

STORAGE NAME: h1579.ca
DATE: April 1, 1999

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

BILL #: HB 1579
RELATING TO: South Walton Fire District, Walton County
SPONSOR(S): Representative Kilmer
COMPANION BILL(S): SB 2574 (s)

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

- (1) COMMUNITY AFFAIRS
- (2) FINANCE & TAXATION
- (3)
- (4)
- (5)

I. SUMMARY:

This bill codifies all existing Walton County ordinances relating to the South Walton Fire District (District) in Walton County into a single special act.

The bill conforms the District's charter to the provisions of the Independent Fire Control District Act.

The bill restricts the District's authority to levy ad valorem tax to its current millage rate of not to exceed 1 mill.

The bill declares the District to be an independent special district.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The South Walton Fire District (District) was created on August 9, 1983, by county ordinance number 83-6. On September 20, 1983, an election was held where a majority of the people within the District approved the creation of the District. The purpose of the District is to provide fire protection and other services in emergency and crisis situations. The District is governed by a seven member board of commissioners. Two commissioners are elected from each of the three precincts, and there is one at-large seat. To serve, a member must be an elector of Walton County, a resident of the District, and a resident from the precinct in which elected. The District is authorized to levy 1 mill, but currently only levies .83 mills.

The size of the District is 84 square miles in South Walton, and it serves 10,000 residents. The District currently employs 33 persons and has five volunteers. The District owns four fire engines, one ladder truck, and one tanker truck. In 1998, the District received 1,770 calls. In January and February of 1999, the District received 294 calls. There has been a 40 percent increase in calls in the District between 1997 and 1998 due to the rapid population growth. The average response time to calls is 5 minutes.

Codification

The 1997 Legislature created chapter 191, Florida Statutes, to provide for codification of fire control district 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 (1) extending the deadline to codify to December 1, 2004; (2) 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 (3) 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, subsection 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 determination or declaratory statement of the Department of Community Affairs regarding the status of the district.

Chapter 191, Florida Statutes, Provisions

Chapter 191, Florida Statutes, is the "Independent Special Fire Control District Act" (Act). The Act's 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.

District Board of Commissioners

Section 191.005, Florida Statutes, 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. Districts which currently have three-member boards were required to increase to five members unless a special act was enacted after 1997 which provides that they are three-member boards. Although a special act is needed to have fewer than five members, a district can have more than five commissioners on its governing board. Pursuant to paragraph (c) of subsection 191.005(1), the Act does not require the elimination of board seats from those boards with more than five commissioners.

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 subsections 189.405(2)(a) and (3), Florida Statutes. Each member is elected for a term of 4 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, Florida Statutes.

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.

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, Florida Statutes.

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, Florida Statutes. All meetings of the board are open to the public and governed by chapter 286, Florida Statutes, section 189.417, Florida Statutes, 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, Florida Statutes, or chapter 74, Florida Statutes, 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, Florida Statutes.

Special Powers of the District

Independent special fire control districts 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, Florida Statutes, 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, Florida Statutes.
- 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 percent 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.

B. EFFECT OF PROPOSED CHANGES:

This bill codifies all existing Walton County ordinances relating to the South Walton Fire District (District) in Walton County into a single special act. The bill conforms the District's charter to the provisions of the Independent Fire Control District Act.

The bill restricts the District's authority to levy ad valorem tax to its current millage rate of not to exceed 1 mill. The bill declares the District an independent district.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

None.

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 District boundaries.

Section 2: Declares that the District is an independent district under chapter 191, Florida Statutes; grants general and specific powers to the District pursuant to sections 191.006 and 191.008, Florida Statutes; provides that this Act controls if there is a conflict with any provision in chapter 191, Florida Statutes.

Section 3: Provides for a seven-member governing board; provides for election precincts; provides commissioner qualifications; provides for board officers; provides duties of officers; prohibits compensation to commissioners; allows commissioners to be reimbursed for expenses incurred in executing their duties; requires commissioners to execute surety bond; provides that the board shall pay for the bond premium.

Section 4: Provides for 4-year terms for commissioners; provides that vacancies are filled by appointment by the remaining commissioners; requires appointee to meet commissioner qualifications.

Section 5: Requires minutes of meeting; requires vote of majority of commissioners for board action; provides that meetings and minutes are open to the public.

Section 6: Authorizes the board to levy a 1 mill ad valorem tax on taxable property within the District; provides for the tax to become a lien if unpaid; provides enforcement and collection of tax; provides lien superiority; allows the District to accept gifts and donations; authorizes the District to have community projects for fund-raising purposes; provides that the District's fiscal year begins October 1 of each year.

Section 7: Requires the board to notify the property appraiser of its assessments; requires the property appraiser to include the District's taxes in the notice of proposed property taxes.

Section 8: Authorizes the board to borrow money for District purposes; restricts total amount of indebtedness the District may incur; allows for the pledging of tax collection as security for loans; provides that no member is liable for District loans; requires the District to apply tax proceeds to the payment of loan principal and interest; prohibits the board to create indebtedness or incur obligations for any sum that it was unable to pay out of current district funds.

Section 9: Restricts the use of District funds to specific purposes and expenses.

Section 10: Provides penalty of a misdemeanor of the second degree for any person who violates this Act or any rule adopted pursuant to this Act.

Section 11: Ratifies and confirms all acts of the Board of Fire Commissioners taken prior to this Act.

Section 12: Provides effective date of becoming a law, except the provisions of the Act become effective on the date in which the results of a referendum, held within 2 years of this Act becoming a law, are certified; requires the District to pay for referendum expenses.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [] No [X]

IF YES, WHEN?

WHERE?

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B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to one amendment inserting a codification provision which provides that this bill is intended to be the board's codification.

VI. SIGNATURES:

COMMITTEE ON Community Affairs:
Prepared by:

Staff Director:

Laura L. Jacobs

Joan Highsmith-Smith