

STORAGE NAME: h1101z.lgva.doc
DATE: July 1, 2002

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2002-380, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 1101, 1ST ENG.
RELATING TO: West Florida Regional Library District (Escambia Co.)
SPONSOR(S): Representative Maygarden and others
TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIR (SGC) YEAS 8 NAYS 0
- (2) SMARTER GOVERNMENT COUNCIL (W/D)
- (3)
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Subject to referendum approval prior to December 31, 2003, this bill creates the West Florida Regional Library District. The District will be an independent special taxing district created for the purpose of providing library system services, and facilities for all citizens of Escambia County, and the City of Pensacola.

If the referendum is conducted, and the District is established, then the governing board of the District will have the ability to levy a maximum of 1.5 mills (total) for both operating and capital expenditures. Based upon the current projection of the value of 1 mill in Escambia County, the levy of 1.5 mills would result in approximately \$12,000,000 in annual tax revenues.

The Assistant City Manager of the City of Pensacola has submitted a letter, pursuant to requirements of general law, which provides that the creation of this District is consistent with the comprehensive plans of both Escambia County, and the City of Pensacola. Escambia County and the City of Pensacola have both submitted resolutions stating that they have no objection to the creation of the District.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

Subject to referendum approval prior to December 31, 2003, this bill creates the West Florida Regional Library District. The District will be an independent special taxing district created for the purpose of providing library system services, and facilities for all citizens of Escambia County, and the City of Pensacola.

B. PRESENT SITUATION:

According to information provided by the Assistant City Manager of the City of Pensacola (City Manager) the library system in the area is currently unable to meet many of its needs, and is consistently ranked at the bottom of the State recognized library systems in the State of Florida.

CREATING A NEW INDEPENDENT SPECIAL DISTRICT

Chapter 189, Florida Statutes, Provisions

It is the intent of the Legislature that independent special districts will only be created by legislative authorization as provided in chapter 189, Florida Statutes. In addition, section 11(a)(21), Art. III of the State Constitution prohibits special, or general laws of local application, that do not conform to the following requirements.

Special acts creating independent special districts cannot exempt the district from general law requirements regarding:

- General requirements and procedures for elections (section 189.405, Florida Statutes);
- Bond referenda requirements (section 189.408, Florida Statutes);
- Bond issuance reporting requirements (section 189.4085, Florida Statutes);
- Public facilities reports (section 189.415, Florida Statutes); and
- Notice, meetings, and other required reports and audits (sections 189.417 and 189.418, Florida Statutes).

A statement must be submitted to the Legislature that documents: (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.

In addition, a resolution or official statement is required of the appropriate local governing body in which the proposed district is located affirming that:

- The creation of the proposed district is consistent with approved local government plans of the local governing body, and
- The local government has no objection to the creation of the proposed district.

Section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform to the Department of Community Affairs' determination, or declaratory statement regarding the status of the district.

Pursuant to section 189.404(2)(a), Florida Statutes, the Legislature prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in section 189.404(3), Florida Statutes. Independent districts created after September 30, 1989, must address and require certain provisions in their charters. The following describes the requirements:

- The district's purpose.
- The district's powers, duties, and functions regarding:
 1. Ad valorem taxation;
 2. Bond issuance;
 3. Revenue raising capabilities;
 4. Budget preparations and approval;
 5. Liens and foreclosure of liens;
 6. Use of tax deeds and tax certificates for non-ad valorem assessments; and
 7. Contractual agreements.
- The method for establishing the district.
- The method for amending the district's charter.
- The membership and organization of the district's governing board. Districts whose boards are elected on a one-acre/one-vote basis are required to have five board members, with three of those members constituting a quorum.
- The maximum compensation of the district's governing board members.
- The administrative duties of the district's governing board.
- The financial disclosure, noticing, and reporting requirements for the district.
- The procedures and requirements for issuing bonds, if the district has such authority.
- The district's election and referenda procedures and the qualifications to be a district elector.
- The district's financing methods.

