

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1251 w/CS Bayshore Fire Protection/Rescue District  
**SPONSOR(S):** Green  
**TIED BILLS:** None. **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Local Government &amp; Veterans' Affairs</u>	<u>15 Y, 0 N w/CS</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) <u>Finance and Tax</u>	<u>22 Y 0 N</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

The bill codifies all prior special acts relating to the Bayshore Fire Protection and Rescue Service District (District) into a single act.

The bill preserves the District's current authority to levy ad valorem taxes and non-ad valorem assessments in accordance with general law.

No fiscal impacts are anticipated for either fiscal year 2003-04 or 2004-05 according to the Economic Impact Statement.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Bayshore Fire Protection and Rescue Service District (District) into a single act. The bill provides a legal description of the boundaries of the district and provides for the District's powers and duties. The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable language. The bill preserves the District's current authority to levy ad valorem taxes and non-ad valorem assessments in accordance with general law.

The Bayshore Fire Protection and Rescue Service District (District), an independent special district, was created in 1976, by chapter 76-414, Laws of Florida and has been subsequently amended by special acts.

The District's maximum authorized ad valorem millage can only be raised by voter referendum. This provision is not changed by this bill. Currently, the District can request authorization to levy up to 3 mills under chapter 95-459, L.O.F. This bill authorizes the District to request voter approval of a levy up to the maximum ad valorem tax rate currently authorized by general law for all fire control districts, which is 3.75 mills. The current maximum rate limit authorized by the voters in this District is 2.5 mills.

The bill maintains the Board's authority to levy non-ad valorem assessments in accordance with Florida law, which, upon initial levy, requires voter approval.

#### **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 initially authorized by the 1997 Legislature and is codified in section 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows 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. 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. Additionally, the 2001 Legislature amended section 189.429, Florida Statutes to provide that reenactment of existing law pursuant to section 189.429: (1) shall not be construed to grant additional authority nor to supercede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify,

amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of sections 189.429 and 191.015, F.S., 122 special districts have codified their charters.

Section 189.404(5), F.S., 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.

C. SECTION DIRECTORY:

**Section 1.** States that this act constitutes the codification of special acts relating to this District.

**Section 2.** Codifies, reenacts, amends, and repeals chapters 76-414, 80-520, 84-466, 87-422, 91-398, and 95-459, Laws of Florida.

**Section 3.** Re-creates the Bayshore Fire Protection and Rescue Service District and re-creates and re-enacts the district charter as follows:

Section 1. Provides for definitions.

Section 2. Provides for the District status; provides the geographical boundaries for the District; provides for charter amendments.

Section 3. Creates governing board, allows for the employment of personnel, provides for compensation, provides for organization and provides procedures for the governing board executing bonds to the Governor.

Section 4. Defines powers, duties, and responsibilities for the District.

Section 5. Authorizes ad valorem taxation; authorizes non-ad valorem assessments.

Section 6. Defines the fiscal year.

Section 7. Provides that District funds must be deposited in qualified depositories and provides guidelines for issuing checks.

Section 8. Provides authority to borrow money.

Section 9. Defines the procedure for board actions and provides the authority to adopt policies and regulations.

Section 10. Authorizes the governing board to enact a fire prevention code.

**Section 4.** Provides for liberal construction.

**Section 5.** Provides that if any part of this act is deemed void, the other parts remain in effect.

**Section 6.** Repeals chapters 76-414, 80-520, 84-466, 87-422, 91-398, and 95-459, Laws of Florida.

**Section 7.** This act takes effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 21, 2002

WHERE? New-Press, Fort Myers, Lee 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

## III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not Applicable.

B. RULE-MAKING AUTHORITY: Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Local Government & Veterans' Affairs Committee adopted one amendment on April 2, 2003. The amendment removed section six of the bill which contains the supremacy clause.

Many local bills contain language providing that in the event of a conflict of the provisions of the local bill with the provisions of any other general or local law, the provisions of the act being considered controls to the extent of the conflict(s). This is referred to as a "supremacy" clause. This language does not allow interested persons or Members of the Legislature knowledge of the specific laws containing potential conflicts. Therefore, unless those specific laws in conflict are identified, it is generally recommended that the supremacy clause be removed from the bill.