

# **Board of County Commissioners**

## **Agenda Request**

Date of Meeting: May 3, 2010

Date Submitted: April 22, 2010

To: Honorable Chairman and Members of the Board

From: Commissioner Kessler

Subject: Request Board Approval to Direct Staff and County Attorney to Draft an Ordinance Creating a Wakulla County Energy Improvement District

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### **Statement of Issue:**

This agenda item requests the Board to direct staff and County Attorney to write a draft ordinance that would create a Wakulla County Energy Improvement District in order to reduce energy consumption and provide job opportunities for Wakulla County.

### **Background:**

In these economically troubling times, it is important to reduce the consumption of energy for many reasons. Two such reasons are to reduce purchase of foreign oil and to reduce the amount of money our citizens have to pay to heat and cool their homes. One of the most efficient and economical means of energy conservation and lowering utility bills is weatherization. Properly protecting a home and its interior from the elements can reduce energy consumption and optimize energy efficiency.

While Florida has mandated statewide residential building codes which exceed 2006 International Energy Conservation Codes, a full 97% of the state's housing stock was built before those standards were adopted. Therefore, a large pool of homes exists in need of retrofitting to meet or exceed modern energy efficiency and conservation standards.

The United States Congress, in 42 U.S.C. § 6851, set forth its desire to encourage and facilitate the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units. In 42 U.S.C. §§ 6861-6873, Congress provides for assistance in weatherizing dwellings owned or occupied by low-income persons. In §§ 409.509 - 409.5093, Florida Statutes, the Florida Legislature has provided a means for the weatherization of low-income residences. As a result, the Florida Department of Community Affairs administers a Weatherization Assistance Program (WAP), which is funded by the U.S. Department of Energy and U.S. Department of Health and Human Services, to provide grant funds to community action agencies, local governments, Indian tribes and non-profit agencies, for the purpose of reducing the monthly energy burden on low-income households in Florida by improving the energy efficiency of their homes.

In connection with the Federal Stimulus Program, the State of Florida is devising a residential retrofit program consisting of \$15 million in both grants and loans. All applicants must undergo an energy

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audit. The state anticipates program participants will see at least a 20% reduction in energy consumption. The program will likely provide for up to \$3,000 rebates incentives and up to \$5,000 in low interest loans.

In an effort to facilitate such state and federal programs and to be on the forefront of promoting energy conservation, the County could consider creating a special district with non ad-valorem assessment authority.

Article VII, Section 10 of the Florida Constitution provides that the county shall not give, lend or use its taxing power or credit to aid any corporation, association, partnership or person. Section 125.01(1), Florida Statutes (2008) grants the county the power to carry on county government to the extent not inconsistent with general or special law. This includes the power to establish and administer housing and conservation programs, Section 125.01(1)(j), Florida Statutes, and to borrow and expend money, Section 125.01(1)(r), Florida Statutes (2008).

Section 197.3632, Florida Statutes provides for the uniform method for the levy, collection and enforcement of non-ad valorem assessments.

**Analysis:**

While many local governments have sought specific statutory authorization to create such districts and to provide for their powers, duties, and structure, there is another theory which states that counties, pursuant to §125.01, Florida Statutes (Home Rule Powers) can enact same without the authorizing statutes. The 2010 Florida Legislature is considering a number of proposed Bills which would provide specific statutory authorization for such districts. We have requested that if any such legislation is adopted, that it recognizes any preexisting districts which have been created and “grandfathered” under the new Bills.

Since this Energy Improvement District would not be a “taxing district” but would rather act as a special district with non ad-valorem assessment authority, we are much more comfortable that we have the Home Rule Authority under Chapter 125, Florida Statutes, to create such a district. The participation in the energy program by individual homeowners or businesses would be purely on a voluntary basis, and the Energy Improvement District would provide the methodology for funding and a repayment system utilizing non-ad valorem assessments on the annual tax bill for purposes of repayment. This would both address the issues of the methodology of financing these energy improvements, plus avoid the concerns of the constitutional prohibitions on local governments being able to “loan” general public funds.

Additionally, this District could be utilized to be the grant applicant and recipient of many of the energy grants which are now becoming available from both the State of Florida and the United States

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government. These grant monies could be utilized both for direct assistance through the Energy Improvement District as well as to provide “seed money” for the assessment program.

**Options**

1. Direct staff and County Attorney to draft an Energy Conservation District.
2. Do not approve staff and County Attorney to draft an Energy Conservation District.
3. Board Direction.

**Recommendation**

Option #1

**Attachments:**

1. Benefits of Energy Conservation Districts
2. Recently passed ordinance of Leon County