

STORAGE NAME: h1487.ca

DATE: March 30, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1487

RELATING TO: Okaloosa Co./Destin Fire Control

SPONSOR(S): Representatives Melvin and others

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

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

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

An impact fee for new construction might be implemented for fiscal year 2000-01 and 2001-02 resulting in \$100,000.00 in new revenues for the District according to the Economic Impact Statement.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Destin Fire Control District was created by special act of the Legislature in 1971, chapter 71-787, Laws of Florida. The charter for the District was repealed when the charter for City of Destin was approved in 1973, chapter 73-446, Laws of Florida. The District was reincorporated in 1982, chapter 82-335, Laws of Florida.

The District is approximately 21 squares miles in Okaloosa County and serves a population of 12,000 permanent residents. The District currently employees 26 employees. The District owns three engines, one ladder truck, and has seven service vehicles. The District responded to 2500 calls in 1999 with an average response time of four minutes.

Codification

Codification is the process of bringing a special act up-to-date. Special acts are not codified and, after the Legislature passes the initial enabling act, special acts continuously amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments or changes made to the act since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to go to one special act to determine the current charter of a district, instead of two, ten, twenty, or sometimes more special acts.

Section 191.015, Florida Statutes, provided 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 which required that no changes be made to a special districts 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 was amended by removing the prohibition of substantive amendments in a districts codification bill.

To date, five independent special fire control districts have codified pursuant to section 191.015, Florida Statutes. Those fire control districts are:

Florosa Fire Control District	Ch. 99-479, L.O.F.
Lee County Bonita Springs Fire Control District	Ch. 98-464, L.O.F.
North Bay Fire Control District	Ch. 98-470, L.O.F.
North Naples Fire District	Ch. 99-450, L.O.F.
Ocean City-Wright District	Ch. 99-478, L.O.F.

The South Walton Fire District attempted to codify its charter during the 1999 Legislative Session. However, the codification bill died on the House calendar on April 30, 1999.

There are some independent special fire control districts which do not have to codify as they do not have more than one special act. Most of these independent special fire control districts previously were governed by ordinances. However, these ordinances were preempted by chapter 191, Florida Statutes, (see section 191.004, Florida Statutes). Some independent special fire control districts have codified their charter even though they currently do not have any special acts. These codifications are generally a restatement of chapter 191, Florida Statutes.

Status Statement Language

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 departments 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" (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 supersedes 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. Chapter 191, Florida Statutes, also does not repeal any authorization providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other charges.

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 chapter 191, Florida Statutes, 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 must qualify by paying a filing fee equal to 3 percent of the salary or honorarium paid for the office, or a filing fee of \$25, whichever is more. In the alternative, candidates may qualify by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors, or any lesser amount of signatures as directed by chapter 99, chapter 582, or other general or special law. No election or party assessment shall be levied if the election is nonpartisan. 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 a district presently elects members of its board, the next election must be conducted in accordance with section 191.005, F.S. 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 \$5,000. 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 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.

C. EFFECT OF PROPOSED CHANGES:

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

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

The bill declares that the District is an independent special district and that the District's charter may only be amended by special act.

The bill does not modify the District's current boundaries.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Repeals all prior special acts relating to the District.

Section 2: Provides that the charter of the District is recreated and reenacted to read:

Section 1: Provides for the boundaries of the District as an independent fire control district and a public municipal corporation; provides that the District may sue and be sued and may lease, own, possess, and convey real and personal property; provides that if any property is held not to be included within the District, the balance of the territory shall be the boundaries of the District; provides that notwithstanding the incorporation of the City of Destin, the tax levied by the District shall be included in the minimum amount of revenue to be raised in order for the City of Destin to qualify for revenue sharing funds;

Section 2: Provides that the purposes to the act: to comply with the codification required under section 191.015, Florida Statutes; to provide standards, direction, and

procedures concerning the operation and governance of the District; to provide greater uniformity between the District and other districts; to provide greater uniformity in the financing authority of the District without hampering the efficiency and effectiveness of current authorized and implemented methods and procedures and raising revenues; to improve communication and coordination between the District and other local governments with respect to short-range and long-range planning to meet demands for service delivery while maintaining fiscal responsibility; to provide uniform procedures for electing members of the governing board of the District to ensure greater accountability to the public.

Section 3: Provides definitions.

Section 4: Provides that the provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act in the interest of public safety.

Section 5: Provides for the board of commissioners, terms of office, officers, and meetings.

Subsection (1) provides that the business and affairs of the District shall be conducted and administered by a board of five commissioners, who shall reside in the District; provides that the board shall be elected in nonpartisan elections by the electors of the District; provides that the elections shall be held in accordance with section 189.405(2)(a) and (3), Florida Statutes, and that each member shall be elected for a term of 4 years and serve until the member's successor assumes office; provides that candidates for the board shall qualify with the Okaloosa County Supervisor of Elections; provides that all candidates may qualify by paying a filing fee of at least \$25 or by obtaining the signatures of at least 25 registered electors of the District.

Subsection (2) provides that the officer of each member of the board shall be designated as being a seat on the board and that each candidate for a seat on the board shall designate the seat for which the candidate is qualifying; provides that the name of each candidate shall be included on the ballot in a way that clearly indicates the seat for which the candidate is a candidate; provides that the candidate for each seat who receives the most votes shall be elected to the board.

Subsection (3) provides that each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term.

Subsection (4) provides that each member of the board shall assume office 10 days; provides for the election of officers; provides that funds of the District may be disbursed only upon the order or pursuant to resolution of the board; provides that a petty cash account may be authorized by the board and that the board may give the treasurer additional powers and duties that it deems appropriate.

Subsection (5) provides that members of the board may each be paid a salary or honorarium to be determined by at least a majority plus one vote of the board, not to exceed \$500 per month per member; requires special notice of any meeting at which the board will consider a salary change for a board member; provides separate compensation may be authorized for the board member serving as treasurer, not to exceed \$500 per month; provides that members may be reimbursed for travel and per diem expenses as provided in section 112.061, Florida Statutes.

Subsection (6) provides that if a vacancy occurs on the board, the remaining members may appoint a qualified person to fill the seat until the next general election; provides that the board shall remove any member who has three consecutive absences from regularly scheduled meetings; provides that the board shall adopt policies by resolution defining excused and unexcused absences.

Subsection (7) provides that each member shall take an oath of office; provides that each member shall execute a surety bond.

Subsection (8) provides that the board shall keep a permanent record book in which the minutes of all meetings, resolutions, proceedings, certificates, bonds, and corporate acts shall be recorded; provides that the record book shall be open to inspection and kept at the office or other regular place of business maintained by the board of the District.

Subsection (9) provides that all meetings of the board shall be open to the public consistent with chapters 286 and 189.417, Florida Statutes, and other applicable general laws.

Subsection (10) provides that the officers of the board shall have the duties usually pertaining to like officers; provides that a record shall be kept of all meetings of the board and that a concurrence of a majority of the commissioners shall be necessary for any affirmative action by the board unless otherwise required.

Subsection (11) provides that the books and records of the District shall be audited as outlined in section 11.45(3)(a), Florida Statutes.

Subsection (12) provides that no suit, action, or proceeding shall be instituted or maintained in court against the District or commissioners unless the person making the claim gave notice in writing within 30 days after the accrual of the claim along with details and witness information to enable the commissioners to fully investigate it; provides that no suit, action, or proceedings shall be instituted within three months after such notice shall have been given.

Section 6: Provides the general powers of the District to be exercised by majority vote of the board.

Subsection (1) provides for the District to sue and be sued, to adopt and use a seal, and to make and execute contracts and other instruments.

Subsection (2) allows the District to provide a pension or retirement plan for its employees; provides that the board may provide for an extra-compensation program to reward outstanding employees whose performance exceeds standards.

Subsection (3) provides for the contracting of services of consultants to perform planning, engineering, legal, or other professional services.

Subsection (4) authorizes the District to borrow money and accept gifts, to apply for and use grants, loans, or other property of the United States, the state, a unit of local government, or any person for any district purpose, and to enter into agreements and take action related thereto.

Subsection (5) authorizes the District 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; provides that the board may also adopt ordinances and resolutions that are necessary in order to conduct District business provided these do not conflict with any ordinances of the general purpose local government; provides that any resolution or ordinance adopted by the board and approved by referendum vote may only be repealed by referendum vote; requires all rules and regulations to conform to chapter 120, Florida Statutes.

Subsection (6) authorizes the District to maintain an office at places it designates within a county or municipality in which the District is located and appoint an agent of record.

Subsection (7) authorizes the District to acquire real and personal property for any purpose authorized by this act and to trade, sell, or otherwise dispose of surplus real or personal property; provides that the board may purchase equipment by an installment sales contract if funds are available.

Subsection (8) allows the District to hold, control, and acquire by donation or purchase, any public easement, dedication to public use, platted reservation for public purpose, or reservation for those purposes authorized by the act and to use this for any purpose authorized by this act consistent with applicable local government comprehensive plans and land development regulations.

Subsection (9) provides that the District may lease as lessor or lessee to or from any person, firm, corporation, association, or body, any facility or property of any nature for the use of the district when necessary to carry out the district's duties and authority under this act.

Subsection (10) provides that the District may borrow money and issue bonds, revenue anticipation notes, or certificates.

Subsection (11) provides that the District may charge user and impact fees.

Subsection (12) provides that the District may exercise the right and power to eminent domain over any property within the District pursuant to chapters 73 and 74, Florida Statutes, except municipal, county, state, special district, or federal property.

Subsection (13) provides that the District may cooperate or contract with other persons or entities, including other governmental agencies, as necessary for providing effective mutual aid and furthering any power, duty, or purpose authorized by this act.

Subsection (14) provides that the District may assess and impose upon real property ad valorem taxes and non-ad valorem assessments.

Subsection (15) provides that the District may impose and foreclose non-ad valorem assessment liens or impose, collect, and enforce non-ad valorem assessments pursuant to chapter 197, Florida Statutes.

Subsection (16) provides that the District may select as a depository for its funds any qualified public depository.

Subsection (17) provides that the District shall have the power to provide adequate insurance on all real and personal property, equipment, employees, volunteer firefighters, and other personnel.

Subsection (18) provides that the District may organize, participate in, and contribute monetarily to organizations or associations relating to the delivery or improvement of fire control, prevention, emergency rescue or district administration.

Subsection (19) provides that no contract shall be made or entered into by or on behalf of the District for a period in excess of 20 years.

Section 7: Provides that all assets and properties of the District are exempt from all taxes imposed by the state or any political subdivision, agency, or instrumentality of the state.

Section 8: Provides that the District shall provide for fire suppression and prevention by establishing and maintaining fire stations, fire substations, and firefighting and fire protection equipment; provides that all construction shall be in compliance with applicable state, regional, and local regulations; provides that the board shall have and may exercise any or all of the following special powers relating to facilities and duties authorized by this act:

Subsection (1): Establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency medical equipment

Subsection (2): Employ, train, and equip such personnel and train, coordinate, and equip such firefighters, including volunteers, as are necessary to accomplish the duties of the District; provides that the board may employ and fix the compensation of a fire chief or chief administrator and define the duties of such person; provides that the fire chief or chief administrator may employ or terminate the employment of such other persons as are necessary and authorized by the board; provides that the compensation and other conditions of employment of the officers and employees of the District shall be provided by the board.

Subsection (3): Conduct public education.

Subsection (4): Adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal.

Subsection (5): Conduct arson investigations and cause-and-origin investigations.

Subsection (6): Adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency.

Subsection (7): Contract with general purpose local government for emergency management planning and services.

Section 9: Provides for ad valorem taxes, non-ad valorem assessments, impact fees, and user charges.

Subsection (1) provides that the board of commissioners may levy and assess ad valorem taxes on all taxable property in the District; provides that the ad valorem tax

may not exceed 1.0 mills; provides that the levy of ad valorem taxes must be approved by referendum; provides that a referendum shall not be required when previously approved; provides that such tax shall be collected in the same manner as county taxes; provides that the levy of ad valorem taxes approved by referendum shall be reported to the Department of Community Affairs; provides that the millage rate shall be fixed by annual resolution of the board.

Subsection (2) provides that the District may levy non-ad valorem assessments as defined in section 197.3632, Florida Statutes; provides that the rate of such assessment must be fixed by resolution of the board; provides that non-ad valorem assessment rates set by the board may exceed the maximum rates not to exceed the average annual growth rate in Florida personal income over the previous five years; provides that non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition; provides that proposed non-ad valorem assessments which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance by more than the personal income threshold unless approved by referendum; provides that the referendum on the first-time levy of an assessment shall include a notice of future non-ad valorem assessment rate increase without a referendum.

Subsection (3) provides that the board may provide a reasonable schedule of charges for special emergency services to which the District is called to render emergency service, and may charge a fee for the services rendered in accordance with the schedule; permits the board to provide a reasonable schedule of charges for fighting fires occurring in or at refuse dumps or as a result of an illegal burn; provides that the board may provide a reasonable schedule of charges for responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property, or the environment; permits a charge for responding to false alarms; provides that the board may provide a reasonable schedule of charges for inspecting structures, plans, and equipment to determine compliance with fire safety codes and standards; provides that the district shall have a lien upon any real property, motor vehicle, marine vessel, aircraft, or rail car for any charge assessed under this subsection.

Subsection (4) provides that if the general purpose local government has not adopted an impact fee for fire services which is distributed to the District for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees for new construction to pay for the cost of new facilities and equipment; provides that impact fees shall be kept separate from other revenues of the District and must be used exclusively to acquire, purchase, or construct new facilities or portions thereof; defines "new facilities"; provides that the board shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment; provides that the board may enter into agreements with the general purpose local governments to share in the revenues from impact fees imposed by local government.

Section 10: Provides procedures for the levy and collection of non-ad valorem assessments.

Subsection (1) provides that the district may provide for the levy of non-ad valorem assessments on the lands and real estate benefited by the exercise of the powers authorized by this act; provides that non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit

accruing to such property from services or improvements; provides that the District may use any methodology that meets fair apportionment standards.

Subsection (2) provides that the board may determine to exercise any power authorized by this act and defray the whole or any part of the expense thereof by non-ad valorem assessments; provides that the District shall adopt a valid non-ad valorem assessment role; provides that the board shall declare by resolution: the nature of the proposed service, the location of any capital facilities, personnel, the equipment needed to provide the service, any other projected expense, the part of the expense to be paid by non-ad valorem assessments, the manner in which the assessments shall be made, when the assessments shall be paid, whether any part is to be paid from other revenues or funds of the District, the lands upon which the assessment shall be levied, and the total estimated costs of the improvement.

Subsection (3) provides that at the time of adoption of the non-ad valorem resolution, there shall be on file at the District's offices an assessment plat showing the areas to be assessed, with construction and operational plans and specifications and an estimate of the cost; provides that the assessment plat, plans, specifications shall be open to the public.

Subsection (4) provides that upon adoption of the resolution or completion of the preliminary assessment roll, whichever is later, the board shall publish notice of the resolution once in a newspaper of general circulation in Okaloosa County; provides the requirements for the notice; provides that the publication shall be verified by the affidavit of the publisher and filed with the secretary to the board.

Subsection (5) provides that upon adoption of the resolution, the board shall conduct a preliminary assessment roll and sets forth requirements for the assessment roll.

Subsection (6) provides that upon the completion of the preliminary assessment, the board shall fix a time and place at which the owners of the property to be assessed or other interested persons may appear before the board; provides that ten days notice in writing shall be given to property owners and sets forth requirements for the notice.

Subsection (7) provides that the board shall hear testimony from affected property owners; provides that the board shall make a final decision following the testimony as to assessment of non-ad valorem assessments; provides that if any property has been omitted from the preliminary roll or if the prima facie assessment has not been made against it, the board may place on the roll an apportionment to that property and the owners of that property mailed a notice and given an opportunity to file any objections; provides that when approved by resolution of the board, a final assessment roll shall stand confirmed and remain legal, valid, and binding first liens upon the property against which the assessments are made until paid; provides that the assessment shall be final and conclusive unless proper steps are taken within 30 days after the filing of the final assessment in a court of competent jurisdiction; provides that if the assessment against any property is sustained or reduced or abated by the court, that shall be noted on the assessment roll and the property appraiser and tax collector notified; provides that the amount of the non-ad valorem assessment against any lot or parcel which may be abated by the court, unless the entire assessment is abated, may be chargeable to the District at large or a new assessment roll may be prepared; provides that the board may grant a discount equal to all or a part of the payee's proportionate share of the cost of a capital project consisting of bond financing costs,

upon payment in full of any assessment during the period prior to the time the financing costs are incurred.

