Council; Military & Local Affairs Policy Committee; Hudson and others

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1162

|    | <b>REFERENCE</b>  | <b>ACTION</b>    | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|----|---|------------------|----------------|-----------------------|
| 1) | Military & Local Affairs Policy Committee               | 11 Y, 3 N, As CS | Nelson         | Hoagland              |
| 2) | Economic Development & Community Affairs Policy Council | 15 Y, 0 N, As CS | Nelson         | Tinker                |
| 3) |   |                  |                |                       |
| 4) |   |                  |                |                       |
| 5) |   |                  |                |                       |

**SUMMARY ANALYSIS**

The CS for HB 511 authorizes the establishment of the "Children's Trust of Collier County." If approved by county voters, this independent special district would provide a public funding source for children's services in the county via an ad valorem assessment of no more than one-half mill.

The bill provides for the membership, terms and powers and duties of a 15-member district board of trustees; authorizes the trustees' reimbursement for per diem and travel expenses; requires reports and audits; identifies a fiscal year; provides for financial matters and budget procedures; authorizes the levy of ad valorem assessments; requires a surety bond of certain persons; provides requirements for amendment of the district's charter; and provides for a referendum to be called by the board of county commissioners.

The district may be dissolved by the Legislature, the electorate of Collier County, or by virtue of the sunset provisions of the bill. The bill specifies that its provisions do not prevent the county from creating a children's services council pursuant to general law provisions.

According to the Economic Impact Statement, the only fiscal effect of the bill will be related to additional ad valorem tax millage, if approved by the electorate.

The provisions of the bill are effective upon a 60 percent approval vote by the qualified electors of Collier County, except for Section 9, which takes effect upon becoming law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Special Districts for Children's Services

Section 125.901, F.S., authorizes counties to create independent special districts by ordinance to provide funding for children's services.<sup>1</sup> Seven counties in Florida have established such districts since this 1986 law was passed: Brevard, Hillsborough, Martin, Miami-Dade, Palm Beach, St. Lucie and Okeechobee.<sup>2</sup>

The boundaries of such districts are coterminous with the boundaries of the county. The county governing body must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed .5 mill.

The governing board of the district may be either a 10 or 33-member council on children's services. Board members are appointed for four-year terms, except that the terms of the initial appointees are staggered. Council members serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with the provisions of s. 112.061, F.S.

Each council on children's services has the following powers and functions:

1. To provide and maintain such preventive, developmental, treatment and rehabilitative services for children as the council determines are needed for the general welfare of the county.
2. To provide such other services for children as the council determines are needed for the general welfare of the county.
3. To allocate and provide funds for other agencies (excepting those under the exclusive jurisdiction of the public school system) which are operated for the benefit of children.
4. To collect information and statistical data and to conduct research that will be helpful in deciding the needs of children in the county.
5. To consult and coordinate with other agencies dedicated to the welfare of children in order to prevent the overlapping of services.

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<sup>1</sup> Section 125.901, F.S.

<sup>2</sup> <http://www.floridaspecialdistricts.org/OfficialList/report.cfm>.

6. To lease or buy real estate, equipment and personal property and to construct buildings as are needed to execute its powers and functions. The districts are not authorized to issue bonds, and do not have the power to require the imposition of any bond by the county.
7. To employ, pay and provide benefits for part-time or full-time personnel.

Each council on children's services is required to:

1. Elect a chair and a vice chair, and other officers as deemed necessary.
2. Identify and assess the needs of the children in the county, and provide the county governing body with a written description of the:
  - activities, services and opportunities that will be provided to children.
  - anticipated schedule for providing those activities, services and opportunities.
  - manner in which children will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the juvenile courts, foster care agencies, and other applicable public and private agencies and organizations.
  - special outreach efforts that will be undertaken to provide services to at-risk, abused or neglected children.
  - manner in which the council will seek and provide funding for unmet needs.
  - strategy which will be used for interagency coordination to maximize existing human and fiscal resources.
3. Provide training and orientation to all new members sufficient to allow them to perform their duties.
4. Make and adopt bylaws and rules and regulations, provided such rules and regulations are not inconsistent with federal or state laws or county ordinances.
5. Provide an annual written report containing the following information to the governing body of the county no later than January 1:
  - information on the effectiveness of activities, services and programs offered by the council, including cost-effectiveness.
  - a detailed anticipated budget for continuation of activities, services and programs, and a list of all sources of requested funding, both public and private.
  - procedures used for early identification of at-risk children who need additional or continued services and methods for ensuring that the services are received.
  - a description of the degree to which the council's objectives and activities are consistent with its goals.
  - detailed information on the various programs, services and activities available to participants and the degree to which the programs, services and activities have been successfully used by children.
  - information on programs, services and activities that should be eliminated; programs, services and activities that should be continued; and programs, services and activities that should be added to the basic format of the children's services council.

