

STORAGE NAME: h0795.ft

DATE: March 27, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE & TAXATION
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 795

RELATING TO: Palm Harbor Fire Control District

SPONSOR(S): Representative Bilirakis

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
 - (2) FINANCE & TAXATION
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Palm Harbor Special Fire Control and Rescue District in Pinellas 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.

No fiscal impacts are anticipated for either fiscal year 2000-01 or 2001-02 according to the Economic Impact Statement.

See AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section for an explanation of three amendments traveling with the bill.

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:

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, Florida Statutes, 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 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), Florida Statutes, 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

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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, Florida Statutes, Chapter 582, Florida Statutes, 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.

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- 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 Palm Harbor Special Fire Control and Rescue District in Pinellas 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 changes the name of the District to add the word "Rescue" with the name of the District becoming "Palm Harbor Special Fire Control and Rescue District."

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 but does modify the boundary description. In a letter dated, March 10, 2000, Fire Chief James Angle explains the changes to the boundary description:

The edits to the boundary delete the description of property within the City of Tarpon Springs which is not served by the District and which is otherwise excluded from the District by the remaining legal description. In other words, the language is redundant.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this bill constitutes the District's codification required by section 191.015, Florida Statutes; provides intent language; and preserves District's current authority, including the authority to levy ad valorem taxes up to 2 mills.

Section 2: Amends, codifies, reenacts, and repeals all special acts relating to the North Fort Myers Fire Control and Rescue District.

Section 3: Recreates the District; recreates and reenacts the District's charter to read:

Section 1: Provides for the incorporation of land into a special fire control district to be named "Palm Harbor Special Fire Control and Rescue District." Describes the boundaries of the District.

Section 2: Provides that the District is an independent special district and is organized for all purposes set forth in this Act and Chapter 191, Florida Statutes.

Section 3: Provides that the District was created by special act of the Legislature in 1961 and that its charter may only be amended by special act.

Section 4: Provides the process by which the boundaries of the District may be enlarged.

- Section 5: Provides that the business and affairs of the District shall be conducted and administered by the Board of Commissioners to be elected as provided in Chapter 191, Florida Statutes; provides that each commissioner shall execute a bond; provides for compensation of commissioners.
- Section 6: Provides that the District shall hold all general and special powers, functions, and duties as set forth in this Act and in Chapters 189 and 191, Florida Statutes; provides that the District may be financed by any method established in this Act, Chapters 189 and 191, Florida Statutes, or any other applicable general or special law; provides that the methods for assessing and collecting non-ad valorem assessments, fees, or service charges shall be as set forth in chapters 170, 189, 191, and 197, Florida Statutes; provides that the District's planning requirements shall be as set forth in Chapters 189 and 191, Florida Statutes; provides that the District's geographic boundaries shall be as set forth in the charter.
- Section 7: Provides that each of the five commissioners shall have a term of four years and shall be elected by a majority of the qualified electors of the District voting at a general county election; provides that voting for commissioners shall be district wide and nonpartisan; provides that all commissioners must be qualified electors within the District and must reside in the District; provides that if any commissioner ceases to reside in the District, resigns, or is removed from office, that seat shall be declared vacant and the remaining commissioners shall elect a successor to fill the unexpired term of the seat vacated; provides that each commissioner shall begin his or her term of office on the second Tuesday following his or her election and shall hold office until his or her successor is elected and qualified; provides that all candidates shall qualify for election pursuant to applicable requirements of chapters 189 and 191, Florida Statutes; provides that the names of all candidates for election to a seat on the board of commissioners shall clearly indicate the seat for which the candidate is running; provides that any expenses of holding elections for commission seats at the regular county elections shall be paid for out of funds of the District if required; provides that in the event only one candidate for any particular seat has qualified for election by the deadline for qualifying, that candidate is duly elected.
- Section 8: Provides that the District may levy special assessments against real estate situated in the District and shall establish a schedule of land-use classifications and a special assessment for each land use classified; provides a process for the adoption of this assessment schedule; provides that the board shall prepare and complete a special assessment roll showing the assessment rate for each parcel of real estate in the District; provides that the board may change the date on which the assessment schedule is to be fixed and the date on which the final assessment roll is to be adopted; provides that any property owner in the District may file a

protest in writing with the board against the assessment paid by him or her and appear before the board in support of such protest.