Subsection (8) provides that non-ad valorem assessments shall: be payable at the time and in the manner stipulated in the resolution providing for the improvement of services; remain liens, co-equal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest; may, by resolution and only for capital outlay projects, be made payable in equal installments over a period not to exceed 20 years and if not paid when due, there shall be a penalty added; provides that the assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the board.

Subsection (9) provides that the non-ad valorem assessments approved by the board may be levied, assessed, and collected pursuant to sections 197.363-197.3635, Florida Statutes; provides that the collection and enforcement of the non-ad valorem assessment levied by the District shall be at the same time and in like manner as county taxes.

Subsection (10) provides that all assessments shall constitute a lien upon the property so assessed from the date of confirmation of the resolution ordering the improvement of the same nature and to the same extent as the lien for general county, municipal, or district taxes falling due and any assessment or installment not paid when due shall be collected with such interest and with a reasonable attorney's fee and cost, but without penalties, by the District by proceedings in a court of equity to foreclose the lien of assessment; provides that if, prior to any sale of the property under decree of foreclosure, payment is made of the installment or installments which are shown to be due and all costs, the payment shall have the effect of restoring the remaining installments to their original maturities and the proceedings shall be dismissed; provides that the District shall enforce the prompt collection of assessments by the means provided in this section and this duty may be enforced at the suit of any holder of bonds in a court of competent jurisdiction; provides that not later than 30 days after annual installments are due and payable, the board shall direct the attorney or attorneys whom the board shall designate to institute actions within 3 months to enforce the collection of all non-ad valorem assessments remaining due and unpaid at the time; provides that enforcement actions shall be prosecuted in the manner and under the conditions in and under which mortgages are foreclosed; provides that it is lawful to join in one action the collection of assessments against any or all property assessed by virtue of the same assessment roll unless the court deems such joinder prejudicial to the interest of any defendant; provides that the court shall allow a reasonable attorney's fee for the attorney or attorneys of the District, and the fee shall be collectible as part of or in addition to the costs of the action; provides that at the sale pursuant to any decree, the District may be a purchaser, except that the part of the purchase price represented by assessments sued upon and the interest thereon need not be paid in cash; provides that property so acquired may be sold or otherwise disposed of with the proceeds to be placed in the Districts funds; requires notice for bids before such a sale or disposition and sets forth the requirements for the notice;

Subsection (11) provides that all assessments and charges made under this provisions of this section for the payment of all or any part of the cost of any improvements for which assessment bonds have been issued, are pledged to the principal of and the interest on the assessment bonds and shall, when collected, be placed in a separate

fund which shall be used for no other purpose than the payment of such principal and interest.

Section 11: Provides for the District to issue bonds, notes, bond anticipation notes, and other evidence of indebtedness.

Subsection (1) provides that the District may issue general obligation bonds, revenue bonds, notes, bond anticipation notes, or other evidence of indebtedness to finance all or part of any proposed authorized improvements, provided that the total annual payments for the principal and interest on such indebtedness shall not exceed 50 percent of the total annual budgeted revenues of the District; provides that the bonds shall issue pursuant to a resolution by the board; provides that bonds of the District may bear interest as determined by resolution of the board; provides that principal and interest shall be payable in the manner determined by the board; provides for the signatures which the bonds must bear.

Subsection (2) provides that the bonds shall be payable from the non-ad valorem assessment or other non-ad valorem revenues; provides that general obligation bonds payable from ad valorem taxes may also be issued by the District subject to constitutional restrictions; provides that the District, subject to referendum approval, may pledge its full faith and credit for the payment of principal and interest on such general obligation bonds and for any reserve funds provided therefor and irrevocably pledge itself to levy ad valorem property taxes on all property in the District to the extent necessary for the payment thereof; provides that the District is authorized to impose, charge, and collect non-ad valorem revenues in connection with any of the improvements authorized under this act and to pledge the same for the payment of bonds.

Subsection (3) provides that in connection with the sale and issuance of bonds, the District may enter into any contracts which the board determines to be necessary or appropriate to achieve a desirable effective interest rate; provides that such contracts or arrangements may also be entered into by the District in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor and shall be made upon the terms and conditions established by the board, after giving due consideration for the credit worthiness of the counterparties or any other criteria as may be appropriate.

