

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 599 w/CS East Lake Tarpon Special Fire Control District, Pinellas County
SPONSOR(S): Bilirakis
TIED BILLS: None. **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|-----------------------|---------------------|------------------------|
| 1) <u>Local Affairs (Sub)</u> | <u>9 Y, 0 N</u> | <u>Smith-Boggis</u> | <u>Highsmith-Smith</u> |
| 2) <u>Local Government & Veterans' Affairs</u> | <u>14 Y, 0 N w/CS</u> | <u>Smith-Boggis</u> | <u>Highsmith-Smith</u> |
| 3) <u>Finance and Tax</u> | <u>20 Y 1 N w/CS</u> | <u>Monroe</u> | <u>Diez-Arguelles</u> |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

The bill provides that the East Lake Tarpon Special Fire Control District will remain as the taxing authority with respect to fire services, over any lands in its boundaries that are annexed by other taxing authorities.

The bill permits other taxing authorities to collect the applicable tax, or assessment for fire services, and remit it to the District, at the District's annually adopted standard rate. The District's millage rate for 2002 was 1.613 mills.

The provisions of the District's current charter resume on December 31, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

The bill provides that the East Lake Tarpon Special Fire Control District shall remain the taxing authority with respect to fire services, over any lands in its boundaries that are annexed by other taxing authorities. Residents living in areas that are annexed by taxing authorities with lower fire service taxes may continue paying the District at its higher rate, if the annexing authority chooses not to levy its tax or assessment for fire services. The District's millage rate is established pursuant to general law and in 2002 it was 1.613 mills.

B. EFFECT OF PROPOSED CHANGES:

This bill amends the District's charter to state that if any municipality or other fire control district annexes land within the District's boundaries, the District shall continue as the sole taxing, enforcing, and service providing authority for fire control purposes to the annexed land. The bill permits municipalities to collect the applicable tax, or assessment for fire services, and remit it to the District, at the District's annually adopted standard rate. The District's millage rate is established pursuant to general law, and in 2002 was 1.613 mills.

This bill is effective on January 1, 2004 and stands repealed on December 31, 2007.

Present Situation:

The East Lake Tarpon Special Fire Control District (District) is an independent special district that is located in Pinellas County. The District's charter states that the District provides fire services to, and receives assessments from, all unincorporated lands within the District's boundaries. Further, the charter states that any land within the District's boundaries that becomes annexed to a municipality will be excluded from the District, effective the following January 1st.

The District's charter currently states that the District provides fire services to, and receives assessments from, all unincorporated lands within their boundaries. The charter provides that any land within the District's boundaries that becomes annexed to a municipality will be excluded from the District. The District's 2002 millage rate was set at 1.613 mills.

Section 171.093, Florida Statutes, Municipal annexation within independent special districts.

Section 171.093, F.S. was enacted by the 2000 Legislature and sets forth a scheme for independent special districts and annexing municipalities to resolve issues of funding, and responsibility for providing services. The law provides a procedure for an interlocal agreement between the special district providing services up to the date of annexation, and the annexing municipality. If an interlocal agreement cannot be reached, the law provides that the special district will continue to provide services to the disputed area for a period of four years following the annexation. During this four-year period,

the municipality will pay the district an amount equal to what the district would have collected had the property remained part of the district.

C. SECTION DIRECTORY:

- Section 1:** Amends subsection (2) of section 3 of section 1 of chapter 2000-477, Laws of Florida, to provide that the District will continue to provide services to any unincorporated area that is located within the District's boundaries, after the annexation of the area by a municipality.
- Section 2:** Amends section 11 of section 1 of chapter 2000-477, Laws of Florida, to provide that the District will continue as the sole taxing, enforcing, and service-providing authority for District purposes to any unincorporated area that is located within the District's boundaries, after the annexation of the area by a municipality, or other fire control district; permits municipalities to collect the applicable tax, or assessment for fire services, and remit it to the District, at the District's annually adopted standard rate. Provides that if the District is receiving funds from an annexing municipality or special district for the provision of fire control services in an annexed area, the District may not collect a tax or assessment in that area. The District's current millage rate is pursuant to general law.
- Section 3:** Provides a sunset provision stating that the changes made by this bill to subsection (2) of section 3 of section 1 of chapter 2000-477, Laws of Florida will terminate on December 31, 2007. After December 31, 2007, the subsection will revert to current provisions in chapter 2000-477, Laws of Florida. The subsection will once again provide that any parcel of land within the boundaries of the District that is annexed by a municipality will be excluded from the District on January 1, following the annexation.
- Section 4:** Provides a sunset provision stating that the changes made by this bill to section 11 of section 1 of chapter 2000-477, Laws of Florida, will terminate on December 31, 2007. After December 31, 2007, the section will revert to current provisions in chapter 2000-477, Laws of Florida. The section will once again provide that any unincorporated area that lies within the District's boundaries, and is annexed by a municipality, will not be subject to a levy of the District's ad valorem taxes.
- Section 5:** Provides that this bill shall take effect on January 1, 2004, unless otherwise provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

