

CHAPTER 76-409

Committee Substitute for House Bill No. 3909

AN ACT relating to Lee County; providing definitions; creating the Fort Myers Shores Fire Protection and Rescue Service District; prohibiting municipal and other fire control districts from annexing any land in the district; creating the board of commissioners of the district; providing for their election, terms, and compensation; requiring bonds; empowering the board to levy ad valorem taxes to a specified limit; providing a procedure for complaints of assessments; requiring the property appraiser to provide the board with certain information relating to assessments; reimbursing the county property appraiser and tax collector for their assistance; providing that district assessments constitute a lien on property; providing for the deposit of proceeds of assessments; empowering the board to borrow money to a certain limitation, to issue revenue anticipation certificates, and to pledge such liens and certificate revenue to pay the certificates; exempting the board from liability for repayment of loans; restricting the use of funds of the district; authorizing the board to acquire, lease, or maintain a fire department; providing for rules and an annual report; empowering the board to enact a fire prevention code; requiring a referendum on whether to dissolve the district; providing for referendums; providing an effective date.

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

Section 1. As used in this act unless otherwise specified:

(1) "District" means the Fort Myers Shores Fire Protection and Rescue Service District.

(2) "Board" and "board of commissioners" means the board of commissioners of and for the district.

(3) "Commissioner" means a member of the board of commissioners of and for the district.

(4) "County" means Lee County.

Section 2. (1) There is created a special taxing fire protection and rescue service district incorporating lands in Lee County described in subsection (2) which shall be a public corporation having the powers, duties, rights, obligations, and immunities herein set forth, under the name of the Fort Myers Shores Fire Protection and Rescue Service District.

(2) The lands to be included within the district are the following described lands in Lee County, Florida:

Begin at the point of intersection of the South bank of the Calocsahatchee River and the West bank of Orange River; thence Southerly and Easterly along the West and North bank of Orange River to the intersection of said bank of Orange River and the South line of Township 43 South, Range 26 East, thence Easterly along said Township line to the Southeast corner of Section 36, Township 43 South, Range 26 East, thence Northerly along the range line between Ranges 26 East and 27 East to the point of intersection of said Range line with the South bank of Hickeys Creek; thence Westerly and Northerly along the Southerly and Westerly bank of Hickeys Creek to the point of intersection with the South bank of the Calocsahatchee River; thence Westerly along the South bank of the Calocsahatchee River to the Point of Beginning.

(3) Nothing herein shall deny the right of the chief or other governing officials of the district to render such services to communities adjacent to the land described in subsection (2), or such other places as from time to time may be deemed desirable.

(4) No municipal, city, village, town, or other fire control or rescue service district shall annex, or cause to be annexed, to its territorial limits any part or portion of the Fort Myers Shores Fire Protection and Rescue Service District described in subsection (2).

Section 3. (1) The business and affairs of the district shall be conducted and administered by a board of five commissioners, who shall be qualified electors residing within the district, and shall be elected by the qualified electors residing within the district at a special election which shall be held within 60 days from the date of approval of this act by the electors of said district, and shall serve a term of 4 years each, subject to the provisions of subsection (2).

(2) The five members of the initial board of commissioners shall be elected by the qualified electors residing within the district. The two elected members who receive the greatest number of votes in the initial election under this act shall serve terms of 3 years. The remaining three elected members in the initial election under this act shall serve terms of 1 year. Subsequent elections under this act shall be on the first Tuesday next succeeding the first Monday in November of odd-numbered years. Election shall be on a nonpartisan basis.

(3) The board shall adopt bylaws to provide a procedure for the submission of nominees to the Governor, who in turn shall fill any vacancy by appointing one of the nominees to fill the unexpired term.

(4) The board may employ such personnel as deemed necessary for the proper function and operation of a fire department.

Section 4. (1) The commissioners, immediately upon their appointment as herein provided, or within 10 days thereafter and annually in November, shall organize by electing from their number, a chairman, vice-chairman, a secretary and a treasurer. However, the same member may be both secretary and treasurer.

(2) The commissioners shall receive compensation for actual expenses incurred while performing the duties of their office.

(3) Each commissioner, upon taking office, shall execute to the Governor for the benefit of the district, a bond of \$5,000 with a qualified personal or corporate surety, conditioned upon the faithful performance of the duties of the commissioner's office and upon an accounting for all funds which come into his hands as commissioner. The treasurer shall furnish a bond of \$10,000 which may be in lieu of the \$5,000 bond. The premium for such bonds shall be paid from the funds of the district.

Section 5. (1) The board shall have the right, power, and authority to levy millage tax against the taxable real estate within the district to provide funds for the purpose of this district.

(2) The tax rate shall be fixed by a resolution of the board following public hearings of the proposed budget as provided in section 6. However, the tax shall not exceed \$1 per \$1,000 of net taxable assessed valuation.

(3) It is the legislative intent that this act will authorize the Lee County property appraiser and the Lee County tax collector to take all appropriate action to comply with the intent and purpose of this act.

Section 6. (1) The district's fiscal year shall begin on October 1 and end on September 30 of each year. The Lee County property appraiser shall furnish the commissioners a tax roll covering all taxable properties within the district on or before June 1 of each year, and any property owner in the district shall have the right during the period from June 10 to June 20 of each year to file protests in writing against the proposed assessments, the amount or rate thereof, and during the period from June 20 to June 30 of each year, to appear before the board in support of such protests. The board shall hold at least one meeting during said period to consider such protests. The notification to the public of such meeting shall be posted in not less than three public places in conspicuous locations and be advertised once in a newspaper of general circulation in Lee County.

(2) The county property appraiser shall include in the Lee County tax roll the assessments made by the board and the same shall be collected in the manner as provided for by this act, and paid over by the Lee County tax collector to the board monthly.

(3) The county property appraiser shall receive reimbursement for assessing taxes, and the Lee County tax collector shall receive a commission or fee for collecting such taxes.

(a) Said amount of reimbursement to the property appraiser shall be based on the applicable law of Florida in effect at the time of rendering the service of assessing taxes.

(b) The Lee County tax collector's commission or fee shall be 3 percent of tax collected.

Section 7. The special assessments levied and assessed by the district shall be a lien upon the land so assessed along with the county taxes assessed against such land until said assessments and taxes have been paid, and if the assessments levied by the district become delinquent, such assessments shall be considered a part of the county tax, subject to the same penalties, charges, fees, and remedies for enforcement and collection and shall be enforced and collected as provided by general law for the collection of such taxes.

Section 8. (1) The proceeds of the assessment and funds of the district shall be deposited in the name of the district in a bank authorized to receive deposits of county funds. The bank shall be designated by a resolution of the board.

(2) No funds of the district shall be paid or disbursed except by check signed by the treasurer of the board and either the chairman or vice-chairman of the board.

Section 9. (1) The board shall have the power and authority to borrow money for the purposes of the district. However, the total payments in any 1 year, including principal and interest, on any indebtedness incurred by the district shall not exceed 50 percent of the total tax assessment of the year in which said payments are to be made, and provided further, that the total accumulative debt of the district shall never exceed \$125,000.

(2) The board shall have the power and authority to issue revenue anticipation certificates for the purpose of paying all or any part of the cost of purchasing any real or personal property for the district. Such revenue anticipation certificates shall be issued and validated under and in accordance with the applicable provisions of general law, in an amount not to exceed the limits set forth in subsection (1). In addition, the board shall have the power and authority to pledge anticipation revenue and delinquent tax assessment liens for the payment of such certificates, which shall be the sole security for said loan.

