

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 713

Lake Asbury Municipal Service Benefit District, Clay County

SPONSOR(S): Proctor

TIED BILLS:

IDEN./SIM. BILLS:

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|---------------|----------------|-----------------------|
| 1) | Military & Local Affairs Policy Committee | 13 Y, 0 N | Nelson | Hoagland |
| 2) | Economic Development & Community Affairs Policy Council | 14 Y, 0 N | Nelson | Tinker |
| 3) | Finance & Tax Council | 12 Y, 0 N | Wilson | Langston |
| 4) | _____ | _____ | _____ | _____ |
| 5) | _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

This bill amends the 1986 special act which created the Lake Asbury Municipal Service Benefit District in Clay County. Currently, the district may levy an annual special assessment no greater than \$100. The bill authorizes an annual special assessment not to exceed \$1,000 per lot, provided that any assessment greater than \$100 is approved by an affirmative vote of six or more of the nine district trustees.

This act is effective upon becoming a 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:

Present Situation

The Lake Asbury Municipal Service Benefit District was created pursuant to ch. 86-392, L.O.F. The Florida "Official List of Special Districts" cites the statutory authority for this dependent district as ch. 374, F.S., "Navigation Districts; Waterways Development."¹ The purpose of the district is the continuing maintenance of the man-made lakes and dams known as Lake Asbury, South Lake Asbury, and Lake Ryan in Clay County, Florida.

The district's governing body consists of a nine member board of district trustees. Board members are elected by the qualified voters of the district for four year terms. To be eligible for election, a person must reside in the district and be qualified to vote. The board of district trustees meets at least once a month at a time, date and place established by the trustees. All meetings are held at a public place within the district, and are open to the public. Five district trustees constitute a quorum, and the affirmative vote of a majority of the trustees is necessary for any action taken. District trustees do not receive compensation, but are paid necessary expenses incurred while engaged in the performance of their duties.

The Clay County Tax Collector serves as the ex-officio tax collector for the district; the Clay County Clerk of the Circuit Court is the ex-officio clerk of the district; and the Clay County Supervisor of Elections is the ex-officio supervisor of elections for the district. The district board of trustees may appoint such other officers as it deems appropriate and necessary.

The district is required to annually submit a proposed district budget to the Clay County Board of County Commissioners for approval or rejection. The failure of the board to take action on the budget within 45 days after submission constitutes approval of the budget. The district also may submit any amendments to its budget to the Clay County Board of County Commissioners for approval or rejection, which amendments are also be deemed approved if the board fails to take action on them within 45 days. The district is audited annually by such persons and in such a manner as directed by the board.

¹ <http://www.floridaspecialdistricts.org/OfficialList/criteria.cfm>.

Currently, the district is authorized to levy ad valorem taxes not to exceed three mills² to pay the cost of public functions or services authorized in its act which are municipal services within the meaning of s. 9(b), Art. VII, of the State Constitution,³ provided that such millage constitutes part of the millage that the county may levy for municipal purposes. The millage limitation of three mills can be increased only upon petition of the district trustees, approval of such petition by the Clay County Board of County Commissioners, and approval by majority vote of the electors of the district voting in a referendum called for that purpose.

The district also may levy an annual assessment not to exceed \$100 against every district lot. The assessment must be billed and collected as provided by Florida law, the rules of the Florida Department of Revenue rules, and appropriate county ordinances, as applicable. The special assessments remain liens on the assessed property until paid.

There are 443 lots immediately adjacent to the three lakes contained in the special district.⁴

The dams of the Lake Asbury Municipal Service Benefit District were built in the late 1960s. As these dams have aged, regulatory requirements have increased and maintenance costs have risen. The district has indicated that it desires to institute a proactive improvement plan for the lakes and dams in an “economically feasible manner.” The district is in need of engineering studies, quarterly dam inspections, leak alarms, erosion control, monthly water testing, stocking, emergency dam repair, a new maintenance program, a dredging schedule for the lakes, plus major capital improvements for all dams including new valves, controls, valve tubes, French drains and bulkheads, plus an emergency flood control spillway for South Lake Asbury.

The current revenue base does not support district expenses. The district’s current annual assessment of \$100—which has been in effect since 1986—is 100 percent pledged to pay off a dredging loan. The cost of the loan is \$43,907 annually for another seven years. Before the loan, the district was able to fund some basic maintenance. Since the loan, the district cannot complete minimal maintenance, stock the lakes with carp, or conduct a vigorous hydrilla control program. The district received some relief last year from donations of approximately \$22,000.⁵

In 2008, the board of trustees attempted to amend the district’s special act to allow for annual special assessments of up to \$1000 per lot. That bill (HB 1541) died in the Government Efficiency & Accountability Council without being heard.

On January 13, 2009, the Clay County Board of County Commissioners voted 4-0 to support Resolution 08-3 by the district trustees to again request that the Florida Legislature amend its act to allow for greater special assessments. The district trustees believe that there is overwhelming support for the measure among residents.⁶ To date, approximately 50 lot owners have signed a letter endorsing HB 713.⁷

² Residents presently are levied a one mil ad valorem tax.

³ Section 9, Art. VII of the State Constitution provides that special districts may be authorized by law to levy ad valorem taxes. These taxes may not be levied in excess of the following millages: for all county purposes, 10 mills; for all municipal purposes, 10 mills; for all school purposes, 10 mills; for water management purposes, 0.05 –one mill, depending on location in the state; and for all other special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.

⁴ March 6, 2009, e-mail from Ginny Stibolt, member of Lake Asbury Municipal Service Benefit District Board of Trustees.

⁵ <http://www.lakeasbury.us/VisionReport2-09.pdf>.

⁶ March 7, 2009, e-mail from Carl Kocher, member and vice chair of the Lake Asbury Municipal Service Benefit District Board of Trustees.

⁷ March 6, 2009, e-mail from DeAnn Bjornson, member of Lake Asbury Municipal Service Benefit District Board of Trustees.

Effect of Proposed Changes

HB 713 amends ch. 86-392, L.O.F., to allow the board of trustees of the Lake Asbury Municipal Service Benefit District to increase its annual special assessment. The bill authorizes the district to assess an annual amount not to exceed \$1,000 per lot, provided that any assessment greater than \$100 is approved by an affirmative vote of six or more district trustees.

This act is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends ch. 86-392, L.O.F., relating to the Lake Asbury Municipal Service Benefit District.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 18, 2008.

WHERE? The "Clay Today," a newspaper of general circulation published weekly in Clay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill provides the district with the ability to collect the revenues needed to maintain its lakes and dams. Proper maintenance is critical to ensure the safety of those living on the lakes and behind the dams. Preserving the lakes provides lot owners with a special place to live and keeps property values higher than non-lake properties, resulting in higher ad valorem tax revenues to the county.

Currently, if critical components of any of the dams fail, there are no reserves to replace major items like: spillway/siphon systems, retainer walls, valves to maintain safe water levels or French drain systems.

It will cost more per lot to live on these lakes, and the board of trustees have been and will continue to inform the residents of the need for the added revenues for better lake maintenance. It is estimated that it will cost \$256,405 in FY 2009-2010 and \$263,188 in FY 2010-2011 to properly maintain the lakes and dams.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES