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Special District Taxation

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NOTE

SPECIAL DISTRICT TAXATION

A proliferation of special tax districts marks the Florida and American governmental scene in response to a dynamic increase in the need for urban and rural services. Special districts are a specific class of governmental units that possess substantial fiscal and administrative independence from other governments.[1]

The present status of special taxing districts in Florida, legal requirements as to their formation and scope, and their utilization of ad valorem taxation and special assessments are among the topics covered in this note. The governmental role of special districts and the effect of Florida's homestead exemption law upon such units are also considered.

Of the 116,000 governmental units in the United States, 79,000, or about two thirds, are special districts. This means that thirteen out of twenty governments are special districts, of which eleven are school and two are non-school.[2] Florida is one of the few states in which there are less special districts than other governments — 294 as compared to 377.[3] Of the 294, 227 are non-school, largely single function,[4] and 67 represent school districts coextensive with the county boundaries.[5]

The fact that non-school special districts are increasing while the number of other governmental units remains relatively stable or decreases reveals a significant trend. Non-school special districts in Florida had increased in 1957 by 20.7 per cent from 1952's total of 188, while the number of counties remained constant and municipalities grew 5.4 per cent, from 294 to 310.[6]

Other indicia of the importance of special district governments in Florida are the large number of employees of such units,[7] their

[1]See BOLLENS, SPECIAL DISTRICT GOVERNMENTS IN THE UNITED STATES, preface x (1957).

[2]*Id.* at 2.

[3]U.S. BUR. OF THE CENSUS, 1957 CENSUS OF GOVERNMENTS, Vol. VI, No. 8, GOVERNMENT IN FLORIDA 1 (1959) (hereinafter cited as GOVERNMENT IN FLORIDA).

[4]*Ibid.*

[5]FLA. STAT. §230.34 (1959), which became effective Jan. 1, 1948, consolidated all school districts within a county into a single unit.

[6]GOVERNMENT IN FLORIDA 1. The trend was even more pronounced nation-wide, with non-school special districts increasing by 48.4% from 1942 to 1952. BOLLENS, *op. cit. supra* note 1, at 3.

[7]During 1957 there were 48,735 employees in school districts, with a total

total revenue and indebtedness,[8] and the fact that they levy over $95,000,000 annually in property taxes.[9]

WHY SPECIAL DISTRICTS?[10]

There are many factors that contribute to the utilization of the special district device to finance and administer certain governmental functions. Often an area desiring a service finds existing governmental units inadequate for its needs. Sometimes the area is smaller than a county, and because of a desire for uniformity the county is unwilling to assume the service. Again, a city that already furnishes a particular service to its residents may object to the use of county funds to furnish the same service to suburbanites. City residents, who contribute to both county and city revenues, would have to pay twice for the same service.

It is easier for a board of county commissioners to create a special district to provide a needed service than it is to gain approval for a tax increase. Also, some counties are not administratively capable of supplying the services.

When the area to be supplied encompasses several counties, it is easier to form a bi-county or even bi-state special district than to reshape county and state boundaries. There are no insurmountable barriers to the formation of a district covering a large part of the state by the simple expedient of a special legislative act.[11]

A recurrent problem is suburban aloofness to annexation moves by neighboring cities. While cities can often provide a service more efficiently and economically, suburbanites like their independence and

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monthly payroll of $14,327,200; and 5,082 in non-school districts, with a monthly payroll of $1,015,000. GOVERNMENT IN FLORIDA 8.

[8]School districts during 1957 collected total revenue of $238,671,000, and non-school districts took in $35,992,000. School districts in 1957 had total outstanding indebtedness of $203,507,000 and non-school districts owed $84,653,000. GOVERNMENT IN FLORIDA 13, 16.

[9]Property taxes provided $87,134,000 for school districts and $8,071,000 for non-school districts in 1957. Special charges, reflecting the service nature of non-school districts, yielded the bulk of such units' revenue, from the following sources: current charges $19,203,000, special assessments $6,000, utility revenue $1,501,000. GOVERNMENT IN FLORIDA 13.

[10]BOLLENS, *op. cit. supra* note 1, and SNIDER, LOCAL GOVERNMENT IN RURAL AMERICA (1957), provided the basic source material for this section.

[11]See Martin v. Dade Muck Land Co., 95 Fla. 530, 116 So. 449, *appeal dismissed*, 278 U.S. 560 (1928).

fear additional taxes. Although the Florida legislature can legally annex territory to a city without referendum if there is reasonable benefit to the area annexed,[12] legislators have not been inclined to antagonize the electorate. Thus suburban dwellers are frequently deprived of essential services. A favorite remedy for this deprivation has been special districts created by the legislature.

Districts have been used to avoid legal obstacles to debt financing. When counties and municipalities reach their maximum indebtedness a district may be able to obtain additional funds for needed improvements. Freeholder approval often is a prerequisite to the issuance of bonds. It is possible to finance governmental services by revenue certificates secured by district special assessments and thus overcome resistance by property owners.[13]

Perhaps, above all, there is the desire of many to decrease and localize government by use of the district device. Proponents claim that this keeps the governmental function out of politics. One noted writer comments that it is often easier for vested interests to manipulate district governments for private purposes,[14] thus partially discounting the value of local autonomy.

State and federal specialists in the various service fields often advocate special districts as the quickest way to obtain needed services. Soil conservation districts and housing authorities are in large part the result of federal backing of special districts.

Scope of Functions

Most districts throughout the nation and in Florida are formed for a single function. The Bureau of the Census gives the following functional breakdown of the 227 non-school special districts in Florida:[15] (1) five conservation, irrigation and reclamation districts, (2) thirty-eight county hospital boards, districts, and authorities, (3) forty drainage districts, (4) one erosion prevention district, (5) ten fire control districts, (6) three flood control districts, (7) two gas districts, (8) twenty-nine housing authorities, (9) twenty-three mosquito control districts, (10) eleven navigation and port districts and authorities, (11) four sanitation and water supply districts, (12) fifty-eight soil conservation districts, (13) three miscellaneous.

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[12]State *ex rel.* Davis v. City of Stuart, 97 Fla. 69, 120 So. 335 (1929).

[13]See City of Orlando v. State, 67 So. 2d 673 (Fla. 1953).

[14]Bollens, *op. cit. supra* note 1, at 11, 14.

[15]Government in Florida 2-4.

There are many other units in Florida that perform a single function but are classified by the Bureau of the Census as subordinate agencies of the state or other governments because of a lack of fiscal or administrative independence.

