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HB 1225, Engrossed 1

2003 Legislature

A bill to be entitled

An act relating to Midway Fire District, formerly Midway Fire Protection District, Santa Rosa County; providing for codification of special laws relating to the district; amending, codifying, reenacting, and repealing all prior special acts; providing definitions; providing for creation, status, charter amendments, boundaries, and district purposes; providing for a board of commissioners and powers, duties, and responsibilities thereof; providing for election of officers; providing for compensation and execution of bonds; preserving authority to levy ad valorem taxes, non-ad valorem assessments, and impact fees; providing powers and authority; providing for use of district funds; requiring a record of all board meetings; authorizing the board to adopt policies and regulations; providing for the board to make an annual budget; authorizing the board to enact fire prevention ordinances, appoint a fire marshal, acquire land, enter contracts, and operate a fire rescue service; providing for annexation of district lands; providing for dissolution; providing immunity from tort liability for officers, agents, and employees; providing for district expansion; providing for construction and effect; repealing chapters 80-607, 82-377, and 90-425, Laws of Florida; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:



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Section 1. Pursuant to section 191.015, Florida Statutes, this act constitutes the codification of all special acts relating to Midway Fire District, formerly the Midway Fire Protection District, located in Santa Rosa County. It is the intent of the Legislature to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act and chapters 189 and 191, Florida Statutes, as amended from time to time. It is further the intent of this act to preserve all district authority, including the authority to annually assess and levy against the taxable property in the district an ad valorem tax not to exceed the limit provided in the district's prior special acts, chapters 80-607, 82-377, and 90-425, Laws of Florida, and chapter 191, Florida Statutes, as amended from time to time.

Section 2. Chapters 80-607, 82-377, and 90-425, Laws of Florida, relating to Midway Fire District, formerly Midway Fire Protection District, are amended, codified, reenacted, and repealed as provided herein.

Section 3. Midway Fire District is re-created and the charter for the district is re-created and reenacted to read:

Section 1. Definitions.--As used in this act, unless otherwise specified:

- (1) "District" means the Midway Fire District.
- (2) "Board" means the board of commissioners created pursuant to this act and chapter 191, Florida Statutes.



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(3) "Commissioner" means a member of the board of commissioners of and for the district.

(4) "Residence" means one single-family dwelling, including one single-apartment dwelling unit, one single-condominium dwelling unit, one single-duplex, triplex, or other attached dwelling unit, one single-family detached dwelling unit, or one single-mobile or modular home dwelling unit.

(5) "Business" means motels or apartments, standard commercial or industrial businesses such as gasoline stations, stores, marinas, and similar establishments, as authorized pursuant to the applicable local government comprehensive plan.

Section 2. Creation; status; charter amendments; boundaries; district purposes.--There is hereby created an independent special taxing fire protection and rescue service district incorporating lands in Santa Rosa County described in subsection (1) which shall be a public corporation having the powers, duties, obligations, and immunities herein set forth, under the name of the Midway Fire District. The district is organized and exists for all purposes, and shall hold all powers, set forth in this act and chapters 189 and 191, Florida Statutes.

(1) The lands to be included within the district are the following described lands in Santa Rosa County:

Begin at a point where the east line of Section 4, Township 2 South, Range 27 West, Santa Rosa County, Florida, meets the southern waters edge of East Bay; thence go South along the East line of Section 4 to a



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nail & disk #6679 in the center of State Road 399 (East Bay Blvd.), said point known as Point "A"; thence continue south along the east line of Sections 4, 9, 16, 21, and 28 of said township and range to a nail & disk #6679 in the center of Tidewater Drive; said point known as Point "B"; thence continue south along the East Line of Section 28 to the Northern Waters edge of Santa Rosa Sound; thence go westerly along said waters edge to a point of intersection with the eastern boundary of the city limits of the City of Gulf Breeze, Florida; said point being an 8 inch square concrete monument and known as point "C"; thence go northwesterly along said eastern line being, also being the east line of Section 2, Township 3 South, Range 29 West, and the east line of Section 34, Township 2 South, Range 29 West to the Northeast Corner of said Section 34; thence go westerly along the North Line of said Section 34 also being said city limits line to a 2 ½ capped pipe known as point "D" thence continue westerly along said line approximately 2000 feet to the aforesaid southern waters edge of east bay; thence go easterly along said waters edge to the point of beginning.

