



## Upper Captiva Fire & Rescue District

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Hon. Matt Caldwell, Chair  
Lee County Legislative Delegation

November 7, 2013

Re: Upper Captiva Fire Protection and Rescue Service District

Dear Chairman Caldwell:

Thank you for the opportunity to address the Lee County Legislative Delegation with regard to urgent challenges facing the Upper Captiva Fire Protection and Rescue Service District.

As a small, but critical, fire district serving a bridgeless barrier island (North Captiva) with the overwhelming portion of the land in state lands, tight budgets issues are the norm. Somehow, this small district has been able to construct and maintain a fire station, with used equipment, and to operate with two to three firefighters on duty at all times.

The district suffers from three major problems:

1. First, it receives no state funding for coverage of the state lands.
2. Secondly, it continues to suffer the lingering effects of the Great Recession after the rest of the county has shown at least some recovery.
3. Thirdly, the constantly increasing mandates from both regulations and rating agencies are placing undue financial burdens upon the district.

Consequently, we are asking that the state legislature take action in the upcoming legislative session to provide direct funding or a source of funding to allow this district to be able to retain its qualifications as a recognized fire district, to perform its functions, to provide for an acceptable level of staffing, and to prohibit outside agencies from indirectly mandating unreasonable financial burdens on the fire district in order for their (and your) constituents to purchase insurance.

1. As to the lack of funding for state lands, the district is required to provide service to the entire island, including the state-owned park land that covers about 50 % of the island mass. Additionally, the district is expected to cover nearby Cayo Costa Island, which is nearly all state park but does have some private land.
2. Although the district has asked for some funding support over the years, that has never been approved. While it is understandable that the state would not want to have to make payments

in lieu of taxes for every state land or state park, or to every local government, the case is very different when dealing with small bridgeless barrier island made up of primarily state land. The benefit inures to all of the people of the state as well as island owners and at least some of the burden should be shared by the public in general.

Request: The district requests funding in the amount of \$250,000 per year from the state for additional firefighters and/or equipment for the next three years.

2. As to the economic situation, the property appraisal for this year for the island shows a decrease of almost 5% in property values. This was surprising, as the values stabilized throughout most of Florida and for Lee County. It is likely that the lingering effects of the economy and the small pool of comparable sales have skewed the valuations. Whatever the reason, the district has seen a significant decrease in revenues for (over 56%) in the last five years.

Request: See 1 above.

3. As to the regulatory and ratings systems, the district would offer the following:

a. Regulations:

1. It is painful for a fire district to ask for relief that seems to be contrary to the trend for greater safety. However, while the requirement of having four certified firefighters on duty and available to fight a fire at all times is laudable, and workable in most agencies in the country, it is just not workable under the legislatively-imposed millage cap in Florida, in a very small district. That cap may have worked when property values were increasing but not since 2008.

The fire marshal did provide some relief from the four-firefighter mandate this year when it repealed a rule that essentially made the Insurance Services Office (ISO, a private rating agency) a surrogate legislature. That rule should have never been allowed to take effect in the first place and only the state legislature can reign in the non-elected code creating regulators (many of whom do not even live in Florida).

The legislature is prohibited from foisting unfunded mandates upon cities (without super-majority) and it should be vigilant to not allow anybody else to do it to any local government without the legislature's knowledge and approval.

Request: The district requests that the legislature provide a means of obtaining a waiver from the requirement of having four firefighters in order for small districts and districts who are having difficult financial problems to phase in the provision over a period of three to five years.

2. Other than ad valorem taxes, a fire district may raise revenue from non-ad valorem assessments. Fire departments in many cities and some districts are using this method.

However, as to special fire districts, the first assessment must be approved by referendum. The district submitted such a referendum to the voters in 2012 and it was narrowly defeated. One of the things that grates the property owners the most is that the voters may or may not be property owners and vice versa.

Request: That the legislature consider eliminating the referendum requirement for special assessments, or at least for some types of assessments in section 191.009 (2) (“...or the first-time levy of non-ad valorem assessments in a district”). This would put special fire districts on the same par as city fire departments.

3. The ISO is ostensibly a private rating agency for insurance companies in setting rates for your constituents. However, it has morphed into an agency having the power and nearly the “color” of law due to its ability to leverage often bureaucratic mandates upon local governments in conjunction with non-elected, non-legislature-controlled fire code drafters. In many cases the meetings of the people who create these rules are out of state and non-public. By the time they become public, the train has left the station.

While the fire marshal removed the overt requirement of minding the ISO ratings this year, more is needed. The same office that regulates the fire code is the one that regulates insurance (office of the CFO). The legislature makes policy for both division.

Request: That the legislature adopt legislation to prohibit insurers in Florida from increasing rates based upon ratings that are based upon mandates not specifically approved by the legislature. Alternatively, that any insured and/or any agency in a community for which a rating has been increase by more than one level, may appeal that rating increase to the CFO and be entitled to an administrative hearing before DOAH.

A couple of final thoughts:

1. This has nothing to do with union activity. This district does not have a union.
2. This has little to do with more regulation. It has to do with stanching the increase of outside regulation. It has to do with the legislature regaining its rightful oversight of the regulatory power granted to it by the Florida Constitution that is being diluted by over-delegation to the executive branch and to outside actors.

It is respectfully requested that the legislature assist this small barrier island district to stay on its feet during what is hoped to be the twilight of this difficult economic time.

Very truly yours,



Edward L. McDonald, Chair