FORMATION OF SPECIAL DISTRICTS IN FLORIDA

The state legislature holds an omnipotent position in the creation of special tax districts. The Florida Constitution is only a limitation on the inherent sovereign right of the legislature to levy taxes,[16] and the organic law contains no barrier to the creation of special tax districts for local improvements.[17]

Districts can be created by special legislative acts[18] or by action taken pursuant to general enabling legislation.[19] Most of the tax districts are formed under special legislation, which in many instances requires local referendum before activation of the district.[20] The constitutional inhibition against local or special laws for the assessment and collection of taxes for state and county purposes[21] does not prevent the legislature from establishing tax districts by special acts if the manner and method of assessment are as prescribed by general law.[22] Constitutional support for this result is found in article IX, section 5, which permits the legislature to authorize the "several counties . . . to assess and impose taxes for county . . . purposes . . . ." The word *several* is interpreted as clearly allowing the levy of taxes by special or general act. The special act, however, must still follow the general law as to assessment and collection of the levy.

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[16]*E.g.*, Miller v. Ryan, 54 So. 2d 60 (Fla. 1951); Pinellas Park Drainage Dist. v. Kessler, 69 Fla. 558, 68 So. 668 (1915); Kroegel v. Whyte, 62 Fla. 527, 56 So. 498 (1911).

[17]*E.g.*, State v. Anna Maria Island Eros. Prevention Dist., 58 So. 2d 845 (Fla. 1952); Consolidated Land Co. v. Tyler, 88 Fla. 14, 101 So. 280 (1924); Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[18]*E.g.*, Fla. Laws 1949, ch. 25270 (flood control); Fla. Laws 1947, ch. 24500 (improvement authority).

[19]*E.g.*, FLA. STAT. ch. 298 (1959) (drainage); *id.* §§336.15-.39 (1959) (road districts); *id.* ch. 388 (1959) (mosquito control).

[20]GOVERNMENT IN FLORIDA 2-4. Listed are the various special tax districts in Florida that are classified as having been created by special acts or under general statutes.

[21]FLA. CONST. art. III, §§20, 21.

[22]Whitney v. Hillsborough County, 99 Fla. 628, 127 So. 486 (1930); Kroegel v. Whyte, 62 Fla. 527, 56 So. 498 (1911).

Governmental units other than the state have no inherent power of taxation. Counties may levy taxes under article IX, section 6, of the Florida Constitution only upon authorization by the legislature.[23] A municipal tax levied by resolution when authorized only by ordinance is ultra vires and void.[24]

Public Purpose

The Florida Supreme Court has imposed upon special taxing districts the requirement common to all taxation — that it be for a public purpose. The purpose of legislative exercise of the taxing power is open to judicial scrutiny,[25] since the Florida Constitution prohibits the taking of property for private purposes without just compensation.[26] The Florida Court has held, however, that many of the functions for which districts are created serve a public purpose, including mosquito control,[27] inland waterways,[28] an island authority to carry out municipal-type services,[29] drainage and flood control,[30] advertising to promote a tourist area,[31] public docks and harbor improvements,[32] roads and bridges,[33] hospitals,[34] housing authorities,[35]

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[23]Amos v. Mathews, 99 Fla. 1, 65, 115, 126 So. 308 (1930).

[24]Certain Lots v. Town of Monticello, 159 Fla. 134, 31 So. 2d 905 (1947).

[25]Burnett v. Greene, 97 Fla. 1007, 122 So. 570 (1929), *rev'd on other grounds*, 105 Fla. 35, 144 So. 205 (1932).

[26]State *ex rel.* Davis v. City of Stuart, 97 Fla. 69, 120 So. 335 (1929). The Court relied on FLA. CONST. art. IX, §§1, 5, and U.S. CONST. amend. XIV.

[27]State *ex rel.* Robertson v. Gessner, 153 Fla. 865, 16 So. 2d 51 (1943); State *ex rel.* Indian River Mosquito Control Dist. v. Board of County Comm'rs, 103 Fla. 946, 138 So. 625 (1931), *rev'd on other grounds*, 104 Fla. 208, 140 So. 655 (1932); Merriman v. Hutchinson, 95 Fla. 600, 116 So. 271 (1928).

[28]State *ex rel.* Vans Agnew v. Upper St. Johns River Nav. Dist., 102 Fla. 183, 135 So. 784 (1931); Chase v. Orange County, 81 Fla. 237, 87 So. 770 (1921).

[29]State v. Escambia County, 52 So. 2d 125 (Fla. 1951).

[30]See, *e.g.*, Smithers v. North St. Lucie River Drainage Dist., 73 So. 2d 235 (Fla. 1954); State *ex rel.* Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951); Cocoa Rockledge Drainage Dist. v. Garrett, 140 Fla. 359, 191 So. 687 (1939).

[31]Miller v. Ryan, 54 So. 2d 60 (Fla. 1951).

[32]State *ex rel.* Davis v. Ryan, 118 Fla. 42, 151 So. 416 (1933); Kroegel v. Whyte, 62 Fla. 527, 56 So. 498 (1911).

[33]State *ex rel.* Ginsberg v. Dreka, 135 Fla. 463, 185 So. 616 (1938); Willis v. Special Rd. & Bridge Dist. No. 2, 73 Fla. 446, 74 So. 495 (1917).

[34]Stoudenmire v. West Volusia Hosp. Auth., 113 So. 2d 225 (Fla. 1959); State v. Southeastern Palm Beach County Hosp. Dist., 90 So. 2d 809 (Fla. 1956); Langley v. South Broward Hosp. Dist., 53 So. 2d 781 (Fla. 1951).

[35]Garrett v. Northwest Fla. Reg. Hous. Auth., 152 Fla. 551, 12 So. 2d 448 (1943);

treatment and disposal of sewage and pollution control,[36] and erosion control.[37] Such districts have been upheld against serious contentions that private property would benefit[38] or that the district was formed as part of a collusive scheme to use the power of taxation fraudulently.[39]

Unconstitutional Delegation of the Power to Tax

When the legislature delegates the power of taxation to a district it must set definite limits as to the rate of the levy, the amount to be collected, and the maximum bonded indebtedness to be paid by the tax. The Florida Court, relying upon the requirement of article IX, section 3, of the constitution that no tax shall be levied except in pursuance of law, has struck down legislation that lacked these limitations as unlawful attempts to delegate the taxing power of the state.[40] In *Stewart v. Daytona and New Smyrna Inlet Dist.* the Court said:[41]

> "Taxation is a legislative power, which cannot be delegated; and it can be exercised only pursuant to a valid statute containing definite limitations. The legislative power to tax may be exercised through subordinate governmental agencies within definite limitations fixed by law. If appropriate limitations do not accompany authority that is given to levy a tax, it may in effect be a delegation of the taxing power not permitted by the Constitution."

In some instances, such as flood control districts, the legislature provides that the circuit court shall pass upon the need for such a unit after considering benefits and costs and the sufficiency of the

State *ex rel.* Grubstein v. Cambell, 146 Fla. 532, 1 So. 2d 483 (1941). *But see* Smith v. Housing Auth., 148 Fla. 195, 3 So. 2d 880 (1941).

[36]Town of Palm Beach v. City of West Palm Beach, 55 So. 2d 566 (Fla. 1951).

[37]State v. Anna Maria Island Erosion Prevention Dist., 58 So. 2d 845 (Fla. 1952).

[38]Miller v. Ryan, 54 So. 2d 60 (Fla. 1951); Hunter v. Owens, 80 Fla. 812, 86 So. 839 (1920).

[39]See Burnett v. Greene, 105 Fla. 35, 44, 144 So. 205, 208 (1932) (dissenting opinion).

[40]Merriman v. Hutchinson, 95 Fla. 600, 116 So. 271 (1928); Stewart v. Daytona & New Smyrna Inlet Dist., 94 Fla. 859, 114 So. 545 (1927). *But see* State *ex rel.* Davis v. Ryan, 118 Fla. 42, 158 So. 62 (1934).

[41]94 Fla. 859, 867, 114 So. 545, 547 (1927).

initiating petition.[42] It has been held that such a quasi-judicial or administrative function may properly be delegated to the courts.[43]

Approval of Bonds by Freeholders

Districts have at times been confronted with litigation in connection with the authorization of bonds without an approving vote of freeholders. The constitution expressly prohibits districts and other governmental units from issuing bonds until they have been approved by a majority of the freeholders who are qualified electors.[44] It appears that a vote of freeholders may be required for bonds of districts if ad valorem taxation is to be the funding mechanism.[45] The Florida Court has determined that street improvement certificates payable from proceeds of a special assessment rather than from ad valorem taxes are not bonds requiring a vote of freeholders. It commented that a pledge of special assessments has never been considered to be a pledge of the taxing power.[46] Issuance of revenue certificates secured by service charges without a vote of freeholders has gained judicial approval,[47] as have hospital bonds secured by the pledge of future cigarette tax revenue.[48] Special districts that are not authorized to levy ad valorem taxes could perhaps escape the requirement of freeholder authorization in order to secure adequate financing, since only special assessments or future revenue is pledged. However, the Court will look behind form to substance. If a statute authorizes ad valorem taxation of property to fund certificates of indebtedness for purchase of a road right-of-way but labels it a special tax, the Court will invoke the constitutional prohibition against issuance of the certificates without freeholder approval.[49]

Selection of District Officials

Article III, section 27, of the constitution requires the legislature

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[42]FLA. STAT. §378.12 (1959).

[43]Burnett v. Greene, 105 Fla. 35, 144 So. 205 (1932); Cocoa Rockledge Drainage Dist. v. Garrett, 140 Fla. 359, 191 So. 687 (1939).

[44]FLA. CONST. art. IX, §6.

[45]See State v. Anna Maria Island Erosion Prevention Dist., 58 So. 2d 845 (Fla. 1952).

[46]City of Orlando v. State, 67 So. 2d 673 (Fla. 1953).

[47]State v. City of St. Petersburg, 61 So. 2d 416 (Fla. 1952).

[48]State v. City of Tampa, 72 So. 2d 371 (Fla. 1954).

[49]Yon v. Orange County, 43 So. 2d 177 (Fla. 1949); *accord*, State v. County of

to provide for election by the people or appointment by the governor of all state and county officers. Often a district's enabling or creating statute provides for election of district officials by district voters.[50] At other times the governor appoints members of the district governing body.[51] Sometimes the legislature provides for appointment of tax district officials by some other body, such as municipalities[52] or county commissioners.[53] The Court has rejected the contention that appointment of district officers by anyone other than the governor violates the constitution.[54] It has said that officers of a district are neither state nor county officers, and that hence they are not covered by the provision requiring election or appointment by the governor.[55]

General laws often affect the operation of special tax districts, including regulation of financial matters[56] and disposal of property and funds.[57] Taxing districts have the power to invoke the benefits of the federal bankruptcy laws[58] and to settle and adjust deposits frozen in a bank or in the hands of a liquidator or receiver.[59] To comprehend the complete field of district regulation, various general statutes, in addition to the creating act and court decisions, must be considered in many instances.

Ad Valorem Taxing Power

Special districts raise revenue through assessments on an acreage or other basis, through service charges, or through utilization of ad valorem taxation. It has been said that although special assessments are burdens levied in the form of taxes, there is a clear distinction between special assessments and general taxes:[60]

Manatee, 93 So. 2d 381 (Fla. 1957); State v. Florida State Improv. Comm'n, 60 So. 2d 747 (Fla. 1952).

[50]*E.g.*, FLA. STAT. §§388.081, 336.15 (1959); Fla. Laws Ex. Sess. 1925, ch. 11791.

[51]FLA. STAT. §378.13 (3) (1959).

[52]FLA. STAT. §421.05 (1959).

[53]See State v. Escambia County, 52 So. 2d 125 (Fla. 1951).

[54]Town of Palm Beach v. City of West Palm Beach, 55 So. 2d 566 (Fla. 1951); State v. Escambia County, *supra* note 53; State v. Ocean Shore Improv. Dist., 116 Fla. 284, 156 So. 433 (1934).

[55]Palm Beach v. City of West Palm Beach, 55 So. 2d 566 (Fla. 1951).

[56]FLA. STAT. ch. 218 (1959).

[57]FLA. STAT. §§274.01-.10 (1959).

[58]FLA. STAT. §218.01 (1959).

[59]FLA. STAT. §661.43 (1959).

[60]29 FLA. JUR., *Special Assessments* §2 (1960).

> "A tax is an enforced burden of contribution imposed by sovereign right for the support of the government, the administration of the law, and to execute the various general functions the sovereign is called on to perform. Special assessments, on the other hand, are designed to provide the means to accomplish particular purposes. They place a local or special charge on the land involved on the basis that that land thereby derives a special benefit in addition to the general benefit to the public."

The Florida Court has divided taxing districts into two classes: (1) those in which the improvement is temporary, special, and confined to special work, and (2) those in which the purpose of the improvement is clearly general and permanent in nature.[61] An example of a temporary improvement district is one formed for municipal paving and confined to the single act of construction, whereas drainage districts, which are formed for permanent benefits, operate over a span of years.[62] In both types of districts the purpose must be public and there must be a reasonable benefit to the assessed property. Assessments for paving must have a direct relationship to benefits, however, while permanent benefits can be more general.[63]

The use of ad valorem taxation by a special taxing district has been repeatedly upheld by the Florida Court.[64] Limitations as to benefits that have been imposed upon these ad valorem special districts will be discussed later.

Geographical Limits

Some doubt existed at one time as to whether a special taxing district with ad valorem powers could be created.[65] The problem is intertwined with judicial concern over use of the general taxing power by a special taxing district coextensive with county boundaries in derogation of the role normally played by boards of county com-

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[61]Jinkins v. Entzminger, 102 Fla. 167, 135 So. 785 (1931); Martin v. Dade Muck Land Co., 95 Fla. 530, 116 So. 449, *appeal dismissed,* 278 U.S. 560 (1928).

[62]Martin v. Dade Muck Land Co., *supra* note 61.

[63]*Ibid.*

[64]*E.g.,* Martin v. Dade Muck Land Co., *supra* note 61; Hunter v. Owens, 80 Fla. 812, 86 So. 839 (1920); cases cited note 34 *supra.*

[65]See Samuels, *The Florida Supreme Court and Taxing Districts with Ad Valorem Taxing Powers,* 6 U. MIAMI L.Q. 554 (1952).

missioners. In this regard, the legislature has decreed that each county is to be considered a school district for the control, organization, and administration of schools,[66] even though the school district's boundaries are the same as those of the county. The Supreme Court upheld the statute in 1945.[67]

The Court in 1931 held that a county-wide mosquito control district could be created.[68] The Court said that there was nothing in the constitution prohibiting the legislature from lodging district ad valorem taxing powers in a board of county commissioners or from creating a district to take away from county commissioners all or part of their ordinary powers of supervision and control over functions exercised by the state as a part of the police power.

In *Crowder v. Phillips*,[69] a 1941 case, the Court held, however, that under article IX, section 5, of the constitution the right to assess and impose taxes for county purposes is reposed in the county commissioners and that establishment of a hospital district coextensive with the boundaries of Leon County was unconstitutional. The Court said it was clear that the tax to be imposed was an ad valorem levy on all real and personal property as distinguished from an assessment for special benefits to real property located in the district, that a district could not be created with general taxing authority but must be limited to imposing assessments for special benefits, and that the power of general taxation could be exercised only by the county. The Court decided that advantages to the community from the construction and maintenance of a hospital were not special benefits to real property for which assessments against real estate within the district would be authorized under the special act creating the district. In a later case[70] the Court distinguished *Crowder* when only a part of the county was included within the taxing district, thus weakening the theory that a special district coextensive with the county could not be created.

Multi-county districts have been approved by the Court,[71] as

[66]FLA. STAT. §230.01 (1959).

[67]Fowler v. Turner, 157 Fla. 529, 26 So. 2d 792 (1945).

[68]State *ex rel.* Indian River Mosquito Control Dist. v. Board of County Comm'rs, 103 Fla. 946, 138 So. 625 (1931), *rev'd on other grounds*, 104 Fla. 208, 140 So. 655 (1932).

[69]146 Fla. 428, 1 So. 2d 629.

[70]State v. Southeastern Palm Beach County Hosp. Dist., 90 So. 2d 809 (Fla. 1956).

[71]*E.g.*, State v. Ocean Shore Improv. Dist., 116 Fla. 284, 156 So. 433 (1934); Redman v. Kyle, 76 Fla. 79, 80 So. 300 (1918); Lainhart v. Catts, 73 Fla. 735,

have multi-city units.[72] The validity of a drainage district was sustained even though it included thirty-eight municipalities[73] and over four million acres of land.[74] The Everglades Fire Control District includes portions of eleven different counties,[75] and the Central and Southern Florida Flood Control District also includes numerous counties.[76]

It is submitted that the Court in *Crowder* was more concerned with stripping county commissioners of control over what it conceived to be a legitimate county purpose and with the fact that hospital benefits are peculiarly general than it was in denuding taxing districts of ad valorem powers. It is clear from subsequent cases[77] that districts still possess ad valorem taxing powers, although all cases involved only part of a county. The question of ad valorem taxation by a district encompassing an entire county remains unresolved. Perhaps the outcome will depend on the functional purpose of the district — special benefits can be more easily traced to mosquito districts than to hospital districts.

Sufficiency of Benefits

The Florida Court has utilized the classification of districts as permanent or temporary to determine whether there is sufficient benefit to property to justify imposition of a tax or an assessment on property within a district. When the taxing district is created for a special, temporary purpose and the district is a mere instrumentality for collecting the tax by spreading the cost according to assumed benefits, relief will be afforded the taxpayer if the effect is to impose a grossly unjust or unequal burden on some of the property taxed[78] and if there are no benefits resulting directly, specially, or peculiarly

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75 So. 47 (1917).

[72]Town of Palm Beach v. City of West Palm Beach, 55 So. 2d 566 (Fla. 1951); State *ex rel.* Davis v. Ryan, 118 Fla. 42, 151 So. 416 (1933).

[73]Martin v. Dade Muck Land Co., 95 Fla. 530, 116 So. 449, *appeal dismissed*, 278 U.S. 560 (1928).

[74]State v. Everglades Drainage Dist., 155 Fla. 403, 20 So. 2d 397 (1945).

[75]Fla. Stat. §379.01 (1959); see Government in Florida 2-3, which lists many multi-county districts by name only.

[76]Fla. Laws 1949, ch. 25270.

[77]*E.g.*, Stoudenmire v. West Volusia Hosp. Auth., 113 So. 2d 225 (Fla. 1959); State v. Anna Maria Island Erosion Prevention Dist., 58 So. 2d 845 (Fla. 1952); Langley v. South Broward Hosp. Dist., 53 So. 2d 781 (Fla. 1951).

[78]Jinkins v. Entzminger, 102 Fla. 167, 135 So. 785 (1931).

from the improvement.[79] But when benefits flowing from the district are general and district operations will be permanent, the fact that the benefit to a particular taxpayer's property may be remote or doubtful, or his burden heavy, will not entitle him to relief against an authorized levy to bring about common and general benefits to property in a district.[80] The Florida Court has said in this connection:[81]

> "The extent of the taxing unit may be confined to a designated district or subdivision that may be . . . directly and peculiarly benefited by the application of the tax money to the purpose contemplated. The object may be a matter designed to conserve the public health, comfort and convenience of the inhabitants and others in the particular community, and the mere fact that persons who do not share the tax burden may also be benefited by the undertaking does not affect the governmental power. It is not practicable or contemplated that public benefits shall be shared only by those who bear the burden thereof."

In determining benefits from a permanent district the Court has said that good faith and substantial justice rather than exact equality of benefits and burdens are required and that benefits can have a justifiable basis either in fact or in reasonable expectation.[82] The Court has thus expressed its attitude:[83]

> "It is not essential that all the lands in a drainage district shall receive a direct benefit from the drainage commensurate with the tax burden, nor is it material that lands not in the taxing district may also be benefited, where there is no arbitrary inclusion or exclusion of lands in forming the district, and no arbitrary imposition or apportionment of the tax burden, and no illegal or arbitrary or unreasonable action in the exercise of the power . . . in levying the tax or in the plan or prosecution of the drainage operations."

As construed by the Court there is slight difference between the benefits required from permanent taxing districts and those that

[79]Martin v. Dade Muck Land Co., *supra* note 73.
[80]Jinkins v. Entzminger, 102 Fla. 167, 135 So. 785 (1931).
[81]Hunter v. Owens, 80 Fla. 812, 827, 86 So. 839, 843 (1920).
[82]Martin v. Dade Muck Land Co., *supra* note 73.
[83]*Id.* at 577, 116 So. at 465.

flow from general taxation. The greatest concern of the Court is in finding some benefit, and it can be indirect as long as it is not so remote as to be a guise for imposing taxation on some areas for the special benefit of other areas.

The Florida Court has invalidated districts because there were no traceable benefits. *Consolidated Land Co. v. Tyler*[84] involved the legislative incorporation of a special district in St. Lucie County for the purpose of building a bridge over the Indian River to connect land west of the river with that between the river and the Atlantic Ocean. West of the Indian River is the St. Lucie River, which contains wide sloughs and marshes. Communication by travel east and west of the St. Lucie River was practically non-existent. Yet the legislature included land west of the St. Lucie in the district created to build a bridge across the Indian River. The Court held that the lands west of the St. Lucie River could benefit from construction of the bridge only in a remote and indirect way in common with all land in the county. The tax collector was enjoined from levying on these lands.

In *Willis v. Special Road and Bridge Dist.*[85] the Supreme Court reversed an order of the circuit court validating a bond issue of $300,000 intended to finance road building in a special district over eighty miles in length. The northern end of the district would have received $250,000 of the funds, while only $50,000 would have been spent in the much larger remaining area of the district. Although a majority of the district's voters had approved the bonds, the Court felt that the benefits to some areas of the district were too remote to justify district taxation. In *State v. Anna Maria Island Erosion Prevention Dist.*,[86] however, the Court rejected the contention of non-ocean-front property owners that they should not be taxed by a district composed of the entire island to prevent beach erosion on the ocean side, stating that all property owners of the island would benefit from the improvement.

The Florida Court has approved the inclusion of high, dry lands in drainage districts over allegations that the property could not possibly benefit from drainage[87] or would actually be harmed by it.[88]

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[84]88 Fla. 14, 101 So. 280 (1924).

[85]73 Fla. 446, 74 So. 495 (1917).

[86]58 So. 2d 845 (Fla. 1952).

[87]Martin v. Dade Muck Land Co., *supra* note 73; Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[88]State *ex rel.* Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951).

Personal property can be taxed by a special district under legislative authorization if the owner is a resident of the district or the property is situated therein.[89] However, there must be legislative apportionment of a railroad's rolling stock and other movable personal property to the taxing district before a tax can be levied on it.[90] This is necessary to give the personal property a constructive situs.

There are cases in which there is no actual benefit to any property owners in the district, since taxes for the preliminary expenses of a district can be imposed by the legislature before any improvement is made and even if abandonment occurs.[91]

Contentions that creation of a special tax district fetters property owners with an undue tax burden so as to deprive them of property without due process of law have been rejected, the Court saying that establishment of a district can be invalidated only by a showing of a gross abuse of legislative authority.[92] Likewise, the argument that the imposition of special district levies is double taxation of the property owners has been rejected.[93]

Legislative Determination of Benefits

Sometimes the legislature determines to what extent land within a district will benefit from an improvement and defines the territory to be included in the district.[94] At other times determination of the geographical limits and the benefits to various property in the district is left to the circuit courts[95] or other bodies, such as the board of county commissioners.[96]

The Florida Court has said that apportionment of special assessments within a district by the legislature is a proper function of the lawmakers and that a legislative finding of benefits cannot be reviewed judicially unless it is so devoid of any reasonable basis as to be essentially arbitrary and an abuse of power.[97] However, the Court has

[89]See Atlantic Coast Line R.R. v. Amos, 94 Fla. 588, 115 So. 315 (1927).

[90]*Ibid.*

[91]Cocoa Rockledge Drainage Dist. v. Garrett, 140 Fla. 359, 191 So. 687 (1939); Jinkins v. Entzminger, 102 Fla. 167, 135 So. 785 (1931).

[92]State v. Anna Maria Island Erosion Prevention Dist., 58 So. 2d 845 (Fla. 1952); see State *ex rel.* Davis v. Ryan, 118 Fla. 42, 151 So. 416 (1933).

[93]Martin v. Dade Muck Land Co., 95 Fla. 530, 116 So. 449, *appeal dismissed*, 278 U.S. 560 (1928).

[94]*E.g.*, Fla. Laws 1949, ch. 25270; Fla. Laws 1913, ch. 6456.

[95]See FLA. STAT. §378.12 (1959).

[96]See FLA. STAT. §388.041 (1959).

[97]Smithers v. North St. Lucie Drainage Dist., 73 So. 2d 235 (Fla. 1954); State

found the legislature arbitrary on a number of occasions by voiding inclusion of land within a district for lack of benefits to property.[98]

Greater judicial scrutiny is accorded when assessment of benefits is left to an administrative body.[99] The Court gives due consideration to administrative findings as to the method, rate, or amount of special assessments, but does not consider them as conclusive as similar findings by the legislature.[100]

Assessment and Collection Procedures

When ad valorem taxation is utilized the county tax assessor and collector are generally required by the act authorizing the district to perform assessment and collection duties for the district.[101] This procedure has been approved over the objection that it imposes duties on a class of state or county officers other than municipal in contravention of the constitution.[102] The general law provides for inclusion of special district operating funds in the general budget of boards of county commissioners[103] and establishes maximum millage to be imposed for the various functions to be performed.[104]

When assessments are used to finance a district, the procedure is usually to collect the payments through the tax collector; the assessor has no role to play, since the levy is on a per acreage basis for bonds and maintenance and is established either by the legislature or an administrative body.[105]

Occasionally district supervisors levy a tax that becomes a lien on the land upon certification by commissioners appointed by the court.[106] The general procedure is for district officers to certify the tax to the board of county commissioners, which then has a ministerial duty

ex rel. Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951); Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[98]Consolidated Land Co. v. Tyler, 88 Fla. 14, 101 So. 280 (1924); see State *ex rel.* Davis v. City of Stuart, 97 Fla. 69, 120 So. 335 (1929).

[99]Willis v. Special Rd. & Bridge Dist. No. 2, 73 Fla. 446, 74 So. 495 (1917); see Martin v. Dade Muck Land Co., *supra* note 93.

[100]See Martin v. Dade Muck Land Co., *supra* note 93.

[101]*E.g.*, Fla. Stat. §§336.55, 378.19, 388.221 (1959).

[102]Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917), construing Fla. Const. art. III, §20.

[103]Fla. Stat. §129.01 (1) (1959).

[104]*E.g.*, Fla. Stat. §158.05 (1959) (limiting erosion prevention levy, set by district officials, to 10 mills); *id.* §388.221 (district mosquito control, not over 10 mills); *id.* §336.15 (4) (b) (special tax road district, not over 5 mills).

[105]See State *ex rel.* Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951).

[106]Pinellas Park Drainage Dist. v. Kessler, 69 Fla. 558, 68 So. 668 (1915).

to levy the tax.[107] County commissioners have no authority to reduce or revise a properly certified district levy; the fact that the levy was ordered before the general county tax assessment roll was examined, approved and equalized, and the total valuations of the county finally approved is not a lawful excuse for failure to make the required levy.[108] When failure to impose and collect taxes for a preceding year was inadvertent, the district may certify a levy for past years with its current budget. If the maximum millage for any one year is not exceeded, the county commissioners must assess and collect the amount ordered.[109]

Procedural Due Process

When it is provided that district taxes are to be levied and collected in the same manner as other taxes, as is generally done, there is no lack of due process as to the valuation of property in a district.[110]

The dichotomy of legislative versus administrative determination also exists in deciding whether property owners must receive notice and an opportunity to contest assessment or expenditure by the district. The Court has said that there is no provision of law requiring the legislature to give property owners notice before enacting a law creating a district, since the lawmakers are presumed to have made an investivation before arriving at the decision.[111] Thus the constitutional provision that no person shall be deprived of property without due process of law does not require that notice of district formation or a hearing regarding benefits to included lands be given the property owners.[112] But when the assessment or tax is imposed by an administrative body under authority of a legislative act the landowners must have notice of the proposed assessment and an opportunity to contest it.[113] In voiding an assessment by an administrative unit the Court said:[114]

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[107]State *ex rel.* Indian River Mosquito Control Dist. v. Board of County Comm'rs, 103 Fla. 946, 138 So. 625 (1931), *rev'd on other grounds*, 104 Fla. 208, 140 So. 655 (1932).

[108]*Ibid.*

[109]State *ex rel.* Robertson v. Gessner, 153 Fla. 865, 16 So. 2d 51 (1943).

[110]See Hunter v. Owens, 80 Fla. 812, 86 So. 839 (1920).

[111]Bannerman v. Catts, 80 Fla. 170, 85 So. 336 (1920).

[112]Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[113]Burnett v. Greene, 105 Fla. 35, 144 So. 205 (1932); Redman v. Kyle, 76 Fla. 79, 80 So. 300 (1918); Lainhart v. Catts, *supra* note 112.

[114]Redman v. Kyle, 76 Fla. 79, 86, 80 So. 300, 302 (1918).

> "Where . . . the tax is levied upon land at a rate not specifically fixed by the legislative body, but which rate is fixed by a Board of Supervisors . . . involving, at least, an estimate and an exercise of judgment by such Board, it would be a dangerous doctrine to hold that absolute power resides in such a tribunal, to levy a tax in any such amount as it might choose, even if within restricted limits, without giving notice to the owner . . . ."

The Court has further held that a tax can be levied only if there has been substantial compliance with the express method prescribed by statute.[115]

UNIFORMITY

The legislature, in authorizing the method to be used in assessing benefits, sometimes provides that they may be assessed according to zones set up by the subordinate unit.[116] The Florida Court, in approving higher per acre assessments for agricultural land than for grazing land in the same drainage district, has held that article IX, section 1, of the constitution, which requires a uniform and equal rate of taxation, does not apply to special assessments.[117]

When the district is empowered to levy ad valorem taxes, the general rule is that if the method of assessment is equal and uniform as to all property within the taxing unit, there is no inequality of assessment that would justify equalization.[118]

The Court has allowed two bases of ad valorem assessment within the same district. *Town of Palm Beach v. City of West Palm Beach*[119] involved the legislative creation of a sanitation district encompassing the corporate limits of the two municipalities to control sewage treatment and prevent further pollution of a contiguous lake. By the terms of the act each municipality had to pay one half of the costs incurred by the district. In upholding the act against an attack alleging violation of the uniformity provisions of the constitution, the Court said:[120]

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[115]Certain Lots v. Town of Monticello, 159 Fla. 134, 31 So. 2d 905 (1947).

[116]FLA. STAT. §378.21 (1959).

[117]Smithers v. North St. Lucie River Drainage Dist., 73 So. 2d 235 (Fla. 1954); *accord*, Bannerman v. Catts, 80 Fla. 170, 85 So. 336 (1920); Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[118]Armstrong v. State *ex rel.* Beaty, 69 So. 2d 319 (Fla. 1954).

[119]55 So. 2d 566 (Fla. 1951).

[120]*Id.* at 573.

> "The ad valorem tax authorized to be levied is a special tax for a special purpose. The tax levied in each municipality must be uniform and at an equal rate in each municipality. Even though the rate of taxation may be different in each of the municipalities, such levy does not violate . . . the Constitution so long as the rate is uniform throughout the territory embracing the particular municipality."

Such an attitude is vital to any attempted utilization of the district device to solve metropolitan area and multi-county problems. The cost of separate assessment and collection machinery in a district of this nature would be prohibitive, so it is fortunate that the Court decided that uniformity for district purposes can be achieved by uniformity within units of the district.

Homestead Exemption

The $5,000 exemption granted homesteads from taxation in Florida by article X, section 7, of the constitution has resulted in litigation concerning the attached single constitutional exception, "except for assessments for special benefits." Only four years after the people approved the exemption from taxation in 1934 the Florida Court, apparently hostile to the exemption, broadly construed "except for assessments for special benefits" to allow an ad valorem levy against homesteads for hospital and road and bridge district purposes.[121] In holding that homesteads must share in the legitimate expense of administering special assessment districts the Court said:[122]

> "It would be a strange doctrine to hold that homesteads were not benefited by a hospital, highway, bridge, or other improvement they had been burdened to bring into existence. Such improvements are a benefit to homestead and non-homestead property . . . . It would be manifestly inequitable and unfair to impose the cost of their upkeep on non-homestead property alone and Section Seven of Article Ten clearly does not require it to be done."

It did not take long for the Court to adopt the "strange doctrine" which is "manifestly unfair and inequitable." Only one year later

[121]State *ex rel.* Ginsberg v. Dreka, 135 Fla. 463, 185 So. 616 (1938).

[122]*Id.* at 465, 185 So. at 617.

the Court held that a levy by a school district could not be imposed upon homesteads because it was not a special assessment for benefits to property in the district but a tax in aid of the uniform system of free public schools.[123]

A clear indication of the Court's present attitude toward special district taxation and homestead exemption is expressed in the 1956 case of *Fisher v. Board of County Comm'rs.*[124] Upon petition, the Dade Board of County Commissioners ordered a referendum to determine whether a special district should be set up to provide paving, street repairs, and street lighting for a rural area. District voters approved the district, and 93 of 134 qualified voters approved the issuance of bonds to finance the improvement. The district was to utilize the power of ad valorem taxation, and homesteads were not exempt. The Court in a penetrating opinion stated:[125]

> "An assessment for special benefits must be 'according to' or must have a 'relation to' or some 'reference to' the special benefit resulting to the particular property assessed in order to bring it within the exceptions to the homestead exemption.
>
> ". . . .
>
> "[There is an] inherent inequality between ad valorem valuation and special benefits . . . .
>
> ". . . .
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> [T]he principle is clear that the framers of the constitutional exemption and the people who approved it manifestly intended that an imposition based on assessed valuation whether for local improvement or general government is one from which homesteads are exempt, while an assessment bearing a logical relation to direct 'special benefits' is one to which homesteads may be subjected."

The Court held that in the absence of proof that all property in the district would *actually benefit* in proportion to its evaluation from the improvements contemplated, the ad valorem levy against homesteads, although apparently approved by the homesteaders, infringed the constitutional exemption.

The Court has also held that a municipality could not make an ad valorem levy against homesteads to acquire revenue to defray

123State *ex rel.* Clark v. Henderson, 137 Fla. 666, 188 So. 351 (1939).

12484 So. 2d 572 (Fla. 1956).

125*Id.* at 577, 579.

the expenses of garbage and trash collection, despite the contention that the service was of direct and substantial benefit to the homesteads served.[126] Likewise, benefits to the people of a county from the operation of a county health unit will not support an ad valorem levy against homesteads made under the guise of an assessment for special benefits.[127]

There are a number of attorney-general opinions in this area. They state that homesteads cannot bear the brunt of district ad valorem levies or assessments to construct and maintain hospitals,[128] to maintain and repair roads except for direct benefits,[129] or to provide for mosquito control.[130]

The pendulum has swung, and "assessments for special benefits" under the present interpretation require direct benefits to homesteads. It is unlikely that an ad valorem levy against homesteads will be sustained. Doubt is cast upon assessments against homesteads even when the district purpose is of general and permanent benefit. The Court said in 1945, however, that it is well settled that the constitutional and statutory exemption from taxation is limited to taxation for state and county purposes and has no reference to special assessments.[131] It is unlikely that the indirect benefit the Court used to uphold an ad valorem tax in a drainage district in 1928[132] would today justify a levy against homesteads, although it would still be sufficient to impose a tax on non-homestead property.[133]

Other Exemption Problems

Exemption problems other than those involving homesteads have found their way into the courts and legislative halls. The legislature has the right to declare that state property may be assessed for local improvements, and a constitutional exemption of state property from taxation does not prevent such a grant.[134] Furthermore, payment by

[126]City of Fort Lauderdale v. Carter, 71 So. 2d 260 (Fla. 1954).

[127]Whisnant v. Stringfellow, 50 So. 2d 885 (Fla. 1951).

[128]1957-58 REP. ATT'Y GEN. FLA. 365.

[129]1957-58 REP. ATT'Y GEN. FLA. 236.

[130]1949-50 REP. ATT'Y GEN. FLA. 418, *aff'd*, OP. ATT'Y GEN. FLA. 056-244 (1956).

[131]State v. Everglades Drainage Dist., 155 Fla. 403, 20 So. 2d 397 (1945).

[132]Martin v. Dade Muck Land Co., 95 Fla. 530, 116 So. 449, *appeal dismissed*, 278 U.S. 560 (1928).

[133]See Town of Palm Beach v. City of West Palm Beach, 55 So. 2d 566 (Fla. 1951).

[134]State *ex rel.* Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951); State

the state of special district assessments does not violate article IX, section 6, of the constitution, which prohibits the state from paying bonds through state taxation.[135]

The Florida statute exempting property of educational, literary, benevolent, fraternal, charitable, and scientific institutions from taxation provides that nothing in the subsection is to be construed as "applying to special assessment by municipalities for sidewalks, curbing, street paving or other local improvements."[136] The Florida Court has also stated that article IX, section 1, of the constitution, authorizing exemption of property from taxation by law for purposes similar to those listed in the statute does not apply to special assessments but is confined to taxation for state and county purposes.[137] It is also proper for the legislature to declare the property of a duly constituted district to be exempt from general taxation.[138]

Remedies for and Against Districts

The question of the legality of a district or its assessments can come before the courts in different ways. The district is entitled to mandamus to compel county commissioners to levy and collect an authorized tax,[139] and in such a proceeding the county commissioners have no standing to raise the question of inadequacy of benefits to district taxpayers.[140] A district is also entitled to mandamus to compel the state to pay assessments on state lands.[141]

Mandamus is a proper remedy to compel a district to make a levy of taxes to pay off outstanding judgments[142] and to force the district to make payments on bonds. In such a case the district cannot, with-

v. Everglades Drainage Dist., *supra* note 131.

[135]Martin v. Dade Muck Land Co., *supra* note 132.

[136]Fla. Stat. §192.06 (3) (1959).

[137]State v. Everglades Drainage Dist., 155 Fla. 403, 20 So. 2d 397 (1945).

[138]State v. Escambia County, 52 So. 2d 125 (Fla. 1951); State *ex rel.* Grubstein v. Cambell, 146 Fla. 532, 1 So. 2d 483 (1941). *But see* Smith v. Housing Auth., 148 Fla. 195, 3 So. 2d 880 (1941).

[139]*E.g.*, State *ex rel.* Robertson v. Gessner, 153 Fla. 865, 16 So. 2d 51 (1943); State *ex rel.* Indian River Mosquito Control Dist. v. Board of County Comm'rs, 103 Fla. 946, 138 So. 625 (1931), *rev'd on other grounds*, 104 Fla. 208, 140 So. 655 (1932); see State *ex rel.* Ginsberg v. Dreka, 135 Fla. 463, 185 So. 616 (1938).

[140]State *ex rel.* Indian River Mosquito Control Dist. v. Board of County Comm'rs, *supra* note 139.

[141]State *ex rel.* Bd. of Supervisors v. Warren, 57 So. 2d 337 (Fla. 1951).

[142]State *ex rel.* Vans Agnew v. Upper St. Johns River Nav. Dist., 102 Fla. 183, 135 So. 784 (1931).

out prejudice to the taxpayers, assert the rights of individual landowners by claiming an abuse of legislative power in creating the special district.[143]

A taxpayer can challenge the legality of a district assessment rate by a suit against the tax collector to restrain collection of the tax.[144] A bill praying for an injunction is an improper method of challenging the authority or legal existence of a district board, however; and if there are no allegations in the bill that there is no need to maintain district improvements, that the special tax was not apportioned or was excessive, or that the complainant's lands received no benefits, the district is entitled to a motion to dismiss the bill.[145]

The question of the legality of the district can arise in bond validation proceedings in which taxpayers can intervene;[146] it has been challenged in a suit to quiet title to lands of a property owner within the district.[147]

A suit for a declaratory decree has been utilized on a number of occasions to test the validity of special acts concerning taxing districts.[148]

When district officers are unavailable, a judgment creditor should pursue a writ of mandamus to secure appointment of replacements to levy a tax for payment of the judgment. It is reversible error for a lower court to appoint a receiver for this purpose, since statutory authority to appoint a receiver is limited to cases in which there has been a default in payment of bonds or coupons.[149]

The Governmental Role of Districts

State legislatures throughout the United States are faced with the crucial problem of providing governmental services to the public

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[143]State *ex rel.* Davis v. Ryan, 118 Fla. 42, 151 So. 416 (1933).

[144]*E.g.*, Jinkins v. Entzminger, 102 Fla. 167, 135 So. 785 (1931); Consolidated Land Co. v. Tyler, 88 Fla. 14, 101 So. 280 (1924); Lainhart v. Catts, 73 Fla. 735, 75 So. 47 (1917).

[145]Atlantic Land & Improv. Co. v. Peace Creek Drainage Dist., 135 Fla. 694, 185 So. 618 (1938).

[146]Stewart v. Daytona & New Smyrna Inlet Dist., 94 Fla. 859, 114 So. 545 (1927); Willis v. Special Rd. & Bridge Dist. No. 2, 73 Fla. 446, 74 So. 495 (1917).

[147]Burnett v. Greene, 105 Fla. 35, 144 So. 205 (1932).

[148]Smithers v. North St. Lucie Drainage Dist., 73 So. 2d 235 (Fla. 1954); Miller v. Ryan, 54 So. 2d 60 (Fla. 1951); State v. Everglades Drainage Dist., 155 Fla. 403, 20 So. 2d 397 (1945).

[149]Cocoa Rockledge Drainage Dist. v. Garrett, 140 Fla. 359, 191 So. 687 (1939).

at the lowest possible cost. Recently Florida's state association of county commissioners pointed out to a legislative committee that ad valorem taxes, the major source of county revenue, have reached their limit and that additional sources of revenue are needed.[150]

The problem of supplying economical services and an efficient government is most acute in metropolitan and urban fringe areas. American living patterns have undergone two tremendous changes in the past century, shifting first from a predominantly rural to an urban society and then from a basically urban to a metropolitan society.[151] Municipal corporations have developed sufficiently to handle urban conditions, but there has not been a similar development to fill the needs of the new metropolitan communities, which ignore old geographic and political lines in their mastication of the countryside. This rapid expansion has tremendously increased the problems of government.[152]

Annexation of metropolitan areas or the urban fringe by core cities is one solution of the problem of providing efficient governmental service for suburbanites.[153] In Florida there are few constitutional impediments to annexation by special legislation, even though the area to be annexed expressly disapproves the proposal. Political expediency and the fact that the people select governmental officials militate against annexation over the desires of residents of the area.

City-county consolidation or federation is another solution of metropolitan area problems, but it has often failed because of a recalcitrant legislature or voter approval requirements.[154]

The present course of passing innumerable special acts and general laws creating special taxing districts that provide only one function is the least desirable answer. Advocates of special districts argue that when the areas needing service are not identical with existing governmental units, general governments become overloaded with functions and give poorer service. They contend that undivided attention to specific functions yields better results.[155] Opponents of special dis-

[150]Florida Times-Union, Sept. 3, 1960, p. 19, col. 1.

[151]See COMMITTEE FOR ECONOMIC DEVELOPMENT, GUIDING METROPOLITAN GROWTH (Aug. 1960); KANTOR, GOVERNING OUR METROPOLITAN COMMUNITIES (1958) (Pub. Adm'n Clear. Serv., U. of Fla.).

[152]GUIDING METROPOLITAN GROWTH, *supra* note 151, at 14.

[153]See ADRIAN, GOVERNING URBAN AMERICA 244-46 (1955); BOLLENS, SPECIAL DISTRICT GOVERNMENTS IN THE UNITED STATES 53-57 (1957).

[154]See ADRIAN, *op. cit. supra* note 153, at 249-50; BOLLENS, *op. cit supra* note 153, at 57-61.

[155]See SNIDER, LOCAL GOVERNMENT IN RURAL AMERICA 252-54 (1957).

tricts point to the increased costs of duplication of personnel, inefficient utilization of equipment, and inability to save by central purchasing and integrated housekeeping.[156] The most severe criticism leveled at special districts is of the failure to recognize the interdependence of governmental functions and hence to balance the various needs of a community for services. In many instances there is no method by which a district can coordinate its activities and its budget with general government. Special districts also encourage rigidity in financing, since funds are earmarked for a specific purpose, freezing the flexibility of government in instances in which one fund is depleted while others have substantial reserves.

If the county government is hesitant to assume the duty of supplying services and annexation fails, the next best approach is to absorb the districts into multi-purpose units,[157] with the possible exception of school units, in which need for fiscal and administrative independence is demonstrably greater. The Committee for Economic Development points out, against the contention that centralization of government takes control away from the people, that failure to establish metropolitan governments with wide powers will lead to a greater loss of self-determination in local affairs through the continuous transfer of responsibility to the state and federal governments.[158]

CONCLUSION

As Florida becomes increasingly urbanized, demands for city-type services in the urban fringe will multiply. The Florida answer so far has often been local legislation setting up special taxing districts, regardless of whether existing governments could adequately handle the situation. There is a place for the special taxing district in Florida, for example, when the function is one that needs the coordinated attention of several counties. Utilization of metropolitan districts[159] is one way to alleviate pressing problems of the larger Florida communities, although the metropolitan government granted Dade County by article VIII, section 11, of the constitution is perhaps a better solution.

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[156]*Ibid.*; see ADRIAN, *op. cit. supra* note 153, at 256; BOLLENS, *op. cit. supra* note 153, at 259-63; GUIDING METROPOLITAN GROWTH, *op. cit. supra* note 151, at 30.

[157]See BOLLENS, *op. cit. supra* note 153, at 260-61.

[158]GUIDING METROPOLITAN GROWTH, *op. cit. supra* note 151, at 9.

[159]See Tobin, *The Legal and Governmental Status of the Metropolitan Special District*, 13 U. MIAMI L. REV. 129 (1958).

It is to be hoped that the legislative record for 1961 and subsequent sessions will be bare of local acts creating intra-county, single-purpose districts. Local legislative delegations should look with more favor upon forced annexation of the urban fringe. This will not produce a magic disappearance of urban fringe problems. Supplying needed improvements to the annexed area will prove vexing to the municipality, and the additional tax burden will be protested vehemently by the suburbanites. It is believed, however, that in the long run annexation will prove beneficial to all concerned because of ultimate benefits from area-wide regulation of land use, a broader approach to common problems, comparatively more efficient services, and economies attributable to centralized operations.

If annexation is rejected, the next best solution is to encourage boards of county commissioners to provide the needed services, utilizing either a special ad valorem tax or assessments against the areas benefited. If the intra-county, independent district must remain on the scene, new functions should be given to existing districts rather than to specially created units.

The *Crowder* case illustrates how the Florida Supreme Court can help in halting the trend toward fractionated government by restoring exclusive control over general ad valorem taxation to county commissioners. *Crowder* stands as authority for the proposition that a district with ad valorem taxing powers extending throughout a county cannot be created. The Court would be wise to extend the rationale of *Crowder* to other peculiarly county-wide governmental purposes, regardless of whether the need for the service exists in a part or all of the county.

Judicial tools are available in many of the state constitutional provisions to invalidate special districts without straining construction of the organic law. If the legislature fails to fulfill its responsibility to the people of Florida to provide efficient and economical government, the Florida Court, with ample regard for legislative intent, can tighten the rules so as to curtail wholesale legislative reliance on special taxing districts.

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