- Section 9: Provides that the board shall have the authority to levy ad valorem taxes; provides that the levy of ad valorem taxes shall be pursuant to general law, shall be fixed annually by resolution, and shall not exceed 2.0 mills except as provided by Chapter 191, Florida Statutes.
- Section 10: Provides that the revenue and funds of the District shall be deposited in the name of the District in a bank authorized to receive such deposits; provides that the board shall have the power and authority to borrow money for the purposes of the District pursuant to this Act and Chapter 191, Florida Statutes; provides that neither the District nor the board shall be collectively or individually liable for any such loan and that first proceeds of the ad valorem tax roll must be applied to any outstanding loan for which the tax roll was pledged; provides that the board shall not create indebtedness or incur obligations for any sum or amount which the board is unable to pay out of District funds then in its hands except the purchase of essential equipment and apparatus is not prohibited.
- Section 11: Provides that no funds of the District shall be used for any other purpose than: the administration of the affairs and business of the District relating to fire control and emergency medical service; the construction, care, maintenance, upkeep, operation, lease, and purchase of stations, equipment and real property; the installation of fire hydrants and water lines; the payment of public utilities such as electric, lights, and water; the payment of salaries to the board, a fire chief, and personnel to perform the duties of the District; payment of expenses; the exercise of the powers of the District for the purposes of providing services, equipment, and facilities for fire protection and control within the District.
- Section 12: Provides that the officers of the District shall have the duties usually pertaining to, vested in, and incumbent upon like officers; provides for a record to be kept of all meetings of the board and that a majority of the board is required for action and quorum; provides that the board may adopt such policies, regulations, and ordinances as it may deem necessary to carry out the transaction of its business and the provisions of this Act; provides that the board shall have the right, power, and authority to enact and enforce a fire prevention ordinance; provides that the board shall adopt uniform ordinance procedures; provides that the Board may specify by rule, civil penalties for violations of such ordinances and a maximum daily fine of \$1,000; provides that in any civil action brought by the District to enforce the provisions of its charter or ordinances, the party whose favor a judgment or decree has been rendered may recover reasonable court costs and attorney's fees from the nonprevailing party.

Section 13: Provides that requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in Chapters 112, 119, 189, 191, and 286, Florida Statutes.

Section 14: Provides that the District shall exist until dissolved by law; provides that if any portion of the land of the District is annexed by another entity that the District shall continue as the sole taxing authority for fire control purposes; allows for an interlocal agreement for fire control; provides that no municipality in Pinellas County may annex any unincorporated territory situated within the boundaries of the District unless the annexation of such territory is first approved by the Board of County Commissioners.

Section 15: Provides definitions.

Section 16: Declares that the cost of new facilities for fire protection service within the District should be borne by new users of the District services to the extent new construction requires new facilities; provides legislative intent with respect to costs; provides that the District is authorized to impose impact fees for new construction within the District and that the Board shall set the amount of such fees by resolution; provides that no person shall issue or obtain a building permit for new residential dwelling units or new commercial or industrial structures within the District or issue or obtain construction plan approval for new mobile home developments until the developer has paid any applicable impact fee; provides that failure to collect said fees before the issuance of a permit shall not be construed as waiver of the fees; provide that the impact fees collected by the District shall be kept as a separate fund from other revenues and shall be used exclusively for new facilities.

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

Section 5: Provides for severability.

Section 6: Provides that in the event of a conflict, this Act controls.

Section 7: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? October 4, 1999

WHERE? St. Petersburg Times in St. Petersburg, Pinellas County, Florida

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

IF YES, WHEN?

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

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Three amendments were adopted by the Committee on Community Affairs on March 14, 2000. The first amendment is a technical amendment which returns part of the boundary description to the description currently in law. The second amendment adds language regarding the use of impact fees to the bill. The third amendment is a technical amendment which adds one of the special acts for the district, which was inadvertently left out, to the list of special acts to be repealed.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

Staff Director:

Kama D.S. Monroe

Alan Johansen