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DATE: May 29, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-338, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 1183/1ST ENG

RELATING TO: Englewood Area Fire Control District

SPONSOR(S): Representative Paul

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Englewood Area Fire Control District in Sarasota and Charlotte Counties into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district, and conforms the District's charter with the provisions of the "Independent Special Fire Control District Act."

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

The bill amends the District's boundaries.

The bill preserves the District's existing authority to levy and collect non-ad valorem assessments for benefits against all assessable property within the boundaries of the District.

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 Englewood Area Fire Control District was created in 1969, chapter 69-597, Laws of Florida, to promote the health, welfare and safety of the citizens and residents of Sarasota and Charlotte counties, who reside within the geographical limits of that area by providing for the establishment and maintenance of fire stations and fire substations. The District provides for the acquisition and maintenance of all fire fighting equipment necessary for the prevention of fires or fighting of fires; the employment and training of such personnel as may be necessary to accomplish fire prevention and fire fighting, the acquisition and maintenance of rescue and emergency equipment and the employment and training necessary emergency personnel.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be made to a district’s charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow 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; (3) remove the prohibition of substantive amendments in a district’s codification bill; and (4) remove 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. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

Schedule of Submittals of Special Districts’ Charters

Special Districts with less than 2 special acts

1999 Legislative Session

Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 89 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

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 to the department's determination or declaratory statement regarding the status of the district.

Fire District Codification

There are some independent special fire control districts that 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.

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 that is elected in nonpartisan staggered elections by the electors of the district. Districts that currently have three-member boards were required to increase to five members unless a special act was enacted after 1997 that

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 that 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. In order to levy ad valorem taxes in a newly annexed area, approval at referendum is required.

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 commission adopts the report, 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 Englewood Area Fire Control District in Sarasota and Charlotte Counties into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district, and conforms the District's charter with the provisions of the "Independent Special Fire Control District Act."

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

The bill amends the District's boundaries.

The bill authorizes the Board to provide a paid staff to carry out its responsibilities and the staff serves at the pleasure of the Board. The bill authorizes the Board to promulgate rules and regulations related to fire prevention and life safety.

The bill amends the compensation of the board members from \$600 per year, plus reimbursement of expenses, and \$900 for the secretary-treasurer plus reimbursement of expenses to members of the board paid a salary or an honorarium, to be determined by at least a majority plus one vote of the Board pursuant to chapter 191, F.S., plus a reimbursement for travel and per diem expenses as provided in section 112.061

The bill preserves the District's existing authority to levy and collect non-ad valorem assessments for benefits against all assessable property within the boundaries of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that this act is the codification of all special acts relating to Englewood Area Fire Control District pursuant to section 191.015, Florida Statutes; states the intent of the Legislature is to have a single, comprehensive special act charter and preserve all powers granted by this and previous acts; and conforms the District's charter with the provisions of the "Independent Special Fire Control District Act" and other provisions of general law.

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

Section 3. Provides for the re-creation and reenactment of the charter of the District:

Article I – Preamble

Section 1.01. Establishes charter for Englewood Area Fire Control District.

Section 1.02. Repeals all prior special acts; provides for amendments to charter by special act; provides that this codification shall be construed to preserve all District powers.

Section 1.03. Provides that the District is organized and exists pursuant to Chapters 189 and 191, Florida Statutes.

Article II – Name of District

Section 2.01. States the name of the District.

Section 2.02. Declares that the District is an independent special district and a body corporate and politic.

Article III – Boundaries of the District

Section 3.01. Describes the District boundaries.

Article IV – Powers of the District

Section 4.01. Grants the District the authority to establish, equip, operate, and maintain a fire department and rescue squad; allows for the acceptance of gifts or donations; grants the District the authority to buy, sell, lease, or otherwise acquire and dispose of firefighting and rescue equipment and other related real and personal property; grants the District the authority to extend its services outside the District when in cooperation with another governmental entity.

Section 4.02. Authorizes District to hire personnel; states personnel serves at the pleasure of the District board; grants rule making authority related to fire prevention and life safety.

Section 4.03. Grants duties and powers of the District's governing board.

Article V – Governing Board

Section 5.01. Provides that the District's governing board consists of five commissioners; provides for elections pursuant to section 189.405, F.S. and chapter 191, F.S.; provides for term-limits.

Section 5.02. Provides for the assumption of office.

Section 5.03. Provides board members are qualified electors.

Section 5.04. Provides for the organization of the board members.

Section 5.05. Allows for compensation of board members; provides for reimbursement of travel and per diem expenses.

Section 5.06. Provides for vacancies.

Section 5.07. Provides for elections and referenda pursuant to chapters 189 and 191, F.S.

Section 5.08. Provides for administrative duties set forth in this act and in chapters 189 and 191, F.S.

Section 5.09. Provides requirements for financial disclosure, meeting notices, reporting, public records, and per diem expenses pursuant to chapters 112, 119, 189, 191, and 286, F.S.

Section 5.10. Provides for the District's planning requirements pursuant to chapters 189 and 191, F.S.

Article VI – Finances

- Section 6.01. Provides for the District's powers, functions, and duties relating to non-ad valorem assessments.
- Section 6.02. Provides for the procedures in which the tax is collected.
- Section 6.03. Provides for classifications for assessment purposes.
- Section 6.04. States that the District may levy upon the property within the District an annual assessment; provides for the increased annual assessment rate in excess allowed under chapter 191, F.S.; provides for a referendum election for an increase in assessments.
- Section 6.05. Provides for liens upon the land assessed.
- Section 6.06. Provides for impact fees.
- Section 6.07. Provides for charges by the District for special emergency services.
- Section 6.08. Grants the power to issue general obligation bonds, assessment bonds, revenue bonds, notes, or other indebtedness; provides for the total annual payment for the principal and interest of such indebtedness.

Article VII - Miscellaneous

- Section 7.01. Provides that all existing contracts, obligations, resolutions, and policies shall remain valid and in full force and effect.
- Section 7.02. Provides that the terms of office of the present District board and terms and conditions of employment are not affected by this act.
- Section 4.** Repeals chapters 69-597, 70-518, 75-503, 82-381, 82-418, 83-524, and 90-417, Laws of Florida.
- Section 5.** Provides for the severability of any unconstitutional provision.
- Section 6.** Provides for liberal construction of act.
- Section 7.** Provides that this act controls in the event of a conflict.
- Section 8.** Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? February 8, and 13, 2001

WHERE? Sun Coast Media Group, Inc Publication in Charlotte County, Florida, Sarasota County, Florida, and DeSoto 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:

The law firm, Lewis, Longman & Walker, P.A., representing the District submitted a boundary letter stating the following:

The boundaries reflected in HB 1183 increase the district's current boundaries by 30-40 residential lots, which were annexed into the district upon petition from the property owners. The district will levy only non-ad valorem assessments in the area, therefore a referendum was not required for the annexation.

Pursuant to section 9, Article VII, of the State Constitution, the District cannot levy ad valorem taxes on the newly annexed area until the newly annexed area approves the ad valorem levy at referendum. This bill does not provide for such referendum. This does not prohibit the annexation of the area, just the levy of ad valorem taxes on the area.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs adopted one strike-everything amendment to the bill at its meeting on April 12, 2001. The strike-everything amendment includes the substance of the bill as filed, strikes the provision that the District has no responsibility for providing ambulance or similar emergency services within the District' boundaries, and deletes the purpose statement. The strike-everything amendment corrects the repeal section of the bill. The House approved the amendment on April 24, 2001 and passed the bill as amended.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith

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DATE: May 29, 2001

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**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS
AFFAIRS:**

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith