

1 A bill to be entitled

2 An act relating to Boca Grande Fire Control District, Charlotte
3 and Lee Counties; codifying, reenacting, amending, and repealing
4 special laws relating to the district; providing that the
5 district is an independent special district; providing
6 legislative intent; providing for applicability of chapters 191
7 and 189, Florida Statutes, and other general laws; providing a
8 district charter; providing boundaries; providing for a district
9 board; providing authority of the board; providing for staff;
10 providing duties and powers of the board; providing for
11 elections to the board; providing salary of board members;
12 providing for the removal of board members; providing for
13 revenue raising; providing for the levying of non-ad valorem
14 special assessments; providing for capital improvement impact
15 fees; providing severability; providing for liberal
16 construction; amending chapters 87-447 and 97-340, Laws of
17 Florida, and repealing section 1 of chapter 87-447, Laws of
18 Florida, to conform; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Pursuant to section 191.015, Florida Statutes,
23 this act constitutes the codification of all special acts
24 relating to the Boca Grande Fire Control District. It is the
25 intent of the Legislature in enacting this law to provide a
26 single, comprehensive special act charter for the district,
27 including all current legislative authority granted to the
28 district by its several legislative enactments, and to conform

29 the charter to chapter 191, Florida Statutes, the Independent
 30 Special Fire Control District Act, and other provisions of
 31 general law. It is further the intent of this act to preserve
 32 all district authority, including the authority to annually
 33 assess and levy against the taxable property in the district an
 34 ad valorem tax not to exceed the limit as herein provided.

35 Section 2. Chapters 22372 (1943), 23382 (1945), 57-1514,
 36 69-1239, 73-533, 74-523, 75-419, 79-500, and 97-340, Laws of
 37 Florida, relating to the Boca Grande Fire Control District, are
 38 codified, reenacted, amended, and repealed as herein provided.

39 Section 3. The charter for the Boca Grande Fire Control
 40 District is re-created and reenacted to read:

41 Section 1. Definitions.--As used in this act, unless
 42 otherwise specified:

43 (1) "Board" means the governing board of the Boca Grande
 44 Fire Control District.

45 (2) "District" means the Boca Grande Fire Control
 46 District.

47 (3) "Elector" means a person who is a resident of the
 48 district and is qualified to vote in a general election within
 49 the local general-purpose government jurisdiction in which the
 50 district is located.

51 (4) "Emergency medical service" means basic and advanced
 52 life support service as defined in section 401.23, Florida
 53 Statutes.

54 (5) "Rescue response service" means an initial response to
 55 an emergency or accident situation including, without

56 | limitation, a plane crash, trench or building collapse, swimming
 57 | or boating accidents, and motor vehicle accidents.

58 | Section 2. Creation; status; charter amendments;
 59 | boundaries; district purposes.--There is hereby created an
 60 | independent special taxing fire protection and rescue service
 61 | district incorporating lands in Charlotte County and Lee County
 62 | described in subsection (1) which shall be a public corporation
 63 | having the powers, duties, obligations, and immunities herein
 64 | set forth, under the name of the Boca Grande Fire Control
 65 | District. The district is organized and exists for all purposes,
 66 | and shall hold all powers, set forth in this act and chapters
 67 | 189 and 191, Florida Statutes.

68 | (1) The lands to be included within the district are the
 69 | following described lands in Charlotte County and Lee County:
 70 | all that portion of Gasparilla Island located within Lee County,
 71 | Florida; all that portion of Gasparilla Island located within
 72 | Charlotte County, Florida; and all of Cole Island (lying
 73 | northerly of Gasparilla Island), Charlotte County, Florida.

74 | (2) The purpose of the district and this act is to promote
 75 | the health, welfare, and safety of the citizens and residents of
 76 | Charlotte County and Lee County who reside within the
 77 | geographical limits of that area known as the Boca Grande Fire
 78 | Control District, by providing for: firefighting equipment; the
 79 | establishment and maintenance of fire stations and fire
 80 | substations; the acquisition and maintenance of all firefighting
 81 | and protection equipment necessary for the prevention of fires
 82 | or fighting of fires; the employment and training of such
 83 | personnel as may be necessary to accomplish fire prevention and

84 firefighting; the establishment and maintenance of emergency
85 medical service; the establishment and maintenance of rescue
86 response service; the acquisition and maintenance of rescue and
87 other emergency equipment; and the employment and training of
88 necessary emergency personnel. The district shall have all other
89 powers necessary as to carry out the purposes of the district as
90 otherwise provided by law, including, but not limited to, the
91 power to adopt all necessary measures, rules, and regulations
92 and policies relating to said purposes.

93 (3) Nothing herein shall prevent the district from
94 cooperating with the state or other local governments to render
95 such services to communities adjacent to the land described in
96 this section, or other such places as from time to time may be
97 deemed desirable.

98 (4) The district was created by special act of the
99 Legislature in 1943. Its charter may be amended only by special
100 act of the Legislature.

101 Section 3. Board of commissioners.--

102 (1) Pursuant to chapter 191, Florida Statutes, the
103 business and affairs of the district shall be governed and
104 administered by a board of three commissioners. The
105 commissioners shall serve a term of 4 years each, subject to the
106 provisions of chapter 191, Florida Statutes, and this act. Each
107 commissioner shall hold office until his or her successor is
108 elected and qualified under the provisions of this act. The
109 procedures for conducting district elections and for
110 qualification of candidates and electors shall be pursuant to

111 chapters 189 and 191, Florida Statutes, as they may be amended
112 from time to time.

113 (2) The board may employ such personnel as deemed
114 necessary for the proper function and operation of a fire
115 department. The salaries of commissioners, fire department and
116 emergency service personnel, and any other wages, shall be
117 determined by the board.

118 Section 4. Officers; board compensation; bond.--

119 (1) In accordance with chapter 191, Florida Statutes, each
120 elected member of the board shall assume office 10 days
121 following the member's election. Annually, within 60 days after
122 the election of new members of said board, the members shall
123 organize by electing from their number a chair, vice chair,
124 secretary, and treasurer. However, the same member may be both
125 secretary and treasurer, in accordance with chapter 191, Florida
126 Statutes, as amended from time to time.

127 (2) The commissioners shall receive reimbursement for
128 actual expenses incurred while performing the duties of their
129 offices in accordance with general law governing per diem for
130 public officials.

131 (3) Each commissioner, upon taking office and in
132 accordance with chapters 189 and 191, Florida Statutes, shall
133 execute to the Governor, for the benefit of the district, a bond
134 conditioned upon the faithful performance of the duties of the
135 commissioner's office. The premium for such bonds shall be paid
136 from district funds.

137 Section 5. Powers; duties; ad valorem assessments; non-ad
138 valorem assessments.--

139 (1) The district shall have and the board may exercise all
 140 the powers and duties set forth in this act, and chapters 189,
 141 191, and 197, Florida Statutes, as they may be amended from time
 142 to time, including, but not limited to, ad valorem taxation,
 143 bond issuance, other revenue-raising capabilities, budget
 144 preparation and approval, liens and foreclosure of liens, use of
 145 tax deeds and tax certificates as appropriate for non-ad valorem
 146 assessments, and contractual agreements. The district shall have
 147 the authority to access and utilize the public water supply
 148 system at no charge for the purposes of firefighting and fire
 149 prevention. The district may be financed by any method
 150 established in this act or chapter 189 or chapter 191, Florida
 151 Statutes, as amended from time to time.

152 (2) The board shall have the right, power, and authority
 153 to levy annually an ad valorem tax against the taxable real
 154 estate within the district to provide funds for the purposes of
 155 the district, in an amount not to exceed the limit provided in
 156 chapter 191, Florida Statutes, as amended from time to time.
 157 Although the district is authorized to levy a maximum millage
 158 rate as provided for in section 191.009(1), Florida Statutes,
 159 the district must receive referendum approval, as required by
 160 the State Constitution and section 191.009, Florida Statutes,
 161 for any increase in the millage rate above 2 mills.

162 (3) The methods and procedures for assessing and
 163 collecting non-ad valorem assessments, fees, or service charges
 164 shall be as set forth in this act, chapter 170, chapter 189,
 165 chapter 191, or chapter 197, Florida Statutes, as amended from
 166 time to time.

167 (4) The district shall levy and collect ad valorem taxes
 168 in accordance with chapter 200, Florida Statutes, as amended
 169 from time to time.

170 (5) The district is authorized to levy and enforce non-ad
 171 valorem assessments in accordance with chapters 170, 189, 191,
 172 and 197, Florida Statutes, as amended from time to time.

173 (6) The district's planning requirements shall be as set
 174 forth in this act and chapters 189 and 191, Florida Statutes, as
 175 amended from time to time.

176 (7) Requirements for financial disclosure, meeting
 177 notices, reporting, public records maintenance, and per diem
 178 expenses for officers and employees shall be as set forth in
 179 this act and chapters 112, 119, 189, 191, and 286, Florida
 180 Statutes, as amended from time to time.

181 Section 6. Impact fees.--

182 (1) Pursuant to section 191.009(4), Florida Statutes, it
 183 is hereby declared that the cost of new facilities for fire
 184 protection and emergency service should be borne by new users of
 185 the district's services to the extent new construction requires
 186 new facilities, but only to that extent. It is the legislative
 187 intent of this section to transfer to the new users of the
 188 district's fire protection and emergency services a fair share
 189 of the costs that new users impose on the district for new
 190 facilities. This section shall only apply in the event that the
 191 general purpose local government in which the district is
 192 located has not adopted an impact fee for fire services which is
 193 distributed to the district for construction within its
 194 jurisdictional boundaries.

195 (2) The impact fees collected by the district pursuant to
 196 this section shall be kept as a separate fund from other
 197 revenues of the district and shall be used exclusively for the
 198 acquisition, purchase, or construction of new facilities or
 199 portions thereof required to provide fire protection and
 200 emergency service to new construction. "New facilities" means
 201 land, buildings, and capital equipment, including, but not
 202 limited to, fire and emergency vehicles and radio telemetry
 203 equipment. The fees shall not be used for the acquisition,
 204 purchase, or construction of facilities which must be obtained
 205 in any event, regardless of growth within the district. The
 206 board shall maintain adequate records to ensure that impact fees
 207 are expended only for permissible new facilities. The board may
 208 enter into agreements with general purpose local governments to
 209 share in the revenues from fire protection impact fees imposed
 210 by such governments.

211 Section 7. Ad valorem taxes a lien.--The taxes levied and
 212 assessed by the district shall be a lien upon the land so
 213 assessed along with the county taxes assessed against such land
 214 until said assessments and taxes have been paid, and if the
 215 taxes levied by the district become delinquent, such taxes shall
 216 be considered a part of the county tax subject to the same
 217 penalties, charges, fees, and remedies for enforcement and
 218 collection and shall be enforced and collected as provided by
 219 general law, including but not limited to chapter 191, Florida
 220 Statutes, for the collection of such taxes.

221 Section 8. Deposit of taxes, assessments, fees; authority
 222 to disburse funds.--

223 (1) The funds of the district shall be deposited in
 224 qualified public depositories, in accordance with chapters 191
 225 and 280, Florida Statutes, as they may be amended from time to
 226 time.

227 (2) All warrants for the payment of labor, equipment, and
 228 other expenses of the board, and in carrying into effect this
 229 act and the purposes thereof, shall be payable by the treasurer
 230 of the board on accounts and vouchers approved and authorized by
 231 the board.

232 Section 9. Authority to borrow money.--

233 (1) The board of commissioners shall have the power and
 234 authority to borrow money or issue other evidences of
 235 indebtedness, including, but not limited to bonds, for the
 236 purpose of the district in accordance with chapters 189 and 191,
 237 Florida Statutes, as amended from time to time.

238 (2) The board of commissioners shall not be personally or
 239 individually liable for the repayment of such loan. Such
 240 repayment shall be made out of the tax receipts of the district
 241 subject to the provisions of chapters 189 and 191, Florida
 242 Statutes.

243 Section 10. Use of district funds.--No funds of the
 244 district shall be used for any purposes other than the
 245 administration of the affairs and business of the district; the
 246 construction, care, maintenance, upkeep, operation, and purchase
 247 of firefighting and rescue equipment or a fire station or
 248 stations; the payment of public utilities; and the payment of
 249 salaries of district personnel as the board may from time to

250 | time determine to be necessary for the operations and
 251 | effectiveness of the district.

252 | Section 11. Record of board meetings; authority to adopt
 253 | policies and regulations; annual reports; budget.--

254 | (1) A record shall be kept of all meetings of the board,
 255 | and in such meetings concurrence of a majority of the
 256 | commissioners present shall be necessary to any affirmative
 257 | action by the board.

258 | (2) The board shall have the authority to adopt and amend
 259 | policies and regulations for the administration of the affairs
 260 | of the district under the terms of this act, chapters 189 and
 261 | 191, Florida Statutes, and all other applicable provisions of
 262 | Florida law, which shall include, but not be limited to, the
 263 | authority to adopt the necessary policies and regulations for
 264 | the administration and supervision of the property and personnel
 265 | of the district and for the prevention of fires, fire control,
 266 | and rescue work within the district. Said commissioners shall
 267 | have all the lawful power and authority necessary to implement
 268 | the purposes for which the said fire district is created, which
 269 | power and authority shall include, but not be limited to, the
 270 | power to purchase or lease all necessary fire equipment, rescue
 271 | equipment, and all other equipment necessary to carry out the
 272 | purposes of said fire district; to purchase all necessary real
 273 | and personal property; to purchase and carry standard insurance
 274 | policies on all such equipment; to employ such personnel as may
 275 | be necessary to carry out the purpose of said fire district; to
 276 | provide adequate insurance for said employees; to purchase and
 277 | carry appropriate insurance for the protection of all

278 firefighters and personnel as well as all equipment and personal
 279 property on loan to the district; to provide benefits to
 280 employees and commissioners, to sell surplus real and personal
 281 property in the same manner and subject to the same restrictions
 282 as provided for such sales by counties; and to enter into
 283 contracts with qualified service providers, other fire
 284 departments, municipalities, and state and federal governmental
 285 units for the purpose of obtaining financial aid, assistance, or
 286 benefits, expanding services, providing effective mutual aid,
 287 and for otherwise carrying out the purposes of the district. The
 288 commissioners shall adopt a fiscal year for said fire district
 289 which shall be October 1 to September 30.

290 (3) For the purposes of carrying into effect this act, the
 291 board shall annually prepare, consider, and adopt a district
 292 budget pursuant to the applicable requirements of chapters 189,
 293 191, and 200, Florida Statutes, as they may be amended from time
 294 to time.

295 Section 12. Authority to enact fire prevention ordinances;
 296 appoint fire marshal; acquire land; enter contracts; establish
 297 salaries; general and special powers; authority to provide
 298 emergency medical and rescue services.

299 (1) The board of commissioners shall have the right and
 300 power to enact fire prevention ordinances in the same manner
 301 provided for the adoption of policies and regulations in section
 302 11(2), and when the provisions of such fire prevention
 303 ordinances are determined by the board to be violated, the
 304 office of the state attorney, upon written notice of such
 305 violation issued by the board, is authorized to prosecute such

306 person or persons held to be in violation thereof. Any person
307 found guilty of a violation may be punished as provided in
308 chapter 775, Florida Statutes, as a misdemeanor of the second
309 degree. The cost of such prosecution shall be paid out of the
310 district funds unless otherwise provided by law.

311 (2) The board shall have the power to appoint a fire
312 marshal, who shall be a person experienced in all types of
313 firefighting and fire prevention and who shall work with and
314 cooperate with the Florida State Fire Marshal in which the
315 district is situated in the prevention of fires of all types.
316 The district fire marshal shall be authorized to enter, at all
317 reasonable hours, any building or premises for the purpose of
318 making any inspection or investigation which the State Fire
319 Marshal is authorized to make pursuant to state law and
320 regulation. The owner, lessee, manager, or operator of any
321 building or premises shall permit the district fire marshal to
322 enter and inspect the building or premises at all reasonable
323 hours. The district fire marshal shall report any violations of
324 state fire safety law or regulations to the appropriate
325 officials.

326 (3) The board shall have the power to acquire, by gift,
327 lease or purchase, lands or rights in lands, and any other
328 property, real and personal, tangible or intangible, necessary,
329 desirable, or convenient for carrying out the purposes of the
330 district, and to pay any and all costs of same out of the funds
331 of the district.

332 (4) The board shall have the power to enter into contracts
333 or to otherwise join with any other district, city, town, the

334 United States of America, or any agency or authority thereunder,
 335 for the purpose of expanding services, providing effective
 336 mutual aid, and accomplishing and carrying out the purposes for
 337 which the district was created and for the further purpose of
 338 specifically obtaining financial aid, assistance, or subsidy.

339 (5) The district is authorized to establish and maintain
 340 emergency medical and rescue response services and to acquire
 341 and maintain rescue, medical, and other emergency equipment,
 342 subject to the provisions of chapter 401, Florida Statutes.

343 Section 13. Annexations.--If any municipality or other
 344 fire control district annexes any land included in the district,
 345 such annexation shall follow the procedures set forth in section
 346 171.093, Florida Statutes, as amended from time to time.

347 Section 14. Immunity from tort liability.--

348 (1) The district and its officers, agents, and employees
 349 shall have the same immunity from tort liability as other
 350 agencies and subdivisions of the state. The provisions of
 351 chapter 768, Florida Statutes, as from time to time amended,
 352 shall apply to all claims asserted against the district.

353 (2) The district commissioners and all officers, agents,
 354 and employees of the district shall have the same immunity and
 355 exemption from personal liability as is provided by general law
 356 of the state for state, county, and municipal officers.

357 (3) The district shall defend all claims against the
 358 commissioners, officers, agents, and employees which arise
 359 within the scope of employment or purposes of the district and
 360 shall pay all judgments against said persons, except where said
 361 persons acted in bad faith or with malicious purpose or in a

362 manner exhibiting wanton and willful disregard of human rights,
 363 safety, or property.

364 Section 15. District expansion; merger; dissolution.--The
 365 district boundaries may be modified, extended, or enlarged as
 366 follows:

367 (1) Lands may be added or deleted from the district only
 368 by special act of the Legislature, subject to a referendum vote.
 369 Lands added to the district shall also require a board
 370 resolution approving the addition of lands to the district. The
 371 addition or deletion of lands may be effective only upon an
 372 affirmative majority vote of the electors in the lands to be
 373 included or deleted in the district.

374 (2) The merger of the district with all or portions of
 375 another independent special district or dependent fire district
 376 is effective only upon ratification by the Legislature. The
 377 district may not, solely by merger with another governmental
 378 entity, increase ad valorem taxes on property within the
 379 original limits of the district beyond the maximum established
 380 by chapter 191, Florida Statutes, unless approved by the
 381 electors of the district by referendum.

382 (3) The district may only be dissolved by special act of
 383 the Legislature, subject to referendum vote of the electors of
 384 the district, which may be conducted by mail ballot. If
 385 legislative dissolution of a district is proposed in order to
 386 consolidate fire services under a county or municipal
 387 government, the county or municipality shall prepare a report
 388 setting forth the plans for merger, and the report shall address
 389 the following factors in evaluating the proposed merger:

390 (a) Whether, in light of independent fiscal analysis,
 391 level-of-service implications, and other public policy
 392 considerations, the proposed merger is the best alternative for
 393 delivering fire services and facilities to the affected area.

394 (b) Whether the fire services and facilities to be
 395 provided pursuant to the merger will be compatible with the
 396 capacity and uses of existing local services and facilities.

397 (c) Whether the merger is consistent with the applicable
 398 provisions of the state comprehensive plan, the strategic
 399 regional policy plan, and the local government comprehensive
 400 policy plans of the affected area.

401 (d) Whether the proposed merger adequately provides for
 402 the assumption of all indebtedness.

403 Section 4. This act shall be construed as remedial and
 404 shall be liberally construed to promote the purpose for which it
 405 is intended.

406 Section 5. In the event that any part of this act should
 407 be held void for any reason, such holding shall not affect any
 408 other part thereof.

409 Section 6. Chapters 22372 (1943), 23382 (1945), 57-1514,
 410 69-1239, 73-533, 74-523, 75-419, and 79-500, Laws of Florida,
 411 are repealed.

412 Section 7. Paragraph (a) of subsection (1) of section 5 of
 413 chapter 97-340, Laws of Florida, is amended to read:

414 Section 5. District boards of commissioners; membership,
 415 officers, meetings.--

416 (1)(a) The business affairs of each district shall be
 417 conducted and administered by a five-member board, except that

418 Captiva Fire Control District, ~~Boca Grande Fire Control~~
419 ~~District~~, and Sanibel Fire Control District shall remain
420 governed by three-member boards. The board seats shall be
421 designated seats 1, 2, and 3 in the case of the three-member
422 boards and seats 1, 2, 3, 4, and 5 for all five-member boards.
423 Board elections shall be staggered with no more than two members
424 of a three-member board or three members of a five-member board
425 elected during an election year. The board shall be elected in
426 nonpartisan elections by the electors of the district. Such
427 elections shall be held at the time and in the manner prescribed
428 by law for holding general elections in accordance with s.
429 189.405(2)(a) and (3), Florida Statutes, and each member shall
430 be elected for a term of 4 years except as provided herein and
431 serve until a successor assumes office. Candidates for the board
432 of a district shall qualify for a specified seat with the county
433 supervisor of elections. Such candidates may qualify by paying a
434 filing fee of \$25 or by obtaining the signatures of at least 25
435 registered electors of the district on petition forms provided
436 by the supervisor of elections which petitions shall be
437 submitted and checked in the same manner as petitions filed by
438 nonpartisan judicial candidates pursuant to s. 105.035, Florida
439 Statutes.

440 Section 8. Section 1 of chapter 87-447, Laws of Florida,
441 is repealed.

442 Section 9. Sections 4, 5, and 6 of chapter 87-447, Laws of
443 Florida, are amended to read:

444 Section 4. Any special or general law to the contrary
445 notwithstanding, the provisions of chapter 81-414, Laws of

446 Florida, prescribing uniform regulations for elections,
447 qualification of candidates, and filling of vacancies for
448 certain special districts in Lee County shall also apply to the
449 ~~Boca Grande Fire Control District, chapter 22372, Laws of~~
450 ~~Florida~~; Captiva Island Fire Control District, chapter 30929,
451 Laws of Florida, and North Fort Myers Fire Control District,
452 chapter 30925, Laws of Florida.

453 Section 5. For the purpose of implementing the provisions
454 of ss. 1-4, each member of ~~the Boca Grande Fire Control Board,~~
455 the Captiva Island Fire Control Board, ~~and the North Fort Myers~~
456 Fire Control Board, or a person appointed to fill a vacancy,
457 shall continue to hold that office until the expiration of the
458 present term and thereafter until an election is held pursuant
459 to the provisions of chapter 81-414, Laws of Florida, at which
460 election the office will be filled.

461 Section 6. Notwithstanding any provision of general or
462 special law to the contrary, any board member of any of the
463 following districts may be removed from office pursuant to
464 recall election: Alva Fire Protection and Rescue Service
465 District, Bayshore Fire Protection and Rescue Service District,
466 ~~Boca Grande Fire Control District,~~ Bonita Springs Fire Control
467 and Rescue District, Captiva Island Fire Control District,
468 Estero Fire Protection and Rescue Service District, Fort Myers
469 Beach Fire Control District, Fort Myers Shores Fire Protection
470 and Rescue Service District, Iona-McGregor Fire Protection and
471 Rescue Service District, Lehigh Acres Fire Control and Rescue
472 District, Matlacha-Pine Island Fire Control District, North Fort
473 Myers Fire Control District, San Carlos Park Fire Protection and

474 Rescue Service District, Sanibel Island Fire Control District,
475 South Trail Fire Protection and Rescue Service District, and
476 Tice Fire Protection and Rescue Service District. The procedure
477 for conducting a recall election shall be the same as for
478 conducting a municipal recall election pursuant to s. 100.361,
479 Florida Statutes.

480 Section 10. This act shall take effect upon becoming a
481 law.