

STORAGE NAME: h3543z.ca
DATE: May 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: 1ST ENG/ HB 3543
RELATING TO: Bonita Springs Fire Control and Rescue District
SPONSOR(S): Representative Livingston
COMPANION BILL(S): SB 2714 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (2) FINANCE & TAXATION (W/D)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 3543 was passed by the House Committee on Community Affairs on March 10, 1998, with 1 amendment. The amended bill was withdrawn from the House Committee on Finance & Taxation on March 31, 1998. The bill passed the House on April 24, 1998, by a vote of 120 YEAS and 0 NAYS, and was ordered engrossed. The engrossed bill was received by the Senate on April 29, 1998 and was referred to the Senate Committee on Rules and Calendar. It was withdrawn from the Senate Committee on Rules and Calendar on May 1, 1998, and placed on the Senate Local Calendar. The Senate passed 1ST ENG/HB 3543 on May 1, 1998, by a vote of 40 YEAS and 0 NAYS. The bill became chapter 98-464, Laws of Florida.

II. SUMMARY:

This bill codifies all prior special acts relating to Bonita Springs Fire and Rescue District. In addition to the codification, this bill also makes some changes to the current charter.

The bill changes the budget procedures and requirements of the District by making the general law dealing with determination of millage applicable. The Board is required to both advertise and hold tentative budget and final budget meetings. The dates on which the estimation of the millage assessment and budget adoption must occur are also eliminated.

This bill also eliminates the requirement that the treasurer make semiannual reports of receipts and expenditures of the District. The bill removes the commission and fee charged for having the tax assessed and collected.

Although the Lee County independent fire control district's bill preempted several of the charter's provisions, this bill explicitly states that the pertinent provisions of that bill are applicable to the election of the District's Board and the powers of the Board.

In addition, this bill provides that the District's powers and duties are not limited to its charter. The District is subject to the Lee County Independent Fire Control District Act and

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the provisions of the general law act titled the Independent Special Fire Control District, and any other applicable general or special law.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Codification

The 1997 Legislature created chapter 191, Florida Statutes, to provide for codification of fire control districts' charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, was created by the 1997 Legislature. That section requires that no changes be made to a special district's charter as it exists on October 1, 1997, in the codifying legislation. However, in the 1997 interim, some districts expressed the need to request substantive changes to their charters but because of the number of amendments (special acts) to their charters, they do not have time to codify. This provision was not placed in chapter 191, Florida Statutes.

As a result of the provisions of section 189.429, Florida Statutes, the Chair of the Committee on Community Affairs issued a Memorandum on October 3, 1997, explaining the policy of the Committee for charter codifications for the 1998 Legislative Session. The proposed submittal schedule applies to fire control districts. In part the Memorandum states:

1. Although two bills are preferable (one to codify and one to accomplish the substantive change), the House Committee on Community Affairs will accept one bill (containing the codification and substantive change).
2. The substantive change, if included in the codifying local bill, **must be advertised** clearly and concisely, i.e., "a substantive change to the charter is being sought affecting membership of the Board," or whatever change(s) is applicable.
3. If a substantive change is needed to a District's charter this Session, but codification is too large a task to accomplish at the same time, the Committee will hear bills for any substantive changes that a legislative delegation deems necessary.
4. The Committee will accept voluntary charter codifications from any district for the 1998 Legislative Session. A schedule for submitting the codifying charter is attached and is based on the number of special acts a district currently enjoys. The attached proposed schedule of submittals is based on an extended deadline of 2004, which must be accomplished legislatively. The Committee will have a bill to address this issue during the 1998 Legislative Session. Keep in mind, if they choose to do so, a district may submit its codification earlier than the proposed schedule indicates.

Status Statement Language

Also, section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

Current Charter Provisions

Currently, Bonita Springs Fire and Rescue Control District is governed by not only its own charter, but also by chapter 97-340, Laws of Florida. The current charter provides for its boundaries, taxing authority up to 3 mills, and the authority to make rules and regulations for the prevention of fire. The charter also provides for the fiscal year to begin October 1. It also provides that the District's tax shall be assessed and collected in the same manner as county taxes. In addition, a 3% commission and fee charged for the collection of taxes is provided for. The charter provides for semiannual reports from the treasurer to the Board regarding the District's accounts and receivables. The charter also provides District elections be held on the first Tuesday after the first Monday in November of even-numbered years.

Chapter 97-340, Laws of Florida, Provisions

Chapter 97-340, Laws of Florida, establishes standards and procedures concerning the operations and governance of independent special fire control districts in Lee County. The law provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of such districts to ensure greater accountability to the public. The law requires each fire control district in Lee County, whether created by special act or general law of local application to comply with the "Lee County Independent Special Fire Control District Act."

District Board of Commissioners

Section 5 of chapter 97-340, Laws of Florida, provides for the election of the district board of commissioners, including its membership, officers, and meetings. This section requires the business affairs of each district to be conducted and administered by a five-member board which is elected in nonpartisan staggered elections by the electors of the district. Candidates for the board are required to qualify with the county supervisor of elections. Except as specifically stated in the Act, elections must be held at the same time and in the same manner as prescribed by law for holding general elections in accordance with section 189.405(2)(a) and (3), F.S. Each member is elected for a term of four years and serves until the member's successor is chosen and qualified.

Candidates for the Board may qualify by paying a \$25 filing fee or providing petitions of at least 25 registered electors of the district on forms provided by the supervisor of elections. The forms are to be submitted and checked in the same manner as petitions filed by nonpartisan judicial candidates pursuant to section 105.035, F.S.

If, on the effective date of this Act, a district presently elects members of its board, the next election must be conducted in accordance with this section. This section does not require the early expiration of any member's term of office by more than 60 days.

Board members assume office on the first Tuesday following the first Monday in January of the succeeding year following the election. Within 60 days after the newly-elected members have taken office, the board must organize and elect its officers. Funds of the district may only be disbursed upon order or resolution of the board. A "petty cash" account is authorized.

Members of the board may each be paid a salary or honorarium which is determined by at least a majority-plus-one vote of the board. Such salary or honorarium is prohibited from exceeding \$500 per month for each member. Members may be reimbursed for travel and per diem expenses pursuant to section 112.061, F.S.

When a vacancy occurs on the board, the remaining members are permitted to appoint a qualified person to fill the seat until the next general election, at which time an election must be held to fill the vacancy. Upon assuming office, each member must take and subscribe to the oath of office and within 30 days after assuming office, give a surety bond in the sum of \$1,000. The cost of such bond is borne by the district.

The board is required to maintain records of all meetings, resolutions, proceedings, certificates, bonds given by commissioners, and corporate acts. The records are open to inspection in the same manner as state, county, and municipal records are open under chapter 119, F.S. All meetings of the board are open to the public and governed by chapter 286, F.S., section 189.417, F.S., and other applicable general laws.

Powers of the District

The district's general governmental powers, which may be exercised by majority vote, include but are not limited to the following:

- To provide for a pension or retirement plan for its employees. The board is also authorized to provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees.
- To adopt resolutions and procedures prescribing the powers, duties, and functions of the officers of the district, the conduct of the business of the district, the maintenance of records, and the form of other documents and records of the district. The board is also authorized to adopt ordinances and resolutions that are necessary to conduct district business.
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate for any purpose authorized in the Act.
- To hold, control, and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by the Act.
- To borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes, and assessments, warrants, notes, or other evidence of indebtedness, and to mortgage real and personal property when necessary.
- To charge user and impact fees authorized by resolution of the board, in amounts necessary to conduct district activities and services, and to enforce their receipt and collection "in the manner prescribed by resolution not inconsistent with law."
- To exercise the power of eminent domain pursuant to chapter 73, F.S., or chapter 74, F.S., over any property within the district, except municipal, county, state, special district, or federal property used for a public purpose. Eminent domain may only be exercised for district purposes relating solely to the establishment and maintenance of fire stations and substations.
- To assess and impose upon real property in the district ad valorem taxes and special assessments.

- To impose and foreclose special assessment liens or to impose, collect, and enforce non-ad valorem assessments pursuant to chapter 197, F.S.

Special Powers of the District

Independent special fire control districts in Lee County are granted “special powers” relating to the provision of fire suppression and prevention, which involves the establishment and maintenance of fire stations and substations and the acquisition and maintenance of firefighting and fire-protection equipment deemed necessary to prevent or fight fires. The board is authorized to carry out the following powers:

- Establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to chapter 401, F.S., and any certificate of public convenience and necessity or its equivalent issued for those purposes.
- Employ, train, and equip firefighting and other personnel, including volunteer firefighters, as necessary to accomplish the duties of the district.
- Conduct public education to promote awareness of methods to prevent fires and reduce loss of life and property.
- Adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal.
- Conduct arson investigations and cause-and-origin investigations.
- Adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency, as provided in chapter 252, F.S.
- Contract with general-purpose local government for emergency management planning and services.

Taxes and Assessments

Districts are authorized to levy ad valorem taxes and non-ad valorem assessments for district purposes. Each district is authorized by this general provision to levy ad valorem taxes up to 3.75 mills, upon voter approval, notwithstanding lower millage caps in the special acts of individual districts. This provision applies unless a higher amount has previously been authorized. In that event, the higher, previously authorized rate applies. With respect to user charges, the board is permitted to provide a schedule of charges for emergency services, including firefighting occurring in or to structures outside the district.

The board may establish a schedule of impact fees, if the general-purpose local government has not adopted an impact fee for fire services. The schedule of impact fees must be in compliance with any standards set by general law for new construction to pay for the cost of new facilities and equipment. The board may enter into agreements with general-purpose local governments to share in the revenues from fire protection impact fees imposed by such governments.

Bonds

Independent special fire control districts in Lee County are authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidences of indebtedness to finance all or part of any proposed improvements by this act or under general law or special law. The total annual payments for the principal and interest on such indebtedness must not exceed 50% of the total annual budgeted revenues of the district. The bonds are payable from the non-ad valorem assessments or other non-ad valorem revenues, including user fees or charges or rental income authorized by this act or general law. No proceedings may be required for the issuance of bonds other than those provided by this section and by general law. Detailed and lengthy provisions are set forth relating to issuance of bonds and the use of bond proceeds, and authority is given for the issuance of refunding bonds.

Boundaries and Mergers

There are conditions under which the boundaries of an independent special fire control district are permitted to be modified, extended, enlarged or dissolved. Lands may be added or deleted from a district only by special act of the Legislature, subject to a referendum vote.

The merger of a district with all or part of another independent special district or dependent fire control district is effective only when it is ratified by the Legislature. A district's merger with another governmental entity is not justification for increasing the ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless such increase is approved by the electors of the district by referendum.

A district may only be dissolved by special act of the Legislature, subject to referendum vote of the electors of the district. If legislative dissolution of a district is proposed in order to consolidate fire services under county government, the county is required to prepare a report describing the plans for merger. The county commission is required to consider the report at a public hearing. If the report is adopted by the commission, the request for legislative dissolution is permitted to proceed. The report must be filed as an attachment to the economic impact statement regarding the special act or general law of local application dissolving the district.

Chapter 200, Florida Statutes, Provisions

This chapter deals with the determination of millage and provides for procedures which are to be followed once the District's Board determines its proposed millage rate. It provides that a noticed public meeting must be held in which the tentative budget is adopted or amended. Following the adoption of the tentative budget, the District shall place a notice in a publication stating its intention to adopt the budget and millage rate. An additional public meeting is then held and a final budget and millage rate is adopted. Following the adoption of the resolution, the District must notify the Department of Revenue within 30 days of compliance with this chapter. This chapter also provides the form in which the budget and the millage rate must be noticed.

The manner in which the property appraiser shall notify each taxpayer of the assessment is addressed in section 200.069, Florida Statutes.

The maximum millage rate allowed is also addressed in this chapter, as is the procedure to increase millage.

B. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to Bonita Springs Fire and Rescue District. In addition to the codification, this bill also makes some changes to the current charter.

The bill changes the budget procedures and requirements of the District by making the general law dealing with determination of millage, chapter 200, Florida Statutes, applicable. The Board is required to both advertise and hold tentative budget and final budget meetings. The dates on which the estimation of the millage assessment and budget adoption must occur are also eliminated.

This bill also eliminates the requirement that the treasurer make semiannual reports of receipts and expenditures of the District. The bill removes the commission and fee charged for having the tax assessed and collected.

Although chapter 97-340, Laws of Florida, preempted several of the charter's provisions, this bill explicitly states that the pertinent provisions of that bill are applicable to the election of the District's Board and the powers of the Board.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapters 65-1828, 68-90, 69-1242, 81-414, 96-500, and 96-545, Laws of Florida and section 6 of chapter 87-447, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Creates intent that this act is to codify all prior special acts relating to the Bonita Springs Fire Control and Rescue District. Provides that this act preserves all District authority including the ability to annually levy a maximum 3 mills per annum on taxable property within the District.

Section 2: Codifies all prior special acts relating to the Bonita Springs Fire Control and Rescue District.

Section 3: Creates the Bonita Springs Fire Control and Rescue District and describes the boundaries of the District.

Section 4: Provides that the District shall be governed by a five-member Board which is elected by the electors of the District pursuant to chapter 97-340, Laws of Florida.

Section 5: Provides that within 60 days of the election, the Board shall meet and elect a president, secretary, and treasurer. Provides that the Board may exercise both general and special powers as prescribed by chapter 97-340, Laws of Florida.

Section 6: Authorizes the District to establish and maintain emergency medical and rescue response services. Provides that the District may acquire and maintain equipment.

Section 7: Authorizes the Board to make rules and regulations relating to fire prevention, fire control and rescue work within the District. Provides that after adoption of such rule, the rule or regulation will be effective after ten days of it being posted at three public places, one being a fire station.

Section 8: Requires the Board to prepare and adopt a budget.

Section 9: Requires the Board to levy on all real and personal property, a millage sufficient to meet the requirements of the adopted budget. The maximum tax which can be levied in one year is 3 mills.

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Section 10: Provides that the taxes shall be assessed and collected in the same manner in which county taxes are assessed and collected.

Section 11: Provides for the tax collector's responsibility in collecting, reporting and remitting the collected taxes to the Board's treasurer.

Section 12: Provides that all expenses are payable by warrant on the accounts and vouchers approved and authorized by the Board.

Section 13: Requires the treasurer to give a bond for the faithful performance of the treasurer's duties. The premium of the bond is paid from District funds.

Section 14: States that this bill shall be remedial and construed liberally.

Section 15: Provides a severability clause.

Section 16: Repeals chapters 65-1828, 68-90, 69-1242, 81-414, 96-500, and 96-545, Laws of Florida, and section 6 of chapter 87-447, Laws of Florida.

Section 17: Provides an effective date of upon becoming a law.

IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 12, 1997

WHERE? Naples, Florida; Naples Daily News

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

V. COMMENTS:

In comparing this bill with the current charter, it appeared that it enlarged the boundaries of the District. The additional land is land which was previously in the District but was removed in 1996 by chapter 96-500, Laws of Florida. This addition of land raised a concern since under chapter 97-340, Laws of Florida, a District must hold a referendum and receive elector approval prior to the District's boundaries being enlarged or modified. This bill did not provide for such a referendum.

After further review, it appears as though this land was inadvertently removed by chapter 96-500, Laws of Florida. Attached is a letter from the Bonita Springs Fire Control and Rescue District's director which explains that the property is already within the boundaries of the

District and has been since 1968. This property was mistakenly removed from the District in 1996. Even though chapter 96-500, Laws of Florida, removed the property, in actuality, the property remained in the District and is still in the District. Since the boundaries of the District are not being modified, no referendum is required.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike everything amendment, agreed to by the sponsor, was adopted by the Committee on Community Affairs on March 10, 1998. The amendment removes all coding and allows the charter to become law in a reader-friendly form. The initial coding of the bill is preferable for research purposes. However, at the conclusion of the research effort, the coding serves no useful purpose. In keeping with the purpose of the special districts' codification effort, the amendment produces an up-to-date and reader-friendly document.

The strike everything amendment also complies with section 189.404(5), Florida Statutes, by inserting "an independent special district" into section 3.

In addition, the strike everything amendment provides that the District is subject to provisions of chapter 97-340, Laws of Florida, chapter 191, Florida Statutes, and any other applicable general or special laws.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Laura L. Jacobs

Joan Highsmith-Smith

FINAL RESEARCH PREPARED BY COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Joan Highsmith-Smith