

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

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

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></u>	<u></u>	<u></u>
3) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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 current millage rate is pursuant to chapter 189, chapter 191, and chapter 197, Florida Statutes and is currently set at 1.613 mills.

This bill stands repealed, and the provisions of the District's current charter resume on December 31, 2007.

According to the economic impact statement, this bill does not have a fiscal impact.

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. According to the economic impact statement residents living in areas that are annexed by taxing authorities with lower fire service taxes would be required to continue paying the District at its higher rate. The District's current millage rate is established pursuant to general law and is currently set at 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 current millage rate is established pursuant to general law, and is currently set at 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 current millage rate is currently 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.

The State Constitution allows annexation by special act. [See s. 2(c), Art. VIII, State Constitution.]

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.

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 levy non-ad valorem assessments against the taxable real estate lying within the territorial bounds of the District. The amounts of the non-ad valorem assessments shall not exceed the rates set forth in section 15 of chapter 89-502, Laws of Florida, unless increased to an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, as provided in section 191.009(2), Florida Statutes.

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 ad valorem taxes, and special assessments, on real property in the district.

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, Assessments, and Impact Fees

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. 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. 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
	Millage	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.

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 allows municipalities to collect the applicable tax, or assessment for fire services, and remit it to the District, at the District's annually adopted rate of **1.613 mills**. The analysis stated that the proposed bill may be an effort to mirror the way in which retail stores collect sales tax from their customers and remit the tax to the State. A system of collecting and remitting assessments that would mirror the state sales tax would not constitute improper double taxation.

However, 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 Attorney General 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.