(3) Neither the district commissioners as a body nor any of them as an individual shall be personally or individually liable for the repayment of such loan. Such repayment shall be made out of tax receipts of the district except as provided in this subsection. The commissioners shall not create any indebtedness or incur obligations for any sum or amount which they are unable to repay out of district funds then in their hands except as otherwise provided in this act. However, the commissioners may make purchases of equipment on an installment basis as necessary if funds are available for the payment of the current year's installment on such equipment plus the amount due in that year of any other installments and the repayment of any bank loan or other existing indebtedness which may be due that year.

Section 10. (1) No funds of the district shall be used for any purpose other than the administration of the affairs and business of the district, the construction, care, maintenance, upkeep, operation, and purchase of fire fighting equipment or a fire station or stations, the payment of salaries of district personnel as the board may from time to time determine to be necessary for the operations and effectiveness of the district.

(2) The board is authorized and empowered to buy, own, lease, and maintain a fire department within the district, and to purchase, acquire by gift, own, lease and dispose of fire fighting equipment and property, real and personal, that the board may from time to time deem necessary or needful to prevent and extinguish fires within the district.

Section 11. (1) A record shall be kept of all meetings of the board and in such meetings concurrence of a majority of the commissioners shall be necessary to any affirmative action by the board.

(2) The board may adopt rules and regulations, not inconsistent with any portion of this act, as it may deem necessary for the transaction of its business and in implementing and carrying out the provisions of this act. The board shall have authority to provide all things necessary for the prevention, extinguishment, and control of fires in the district.

(3) Any rules and regulations promulgated and made by the board shall have the force and effect of law after copies thereof signed by the chairman and secretary have been posted in at least three public places and advertised for 2 consecutive weeks in a newspaper of general circulation in the county in which the special fire protection and rescue service district is situated.

(4) The board shall, on or before November 1, make an annual report of its actions and accounting of its funds as of September 30 and shall file said report in the office of the Clerk of Circuit Court of Lee County, whose duty it shall be to receive and file said report and hold and keep the same as a public record.

(5) The board shall, at the same time as it makes its annual report, file its estimated budget for the fiscal year beginning October 1, which budget shall show the estimated revenue to be received by the district and the estimated expenditures to be incurred by the district in carrying out its operations.

Section 12. (1) The board shall have the right and power to enact a fire prevention code or ordinance in addition to, but not in conflict with, the Lee County Fire Prevention Ordinance of 1974, or its equivalent.

(2) The salaries of fire department personnel, and any other wages shall be determined by the board.

Section 13. The Board of County Commissioners of Lee County shall call a referendum to be held in conjunction with the first primary election occurring in 1986 at which the dissolution of the district shall be presented to the electorate for approval or rejection by vote of a majority of those qualified electors residing within the district voting in the election. Such election shall be held in

accordance with the provisions of law relating to elections currently in force within the limits of the commission.

Section 14. If any clause, section, or provision of this act shall be declared to be unconstitutional or invalid by any court of competent jurisdiction, the same shall be eliminated from this act, and the remaining portion of said act shall be in force and effect and be as valid as if such invalid portion thereof had not been incorporated therein, provided the same may be so separated.

Section 15. All laws or parts of laws in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 16. This act shall take effect as provided in section 17, except that the provisions of section 5 of this act which authorize the levy of ad valorem taxation shall take effect only upon express approval by a majority vote of those qualified electors residing within the limits of the district, as required by Section 9 of Article VII of the State Constitution, voting in a referendum to be called by the Board of County Commissioners of Lee County and held on September 7, 1976. Such election shall be held in accordance with the provisions of law relating to elections currently in force within the limits of the commission.

Section 17. This act shall take effect only upon its approval by a majority vote of those qualified electors residing within the limits of the commission voting in a referendum to be called by the Board of County Commissioners of Lee County and held on September 7, 1976. Such election shall be held in accordance with the provisions of law relating to elections currently in force within the limits of the commission; except that this section and section 16 shall take effect upon becoming a law.

Became a law without the Governor's approval.

Filed in Office, Secretary of State June 25, 1976.