- The authorized millage rate for a district authorized to levy ad valorem taxes, except for taxes levied for the payment of bonds, and taxes levied for periods not longer than two years, when authorized by vote of the electors of the district.
- The methods for collecting non-ad valorem assessments, fees, or service charges.
- Planning requirements.
- Geographic boundary limitations

The charter may refer to other general law provisions that address the charter requirements, e.g., fire districts may refer to chapter 191, Florida Statutes provisions.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled. All local bills, regardless of the subject matter, must comply with local notice requirements, or provide for a referendum.

C. EFFECT OF PROPOSED CHANGES:

Subject to referendum approval prior to December 31, 2003, this bill creates the West Florida Regional Library District (District). The District will be an independent special taxing district created for the purpose of providing library system services, and facilities for all citizens of Escambia County, and the City of Pensacola.

According to the economic impact statement, the adoption of the bill will have no cost of administration. The effect of the bill will be to allow for the establishment of a special district with taxing authority, subject to approval at a public referendum.

If the referendum is conducted, and the District is established, then the governing board of the District will have the ability to levy a maximum of 1.5 mills (total) for both operating and capital expenditures. Based upon the current projection of the value of 1 mill in Escambia County, the levy of 1.5 mills would result in approximately \$12,000,000 in annual tax revenues.

According to the City Manager, the creation of the District will address many of the shortcomings of the current library system in the area. The District has the potential to have a significant positive economic impact in the community by increasing levels of literacy and training, as well as creating a community atmosphere that enhances the community's economic development potential.

The disadvantage of creating the District is the imposition of additional ad valorem taxes on the citizens of Escambia County, and the City of Pensacola.

Pursuant to section 189.404(3), Florida Statutes, the District's charter must address and require certain provisions in its charter. The following describes the requirements and whether this bill meets those requirements.

· **District purpose:**

The District will be an independent special taxing district created for the purpose of providing library system services, and facilities for all citizens of Escambia County, and the City of Pensacola.

- **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 authorizes the levy of ad valorem taxation in a millage amount not to exceed 1.5 mills.

- **The methods for establishing the district:**

The District will be established after approval at a referendum held prior to December 31, 2003.

- **The method for amending the charter of the district:**

The bill provides that the District may amend the charter by law.

- **The membership and organization of the governing board of the district:**

The bill adequately provides for the District's membership and organization of the governing board.

- **The maximum compensation of a governing board member:**

The bill provides that board members serve without compensation, except that they may be reimbursed pursuant to section 112.061, Florida Statutes, for reasonable travel and per diem expenses incurred in the course of their duties, and when engaging in the business of the District.

- **The administrative duties of the governing board of the district:**

The bill provides for the administrative duties of the governing board.

- **The applicable financial disclosure, noticing, and reporting, requirements:**

The bill provides board members must abide by all financial disclosure, and reporting requirements that apply to members of the Escambia County Board of County Commissioners.

- **If the district has authority to issue bonds, the procedures and requirements for issuing bonds:**

The bill provides for the authority to issue bonds as authorized by general law.

- **The procedures for conducting any district elections or referendum and the qualifications of an elector of the district:**

The bill provides that board members will be appointed to the Board, and the Pensacola City Council will conduct the referendum.

- **The methods for financing the district:**

The bill provides for the financing of the District via ad valorem taxes, and the issuance of other financial instruments.

· **The method(s) for collecting non-ad valorem assessments, fees, or service charges:**

The bill provides for the collection of non-ad valorem assessments, fees and service charges.

· **Geographic boundary limitations:**

The boundaries of the District will be the boundaries of Escambia County.

In addition, the City Manager has submitted a letter, pursuant to section 189.404(2)(e)(4), Florida Statutes, which provides that the creation of this District is consistent with the comprehensive plans of both Escambia County, and the City of Pensacola. Escambia County and the City of Pensacola have both submitted resolutions stating that they have no objection to the creation of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Short Title

This act may be cited as the "West Florida Regional Library District Act".

Section 2: Creation and purpose; boundaries

1. Creation and Purpose:

Subject to approval by referendum election pursuant to section 8 of this act, the West Florida Regional Library District (District) is created. It is an independent special taxing district created for the purpose of providing library system services and facilities for all citizens of Escambia County, and the City of Pensacola, excluding the Escambia County School District Library System, and any libraries of the University of West Florida, and Pensacola Junior College.

2. Boundaries:

The boundaries of the District will be the boundaries of Escambia County.

Section 3: Governing Board; Establishment; Composition; Appointment of Members; Terms, Removal, and Vacancies; Compensation; Quorum, Rules of Procedure, and Seal; Powers

1. Establishment:

The governing body of the District will be known as the "West Florida Regional Library District Governing Board" (Board), and it will exercise all administrative and policymaking functions for the District.

2. Composition and Appointment, Terms, Oath, Removal, and Vacancies:

- (a) The Board will be composed of three registered voters of Escambia County, appointed by the Board of County Commissioners of Escambia County, and three registered voters of the City of Pensacola, appointed by the Pensacola City Council. A seventh member, who will be a registered voter of Escambia County, will be appointed by a majority vote of the six other members of the Board.
- (b) Members of the Board (Member(s)) are appointed for terms of 3 years, except that each Member will hold over in office until a successor is nominated, and appointed. The term

of the successor will be reduced by the amount of the predecessor's holdover. No Member can serve more than two consecutive terms, or more than six consecutive years. Members may be removed for cause by the governing body that appointed him or her.

- (c) Members must take and subscribe to the oath required by the State Constitution, before entering upon his or her duties. A record of each oath will be filed with the Department of State, and with the Clerk of the Circuit Court of Escambia County. Members must abide by all financial disclosure, and reporting requirements that apply to members of the Escambia County Board of County Commissioners.
- (d) Members may be removed by majority vote of the other Members for good cause affecting his, or her, ability to perform his, or her, duties as a Member, or for misfeasance, malfeasance, or nonfeasance in office. However, before removal, a Member must be provided with a hearing at which the Member is given the right to present evidence on his, or her, behalf.
- (e) Upon the occurrence of a vacancy on the Board, the Escambia County Board of County Commissioners, the Pensacola City Council, or the organization representing any other governmental entity within, or without, the District that is a signatory to an interlocal agreement, shall appoint a Member to fill the vacancy. The appointee must be a member of the governing body of the entity making the appointment, and will serve the remainder of the term of the departed Member.

3. Compensation:

Members will serve without compensation, except that they may be reimbursed pursuant to section 112.061, Florida Statutes, for reasonable travel and per diem expenses incurred in the course of their duties, and when engaging in the business of the District. The Board will adopt a travel policy to govern official travel.

4. Quorum, Rules of Procedure, and Seal:

Official action will be taken only upon majority vote of the Members present and voting. The Board will adopt bylaws for election of officers, and for the conduct of orderly proceedings. The Board will also adopt a common seal for certification of its actions.

5. Powers of the Board:

The Board has the power to:

- (a) Adopt, implement, and amend rules, regulations, policies, and procedures for the management, operation, and maintenance of library services and facilities in the District.
- (b) Develop, adopt, and implement an annual budget for a fiscal year commencing on October 1, and develop plans and programs for the operation, maintenance, and physical expansion of the facilities, and operations of the District.
- (c) Set fees, fines, and other charges in connection with the operations and services of the District, and establish administrative mechanisms for the collection of those fees and other charges, subject to the provisions of section 6.

- (d) Enter into contracts, receive and expend moneys, sue and be sued, and generally perform all other acts necessary or incidental to the express powers, and duties granted or imposed by this act, or by any instrument of trust.
- (e) Lease, grant, sell, or otherwise convey real, and personal property.
- (f) Receive, utilize, and administer moneys, gifts, proceeds or property provided to the district by a gift, trust, deed, or will.
- (g) Annually levy an ad valorem tax upon real, and tangible personal property within the District in the same manner as other county and municipal ad valorem taxes are levied, provided that:
 - 1. The millage allocated to annual operating and maintenance expenses of the District will not exceed .5 mill for the first three years, and will not exceed 1 mill thereafter.
 - 2. The millage allocated to capital improvements and/ or debt service will not exceed the amount necessary to pay the principal of, and interest on, bonds issued under paragraph (j), and in any event, will not exceed .5 mill. During any year in which the District levies ad valorem taxes for the purpose of servicing debt, the maximum annual capital improvement millage authorized by this paragraph will be reduced by the millage actually levied to service the debt.
- (h) Purchase, lease, lease purchase, construct, reconstruct, or otherwise acquire capital projects related to the library services and facilities of the District.
- (i) Appropriate and expend revenue of the District, subject to the limitations of this act.
- (j) Issue limited tax bonds, notes, certificates of indebtedness, or any form of limited tax or bond anticipation notes or certificates payable from any portion of the .5 mill capital improvement millage, subject to the limitations contained in this act.
- (k) Issue tax bonds, notes, certificates of indebtedness, or any form of tax or bond anticipation notes or certificates payable from any portion of the ad valorem tax revenues of the District.

However, if these financial instruments mature more than 12 months after the date of issuance, then:

- 1. The issuance must be approved by a majority of the electors voting in a bond referendum conducted pursuant to law.
 - 2. The proceeds must be used only to finance, or refinance, capital projects related to library services or facilities of the system. Bonds or other forms of indebtedness issued pursuant to this subsection will be payable from ad valorem taxes to be levied on all taxable property in the District, without limitation as to rate or amount.
- (l) Issue revenue bonds, notes, including bond anticipation notes, or other certificates of indebtedness payable from the proceeds of any fees, charges, fines, rentals, grants, or other sources of revenue, excluding ad valorem taxes, which may become available to the District, and to:

1. Pledge such revenues to the payment of such revenue bond, notes, or other certificates of indebtedness (financial instruments).
2. Make all customary or necessary covenants for the security of such financial instruments.
3. Agree to pay some, or all expenses of maintenance, and operation from sources other than pledged revenues, and not to diminish the rate of taxation available therefor.
4. Capitalize interest, and reserves, in such amounts as the governing board may deem necessary.
5. Pay any portion of the cost of issuing the financial instruments from the proceeds of those instruments, or from other sources.
6. Apply the proceeds of the financial instruments to the payment of the cost of any facilities or property that the District is empowered to acquire, or to the refunding of previously issued financial instruments.
- (m) Issue financial instruments at an interest rate determined by the Board, not in excess of the maximum rates permitted by general law.
- (n) Provide for the management, administration, operation, supervision, oversight, and maintenance of all library facilities, and the services, programs, and functions thereof, for the benefit of the residents of the District.
- (o) Purchase, lease, or otherwise acquire property, and take all actions regarding such property as may be necessary in the management, operation, and maintenance of District services, and facilities. In the event that the District is dissolved, all assets of the District will be evenly divided between the Pensacola City Council, and the Escambia County Board of County Commissioners. The disposition of the assets will be determined by negotiations, and mutual agreement between the two parties.
- (p) Dispose of property as necessary for the management, operation, and maintenance of District services and facilities.
- (q) Provide for the employment of personnel, and all related matters, through the contractual agreement with the City of Pensacola referred to in section 5, subsection (1).
- (r) Retain attorneys, accountants, architects, engineers, consultants, and other professionals, pursuant to general law.
- (s) Contract with the City of Pensacola for the provision, and administration of library services, and personnel within, or outside the District. The District's ad valorem tax revenues will not be used to subsidize library services outside the District. The costs of providing library services within any jurisdiction outside the District boundaries pursuant to paragraph (v), will be borne by that jurisdiction.
- (t) Apply for, and accept, any grant of money or property from governmental bodies, or private organizations, and enter into contracts incidental thereto.
- (u) Adopt rules for the regulation of District affairs.