The council is required to maintain minutes of each meeting, including a record of all votes cast, and to make such minutes available to any interested person.

The fiscal year of the district is the same as that of the county. The governing body of the county may fund in whole or in part the budget of the council from its own funds. On or before July 1 of each year, the council is required to prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund. The adopted budget and final millage rate are certified and delivered to the governing body of the county. This certified budget is not subject to change or modification by the county governing body.

All tax money collected is paid directly to the council by the county tax collector, or the clerk of the circuit court if the clerk collects delinquent taxes. All moneys received by the council must be deposited in qualified public depositories, as defined in s. 280.02, F.S. The money may only be withdrawn by checks signed by the chair of the council and countersigned by either one other member or by a chief

executive officer who is authorized to do so by the council. These individuals must give a surety bond in the sum of at least \$1,000 for each \$1 million or portion thereof of the council's annual budget. The premium on such bond may be paid by the district.

A district may maintain a petty cash account which may not exceed \$100. All expenditures from petty cash must be recorded. No funds of the council, except for expenditures from petty cash, can be expended without prior council approval.

After the expiration of each quarter annual period, the council is required to provide the county governing body with a financial report that includes: the total expenditures and receipts of the council for the quarter annual period; a statement of the funds the council has on hand, has invested, or has deposited with qualified public depositories at the end of the quarter annual period; and the total administrative costs of the council for the quarter annual period.

These districts may be dissolved by a special act of the Legislature, or by county ordinance, subject to approval by the electorate. If a district is thus dissolved, the county must assume its debts, liabilities, contracts and outstanding obligations. Any district may also be dissolved pursuant to the provisions of s. 189.4042.<sup>3</sup>

Any district created pursuant to the provisions s. 125.901, F.S., must comply with all other statutory requirements which relate to the filing of any financial reports or compliance reports, or any other report or documentation.

Section 125.901, F.S., states that it does not prohibit a county from exercising such power as is provided by general or special law to provide children's services or to create a special district to provide such services. Broward County has established the "Children's Services Council of Broward County" pursuant to ch. 2000-461, L.O.F., a special act providing for the creation of such an entity upon voter approval.

### Special Districts

Chapter 189, F.S., contains general provisions relating to special districts. Section 189.4031, F.S., provides that all special districts, regardless of the existence of other, more specific provisions of applicable law, must comply with the creation, dissolution and reporting requirements set forth in this chapter.

Notwithstanding any general law, special act or ordinance of a local government to the contrary, all independent special district charters must contain the information required by s. 189.404, F.S. This section provides that it is the intent of the Legislature that, at a minimum, the requirements of s. 189.404 (3), F.S.,<sup>4</sup> must be satisfied when an independent special district is created. Pursuant to s. 11(a)(21), Art. III of the State Constitution, s. 189.404, F.S., prohibits special laws or general laws of local application which:

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<sup>3</sup> Section 189.4042, F.S., provides, in relevant part: "The merger or dissolution of an independent special district or a dependent district created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law. If an inactive independent district was created by a county or municipality through a referendum, the county or municipality that created the district may dissolve the district after publishing notice as described in s. 189.4044. If an independent district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may merge or dissolve the district pursuant to the same procedure by which the independent district was created. However, for any independent district that has ad valorem taxation powers, the same procedure required to grant such independent district ad valorem taxation powers shall also be required to dissolve or merge the district."

<sup>4</sup> This section provides that a special act authorizing the creation of an independent special district must address and require specific matters in the district's charter.