Subsection (4) provides that in connection with the sale and issuance of bonds or entering into any of the contracts or arrangements related thereto, the District may enter into such credit enhancement or liquidity agreements as the board shall determine.

Subsection (5) provides that notwithstanding any provisions of law relating to the investment or reinvestment of surplus funds of any governmental unit, proceeds of the bonds and any money set aside or pledged to secure the payment of the principal, premium, interest, or other agreements may be invested in securities or obligations described in the resolution providing for the issuance of bonds.

Subsection (6) provides that the bonds shall be sold in any manner not inconsistent with general law, shall show the purpose for which they are issued, and shall be payable out of the money pledged therefor; provides that the funds derived from the sale of said bonds or any of them shall be used for the purpose of paying the cost of the

services or improvements and such costs, expenses, fees, and salaries as may be authorized by law.

Subsection (7) provides that non-ad valorem assessments or any portion thereof levied to pay principal on bonds issued pursuant to this act shall not exceed the benefits assessed regarding such works or improvements; provides that if the bonds are sold at a discount, the amount of the discount shall be treated as interest, not as principal; provides premiums payable upon the redemption of bonds shall also be treated as interest; provides that interest accruing on account of issuing bonds shall not be construed as part of the costs of the works or improvements in determining whether or not the costs of making such improvements are equal to or in excess of the benefits assessed; provides that if the property appraiser and tax collector deduct their fees and charges from the amount of non-ad valorem assessments levied and collected, and if the landowners receive the statutorily permitted discount for early payment of such non-ad valorem assessments, the amount of such fees, charges, and discounts shall not be included in the amount of non-ad valorem assessments levied by the District in determining whether such assessments are equal to or in excess of the benefits assessed.

Subsection (8) provides that the District may issue bonds to refund any or all of the then outstanding bonded indebtedness of the District.

Subsection (10) provides that assessments shall be levied for the payment of refunding bonds in the same manner as the assessments levied for the refunded bonds and the refunding bonds shall be secured by the same lien as the refunded bonds, and any additional interest shall be included and added to the original assessment and shall be secured by the same lien, provided that any interest accrued shall not be considered as part of the cost of construction in determining whether the assessment exceeds the benefits assessed.

Subsection (11) provides that no proceeding shall be required for the issuance of bonds or refunding bonds other than those provided by this section and by general law.

Section 12: Provides that the District shall adopt a five year plan to identify the facilities, equipment, personnel, and revenue needed by the District during that five year period; provides that the plan shall be updated and shall satisfy the requirement for a public facilities report.

Section 13: Provides that the boundaries of the District may be modified, extended, or enlarged upon approval or ratification by the Legislature; provides that the merger of the District with all or portions of other independent special districts or dependent fire control districts is effective only upon ratification by the Legislature; provides that the District may not, solely by reason of a merger with another governmental entity, increase ad valorem taxes on property within the original limits of the District, unless approved by the electors of the District by referendum.

Section 14: Provides that no funds of the District shall be used for any other purpose other than the administration of the affairs and business of the District.

Section 3: Provides for severability.

Section 4: Repeals all prior special acts relating to the District.

Section 5: Provides that in case of a conflict of the provisions of this act with the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 6: Provides that nothing contained in this act shall require any modification to District financing or operations which would impair existing contracts; provides that this does not repeal any authorization within a special act or general law of local application providing for the levy and assessment of ad valorem taxes, special assessments, non ad-valorem assessments, impact fees, or other fees or charges by the District.

Section 7: Provides that in the event any section or provision of this act is determined to be invalid or unenforceable, such determination shall not affect the validity of each other section and provision of this act.

Section 8: Provides that in case of a conflict of the provisions of this act with the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 9: Provides that this act shall take effect upon becoming a law.

III. **NOTICE/REFERENDUM AND OTHER REQUIREMENTS:**

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 17, 1999

WHERE? News Press in Ft. Myers, Lee County, Florida

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:**

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

STORAGE NAME: h1487.ca

DATE: March 30, 2000

PAGE 18

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor of the bill is offering four technical amendments. Two of the amendments correct scrivener's errors, one deletes duplicative sections, and one corrects an erroneous chapter reference.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith