

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 460

SPONSOR: Comprehensive Planning, Local and Military Affairs and Senator Carlton

SUBJECT: Special Assessment

DATE: January 8, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides that recreational vehicle parks regulated under chapter 513, F.S., be assessed by counties and cities in the same manner as a hotel, motel, or other similar facility.

This bill creates ss. 125.0168 and 166.223 of the Florida Statutes.

II. Present Situation:

Background

Special assessments are a home rule revenue source that may be used by a local government to fund local improvements or essential services. In order to be valid, special assessments must meet legal requirements as articulated in Florida case law. The greatest challenge to a valid special assessment is its classification as a tax by the courts.

The courts have defined the differences between a special assessment and a tax. Taxes are levied for the general benefit of residents and property rather than for a specific benefit to property. As established by case law, two requirements exist for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided. Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. If a local government's special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.

The special benefit and fair apportionment tests must be incorporated into the assessment rate structure. The development of an assessment rate structure involves determining the cost to be apportioned, allocating program costs into program components, and apportioning these costs to

each eligible parcel based upon factors such as the property use and physical characteristics of the parcel.

Another important distinction in relevant descriptions of local government revenues is between special assessments and user or service charges. While special assessments and service charges are similar in many respects, a key difference is that a special assessment is an enforceable levy while a service charge or fee is voluntary.

A special assessment may provide funding for capital expenditures or the operational costs of services provided that the property, which is subject to the assessment, derives a special benefit from the improvement or service. The courts have upheld a number of assessed services and improvements, such as: garbage disposal, sewer improvements, fire protection, fire and rescue services, street improvements, parking facilities, downtown redevelopment, stormwater management services, and water and sewer line extensions.

Eligibility Requirements

The authority to levy special assessments is based primarily on county and municipal home rule powers granted in the Florida Constitution. In addition, statutes authorize explicitly the levy of special assessments; for counties, s. 125.01, F.S., and for municipalities, chapter 170, F.S. Special districts must derive their authority to levy special assessments through general law or special act.

County governments are authorized, pursuant to s. 125.01(1), F.S., to establish municipal service taxing or benefit units for any part or all of the unincorporated area of the county for the purpose of providing a number of municipal-type services. Such services can be funded, in whole or in part, from special assessments. The boundaries of the taxing or benefit unit may include all or part of the boundaries of a municipality subject to the consent by ordinance of the governing body of the affected municipality. Counties may also levy special assessments for county purposes.

Pursuant to s. 125.01(5), F.S., county governments may create special districts to include both the incorporated and unincorporated areas, subject to the approval of the governing bodies of the affected municipalities. Such districts are authorized to provide municipal services and facilities from funds derived from service charges, special assessments, or taxes within the district only.

Municipalities also have the authority, pursuant to chapter 170, F.S., to make local municipal improvements and provide for the payment of all or any part of the costs of such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefited property. Such decision by the governing body to make any authorized public improvement and to defray all or part of the associated expenses of such improvement must be so declared by resolution.

Administrative Procedures

Three methods are generally enlisted for the collection of special assessments. The first method is termed the uniform collection method and uses the ad valorem tax bill. The second method is the traditional collection method that uses a separate bill. The third method is the monthly utility

bill. The method chosen by a local government depends on the type of program to be funded, service or capital, and the funding source.

Authorized Uses

Section 125.01(1)(q), F.S., outlines the many facilities and services that can be funded from the proceeds of special assessments imposed by county governments, via the municipal service taxing or benefit units. These may include fire protection, law enforcement, beach erosion control, recreation service and facilities, water, alternative water supplies, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, indigent health care services, mental health care services and other essential facilities and municipal services.

Section 170.01, F.S., outlines the many facilities and services that can be funded from the proceeds of special assessments imposed by municipal governments. The authorized uses are too numerous to list here.

Recreational Vehicle Parks

Chapter 513, F.S., provides for the Department of Health to administer and enforce, with respect to recreational vehicle parks, laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and the general health of the people of the state.

A “recreational vehicle park” is defined in s. 513.01(10), F.S., as:

A place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more recreational vehicles or tents; and the term also includes buildings and sites set aside for group camping and similar recreational facilities.

The term “recreational vehicle park” is synonymous with the terms campground, camping resort, RV resort, travel resort, and travel park.

Special Assessments on Mobile Home or Recreational Vehicle Park Facilities

During the 2000 Legislative Session, the Legislature enacted chapter 2000-355, L.O.F., which created a new s. 189.420, F.S., to provide that mobile home or recreational vehicle park facilities regulated under chapter 513, F.S., be assessed by independent or dependent special districts in the same manner as a hotel, motel, or other similar facility. Florida Law provides no explicit direction on the manner counties and municipalities are to assess such facilities. The municipality or county could treat the facility as being comprised of individual residential units, or as a hotel, motel, or similar facility.

III. Effect of Proposed Changes:

Section 1 creates s. 125.0168, F.S., to provide that counties assess recreational vehicle parks regulated under chapter 513, F.S., in the same manner as a hotel, motel, or other similar facility. The section provides that such an assessment not be based on the assertion that the facility is comprised of residential units.

Section 2 creates s. 166.223, F.S., to provide that municipalities assess recreational vehicle parks regulated under chapter 513, F.S., in the same manner as a hotel, motel, or other similar facility. The section provides that such an assessment not be based on the assertion that the facility is comprised of residential units.

Section 3 provides that the bill becomes effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Although this bill may shift the burden of county and city special assessments from one type of property owner to another, it will not result in a reduction in the amounts collected through special assessments, since these amounts are based on the costs of the facilities or services funded by the special assessment.

B. Private Sector Impact:

Recreational vehicle park facilities would be viewed, for the purpose of the application of special assessments, as one entity instead of individual units. This may shift the burden of county and city special assessments from one type of property owner to another.

The actual impact on different property owners will depend on whether local governments revise their assessment rate structures by increasing the assessment rate for all transient lodging-type facilities. If local governments do not revise their special assessment rate structures in response to the bill, recreational vehicle parks would be assessed using the rates currently applied to hotels and motels, which are typically less than the rates applied to residential units. Any loss in revenue resulting from decreases in assessments for such properties would be replaced with increased assessments for owners of other types of property.

C. Government Sector Impact:

Although this bill may shift the burden of county and city special assessments from one type of property owner to another, it will not result in a reduction in the amounts collected through special assessments.

The bill may lessen the administrative costs associated with levying special assessments by municipalities and counties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