- A. NOTICE PUBLISHED? Yes No
IF YES, WHEN? February 14, 2003
WHERE? Tampa Bay Review, Clearwater, Pinellas 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Fire District Tax Information for Fiscal Year 2002

| | Column 1 | Column 2 | Column 3 | |
|------------------|----------------------------------|--|--------------------------------|--------------|
| | 2001 Millage Rate | Taxable Value of 1 Mill | Budgeted Ad Valorem | |
| Belleair Bluffs | 1.475 | \$203,859 | \$ 300,692 | |
| Clearwater | 3.001 | \$769,775 | \$2,310,095 | |
| Dunedin | 2.350 | \$248,754 | \$ 584,572 | |
| Gandy | 2.070 | \$ 70,803 | \$ 146,562 | |
| Largo | 2.615 | \$528,412 | \$1,381,797 | |
| Pinellas Park | 2.474 | \$271,577 | \$ 671,881 | |
| Safety Harbor | 3.167 | \$ 54,918 | \$ 173,925 | |
| Tarpon Springs | 1.236 | \$ 133,482 | \$ 164,984 | |
| Seminole | 2.219 | \$1,884,296 | \$4,181,253 | |
| East Lake | 1.505 | \$1,874,025 | \$2,820,408 | |
| Lealman | 5.323 | \$ 677,324 | \$3,605,396 | |
| High Point | 2.929 | \$ 846,745 | \$2,480,116 | |
| Tierra Verde | 1.190 | \$ 501,212 | \$ 596,442 | |
| South Pasadena | 2.186 | \$ 75,449 | \$ 164,932 | |
| Totals | | \$8,140,632 | \$19,583,056 | 2.406 |

2.406 = Average Fire District Millage

Explanation of Chart

The chart was provided by the City of St. Petersburg Development Services Department, and it contains the 2002 tax information for fire districts located in Pinellas County.

The second column in the chart is entitled, "Taxable Value of 1 Mill". The numbers in this column represent the amount that would be raised in each district by imposing a 1-mill tax on the property located in the district. Thus, the District raises \$1,874,025.00 for each 1-mill tax levied on the property within its boundaries. The total amount of revenue generated by a district's ad valorem tax rate is attained by multiplying a district's "millage rate", located in column 1, by a district's "taxable value of 1 mill", located in column 2. Thus, the District would anticipate receiving \$2,820,408.00 in ad valorem tax revenue for the 2002 fiscal year.

Double Taxation

The concern has been raised that this bill may result in the residents of the City of Tarpon Springs being subject to double taxation. If a municipality incorporates fire service charges into its ad valorem

taxes, and annexed residents are required to pay the District's ad valorem, and non-ad valorem taxes, the residents would be subject to paying twice for fire services. According to the Office of the Attorney General, in a letter dated December 26, 2002, states in part 'While a system of collecting and remitting assessments, such as the one the proposed bill appears to contemplate, would not appear to constitute improper double taxation'.

However, according to the attorney for the District, double taxation issues will be prevented by the provision in the bill that permits, but does not require, municipalities to collect the applicable tax, or assessment for fire services, and remit it to the District, at the District's annually adopted rate, which was 1.613 mills in 2002. According to the economic impact statement, residents living in municipalities that assess lower fire service taxes will be required to continue paying the District at its rate.

The intent of the Committee Substitute was to address the problem of double taxation.

Attorney General's Comments

The Attorney General addressed the bill as filed and had the following concerns:

The proposed legislation would permit the municipality to "collect the applicable assessment or tax for fire service" and "pay the District for such services at the District's annually adopted standard rate." The proposed legislation only requires the payment by the municipality to the Fire Control District to equal the Fire Control District's applicable rate. Thus, the proposed legislation might not limit a municipality to imposition of an assessment rate equal to that of the Fire Control District, so the municipality might be able to charge a higher rate and retain the excess in its general revenues. It is unclear whether the provision specifying that the Fire Control District "shall continue as the sole taxing . . . authority" is sufficient to avoid this potential ambiguity.

Second, the proposed legislation would permit the municipality to impose a tax, and not merely to collect and remit an assessment. An assessment for fire control services should be used to fund those fire control services. A "tax" may refer to an amount exacted by a taxing authority for any governmental purposes.

Third, the proposed legislation uses the term "pay" rather than the term "remit", which is used in the sales tax provisions of chapter 212, F.S., to describe the duty of a retail business to transmit to the Department of Revenue the sales taxes that are funds of the State, which the business has collected for the benefit of the State. The use of the term "pay" suggests that the funding provisions of the proposed legislation should not be considered analogous to the State's method of requiring dealers to collect and remit sales taxes.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Local Affairs recommended one amendment on March 20, 2003. The amendment changes the sunset date to December 31, 2007 at which time the bill reverts to current provisions in chapter 2000-477, L.O.F.

The Committee on Local Government & Veterans' Affairs adopted the amendment on March 27, 2003.

On April 14, 2003, the committee on Finance and Tax adopted one amendment to the bill. The amendment added language to the bill which explicitly states that if the District is receiving funds from an annexing municipality or other fire district for providing fire services in an annexed area, the District may not collect a tax or assessment in that area.