

STORAGE NAME: h1549.ca

DATE: March 17, 2000

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

BILL #: HB 1549

RELATING TO: Lealman Special Fire Control District

SPONSOR(S): Representative Farkas

TIED BILL(S): None

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

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

I. SUMMARY:

This bill creates and establishes a new independent fire control district in Pinellas County to be known as the Lealman Special Fire Control District. The new district's boundaries consists of the jurisdictional boundaries of an existing municipal service taxing unit which contracts services with Lealman Fire and Rescue, Inc., a not for profit corporation.

This bill exempts the district from the maximum ad valorem millage rate of 3.75 established by general law by providing that the District may levy up to 10 mills, upon approval at referendum. However, since an exemption from general law is not the only purpose of this bill, it does not appear to violate House Rule 44(b).

This bill has a fiscal impact of \$3.6 million dollars for FY 2001-02 according to the bill's 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 checked="" type="checkbox"/> | N/A <input 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:

1. This bill creates more government by creating an independent special district to provide fire services in Pinellas County.
2. Technically, this bill does not increase taxes. Rather, citizens now pay special district ad valorem taxes in lieu of paying municipal services taxing unit taxes.

B. PRESENT SITUATION:

Chapter 189, Florida Statutes, Provisions

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. This bill complies with the required status statement provision.

Pursuant to s. 189.404(2)(a), Florida Statutes, the Legislature prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), Florida Statutes. Independent districts created after September 30, 1989, must address and require certain provisions in their charters. The following describes the requirements:

- District purpose;
- Powers, functions, and duties of the district regarding ad valorem taxation, bond issues and other revenue-raising capabilities, budget matters, lien issues, and other similar issues;
- The methods for establishing the district;
- The method for amending the charter of the district;
- The membership and organization of the governing board of the district;
- The maximum compensation of a governing board member;

- The administrative duties of the governing board of the district;
- The applicable financial disclosure, noticing, and reporting requirements;
- If the district has authority to issue bonds, the procedures and requirements for issuing bonds;
- The procedures for conducting any district elections or referendum and the qualifications of an elector of the district;
- The methods for financing the district;
- The method(s) for collecting non-ad valorem assessments, fees, or service charges;
- Geographic boundary limitations;

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. 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, Florida Statutes. 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.

Lealman Fire and Rescue, Inc. (Lealman)

Lealman is a private, not-for-profit corporation that contracts with Pinellas County to provide fire services to portions of mid-county. It is run by an elected fire board. The service area is 11 square miles and has 42,000 residents within it. Lealman employs 57 employees. In 1999, Lealman received 8,200 calls and had an average response time of 4.55 minutes. As a municipal service taxing unit, there is a current ad valorem levy of 4.94 mills. However, when the municipal service taxing unit was originally approved at referendum in 1977, the referendum was silent as to the maximum millage rate. It was determined by the County that since it was silent, the maximum millage rate is 10 mills.

Due to it being a not-for-profit corporation, Lealman firefighters and paramedics are not eligible for protection under state statutes designed to give firefighters long-term insurance benefits for injuries and illnesses they receive from their job. Rather, Lealman's firefighters are covered by short-term disability that applies only if the injury or illness happens on the job. These benefits end after five years, even if the firefighter is permanently disabled. In addition, Lealman's firefighters do not qualify for the state pension program.

C. EFFECT OF PROPOSED CHANGES:

This bill creates and establishes a new independent fire control district in Pinellas County to be known as the Lealman Special Fire Control District (District). The new district's boundaries consists of the jurisdictional boundaries of an existing municipal service taxing unit which contracts services with Lealman Fire and Rescue, Inc., a not for profit corporation.

In addition, the firefighters and paramedics employed by the District are eligible for protection under state statutes designed to give firefighters long-term insurance and benefits for injuries and illnesses received from their jobs.

This bill has a fiscal impact of \$3.6 million dollars for FY 2001-02 according to the bill's Economic Impact Statement. Ad valorem taxes, if approved at referendum, should generate the estimated \$3.6 million dollars. The costs and revenues were determined by using Lealman's current ad valorem levy, FY 1999-2000 budget (\$3.2 million dollars) plus 3% cost of living increases for FY 2000-01 and FY 2001-02, and the additional monies needed to fund the Firefighters pension under chapter 175, Florida Statutes. The following is an approximate breakdown of the estimated \$3.6 million dollar budget: \$2.87 million is for general budget and district operations; \$65,000 is for the tax collector; \$34,000 is for the property appraiser; \$62,700 is for contingencies; \$5,200 is for interest payments on money borrowed from the county; \$170,000 is for reserves; and \$93,000 is for a fire inspector and services.

Pursuant to section 189.404(3), Florida Statutes, the Lealman Fire Control & Rescue District's charter must address and require certain provisions in its charter. The following describes the requirements and whether this bill meets those requirements.

- **District purpose:** The provisions of this bill establish a purpose for the District.
- **Powers, functions, and duties of the district regarding ad valorem taxation, bond issues and other revenue-raising capabilities, budget matters, lien issues, and other similar issues:** The bill authorizes the levy of ad valorem taxation in a millage amount not to exceed 10 mills and the collection of non-ad valorem assessments, fees or service charges pursuant to chapter 191, Florida Statutes.

- **The methods for establishing the district:** The bill does not adequately provide that the district is established by the adoption of the charter pursuant to section 189.404, Florida Statutes, and chapter 191, Florida Statutes.
- **The method for amending the charter of the district:** The bill provides that the charter may only be amended by special act.
- **The membership and organization of the governing board of the district:** The bill adequately provides for the District's membership, organization of the governing board of the district, which is in accordance with chapter 191, Florida Statutes.
- **The maximum compensation of a governing board member:** The bill provides for compensation of up to \$500 per month.
- **The administrative duties of the governing board of the district:** The bill provides that the administrative duties of the governing board are provided in chapters 189 and 191, Florida Statutes.
- **The applicable financial disclosure, noticing, and reporting, requirements:** The bill provides that the requirements regarding disclosure, noticing, and reporting are provided by general law.
- **If the district has authority to issue bonds, the procedures and requirements for issuing bonds:** The bill provides for the authority to issue bonds as authorized by general law.
- **The procedures for conducting any district elections or referendum and the qualifications of an elector of the district:** The bill does provide that elections are district wide and nonpartisan. In addition, the bill provides for seats. However, the bill does not adequately provide that the procedures for conducting district elections or referendum are provided in section 191.005, Florida Statutes. In addition, the bill provides that an elector must be a resident of the new district.
- **The methods for financing the district:** The bill provides for the financing of the District pursuant to chapter 191, Florida Statutes, and other applicable general law.
- **The method(s) for collecting non-ad valorem assessments, fees, or service charges:** The bill provides for the collection of non-ad valorem assessments, fees or service charges pursuant to chapter 191, Florida Statutes.
- **Geographic boundary limitations:** The bill describes the boundaries of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates Lealman Special Fire Control District and its charter; provides that the charter shall read:

Section 1: Provides short title.

Section 2: Provides definitions.

- Section 3: Provides purpose of District; declares that the District is an independent special district; provides District boundaries; provides that any lands within a municipality are excluded from the District's boundaries; provides that if any property within District is annexed, such property will be excluded from the District effective the following January 1; and provides that if any land is determined not to be within the District, this charter shall continue in effect for the remaining land.
- Section 4: Provides purpose of the act.
- Section 5: Provides for five-member governing board; provides that board shall conduct the District's business affairs; provides for the election of board officers; allows the treasurer and secretary to be one member; designates five seats on the governing board; requires members to take oath; requires members to provide a surety bond; provides that District shall pay for surety bond premiums; provides for member salary or honorarium; provides maximum compensation; requires special notice of meeting in which a salary change is being considered; provides requirement of special notice; allows for separate compensation for treasurer by a majority plus one vote; prohibits total compensation to treasurer to be over \$500 a month; allows for reimbursement for travel and per diem expenses; and requires board members to comply with financial disclosure, noticing, reporting requirements and any other applicable law.
- Section 6: Provides for four year terms for board members; provides that members are elected by a majority vote; provides for initial board member terms to allow for staggered terms; requires all board members to be residents and qualified electors of the District; provides for district wide and nonpartisan elections; provides for vacancies; requires the board to remove any member who has three consecutive, unexcused absences from regular meetings; requires the board to adopt policies defining excused and unexcused absences; provides that members assume office 10 days following election; provides that members serve until successor is elected; provides for candidate qualifications; provides for ballots; provides that election expenses are paid by the District; requires a permanent record book; requires that the record book be open for review; requires the record book to be kept at District's business office; and provides that all meetings are open to the public.
- Section 7: Grants all powers and duties set forth in chapter 189 and 191, Florida Statutes, to the District; and provides that the District shall exercise powers that are consistent with the regulations of the Pinellas County Fire Protection Authority.
- Section 8: Grants authority to levy ad valorem taxes, non-ad valorem assessments, fees, and service charges, issue bonds, and other revenue-raising capabilities; provides for District duties relating to budget preparation, liens, tax deeds, and contracts; provides that the maximum ad valorem millage rate is 10 mills; requires millage rate must be approved at referendum; provides that the District may be financed pursuant to applicable general law; and provides for the methods for assessing and collecting non-ad valorem assessments, fees, and charges.
- Section 9: Requires the District to adopt a 5-year plan.

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Section 10: Provides that the charter may be modified upon approval or ratification by the Legislature; and provides for merger of the District with other districts.

Section 11: Provides that annexation by a municipality of any area within the District's boundaries shall be treated as lying within the boundaries of the municipality; and provides that such land shall not be subject to ad valorem taxation by the District.

Section 12: Provides that this charter may only be amended by the Legislature.

Section 13: Provides for District's dissolution; provides that upon dissolution, the County shall receive all District property and shall assume all indebtedness.

Section 14: Provides severability clause.

Section 15: Requires referendum approval prior to the District's levy of ad valorem taxes; provides that referendum shall be held at the next general election; and requires the election to be in accordance with the law relating to the elections currently in force in the District.

Section 2: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 28, 2000

WHERE? Tampa Bay Review; Clearwater, Pinellas County

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:

House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill." This bill exempts the district from the maximum ad valorem millage rate of 3.75 established provided by section 191.009, Florida Statutes, by providing that the District may levy up to 10 mills, upon approval at referendum. However, since this bill does not only provide an exemption from general law, it does not appear to violate House Rule 44(b).

The Board of County Commissioners for Pinellas County submitted a letter which provides that the creation of this District is consistent with the Pinellas County comprehensive plan. In addition, the County has no objection to the creation and supports the efforts of Lealman Fire and Rescue, Inc.

The Florida Professional Firefighters support this bill as it further protects firefighters and paramedics.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There are six technical amendments which are being offered by Representative Farkas that clarify that the District is being created under chapter 191, Florida Statutes, and corrects scrivener's errors in the boundary description.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Laura L. Jacobs, Esq.

Joan Highsmith-Smith