

STORAGE NAME: h1115.ca

DATE: March 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1115

RELATING TO: North Naples Fire Control & Rescue District, Collier County

SPONSOR(S): Representative Goodlette

COMPANION BILL(S): None

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

- (1) Community Affairs
- (2) Governmental Operations
- (3) Finance & Taxation
- (4)
- (5)

I. SUMMARY:

The bill codifies all prior special acts relating to the North Naples Fire Control and Rescue District in Collier County into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district.

The bill conforms the District's charter with the provisions of the "Independent Special Fire Control District Act."

The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

This bill does not make any substantive changes to current law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Codification & Status Statement

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exists on October 1, 1997, in the codifying legislation and that all prior Legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 191.015, Florida Statutes, by (i) extending the deadline to codify to December 1, 2004, (ii) allowing for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs, and (iii) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline. In addition, section 189.429, Florida Statutes, was amended by removing the prohibition of substantive amendments in a district's codification bill.

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.

Chapter 191, Florida Statutes, Provisions

Chapter 191, Florida Statutes, is the "Independent Special Fire Control District Act." The "Independent Special Fire Control District Act's (Act)" purpose is to establish standards and procedures concerning the operations and governance of the 53 independent special fire control districts, and to provide 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 Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply. The section provides that it is the intent of the Legislature that this Act supersede all special acts or general laws of local application provisions that contain the charter of an independent special fire control district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted. The Act's provisions include, but are not limited to, the following issues:

- Authority to impose ad valorem tax at a rate up to 3.75 mills, upon voter approval;
- Authority to adopt resolutions and ordinances, as long as the ordinances do not conflict with the local general purpose government's ordinances;
- Authority and procedures to assess non-ad valorem assessments, user charges and impact fees when the Legislature has authorized impact fees and the local government does not have an established impact fee for fire services;
- Authority to issue bonds, pursuant to law, to provide district improvements;
- Authority to merge or change boundaries upon Legislative approval;
- Authority to form five-member boards, except where Legislative authority allows three-member boards and provides for membership, officers and meetings;
- Authority to exercise the right and power of eminent domain pursuant to general law;
- Authority to provide emergency rescue response services, including Advanced Life Support services;

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- Exemption from taxation on public property used for public purposes by the district; and
- Prescribes general and special powers.

B. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the North Naples Fire Control & Rescue District in Collier County into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district.

The bill states that Chapters 191, 189, 170, 192, 197, and 200, Florida Statutes, are applicable to the District's charter provisions.

The bill removes obsolete language which was preempted by applicable chapters and inserts applicable chapter language into the District's charter.

The bill provides that the District's charter may only be amended by special act.

The bill provides that District boundaries may be modified after a special act is passed and approved at a special election by the residents in the affected area.

The bill provides for tax levying procedures if property of the District is annexed by the City of Naples. The bill declares that if there is a conflict with a provision of this act and a provision of another act, then this act controls.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 61-2032, Laws of Florida; Chapter 75-359, Laws of Florida; Chapter 76-349, Laws of Florida; Chapter 77-532, Laws of Florida; Chapter 77-533, Laws of Florida; Chapter 78-493, Laws of Florida; Chapter 80-488, Laws of Florida; Chapter 80-491, Laws of Florida; Chapter 82-283, Laws of Florida; Chapter 83-390, Laws of Florida; Chapter 84-416, Laws of Florida; Section 1 of Chapter 88-519, Laws of Florida; Chapter 89-448, Laws of Florida; Chapter 89-455, Laws of Florida; Sections 1 and 3 of Chapter 91-375, Laws of Florida; Chapter 96-512, Laws of Florida; and all references to the North Naples Fire Control and Rescue District contained in Chapter 98-489, 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 ANALYSIS:

Section 1: Provides that this act is the District's charter codification required under sections 189.429 and 191.015, Florida Statutes (1998).

Section 2: Codifies, reenacts, amends and repeals special acts relating to the District's charter.

Section 3: Recreates and reenacts the North Naples Fire Control and Rescue District as follows:

ARTICLE I -- Preamble

Section 1: Establishes charter for North Naples Fire Control & Rescue District and provides District's purpose.

Section 2: Repeals all prior special acts; Provides for amendments to charter by special act; provides that this codification shall be construed to preserve all District powers.

Section 3: Provides that the District is organized and exists pursuant to Chapter 191, Florida Statutes.

ARTICLE II -- Name of District

Section 1: States the name of the District.

Section 2: Declares that the District is an independent special district and a body corporate and politic.

ARTICLE III -- Boundaries of the District

Section 1: Describes the District boundaries.

Section 2: Provides for boundary changes and special election.

Section 3: Provides for ad valorem tax levying procedures if District property is annexed; Relieves the District from providing service to the annexed area; Allows for agreement with municipality regarding indebtedness of District allocated to the annexed property; Provides that the annexed property is not relieved of obligation to District incurred prior to annexation.

ARTICLE IV -- Powers of the District

Section 1: Grants the District the authority to establish, operate, etc. a fire department and rescue squad; Grants the District the authority to buy, sell, lease, or otherwise acquire and dispose of firefighting and rescue equipment and other related real and personal property; Grants the authority to hire firefighters and other personnel; Allows for the providing of water; Allows for the acceptance of gifts and donations; Provides the authority to do all other things necessary to carry out the District's functions; Grants the District the authority to extend its services outside the District when in cooperation with another governmental entity.

Section 2: Grants the authority to establish and maintain emergency medical and rescue response services or any other certificate of public convenience and necessity or its equivalent.

Section 3: Grants the power to borrow funds to provide for three months operating expenses.

Section 4: Grants the authority to inspect and investigate all property for fire hazards; provides for resolution providing for assessment of fees for fire inspection and maintenance and replacement of fire hazards; Allows for the creation of lien or civil enforcement of such assessments.

Section 5: Authorizes the promulgation of rules and regulations for the prevention of fire and for fire control.

Section 6: Grants duties and powers of the District's governing board.

ARTICLE V -- Governing Board

Section 1: Provides that the District's governing board consists of five commissioners who reside in the District.

Section 2: Provides for assumption of office; Provides for the organization of the Board of Commissioners.

Section 3: Allows for compensation of board members; Provides maximum compensation; Provides for additional allowance for secretary-treasurer.

Section 4: Provides for reimbursement of travel and per diem expenses.

Section 5: Provides for removal of commissioner and states grounds for removal.

Section 6: Provides for Board's procedural operation.

ARTICLE VI -- FINANCES

Section 1: Provides for the District's powers, functions, and duties relating to ad valorem taxation, bond issuance, other revenue raising capabilities, liens, budget, non-ad valorem assessments and fees, and other methods which the District may be financed.

Section 2: Provides the fiscal year of the District and requires the Board to prepare a tentative budget and to advertise and hold hearings regarding such budget.

Section 3: States that the District may levy upon the property within the District a special tax not exceeding 1 mill in any fiscal year; Provides for millage increase by referendum.

Section 4: Provides for the procedures in which the tax is collected.

Section 5: Requires the tax collector to report and remit to the secretary-treasurer the collection made for the preceding month.

Section 6: Provides that all expenses incurred by the Board in carrying out this act shall be payable by the secretary-treasurer.

Section 7: Grants the power to issue general obligation bonds, assessment bonds, notes, or other indebtedness; Allows the District to pledge its full faith, credit, and taxing power for capital projects consistent with District's purpose; Requires referendum prior to issuance of bonds, except refunding bonds; Allows the District to pledge its full faith, credit, and taxing power for the payment of obligation bonds; Allows for issuance of bonds for more than one purpose and provides approval procedure; Provides that bonds constitute legal investments and that they may be used as security; Provides that bonds are incontestable in the hands of a bona fide purchaser; Provides that the State will not alter the rights of the District in fulfilling terms of agreement with bond holders; Provides that default is not a debt or obligation of a local general-purpose government or the State.

Section 8: Grants the authority to assess and collect impact fees for capital improvements on new construction; States that Collier County is a fast growing area and the District's capabilities to provide services is strained; States that additional equipment and facilities will be needed to service the new growth; Declares that the cost of new users of the District's services shall be borne by the new users; Declares that the impact fees for capital improvement are just, reasonable, and equitable; Requires that fees must be paid prior to obtaining a building permit for residential dwellings, commercial/industrial structures, and mobil home development; Provides maximum fee charges per square foot; Provides for inclusion of specific buildings in definition of residential dwelling unit; Provides inclusion of specific buildings in definition of commercial structure; Requires impact fees for capital improvements to be maintained in a separate fund; Restricts use of fees; Requires the maintenance of records; Provides that the District Board determines the amount of impact fees; Authorizes a 50 percent reduction in impact fees if the permitted structure is installed with approved fire sprinklers.

ARTICLE VII -- Elections

Section 1: Provides for reimbursement to county for costs of referendum or special elections.

Section 2: Provides the procedures for conducting any district elections or referenda; Provides for elector qualifications.

ARTICLE VIII -- Eminent Domain

- Grants power of eminent domain; Provides limitations of power; Requires that the location and construction of fire stations comply with applicable Collier County ordinances.

ARTICLE IX -- Miscellaneous

- Section 1: Provides that all existing contracts, obligations, resolutions, and policies shall remain valid and in full force and effect.
- Section 2: Provides that the terms of office of the present District board and terms and conditions of employment are not affected by this act.
- Section 3: Provides for financial disclosure, notices, reporting, public records, and planning.
- Section 4: Provides for act's control if there are conflicting provisions.
- Section 5: Provides for the severability of any unconstitutional provision.
- Section 6: Repeals special acts relating to the District's charter.
- Section 7: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

- A. NOTICE PUBLISHED? Yes No
IF YES, WHEN? December 20, 1998
WHERE? 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

IV. COMMENTS:

In 1998, the Legislature passed Chapter 98-489, Laws of Florida. This chapter allows the five fire control districts in Collier County to retain the three-member governing boards as long as the districts' governing boards adopt a resolution which is later approved by the electors of the district. If the resolution is not approved, the districts' governing boards are required to convert to five-member boards pursuant to section 191.005(1)(a), Florida Statutes. No such referendum was held regarding the North Naples Fire Control & Rescue District so the District's governing board is comprised of five members.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A technical amendment which revises the bill's repeal section has been agreed to by the sponsor. The amendment repeals *all* prior special acts relating to the District's charter, even those special acts which have previously been repealed by other special acts. The concern is that if a special act which contains a repealer provision is repealed, then the special act which was previously repealed no longer remains repealed. By repealing *all* special acts, the intent behind codifications is satisfied as all special acts relating to charter provisions are repealed.

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VI. SIGNATURES:

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