- (a) Create independent special districts that do not, at a minimum, conform to the minimum requirements contained in s. 189.404(3), F.S.;
- (b) Exempt independent special district elections from the appropriate requirements in s. 189.405, F.S.
- (c) Exempt an independent special district from the requirements for bond referenda in s. 189.408, F.S.
- (d) Exempt an independent special district from the reporting, notice or public meetings requirements of ss. 189.4085, 189.415, 189.417, or 189.418, F.S.
- (e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:
  1. the purpose of the proposed district;
  2. the authority of the proposed district;
  3. an explanation of why the district is the best alternative; and
  4. a resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

### Collier County Children

In pursuit of data that would facilitate informed decision-making, the Naples Children and Education Foundation (a nonprofit corporation committed to supporting charitable and educational programs that improve the physical, emotional and educational lives of underprivileged or at-risk children) commissioned the Lastinger Center for Learning at the University of Florida's College of Education to conduct a demographic study of Collier County children. This 2006 report highlighted the following indicators of child well-being in Collier County:

- 15 percent of children live in poverty.
- 41 percent of children live in low-income households.
- 25 percent of newborns lacked adequate prenatal care (2003).
- 40 percent of births were to single mothers (2003).
- 9,347 children (17 percent) lack health insurance.
- 17,000 children (31 percent) lack adequate dental care.
- 5,500 children have undiagnosed hearing problems.
- 4,750 children have undiagnosed vision problems.
- 22 percent of children six to 18 years old have no regular healthcare provider or place to receive healthcare services.
- 33 percent of children needing residential treatment do not receive it.
- 50 percent of children who need substance abuse treatment do not receive it.
- 33 percent of children needing out-patient therapy do not receive it.
- 51 percent of the children needing subsidized early learning placement do not receive it.
- 89 percent of early learning centers are not accredited.
- 24 percent of children entering kindergarten screened with the Florida School Readiness Uniform Screening system were rated not ready for kindergarten.
- 44 percent of children entering kindergarten screened with the Dynamic Indicators of Basic Early Literacy instrument were rated at risk of early school failure.
- 36 percent of children in 3<sup>rd</sup> grade scored at Levels I and II on the reading section of the Florida Comprehensive Assessment Test (FCAT).
- 56 percent of children in 8<sup>th</sup> grade scored at Levels I and II of the reading section of the FCAT.
- 71 percent of children in 10<sup>th</sup> grade scored at Levels I and II of the reading section of the FCAT.
- Seven percent of children in public schools during 2003-2004 were retained.
- Nine percent of children in public schools during 2003-2004 dropped out.

- 50 percent of elementary and middle school students who need after-school support do not receive it.
- 36 percent of students in grades 6-12 surveyed in the spring of 2004 reported using alcohol in the past 30 days.
- 17 percent of students in grades 6-12 surveyed in the spring of 2004 reported binge drinking (consuming more than five drinks in a row) in the past 30 days.
- 14 percent of students in grades 6-12 surveyed in the spring of 2004 reported using cigarettes in the past 30 days.
- 13 percent of students in grades 6-12 surveyed in the spring of 2004 reported using marijuana in the past 30 days.
- Juvenile crime referrals increased nine percent from 2002-2003 to 2003-2004.
- 50 percent of children in foster care are in need of permanent adoption.
- 82 percent of children in foster care need therapeutic counseling.
- There is no independent, tax-based, public financial support for children's services in Collier County.

The report also noted that:

*Collier County is known for its philanthropy and strong social service sector. Collier's philanthropists make ever-increasing contributions to provide essential services to children. In 2006, the Naples Children and Education Foundation was the single largest source of funding for children, having raised more than \$12,000,000 through its wine auction. Other organizations, such as the Education Foundation of Collier County, the Community Foundation, the Immokalee Foundation, and the United Way, to name a few, raise and invest more than \$7,000,000 annually in additional funding to support basic services for children. Several million dollars annually are also contributed directly by individual donors to selected charities.*

*Despite this philanthropic activity, the need far outpaces the charitable giving, and there is virtually no public investment to support the healthy growth and development of Collier's children.*

*Clearly, public funds — when combined with generous private sector support — can better meet the financial demands of a vibrant, innovative network of children's services. As the population of Collier County increases, the demand for children's services will increase exponentially. It is likely that without the targeted, leveraged investment of human and financial resources made possible through a Children's Trust, the gaps in essential services in Collier County will grow, and an ever-increasing number of children will suffer needlessly. It is not simply the children of the poor, or the working poor, who are at-risk; increasingly, middle-class families are strained to provide vital services for their children.<sup>5</sup>*

A local group of citizens has discussed the establishment of a children's services trust in Collier County during the past four years. The group has indicated that it endeavors to have the entity established pursuant to special act rather than s. 125.901, F.S., as it would like to reconfigure the membership and selection of the board in hopes of better serving the public. Basically, this change would allow all members to be appointed locally by eliminating the gubernatorial appointments to the board.

The proposal has not been without its critics, who oppose the possibility of an additional ad valorem tax—albeit the necessity for voter approval—in the midst of lost jobs and a bad economy.<sup>6</sup>

<sup>5</sup> "A Study of Child Well-Being in Collier County," Lastinger Center for Learning, University of Florida (2006).

<sup>6</sup> <http://www.naplesnews.com/news/2009/dec/09/new-district-could-be-2010-ballot>.

## Effect of Proposed Changes

The CS for HB 511 authorizes the creation of the "Children's Trust of Collier County." Subject to a referendum, it creates an independent special district to provide a public funding source for children's services in Collier County. The bill specifies that its provisions do not prevent the county from creating a children's services council pursuant to s.125.901, F.S.

Pursuant to s.189.404(3), F.S., the Children's Trust of Collier County must address certain matters in its charter. The following describes whether this bill meets those requirements.

- District purpose: The provisions of this bill establish a purpose for the district. Section 2 of the bill notes that the district is created to provide children's services throughout Collier County.
- Powers, functions, and duties of the district regarding ad valorem taxation, bond issues and other revenue-raising capabilities, budget matters, lien issues, and other similar issues: The bill provides for these powers, functions and duties. See, subsequent specific requirements in this section of the analysis.
- The methods for establishing the district: Pursuant to Section 9, the act takes effect only upon its approval by a majority vote of the qualified electors of Collier County voting in a referendum in conjunction with the next primary, general or special election. The decision to place this issue on the ballot is made by the board of county commissioners. The referendum is required to include provisions for the district to sunset, or for the authorization to levy ad valorem assessments to cease, at the end of a stated period of five to seven years. If the initial referendum is approved by the electorate, the district may be continued at the end of the sunset period by an affirmative vote of the electorate in a subsequent referendum.
- The method for amending the charter of the district: Section 7 of the bill provides that the district may only be amended by special act of the Legislature. This section further provides that the district may be dissolved by the Legislature and by the electorate of Collier County in a referendum (as well as pursuant to the sunset provisions of Section 8).
- The membership and organization of the governing board of the district: Section 3 of the bill provides for the membership of a district board of trustees. The trust is composed of 15 trustees divided into four categories. This differs from the two possible scenarios described in s. 125.901, F.S., which provides for either a 10 or 33-member board, with five or seven members appointed by the governor, respectively. These categories include the following:

### *Category One:*

1. The superintendent of schools of the Collier County School District or his or her designated senior officer.
2. The Sheriff of Collier County or his or her designated senior officer.
3. A member of the District School Board of Collier County, chosen annually by a majority of its members.
4. A member of the Board of County Commissioners of Collier County, chosen annually by a majority of the commissioners.
5. A judge assigned to preside over juvenile cases in Collier County, who sits as a voting member of the trust, except that he or she is not allowed to vote or participate in the setting of ad valorem assessments. The chief judge of the 20th judicial circuit annually designates the judge to serve on the board.

*Category Two:*

1. An executive or board member of the United Way, the Community Foundation or a similar community organization.
2. An executive or board member from a Collier County health or medical services organization that serves the needs of children.
3. A student who is between the ages of 18 and 22 at the time of appointment and is a legal resident of the county.

*Category Three:*

Two members of the Collier County community who have served in paid or volunteer positions in organizations devoted to providing children's services for at least three of the seven years preceding appointment and whose backgrounds will help achieve diversity and experience on the board.

*Category Four:*

Five trustees initially appointed by a majority of the board of county commissioners. Each trustee must be a legal resident of a different county commission district. Successor appointees, including the reappointment of any initial trustee in this category, are selected by the county commission from a list of three nominees for each position recommended to the board by the trustees. The trustees and the county commission are required to consider the backgrounds, qualifications, experience and demographic diversity of the trustees serving in each category so as to result in a board of trustees with members of varied ethnicity, gender and age, as well as members with managerial, financial, accounting, legal, health care and social services experience.

The five appointees in Categories Two and Three are selected by a majority of the other 10 trustees.

All trustees in Categories Two, Three and Four must be legal residents of the county for the two calendar years preceding appointment and must remain legal residents while serving as trustees. The trustees in Category One need not have been legal residents of the county for the two calendar years preceding appointment, except for senior officers designated by the sheriff and the superintendent of schools. Each trustee must continue to retain the position that qualified him or her for appointment as a trustee in order to serve on the board.

The initial 10 trustees in Categories Two, Three and Four are divided into three groups, two of which contain three members and one which contains four members. After initial appointment, these groups are designated by the chair of the board in a blind drawing so as to create three groups with initial terms of one, two and three years to create staggered terms. Except as otherwise provided, each trustee serves a three-year term. A trustee may serve two consecutive full three-year terms in addition to any preceding shorter term with duration of less than two years but cannot thereafter serve without a two-year hiatus.

A trustee may be removed by a supermajority vote of the county commissioners after a recommendation by a two-thirds vote of the membership of the trust. A trustee may be removed for cause by a majority vote of the board of county commissioners after a recommendation by majority vote of the trustees.

If a trustee dies, resigns, is removed from office, or no longer retains the position or residential status that qualified the trustee for appointment, the vacancy is filled by appointment using the same method as the original or subsequent appointment.

The bill requires the availability of appointments for the positions on the board to be publicly advertised. Although recommendations and appointments need not be made from among individuals who respond to the advertising, the trustees are required to consider these applicants.



The trustees are required to elect a chair and vice chair or chair-elect from among their members and other elected officers as deemed necessary.

- The maximum compensation of a governing board member: Trustees serve without compensation but are entitled to receive reimbursement for per diem and travel expenses consistent with s.112.061, F.S., as per Section 4, paragraph (7) of the bill. This provision corresponds to s.125.901(2)(d), F.S.
- The administrative duties of the governing board of the district: Pursuant to Section 4 of the bill, the trustees are required to, not later than one year after the trustees are first appointed and officers are elected, identify and assess the needs of the children in the county and submit to the board of county commissioners a written description of:
  - The activities, services and opportunities that will be provided to children and the anticipated schedule for providing those activities, services and opportunities.
  - The manner in which children will be served, including a description of arrangements and agreements that are proposed to be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the juvenile courts, foster care agencies, and other applicable public and private agencies.
  - The special outreach efforts that will be undertaken to provide services to at-risk, abused or neglected children.
  - The manner in which the trustees will seek and provide funding for unmet needs, including the use of available funding grants.
  - The strategy that will be used for interagency coordination to maximize existing human and fiscal resources.

These provisions are similar to those found at s. 125.901(2)(b)2., F.S. The trustees also are required to:

- Provide training and orientation to all trustees. Section 125.901(2)(b)3., F.S.
- Make and adopt bylaws and rules for the trust's guidance, operation, governance and maintenance. Section 125.901(2)(b)4., F.S.
- Provide an annual written report, with similar contents to those required by s. 125.901(2)(b)5., F.S., to be presented no later than 90 days after the end of each fiscal year to the board of county commissioners which includes:
  1. Information on the effectiveness of activities, services and programs offered by the trust, including cost-effectiveness.
  2. A detailed anticipated budget for continuation of activities, services and programs offered by the trust and a list of all sources of requested funding, both public and private.
  3. Procedures used for early identification of at-risk children who need additional or continued services and methods for ensuring that the additional or continued services are delivered and received.
  4. A description of the degree to which the trust's objectives and activities are consistent with its goals.
  5. Detailed information on the various programs, services and activities available to participants and the degree to which the programs, services and activities have been successfully used by children.
  6. Information on programs, services and activities that should be eliminated, continued and added to the basic format of the trust.
  7. A financial statement.
- The applicable financial disclosure, noticing, and reporting requirements: The trustees are required to maintain minutes of each meeting, including a record of all votes cast, and to make such minutes available to any interested person. Section 125.901(2)(c), F.S.

All financial statements of the district are required to be audited annually by independent auditors based on generally accepted governmental accounting principles. The financial records must be available for audit by state auditors.

Within 30 days after the end of each fiscal quarter, the trust must prepare and file a financial report with the board of county commissioners that includes the following:

- The total expenditures and receipts of the trust for the most recent fiscal quarter.
- A statement of the funds that the trust has on hand, has invested, or has deposited with qualified public depositories at the end of the most recent fiscal quarter.
- The total administrative costs of the trust for the most recent fiscal quarter.

The trustees are required to comply with all fiscal and other requirements in s.125.901, F.S.

- If the district has authority to issue bonds, the procedures and requirements for issuing bonds: This district does not have the authority to issue bonds. In fact, the bill provides that nothing in the act shall be construed to authorize issuance of bonds of any nature. Section 125.901(2)(a)6., F.S.
- The procedures for conducting any district elections or referendum and the qualifications of an elector of the district: See, "The methods for establishing the district," above.
- The methods for financing the district: Pursuant to Section 6 of the bill, the trust may levy ad valorem taxes annually on all taxable property in Collier County in an amount no greater than the millage rate limit approved by the electorate in the countywide referendum not to exceed one-half mill.<sup>7</sup> Section 125.901(3)(b), F.S.

Section 5 of the bill provides that before the end of each fiscal year,<sup>8</sup> the trust is required to prepare and adopt a tentative annual written budget for the ensuing fiscal year that includes its expected income and expenditures and provision for a contingency fund. The tentative annual written budget must be delivered to the board of county commissioners within 90 days before the end of each fiscal year. An estimate of the millage rate necessary to be applied to raise the funds budgeted for expenditures is included in each tentative annual budget. The adopted budget and final millage rate must be certified and delivered to the board within 15 days after the trust's adoption of the final budget and millage rate pursuant to ch. 200, F.S.

Neither the final nor any preliminary or tentative budget of the trust is subject to change or modification by the board of county commissioners or any other authority. Section 125.901(3)(c), F.S.

The trust must compute a proposed millage rate within the voter-approved limit necessary to fund the tentative budget and, prior to adopting a final budget, comply with the provisions of s. 200.065, F.S., relating to the method of fixing millage, and fix the final millage rate by resolution of the trustees. Section 125.901(3)(b), F.S.

Section 6 of the bill provides that the trust's funds may be temporarily invested in such manner as public funds are generally approved for investment in the state. Section 125.901, F.S., does not contain similar language, but contemplates investment of district funds in s. 125.901(3)(f)3., F.S.

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<sup>7</sup> If a .5 mill (50 cents for each \$1,000 of taxable property) were approved by Collier County voters, the district would collect approximately \$125 a year in additional taxes on a \$300,000 home with homestead exemption.

<sup>8</sup> The fiscal year of the district is the same as that of Collier County. Pursuant to s. 129.04, F.S., the fiscal year of each county in this state commences on October 1 and ends on September 30 of each year.

All trust disbursements require the signature of two persons, at least one of whom must be a trustee. The chair or any other trustee or employee who signs checks on behalf of the trust must secure a surety bond in the amount of at least \$1,000 for each \$1 million or portion thereof of the trust's annual budget. The actual amount is to be determined by a majority of the trustees based on professional advice, and the trust pays the cost and premiums for such bonds.

No funds of the trust may be expended unless in accord with its approved budget; however, the trustees may periodically approve revisions to particular budget line items. No funds of the trust can be expended except by check, except expenditures of a petty cash account that cannot exceed \$500. Except for the expenditure of petty cash or issuance of checks made payable for sums no greater than \$5,000, no funds of the trust can be expended without prior written approval of the trustees. Budgeted expenditures of \$5,000 or less may be made by the chief executive officer of the trust without the prior written approval of the trustees but must be reported to the trustees by written report during the month in which any such expenditures are made. Electronic wire transfers are deemed to be checks if written authorization for each wire transfer is obtained in the same manner as checks are approved.

This language largely corresponds to provisions contained in s. 125.901(3), F.S., with a few exceptions. The bill raises the maximum amount of the petty cash account from \$100 to \$500; provides for the expenditure of funds no greater than \$5,000 without prior written approval, and contemplates the use of electronic wire transfers. Each of these provisions appears to be reasonable in light of current fiscal circumstances.

- The method(s) for collecting non-ad valorem assessments, fees, or service charges: All assessments collected are to be paid directly to the trust by the tax collector and all other applicable county officials. The moneys received by the trust shall be deposited in one or more qualified public depositories. Section 125.901(3)(d), F.S.
- Geographic boundary limitations: Section 2 of the bill provides that the boundaries of the district will be coterminous with the boundaries of the county. Section 125.901(1), F.S.

Section 4 of the bill further authorizes the trust to have these additional powers and duties:

- To provide for such early childhood, interventional, preventive, developmental, treatment and rehabilitative services for children as the trustees determine are needed for the general welfare of the county; and provide for such other services for children as the trustees determine are needed for the general welfare of the county.
- To allocate and provide funds to other agencies in the county that are operated for the benefit of children, provided such agencies are not under the exclusive jurisdiction of the public school system.
- To collect information and statistical data that will be helpful to the trustees in determining the needs of children in the county.
- To consult with other agencies dedicated to the welfare of children to prevent overlapping of services.
- To buy or lease such real estate, equipment, and personal property and construct such buildings as are needed to execute the foregoing powers and duties, provided that no such purchases may be made or building done except for cash with funds on hand or secured by funds deposited in financial institutions.
- To employ and pay, on a part-time or full-time basis, personnel needed to execute the powers and duties of the trust.
- To borrow money for initial administrative and organizational expenses and issue evidence of indebtedness in anticipation of the initial tax revenues as long as the amount is not greater than 20 percent of the anticipated revenues for the initial year.
- To apply for, obtain, and receive funding grants that are consistent with the purpose of the trust.

- Except as may be specifically limited or changed, to have all powers, duties, responsibilities, and obligations as provided for special districts in s. 125.901 and s. 125.902, F.S.<sup>9</sup>

For the most part, these powers and duties coincide with the powers and duties provided by s. 125.901(2)(a), F.S., with the exception of the additional specific authority to borrow money.

The provisions of the bill are effective upon approval by a 60 percent approval vote of the qualified electors of Collier County in a referendum held in conjunction with a general election, except for Section 9, which takes effect upon becoming law.

**B. SECTION DIRECTORY:**

Section 1: Provides a name for the district.

Section 2: Subject to a referendum, creates an independent special district to provide children's services.

Section 3: Provides for the membership of the district's board.

Section 4: Provides for the powers and duties of the district.

Section 5: Provides for the fiscal year and budget of the district.

Section 6: Provides for the levying of ad valorem assessments, and the use and control of funds.

Section 7: Provides for amendment and dissolution of the district.

Section 8: Provides for a referendum.

Section 9: Provides an effective date(s) for the act.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 9, 2009

WHERE? The *Naples Daily News*, a newspaper of general circulation published in Collier County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? To be determined by the Collier County Board of County Commissioners.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, the bill serves as an enabling mechanism that requires, as a condition to the creation of the special district, that two things occur: 1) the Board of County

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<sup>9</sup> Section 125.902 F.S., relates to the ability of a children's services council to submit requests for funding to the Department of Children and Family Services, subject to specific appropriations.

Commissioners of Collier County must determine to call a public referendum; and 2) county voters must approve creation of the trust as a special district in the referendum.

If the bill becomes law and the voters of Collier County were to approve the creation of the special district, the economic impact would be an additional ad valorem tax. This bill provides that the tax may not exceed .5 mill for a period of not more than seven and not less than five years.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Drafting Issues**

None.

##### **Other Comments**

##### Status Statement

Pursuant to s. 189.404(5), F.S., after October 1, 1997, the charter of any newly created special district shall contain...a reference to the status of the special district as dependent or independent....

This bill fulfills that requirement by its reference to the creation of an independent special district on Line 36.

##### Section 189.404(2)(e)1.-4., F.S.

The proponents of the district have submitted a letter to the Military & Local Affairs Policy Committee dated April 1, 2010, which suffices as the statement required by s. 189.404(2)(e)1.-3., F.S., providing:

1. the purpose of the proposed district;
2. the authority of the proposed district; and
3. an explanation of why the district is the best alternative.

On April 13, 2010, the Collier County Board of County Commissioners provided the Legislature with an official statement in accordance with the requirements of s.189.404(2)(e)4., F.S.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 8, 2010, the Military & Local Affairs Policy Committee adopted a Proposed Committee Substitute for HB 511. The PCS made technical changes to the bill.

On April 16, 2010, the Economic Development & Community Affairs Policy Council adopted an amendment that requires a 60 percent approval vote by the electorate of Collier County to establish the Children's Trust. The amendment also provides that this referendum must be held in conjunction with a general election.

The bill was reported favorably as a Council Substitute for the Committee Substitute. This analysis is drafted to the Council Substitute.

