

STORAGE NAME: h0089a.ft

DATE: March 10, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 89

RELATING TO: Mobile Home Park Recreation Districts

SPONSOR(S): Representative Futch

STATUTE(S) AFFECTED: s. 418.304

COMPANION BILL(S): SB 68(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 3 NAYS 0
- (2) FINANCE AND TAXATION YEAS 9 NAYS 0
- (3)
- (4)
- (5)

I. SUMMARY:

HB 89 provides a mobile home park recreation district with the option of collecting its "recreation district tax" on a monthly installment basis. This bill further provides that if the board of trustees of a mobile home park recreation district elects to collect the district assessment in equal monthly installments, the district assessment shall not be considered part of the county tax and shall not be collected as part of the county tax collection, as is currently the practice with such assessments collected on an annual basis.

This bill also provides methods and procedures for establishing a lien for delinquent monthly assessments, as well as procedures for perfecting, enforcing, and collecting such liens.

This bill does not have a fiscal impact on state government. The bill has a positive indeterminate fiscal impact on mobile home park recreation districts due to the grant of authority to assess a delinquent fee and recover reasonable attorney's fees and costs. Moreover, if a mobile home park recreation district elects to collect its recreation district tax by way of monthly installments (rather than annually), indeterminate administrative costs may result from implementing such a payment schedule.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 418.304, F.S., provides that an ordinance creating or amending the charter of a mobile home recreation district may grant to the recreation district the power to levy and assess a special assessment known as a "recreation district tax". This tax is levied against all improved residential parcels situated within the district for the purpose of providing funds to implement the powers of the district. Prior to the adoption of the resolution fixing the amount of the assessment, the district trustees must hold a public hearing at which time qualified electors of the district may appear and be heard. Notice of the time and place of the public hearing must be published once in a newspaper of general circulation within the county at least 21 days prior to the public hearing.

The recreation district assessment is a valid lien upon each improved residential parcel of land so assessed until it has been paid. This assessment is currently collected as a single annual payment as part of the county tax, subject to the same penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the state for the collection of such taxes. See Ch. 197, F.S.

B. EFFECT OF PROPOSED CHANGES:

HB 89 allows the board of trustees of a mobile home park recreation district to collect assessments, otherwise legally set, on a monthly basis instead of as a single annual payment as part of the county tax. If collected monthly, the assessment is not collected as part of the county tax. This bill also provides methods and procedures for establishing a lien for the monthly assessments, as well as procedures for perfecting, enforcing, and collecting such liens.

More particularly, HB 89 provides that if the board of trustees elects to collect assessments on a monthly basis, each monthly installment must be billed by the district to the owner at the address shown on the county tax roll. Each installment is due on the first day of each month. If the installment is not paid within one month after its due date, it is delinquent. The district is authorized to collect a delinquent fee of not more than \$10 per month or fraction thereof on any delinquent installment. An owner may pay multiple monthly installments in advance.

The district may enforce a lien with respect to any delinquent installment by recording a claim of lien in the public records. Such claim of lien is not to be recorded any earlier than 30 days after an installment becomes delinquent. Any foreclosure proceeding may be brought no sooner than 60 days after recording a claim of lien and may include all amounts owed to the district for installments of assessments and delinquent fees which accrue subsequent to the earliest installment shown on the claim of lien.

The foreclosure proceeding must be brought in the circuit court of the county in which the district is located and in the usual and customary manner for a mortgage foreclosure. The district may recover reasonable attorney's fees and costs with respect to the recording of any claim of lien and with respect to any foreclosure proceeding on such claim of lien.

Proponents of the bill suggest that collecting payments on a monthly basis, as opposed to annually, will spread out an owner's payments, making it less burdensome to pay and thus decreasing the potential for foreclosure on the owner's property. Nonetheless, if the board of trustees elects to collect the district assessment in equal monthly installments, it must do so itself. In other words monthly assessments cannot be made a part of the county tax. This will probably result in increased administrative costs in that owners must be billed monthly and a system developed for tracking payment history and filing claims of lien. If the result is that fewer claims of lien are filed, and fewer foreclosures occur, this may reduce administrative costs.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

This bill allows a mobile home park recreation district to collect its recreation district tax on a monthly basis, as opposed to once annually as is currently the only option. The district then is provided, on a monthly basis, the commensurate authority to file a claim of lien if an installment is not paid. Accordingly, more frequent opportunities exist to foreclose on a lien and thus litigate any dispute regarding nonpayment.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

If a mobile home park recreation district were to opt to collect its district tax on a monthly basis, it would have the added responsibility of, for example, billing those affected mobile home park owners and keeping track of payment histories.

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

This bill does not appear to eliminate or reduce an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA

(2) what is the cost of such responsibility at the new level/agency?

NA

(3) how is the new agency accountable to the people governed?

NA

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

This bill authorizes a mobile home park recreation district to assess a delinquent fee of not more than \$10 per month or fraction thereof on any delinquent installment if the district has opted to collect the district recreation tax on a monthly basis. The bill also authorizes the districts to recover reasonable attorney's fees and court costs in foreclosure proceedings.

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

Yes, see answer to (b) above.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

If the board of trustees of the mobile home park recreation district elects to collect its recreation tax in monthly installments, then mobile home owners might be considered the beneficiaries of such legislation -- in that it is easier to pay

smaller monthly installments than one larger annual payment. If the board decides to collect on a monthly basis, then the administrative costs of so doing would appear to be realized through payments of existing assessments and/or delinquent payment fees collected. Such assessments can be increased but only by way of an ordinance, and provided other statutory procedures are followed.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not appear to purport to provide services to families or children.

- (1) Who evaluates the family's needs?

NA

- (2) Who makes the decisions?

NA

- (3) Are private alternatives permitted?

NA

- (4) Are families required to participate in a program?

NA

- (5) Are families penalized for not participating in a program?

NA

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not appear to create or change a program providing services to families or children.

- (1) parents and guardians?

NA

- (2) service providers?

NA

- (3) government employees/agencies?

NA

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 418.304, F.S., granting the board of trustees of a mobile home park recreation district the option to collect a district assessment in monthly installments; provides that if the assessment is collected in an annual installment, the assessment is considered to be part of the county tax, but if the assessment is collected in monthly installments, then it is not considered part of the county tax; provides procedures for establishing a lien to collect district assessments as well as procedures for perfecting, enforcing, and collecting the lien; and provides that the district may recover attorney's fees and costs incurred when recording the lien and foreclosing upon the lien.

Section 2: Provides that this bill shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. **Non-recurring Effects:**

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminate. The authority of the district to assess a delinquent fee of not more than \$10/month on any delinquent installment and recover reasonable attorney's fees and costs in foreclosure proceedings may have a positive but indeterminate effect on district revenue.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The substance of HB 89 came before the Legislature last session. HB 951 (by Representative Futch) passed the House but died in the Senate Committee on Regulated Industries. The companion bill, SB 2502 (by Senator Kurth), died in the Senate Committee on Judiciary.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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