



## 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 Parrish Fire Control District (District) is an independent fire control district that was created in 1982, by chapter 82-325, Laws of Florida, and has been subsequently amended by special acts.

As an independent fire control district, the District is permitted to exercise only those powers set forth in its charter and in ch. 191, F.S.<sup>1</sup>

The District is codifying all prior special acts of the district into a single act, as required by ch. 189, F.S., and s. 191.015, F.S.

The District is amending its charter to incorporate the following powers provided in ch. 191, F.S.:

- permits commissioners to be paid a salary or honorarium that shall not exceed \$500 per month;<sup>2</sup>
- increases from \$1,000 to \$5,000, the bond the commissioners of the board must execute;<sup>3</sup>
- adds authority to assess “an additional charge for hazardous and emergency conditions” as part of the authority to levy ad valorem taxes and revises the references to “real property” and responsibility as it relates to this schedule;<sup>4</sup>
- changes the authority of the District to provide “death” insurance to authority to provide “life” insurance;<sup>5</sup>
- modifies the authority and power of the District to acquire property;<sup>6</sup>
- gives specific authority to fund “legal expenses incurred for the operation, enforcement, and furtherance of the district’s affairs and business;”<sup>7</sup>
- modifies the schedule of non-ad valorem assessments as described under s. 15 of the charter in the SECTION DIRECTORY;<sup>8</sup>

<sup>1</sup> See *infra* Background on Chapter 191, F.S.

<sup>2</sup> See Fla. Stat. § 191.005(4).

<sup>3</sup> See Fla. Stat. § 191.005(6).

<sup>4</sup> See Fla. Stat. §§ 191.006(14) & (15) and §191.009(2).

<sup>5</sup> See Fla. Stat. § 191.006(17).

<sup>6</sup> See Fla. Stat. § 191.006.

<sup>7</sup> See Fla. Stat. § 191.006(3).

While the powers set forth in the charter appear to conform to those previously provided to the District, under the authority given by the statutes, the District appears to modify its charter to provide the following:

- changes the name of the District to the Parrish Fire District;
- adds a quorum requirement for action by the board;
- removes the residency requirement for the fire chief eliminating the position and duties of the fire marshal; and
- adds authority “to provide all things necessary for the prevention, extinguishment, and control of fires in the district.”

### **Background on the Codification Process**

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 authorized by the 1997 Legislature when it amended ch. 189, F.S., to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first.

The 1998 Legislature amended s. 189.429, F.S., to: (1) extend the codification deadline to December 1, 2004; (2) allow 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; (3) remove the prohibition of substantive amendments in a district’s codification bill; and (4) remove the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline. 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 s. 189.429, F.S., creating subsections (2) and (3). The subsections 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.

According to the schedule of submittals, Special Fire Control Districts are to submit their charters during the 2004 Legislative Session.

### **Background on Chapter 191, F.S.**

Chapter 191, F.S., 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 55 independent special fire control districts, and to provide greater uniformity in the financing authority, operations, and

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<sup>8</sup> See Fla. Stat. §§ 191.006(14) & (15) and §191.009(2) (2003).

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, F.S., 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, F.S., 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 board of any district may request the local legislative delegation that represents the area within the district to create by special law geographical subdistricts for board seats. Any board of five members or larger elected on a subdistrict basis as of the effective date of this act shall continue to elect board members from such previously designated subdistricts, and this act shall not require the elimination of board seats from such boards.

Candidates for the board are required to qualify with the county supervisor of elections. Except as specifically stated in ch. 191, F.S., 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), F.S. 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 ch. 99, F.S., ch. 582, F.S., 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 s. 105.035, F.S.

If a district presently elects members of its board, the next election must be conducted in accordance with s. 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 s. 112.061, F.S.

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 ch. 119, F.S. All meetings of the board are

open to the public and governed by ch. 286, F.S., and s. 189.417, F.S., 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 levy non-ad valorem assessments against the taxable real estate lying within the territorial bounds of the District. As provided in s. 191.009(2), F.S., non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum, in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years.
- To exercise the power of eminent domain pursuant to ch. 73, F.S., or ch. 74, F.S., 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 ch. 197, F.S.

### 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 ch. 401, F.S., 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 ch. 252, F.S.
- 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. 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:** Provides that the bill constitutes the codification of all special acts relating to the District. Sets forth the intent of the bill.

**Section 2:** Codifies, amends, reenacts, and repeals ch. 82-325, 85-451, 89-515, 90-458, 91-409, 94-373, 95-501, and 02-335, L.O.F.

**Section 3:** Recreates and reenacts the charter of the District:

Section 1: Restates s. 1, ch. 82-325, L.O.F., as amended by s. 1, ch. 85-451, L.O.F.; providing for the incorporation of the District as a public municipal corporation with the powers and duties described in the charter; changes the name of the District to the Parrish Fire District.

Section 2: Restates s. 1, ch. 82-325, L.O.F., as amended by s. 2, ch. 85-451, L.O.F., and s. 1, ch. 91-409, L.O.F.; sets forth the lands to be incorporated within the District.

Section 3: As provided in part by ss. 3-4, ch. 82-325, L.O.F.; as amended by s. 3, ch. 85-451, L.O.F., ch. 90-458, L.O.F., and s. 1, ch. 95-501, L.O.F.; requiring the business and affairs of the District be conducted by a board of five commissioners; provides for the board to elect a chair and vice chair; details the position of secretary/treasurer including payment for such services; permits commissioners to be paid a salary or honorarium that shall not exceed \$500 per month; increases from \$500 to \$1,000, the bond the commissioners of the board must execute.

Section 4: Provides for the election of the board for 4-year terms by the electors of the district in a non-partisan election; requires candidates to designate which of the five seats for which he or she is qualifying at the time of qualifying; mandates that candidates or elected commissioners must be a qualified elector and resident of the District; addresses the election cycle of the board; provides for assumption of office and vacancy.

Section 5: As provided in part by ss. 5, 6, & 7, ch. 82-325, L.O.F., as amended by s. 5, ch. 85-451, L.O.F.; and s. 2., ch. 90-458, L.O.F.; providing authority for the board to levy non-ad valorem assessments against the taxable real estate within the District; adds authority to assess "an additional charge for hazardous and

emergency conditions;" permits a schedule of "emergency services" and authorizes the assessment of fees for services rendered; includes "live-aboards" with "marine vessels"; revises references to "real property" and responsibility as it relates to the schedule; becomes section for the provision permitting contracts for firefighting duties; continues schedule of charges for refuse dumps; sets forth the procedure for assessment with the property appraiser; requires public hearings prior to adopting a rate of assessment; requires a public hearing for appeals; provides for assessments to be included in the Manatee County tax roll; makes non-ad valorem assessments a lien on the land and provisions for delinquency of payment.

- Section 6: As provided in part by s. 8, ch. 82-325, L.O.F.; as amended by s. 6, ch. 85-451, L.O.F.; requires the deposit of funds of the district and disbursement by check.
- Section 7: As provided in part by s. 10, ch. 82-325, L.O.F.; as amended by s. 7, ch. 85-451, L.O.F.; prohibiting the funds of the District from being used for any other purpose that the administration and business of the District; delineates permitted uses; changes the authority to provide "death" insurance to authority to provide "life" insurance; gives specific authority to fund "legal expenses incurred for the operation, enforcement, and furtherance of the District's affairs and business."
- Section 8: As provided in part by s. 9, ch. 82-325, L.O.F.; as amended by s. 8, ch. 85-451, L.O.F.; sets forth the borrowing power of the District and the limits on such power.
- Section 9: Modifies the authority and power of the District to acquire as permitted by ch. 191, F.S.
- Section 10: As provided in part by s. 12, ch. 82-325, L.O.F.; as amended by s. 10, ch. 85-451, and s. 3, ch. 90-458, L.O.F.; providing for the duties of officers and the authority of commissioners; adds a quorum requirement for action by the board; changes the required rules and regulations for the District.
- Section 11: As provided in part by ss. 11 & 13, ch. 82-325, L.O.F.; as amended by s. 11, ch. 85-451, L.O.F.; permitting the authority to employ qualified personnel; removes the residency requirement for the fire chief; eliminates the position and duties of the fire marshal; adds the authority "to provide all things necessary for the prevention, extinguishment, and control of fires in the district."
- Section 12: As provided in part by s. 14, ch. 82-325, L.O.F.; as amended by s. 12, ch. 85-451, L.O.F.; requiring compliance with all appropriate reporting requirements; adds statutory references;
- Section 13: As provided in part by s. 15, ch. 82-325, L.O.F.; as amended by s. 13, ch. 85-451, L.O.F.; providing that the District shall exist until dissolved by law; removes provision providing for severability of lands of the District.
- Section 14: As provided in part by s. 2, ch. 82-325, L.O.F.; as amended by s. 14, ch. 85-451, L.O.F.; provides definitions.
- Section 15: Continues the schedule of non-ad valorem assessments with the following modifications:

- adds User Code types "0004" and "9800" to capture how the property appraiser "usually describes" vacant parcels;

- changes the description of “vacant platted lots” to “vacant residential lots”;
- implements a maximum assessment of \$10.00 per lot on vacant condominium lots (Use Code 0004);
- adds to the range of User Code types “through 7000” rather than “6900” and adds User Codes “9800” and “9901” for purposes of identifying unsubdivided acreage;
- adds User Code types “801,” “803,” “1200,” “2800,” and “2802” for purposes of identifying residential parcels;
- changes the description of “single family dwelling unit” to “single family residence”;
- adds a provision to multifamily residences that currently applies only to single family residences – “if said residence is located on a parcel of land not in excess of one lot or 1 acre, no additional assessment shall be made for the land on which said residence is located. If the land upon which said residence is located exceeds one lot or 1 acre, an additional assessment may be made”;
- adds User Code types “204” and “2802” and “mobile homes/condominiums” and “mobile home parks, residential” for purposes of identifying what is currently described only as “mobile homes”;
- increases the assessment for “any other residential units, including but not limited to the residential portion of mixed uses (Use Code “1200”)” to “150 per dwelling unit;
- changes provisions related to the District granting an improved hazard rating to “vary the assessment...based on guidelines;”
- removes “up to” from the stated assessment for commercial/industrial parcels as these are already maximum annual assessments;
- adds User Code “1604” to the mercantile (M) category of commercial/industrial parcels;
- adds User Codes “1704” and “1904” to the business (B) category of commercial/industrial parcels;
- adds User Codes “4104” and “9100” to the factory/industrial (F) category of commercial/industrial parcels;
- adds User Code “4804” to the hazardous (H) category of commercial/industrial parcels;
- adds User Codes “7100,” “7200,” “8400,” “8500,” and “9200” to the institutional (I)category of commercial/industrial parcels;

- removes the provision that did not permit increases in the new schedule until approved by a majority vote of the Board of County Commissioners of the District.

Section 16: As provided in part by s. 16, ch. 85-451, L.O.F.; as amended by s. 3, ch. 95-501, and s. 2, ch. 2002-335, L.O.F.; permitting the impact fees to be imposed:

**Section 4:** Provides for severability and that the invalidity of any provision of the bill will not affect other provisions or applications of the act.

**Section 5:** Provides for liberal construction of the act to carry out its purposes in the interest of public safety.

**Section 6:** Amends ch. 93-352, L.O.F., removing a reference to the District.

**Section 7:** Provides for the repeal of ch. 82-325, 85-451, 89-515, 90-458, 91-409, 94-373, 95-501, and 02-335, L.O.F.

**Section 8:** Provides that the bill shall take effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 17, 2003.

WHERE? *Bradenton Herald*, Bradenton, Manatee, 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: Since the language of this bill may conflict with a reference to the District in ch. 93-352, L.O.F., the sponsor may wish to remove this reference.

## IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs adopted one amendment on February 17, 2004. The amendment removes a reference to the District in ch. 93-352, L.O.F.