(2) The purpose of this act is to promote the health, welfare, and safety of the citizens and residents of Santa Rosa County who reside within the geographical limits of that area known as the Midway Fire District, by providing for:



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firefighting equipment; the establishment and maintenance of fire stations and fire substations; the acquisition and maintenance of all firefighting and protection 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 firefighting; the establishment and maintenance of emergency service; the acquisition and maintenance of rescue and other emergency equipment; and the employment and training of necessary emergency personnel. The district may provide Advanced Life Support services within the district's boundaries. The district shall have all other powers necessary to carry out the purposes of the district as otherwise provided by law, including, but not limited to, the power to adopt all necessary measures, rules, and regulations and policies relating to said purposes.

(3) Nothing herein shall prevent the district from cooperating with the state or other local governments to render such services to communities adjacent to the land described in this section, or such other places as from time to time may be deemed desirable.

(4) The district was created by special act of the Legislature in 1982. Its charter may be amended only by special act of the Legislature.

Section 3. Board of commissioners.--

(1) Pursuant to chapter 191, Florida Statutes, the business and affairs of the district shall be governed and administered by a board of five commissioners, who shall serve a term of four years each, subject to the provisions of chapter



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191, Florida Statutes, and this act. Each commissioner shall hold office until his or her successor is elected and qualified under the provisions of this act. The procedures for conducting district elections and for qualification of candidates and electors shall be pursuant to chapters 189 and 191, Florida Statutes, as they may be amended from time to time.

(2) The board may employ such personnel as deemed necessary for the proper function and operation of a fire department. The salaries of fire department and emergency service personnel, and any other wages, shall be determined by the board.

Section 4. Officers; board compensation; bond.--

(1) In accordance with chapter 191, Florida Statutes, each elected member of the board shall assume office 10 days following the member's election. Annually, within 60 days after the election of new members of said board, the members shall organize by electing from their number a chair, vice chair, secretary, and treasurer. However, the same member may be both secretary and treasurer, in accordance with chapter 191, Florida Statutes, as amended from time to time.

(2) The commissioners shall receive reimbursement for actual expenses incurred while performing the duties of their offices in accordance with general law governing per diem for public officials.

(3) Each commissioner, upon taking office and in accordance with chapters 189 and 191, Florida Statutes, shall execute to the Governor, for the benefit of the district, a bond conditioned upon the faithful performance of the duties of the



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commissioner's office. The premium for such bonds shall be paid from district funds.

Section 5. Powers; duties; responsibilities.--

(1) The district shall have and the board may exercise all the powers and duties set forth in this act, and chapters 189, 191, and 197, Florida Statutes, as they may be amended from time to time, including, but not limited to, ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements. The district may be financed by any method established in this act or chapter 189 or chapter 191, Florida Statutes, as amended from time to time.

(2) The board shall continue to have the right, power, and authority to levy annually an ad valorem tax against the taxable real estate within the district to provide funds for the purposes of the district as authorized by chapters 80-607, 82-377, and 90-425, Laws of Florida, in an amount not to exceed the limit provided in chapter 191, Florida Statutes, as amended from time to time. Although the district is authorized to levy a maximum millage rate as provided for in section 191.009(1), Florida Statutes, the district must receive referendum approval, as required by the State Constitution and section 191.009, Florida Statutes, for any increased millage rate above such rate that has been previously authorized by a special act and approved by referendum.

(3) The methods for assessing and collecting non-ad valorem assessments, fees, or service charges shall be as set



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forth in this act, chapter 170, chapter 189, chapter 191, or chapter 197, Florida Statutes, as amended from time to time.

(4) The district shall levy and collect ad valorem taxes in accordance with chapter 200, Florida Statutes, as amended from time to time.

(5) The district is authorized to levy and enforce non-ad valorem assessments in accordance with chapters 170, 189, 191, and 197, Florida Statutes, as amended from time to time.

(6) The district's planning requirements shall be as set forth in this act and chapters 189 and 191, Florida Statutes, as amended from time to time.

(7) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in this act and chapters 112, 119, 189, 191, and 286, Florida Statutes, as amended from time to time.

Section 6. Impact fees.--

(1) Pursuant to section 191.009(4), Florida Statutes, it is hereby declared that the cost of new facilities upon fire protection and emergency service should be borne by new users of the district's services to the extent new construction requires new facilities, but only to that extent. It is the legislative intent of this section to transfer to the new users of the district's fire protection and emergency services a fair share of the costs that new users impose on the district for new facilities. This section shall only apply in the event that the general purpose local government in which the district is located has not adopted an impact fee for fire services which is



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distributed to the district for construction within its jurisdictional boundaries.

(2) The impact fees collected by the district pursuant to this section shall be kept as a separate fund from other revenues of the district and shall be used exclusively for the acquisition, purchase, or construction of new facilities or portions thereof required to provide fire protection and emergency service to new construction. "New facilities" means land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles and radio telemetry equipment. The fees shall not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. The board of fire commissioners shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities.

Section 7. Ad valorem taxes a lien.--The taxes levied and assessed by the district shall be a lien upon the land so assessed along with the county taxes assessed against such land until said assessments and taxes have been paid, and if the taxes levied by the district become delinquent, such taxes shall be considered a part of the county tax subject to the same penalties, charges, fees, and remedies for enforcement and collection and shall be enforced and collected as provided by general law for the collection of such taxes.

Section 8. Deposit of taxes, assessments, fees; authority to disburse funds.--



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(1) The funds of the district shall be deposited in qualified public depositories, in accordance with chapters 191 and 280, Florida Statutes, as they may be amended from time to time.

(2) All warrants for the payment of labor, equipment, and other expenses of the board, and in carrying into effect this act and the purposes thereof, shall be payable by the treasurer of the board on accounts and vouchers approved and authorized by the board.

Section 9. Authority to borrow money.--

(1) The board of commissioners shall have the power and authority to borrow money or issue other evidences of indebtedness for the purpose of the district in accordance with chapters 189 and 191, Florida Statutes, as amended from time to time; provided, however, that the total payments in any one year, including principal and interest, on any indebtedness incurred by the district shall not exceed 50 percent of the total annual budgeted revenues of the district for the year in which said payments are to be made.

(2) The board of commissioners shall not be personally or individually liable for the repayment of such loan. Such repayment shall be made out of the tax receipts of the district except as provided in this subsection. The commissioners shall not create any indebtedness or incur obligations for any sum or amount which they are unable to repay out of district funds then in their hands except as otherwise provided in this act; provided, however, that the commissioners may make purchases of equipment on an installment basis as necessary if funds are



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available for the payment of the current year's installment on such equipment plus the amount due in that year of any other installments and the repayment of any bank loan or other existing indebtedness which may be due in that year.

Section 10. Use of district funds.--No funds of the district shall be used for any purposes other than the administration of the affairs and business of the district; the construction, care, maintenance, upkeep, operation, and purchase of firefighting and rescue equipment or a fire station or stations; the payment of public utilities; and the payment of salaries of district personnel as the board may from time to time determine to be necessary for the operations and effectiveness of the district.

Section 11. Record of board meetings; authority to adopt policies and regulations; annual reports; budget.--

(1) A record shall be kept of all meetings of the board, and in such meetings concurrence of a majority of the commissioners present shall be necessary to any affirmative action by the board.

(2) The board shall have the authority to adopt and amend policies and regulations for the administration of the affairs of the district under the terms of this act and chapters 189 and 191, Florida Statutes, which shall include, but not be limited to, the authority to adopt the necessary policies and regulations for the administration and supervision of the property and personnel of the district and for the prevention of fires, fire control, and rescue work within the district. Said commissioners shall have all the lawful power and authority



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necessary to implement the purposes for which the said fire district is created, which power and authority shall include, but not be limited to, the power to purchase all necessary fire equipment, rescue equipment, and all other equipment necessary to carry out the purposes of said fire district; to purchase all necessary real and personal property; to purchase and carry standard insurance policies on all such equipment; to employ such personnel as may be necessary to carry out the purpose of said fire district; to provide adequate insurance for said employees; to purchase and carry appropriate insurance for the protection of all firefighters and personnel as well as all equipment and personal property on loan to the district; to sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by counties; and to enter into contracts with qualified service providers, other fire departments, municipalities, and state and federal governmental units for the purpose of obtaining financial aid, assistance, or benefits, expanding services, providing effective mutual aid, and for otherwise carrying out the purposes of the district. The commissioners shall adopt a fiscal year for said fire district which shall be October 1 to September 30.

(3) For the purposes of carrying into effect this act, the board shall annually prepare, consider, and adopt a district budget pursuant to the applicable requirements of chapters 189 and 191, Florida Statutes, as they may be amended from time to time.



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Section 12. Authority to enact fire prevention ordinances; appoint fire marshal; acquire land; enter contracts; establish salaries; general and special powers; authority to provide emergency medical and rescue services.--

(1) The board of commissioners shall have the right and power to enact fire prevention ordinances in the same manner provided for the adoption of policies and regulations in section 11(2), and when the provisions of such fire prevention ordinances are determined by the board to be violated, the office of the state attorney, upon written notice of such violation issued by the board, is authorized to prosecute such person or persons held to be in violation thereof. Any person found guilty of a violation may be punished as provided in chapter 775, Florida Statutes, as a misdemeanor of the second degree. The cost of such prosecution shall be paid out of the district funds unless otherwise provided by law.

(2) The board shall have the power to appoint a fire marshal, who shall be a person experienced in all types of firefighting and fire prevention and who shall work with and cooperate with the Florida State Fire Marshal in which the district is situated in the prevention of fires of all types. The district fire marshal shall be authorized to enter, at all reasonable hours, any building or premises for the purpose of making any inspection or investigation which the State Fire Marshal is authorized to make pursuant to state law and regulation. The owner, lessee, manager, or operator of any building or premises shall permit the district fire marshal to enter and inspect the building or premises at all reasonable



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hours. The district fire marshal shall report any violations of state fire safety law or regulations to the appropriate officials.

(3) The board shall have the power to acquire, by gift or purchase, lands or rights in lands, and any other property, real and personal, tangible or intangible, necessary, desirable, or convenient for carrying out the purposes of the district, and to pay any and all costs of same out of the funds of the district.

(4) The board shall have the power to enter into contracts or to otherwise join with any other district, city, town, the United States of America, or any agency or authority thereunder, for the purpose of expanding services, providing effective mutual aid, and accomplishing and carrying out the purposes for which the district was created and for the further purpose of specifically obtaining financial aid, assistance, or subsidy.

(5) The district is authorized to establish and maintain emergency medical and rescue response services and to acquire and maintain rescue, medical, and other emergency equipment, subject to the provisions of chapter 401, Florida Statutes.

Section 13. Annexations.--If any municipality or other fire control district annexes any land included in the district, such annexation shall follow the procedures set forth in section 171.093, Florida Statutes, as amended from time to time.

Section 14. Dissolution.--The district shall exist until dissolved in the same manner as it was created.

Section 15. Immunity from tort liability.--

(1) The district and its officers, agents, and employees shall have the same immunity from tort liability as other



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agencies and subdivisions of the state. The provisions of chapter 768, Florida Statutes, as from time to time amended, shall apply to all claims asserted against the district.

(2) The district commissioners and all officers, agents, and employees of the district shall have the same immunity and exemption from personal liability as is provided by general law of the state for state, county, and municipal officers.

(3) The district shall defend all claims against the commissioners, officers, agents, and employees which arise within the scope of employment or purposes of the district and shall pay all judgments against said persons, except where said persons acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 16. District expansion.--The district boundaries may be extended from time to time as follows:

(1)(a) Land contiguous to the boundaries of the district in unincorporated Santa Rosa County may be included in the district when a written petition for inclusion signed and sworn to by a majority of the owners of the real property within the tract or tracts to be included in the district has been presented to the board of commissioners and the proposal has been approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting.

(b) The petition must contain the legal description of the property sought to be added to the district and the names and addresses of the owners of the property.



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(2) If a proposal to add an area to the district as defined in subsection (1) is approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting, the board of commissioners shall thereafter adopt a resolution describing the lands to be included within the district and shall cause such resolution to be duly enrolled in the record of the meeting and a certified copy of the resolution to be recorded in the Office of the Clerk of the Circuit Court in Santa Rosa County.

(3) Upon adoption of the resolution by the board, the district shall, pursuant to chapter 191, Florida Statutes, request that its legislative delegation approve said addition and sponsor legislation amending the district boundary. Upon approval by the Legislature, the boundary shall be amended.

(4) Lands within municipal boundaries of cities contiguous to district boundaries may be included in the district upon request by the governing board of the municipality, approval of said request by affirmative vote of no fewer than three members of the district board, and referendum approval of inclusion by the electors of the municipality whose residences are located within the proposed amended boundary of the district. The referendum shall be conducted by the municipality at the next available special or general election. Upon approval by the Legislature, the boundary shall be amended.

Section 4. This act shall be construed as remedial and shall be liberally construed to promote the purpose for which it is intended.



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Section 5. In the event that any part of this act should be held void for any reason, such holding shall not affect any other part thereof.

Section 6. Chapters 80-607, 82-377, and 90-425, Laws of Florida, are repealed.

Section 7. This act shall take effect upon becoming a law.