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DATE: March 27, 2001

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

BILL #: HB 921
RELATING TO: Manatee County/Fire & Rescue District
SPONSOR(S): Representative Bennett and others
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 7 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

By merger, this bill creates and establishes a new independent fire control district in Manatee County to be known as the South Manatee Fire & Rescue District. The new district's boundaries consist of the jurisdictional boundaries of the existing Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District.

This bill transfers all assets and liabilities of the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District to the South Manatee Fire & Rescue District. This bill dissolves the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District by repealing all special acts relating to the districts.

There is no fiscal impact in merging the two existing fire districts into the new district. The new district will be financed by non-ad valorem assessments and impact fees that are currently being levied by the two existing districts. However, this bill does increase the maximum non-ad valorem assessment rates and impact fees, currently allowed by either district. For fiscal year 2001-2002, these levies are anticipated to generate \$7,778,545, and for fiscal year 2002-2003, these levies are anticipated to generate \$7,984,934. A desired effect of the merger is that there will be increased efficiency and service to District residents resulting in an anticipated reduction in operational costs.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See section II.C. "EFFECT OF PROPOSED CHANGES:").

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input 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:

B. PRESENT SITUATION:

Chapter 189, Florida Statutes, Provisions

It is the specific intent of the Legislature that dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization as provided in chapter 189, Florida Statutes. In addition, section 11(a)(21), Art. III of the State Constitution prohibits special or general laws of local application that do not conform to the following requirements.

Special acts creating independent special districts cannot exempt the district from general law requirements regarding:

- general requirements and procedures for elections (section 189.405, Florida Statutes);
- bond referenda requirements (section 189.408, Florida Statutes);
- bond issuance reporting requirements (section 189.4085, Florida Statutes);
- public facilities reports (section 189.415, Florida Statutes); and
- notice, meetings, and other required reports and audits (sections 189.417 and 189.418, Florida Statutes).

A statement must be submitted to the Legislature that documents: (1) the purpose of the proposed district; (2) the authority of the proposed district; and (3) an explanation of why the district is the best alternative.

In addition, a resolution or official statement is required of the appropriate local governing body in which the proposed district is located affirming that:

- the creation of the proposed district is consistent with approved local government plans of the local governing body, and
- the local government has no objection to the creation of the proposed district.

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 of Community Affairs determination or declaratory statement regarding the status of the district.

Pursuant to section 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 section 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:

- The district's purpose.
- The district's powers, duties, and functions regarding:
 - ad valorem taxation;
 - bond issuance;
 - revenue raising capabilities;
 - budget preparation and approval;
 - liens and foreclosure of liens;
 - use of tax deeds and tax certificates for non-ad valorem assessments; and
 - contractual agreements.
- The methods for establishing the district.
- The method for amending the district's charter.
- The membership and organization of the district's governing board. Districts whose boards are elected on a one-acre/one-vote basis are required to have five board members, with three of those members constituting a quorum.
- The maximum compensation of the district's governing board members.
- The administrative duties of the district's governing board.
- The financial disclosure, noticing, and reporting requirements for the district.
- The procedures and requirements for issuing bonds, if the district has such authority.
- The district's election and referenda procedures and the qualifications to be a district elector.
- The district's financing methods.
- The authorized millage rate for a district authorized to levy ad valorem taxes, except for taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors of the district.
- The methods for collecting non-ad valorem assessments, fees, or service charges.
- Planning requirements.

- Geographic boundary limitations

The charter may refer to other general law provisions that address the charter requirements, e.g., fire districts may refer to chapter 191, Florida Statutes provisions.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled. All local bills, regardless of the subject matter, must comply with local notice requirements.

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.

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:

By merger, this bill creates and establishes a new independent fire control district in Manatee County to be known as the South Manatee Fire & Rescue District (New District). The New District's boundaries consist of the jurisdictional boundaries of the existing Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District.

This bill transfers all assets and liabilities of the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District to the South Manatee Fire & Rescue District (New District). This bill dissolves the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District by repealing all special acts relating to the districts.

There is no fiscal impact in merging the two existing fire districts into the new district. The new district will be financed by non-ad valorem assessments and impact fees that are currently being levied by the two existing districts. However, this bill does increase the maximum non-ad valorem assessment rates and impact fees, then currently allowed by either district. For fiscal year 2001-

2002, these levies are anticipated to generate \$7,778,545, and for fiscal year 2002-2003, these levies are anticipated to generate \$7,984,934. A desired effect of the merger is that there will be increased efficiency and service to District residents resulting in an anticipated reduction in operational costs.

Pursuant to section 189.404(3), Florida Statutes, the South Manatee Fire & 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 3.75 mills and the collection of non-ad valorem assessments, fees or service charges pursuant to chapter 191, Florida Statutes. Neither district currently levies ad valorem taxes. Prior to the New District levying ad valorem taxes, the millage rate must be approved at referendum.
- **The methods for establishing the district:** The bill does adequately provide that the district is established by the adoption of the charter pursuant to chapter 191, Florida Statutes.
- **The method for amending the charter of the district:** The bill does provide 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 and 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 does provide 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 in chapters 112, 119, 189, 191, and 286, Florida Statutes.
- **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 chapter 191, Florida Statutes, and general law.
- **The procedures for conducting any district elections or referendum and the qualifications of an elector of the district:** The bill does provide for an election transition schedule. In addition, the bill provides for subdistricts and seats upon conclusion of the 2004 general election. The bill also provides 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 chapters 191, or 189, 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. The bill also provides a non-ad valorem assessment fee schedule and impact fee schedule.
- Planning requirements: The bill provides that the district's planning requirements are set forth in chapters 189 and 191, Florida Statutes, and any other applicable general law.
- Geographic boundary limitations: The bill describes the boundaries of the District.

In addition to providing for charter requirements, the bill also provides for the merging districts' employees. Upon this bill's effective date, all employees of the merging districts' are employees of the New District. All employees have the right to remain in their current retirement plan, or transfer to another plan if allowed by law. However, for retirement purposes, an employee's employment is not considered terminated until the employee is no longer working for the New District. Employees are also not allowed to receive benefits, with the exception of a deferred retirement option program benefit, from the merging districts' retirement plans while employed by the New District.

A detailed transition schedule for the New District is also provided. Until the 2002 general election, the New District is governed by a ten-member board, which consists of the existing board members of the merging districts. For the 2002 general election, seats 1, 3, and 5 from each of the merging districts are abolished. Elections are held for seats 1, 3, and 5 of the New District. This reduces the governing board from a ten-member board to a seven-member board. For the 2004 general election, seats 2 and 4 of the merging districts are abolished. Elections are held for seats 2 and 4 of the New District. Following this election, the New District is governed by a five-member board pursuant to chapter 191, Florida Statutes. In addition, the New District is divided into two subdistricts, which is allowed pursuant to section 191.105(1)(c), Florida Statutes. Each subdistrict consists of the jurisdictional boundary of the corresponding merging district. Commissioners for seats 1 and 2 are elected from the subdistrict consisting of the former Southern Manatee Fire and Rescue District. Seats 3 and 4 are elected from the subdistrict consisting of the former Cedar Hammock Fire Control District. Commissioners are required to reside in the subdistrict and are elected by the electors in that subdistrict. Seat 5 is an at-large seat.

This bill provides for the levy of special assessments and the procedures regarding such assessment. The assessments are based on property that has been divided into three categories. The three categories are vacant parcels, residential parcels, and commercial parcels. The amount of the assessment depends on not only what type of parcel the property is, but also the square footage of the home/building.

This bill also authorizes the New District to charge impact fees to the extent that new construction within the New District requires new facilities. This bill provides for the collection of such fees and the requirements for using such fees.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Intent -- This section provides that this act is intended to constitute the merger of the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District into a

newly created special fire control district, the South Manatee Fire & Rescue District (New District). In addition, the merging districts are dissolved. It also provides that this act is intended to be the New District's charter.

Section 2: Incorporation -- This section incorporates the New District, as created by the merging districts. The New District is an independent special fire control district and a public municipal corporation. The New District is organized and exists for the purposes set forth in chapters 191 and 189, Florida Statutes. This charter may be amended only by special act.

Section 3: Jurisdiction -- This section describes the lands that are incorporated within the New District.

Section 4: Governing Board -- This section addresses the New District's governing board. Following the 2004 general election, the New District is governed by a five-member board and pursuant to chapter 191, Florida Statutes. Members of the governing board are elected in a nonpartisan election. Until the 2002 general election, the New District is governed by a ten-member board, which consists of the existing board members of the merging districts. For the 2002 general election, seats 1, 3, and 5 from each of the merging districts are abolished. Elections are held for seats 1, 3, and 5 of the New District. This reduces the governing board from a ten-member board to a seven-member board. For the 2004 general election, seats 2 and 4 of the merging districts are abolished. Elections are held for seats 2 and 4 of the New District. Following this election, the New District is governed by a five-member board pursuant to chapter 191, Florida Statutes. In addition, the New District is divided into two subdistricts. Each subdistrict consists of the jurisdictional boundary of the corresponding merging district. Commissioners for seats 1 and 2 are elected from the subdistrict consisting of the former Southern Manatee Fire and Rescue District. Seats 3 and 4 are elected from the subdistrict consisting of the former Cedar Hammock Fire Control District. Commissioners are required to reside in the subdistrict and are elected by the electors in that subdistrict. Seat 5 is an at-large seat.

This section also provides for four-year terms, candidate qualifications, ballot information, and the filling of vacancies. Within 60 days of taking office, an organizational meeting is held where a chair, vice-chair, secretary and treasurer are elected. The secretary and treasurer may be the same person. The governing board has the administrative duties as provided in the charter and chapters 189 and 191, Florida Statutes.

Section 5: Non-Ad Valorem Assessments -- This section provides that the New District has the power to levy non-ad valorem assessments as provided for in section 197.3632, Florida Statutes. The rates of the assessments are fixed annually by a resolution of the governing board. The New District is prohibited from increasing the assessment rates by more than 10 percent in any year. In addition, once the Assessed rates exceed the maximum rate as provided for in the charter, the New District may exceed those rates in an amount that does not exceed the 5-year average annual growth rate in Florida personal income. These assessments are imposed, collected and enforced pursuant to sections 197.363197.3635, Florida Statutes.

Section 6: Non-Ad Valorem Assessments Schedule -- This section provides the schedule for non-ad valorem assessments. It also provides the maximum allowable rates that may be charged. Property is divided into the following three general classifications: vacant parcels, residential parcels and commercial/industrial parcels. A description of each classification is provided.

Section 7: Impact fees -- This section provides for impact fees by granting the authority to assess and collect impact fees for capital improvements on new construction. It provides that Manatee County is a fast growing area and the New District's capabilities to provide services is strained.

Additional equipment and facilities will be needed to serve the new growth. The section declares that the cost of new users of the New District's services shall be borne by the new users. The impact fees for capital improvements are declared just, reasonable, and equitable. Prior to obtaining a building permit, the impact fees, for residential dwellings, commercial/industrial structures, and mobile home development, must be paid. The maximum fee charges per square foot are also provided. Revenues from impact fees must be maintained in a separate fund, used for authorized purposes. The District is also required to maintain records to ensure the proper usage of the revenues.

Section 8: Other District powers, functions, and duties -- This section provides that the New District also has any powers, functions and duties provided for in chapter 191, 189 and 197, Florida Statutes. The District may also be financed by any method provided in chapter 191 and 189, Florida Statutes.

Section 9: Planning – The New District's planning requirements are provided for in chapter 191 and 189, Florida Statutes.

Section 10: Boundaries – This section provides that the New District's boundaries are provided for in the charter.

Section 11: Employees – This section provides for the merging districts' employees. Upon this bill's effective date, all employees of the merging districts' are employees of the New District. All employees have the right to remain in their current retirement plan, or transfer to another plan if allowed by law. However, for retirement purposes, an employee's employment is not considered terminated until the employee is no longer working for the New District. Employees are also not allowed to receive benefits, with the exception of a deferred retirement option program benefit, from the merging districts' retirement plans while employed by the New District.

In addition, this section provides that the employees and officers of the New District must comply with the requirements for financial disclosure, meeting notices, public records maintenance, and per diem expenses as provided for in general law.

Section 12: Bonds -- This section provides that the New District's procedures and requirements relating to the issuance of bonds and notes are provided for in general law.

Section 13: Allocation of assets and liabilities -- This section transfers all assets, liabilities, property, and contractual or other obligation of the merging districts to the New District.

Section 14: Construction -- This section provides that this act is remedial and should be construed liberally.

Section 15: Effect – This section is a severability clause.

Section 16: Repeals – This section repeals chapter 2000-391 and 2000-402, Laws of Florida.

Section 17: The act is effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

November 17, 2000

WHERE?

Bradenton Herald; Bradenton, Manatee 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Currently, section 189.4042, Florida Statutes, provides merger procedures for independent special districts. Pursuant to subsection (2), a merger may be effectuated only by special act of the Legislature. Section 189.4045, Florida Statutes, provides that the government formed by merger of existing special districts shall assume all indebtedness and assets of the existing special districts. In addition, the proposed charter of the "new" district must provide for the proper allocation of the indebtedness and the manner in which the debt shall be retired. Section 191.014, Florida Statutes, requires that a merger between fire districts is only effective upon ratification by the Legislature. In addition, this provision prohibits a district from increasing ad valorem taxes on property within the original limits of the district beyond the maximum established, unless approved at referendum, solely by reason of a merger.

With the exception of these three statutes, it is unclear the procedures that a special district must follow when merging. Among other issues, there is no clear procedure to use when determining the "allowed" millage rate, and other fee rates. The Legislature should consider further clarifying special district merger provisions in order to assist special districts desiring to merge. With increased numbers of annexations, some special districts, especially independent special fire control districts, are finding it increasingly difficult to provide necessary services while at the same time remaining economically viable. By providing clarified merger provisions, special districts may be more inclined to pursue merger with other districts to ease or resolve financial concerns.

STORAGE NAME: h0921a.lgva.doc

DATE: March 27, 2001

PAGE: 13

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Laura Jacobs, Esq.

Joan Highsmith-Smith