- (v) Enter into agreements with any public agency as defined in section 163.01, Florida Statutes, to provide library services within the jurisdiction of that public agency.
- (w) Plan and coordinate with Escambia County, and the City of Pensacola, to ensure that library system facilities comply with local comprehensive plans.
- (x) Comply with all applicable provisions of law including: chapter 189 and 218, Florida Statutes.

Section 4: Use of Tax Revenues; Supplemental Appropriations and In-Kind Services

1. The District's ad valorem tax revenue will be used only for the following purposes:
 - (a) Operation and maintenance expenses of District services.
 - (b) Capital expenditures related to District services and facilities.
 - (c) Servicing debt incurred pursuant to this act.
2. The Board may accept and expend funds for District facilities, services, programs, and operations that are supplemental to the ad valorem tax revenues collected pursuant to this act. Any county may provide services and in-kind contributions to the Board.

Section 5: Support Services

1. The Board will make arrangements with the City of Pensacola, by contract, for the provision of governmental services to the District. All employees of the District, with the exception of Members, are considered employees of the City of Pensacola for purposes of this act. Such contract will provide for the reimbursement of all administrative costs to the City of Pensacola.
2. The City Attorney of the City of Pensacola will provide legal services to the District through the contractual relationship provided in subsection (l).

Section 6: Entitlement of District Residents to Library Services

All residents of the District are entitled to use the District's services for as long as the Board levies ad valorem taxes pursuant to paragraph (5)(g) of section 3. This entitlement will cease if ad valorem tax revenues are used solely for servicing debt incurred in the acquisition, or refinancing of capital projects.

Section 7: Prohibition Against Other Taxation for Libraries

As long as the Board levies ad valorem taxes, all other taxing authorities within the boundaries of the District are prohibited from levying any tax for library purposes. This provision does not apply to library facilities, services, and other library purposes of the school library system.

Section 8: Referendum Authority To Levy Ad Valorem Taxes, and to Issue Debt Obligations Payable from Ad Valorem Taxes; Dissolution of District upon Non-Approval

A referendum of the electors of Escambia County will be held prior to December 31, 2003, to authorize the creation of the West Florida Regional Library District, and its power to levy ad valorem taxes on property within the District. The Pensacola City Council will, by resolution, prepare the referendum ballot language, and fix the date of the referendum election, and will provide for notices as required by the Florida Election Code.

Section 9: Provides that this act may be amended by law.

Section 10: Provides for severability.

Section 11: Provides that this act will only take effect upon its approval at a referendum held in Escambia County prior to December 31, 2003. Only section 11 of this bill will take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 24, 2001

WHERE? Pensacola News Journal: Pensacola, Escambia County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Prior to December 31, 2003

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

The District will replace the existing West Florida Regional Library System. Section 6 of the bill provides that all taxing authorities within the boundaries of the District are prohibited from levying any tax for library facilities for as long as the District levies ad valorem taxes. According to the City Manager, this provision was included to assure the County taxpayers that they would only be subject to one set of taxes with regard to library districts. However, an exception is made for school district libraries.

In addition, the City Manager has submitted a letter, pursuant to section 189.404(2)(e)(4), Florida Statutes, which provides that the creation of this District is consistent with the comprehensive plans of both Escambia County, and the City of Pensacola. Escambia County and the City of Pensacola have both submitted resolutions stating that they have no objection to the creation of the District.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Floor Amendment

On March 14, 2002 the House considered HB 1101, adopted a floor amendment, and passed the bill.

The amendment removes language in the bill that provided that an audit of the District's financial statements would be performed as a part of the annual audit of the City of Pensacola's financial statements.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Alex Abdo

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Alex Abdo

Joan Highsmith-Smith