

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 631 w/CS St. Lucie County Fire District
SPONSOR(S): Harrell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>17 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Finance and Tax</u>	<u>25 Y, 0 N</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The St. Lucie County Fire District is an independent fire control district established by chapter 96-532, Laws of Florida, as amended by chapter 97-356, Laws of Florida.

The bill, as a committee substitute, codifies all prior special acts of the St. Lucie County Fire District into a single act.

As an independent fire control district, the District is permitted to exercise only those powers set forth in its charter and in chapter 191, Florida Statutes.

The District is amending its charter to incorporate the following powers provided in chapter 191, Florida Statutes: (1) increase the permitted levy on real and personal property to that authorized by this chapter; and (2) grant the power to levy any authorized taxes.

The bill changes the charter to remove outdated provisions related to the predecessor district. Consistent with legislative practice, the bill also changes subsection designations from letters to numbers and changes the paragraph designations.

This bill seeks to continue two provisions of the charter which appear to provide exemptions to general law.

This bill will take effect upon becoming law.

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 St. Lucie County Fire District (District) is an independent fire control district established by chapter 96-532, Laws of Florida, as amended by chapter 97-356, Laws of Florida.

The District covers an area of 614 square miles with a population of approximately 203,000.¹ The District has 365 salaried employees and responded to 28,665 calls in 2002 with an average response time of 6 minutes, 10 seconds.²

The millage for fiscal year 2002-2003 is 2.67 and for fiscal year, 2003-2004, the millage will increase to 2.7806 "due to the rapid growth of population within the jurisdictional boundaries... [to] fund the necessary personnel to cover the increase in run volumes."³

The District is codifying all prior special acts of the district into a single act, as required by section 191.015, Florida Statutes.

As an independent fire control district, the District is permitted to exercise only those powers set forth in its charter and in chapter 191, Florida Statutes.⁴

The District is amending its charter to incorporate the following powers provided in chapter 191, Florida Statutes: (1) increase the permitted levy on real and personal property to that authorized by this chapter;⁵ and (2) grant the power to levy any authorized taxes.⁶

The bill changes the charter to remove outdated provisions related to the predecessor district⁷. Consistent with legislative practice, the bill also changes subsection designations from letters to numbers and also changes paragraph designations.

The bill seeks to continue two provisions of the charter that may provide exemptions to general law:

¹ See Response from the District to *Basic Questions for Fire District Bills* (on file with the Committee on Local Government & Veterans' Affairs).

² *Id.*

³ *Id.*

⁴ See *infra* Background on Chapter 191, Florida Statutes

⁵ See Fla. Stat. § 191.009 (2003) (permitting the levy of ad valorem taxes not to exceed 3.75 mills).

⁶ *Id.*

⁷ The bill removes sections 3 and 4 of the charter as set forth in chapter 96-532, Laws of Florida. Section 3 provided for the title, rights, and ownership of equipment and property held and owned by the "district herein and hereby abolished" to "pass and be vested in the district hereby created and established to succeed the district." Section 4 provided for the new district to be responsible and be bound for all contracts, judgments, and debts of the abolished district.

One provision⁸ prohibits any action from being brought against the District for any negligent and wrongful injury or damage to persons or property unless brought within 12 months from the time of the injury or damage. This provision also prevents any suit arising out of any action in tort or sounding in tort from being maintained against the District unless a written notice of the claim, giving the time, place, and circumstance of the injury or damage, is given to the chairperson, vice chairperson, or the clerk-treasurer of the District within 30 days after the occurrence of the injury or damage.⁹

The second provision¹⁰ identifies sections 200.071-200.141, Florida Statutes,¹¹ as inapplicable and superseded to the extent the power and authority of the District to levy, assess, collect, and enforce ad valorem taxes is effected. However, since these statutes address county and municipal millages, they have never applied to this independent fire 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 chapter 189, Florida Statutes, 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 section 189.429, Florida Statutes, 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 section 189.429, Florida Statutes, 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.

⁸ See section 15 of the charter as set forth in section 3 of the bill.

⁹ *But see* Fla. Stat. § 768.28 (2003) (setting forth the provisions governing tort actions against state agencies or subdivisions including claim procedures and time limitations).

¹⁰ See subsection (5) of section 16 of the charter as set forth in section 3 of the bill.

¹¹ Section 200.71, Florida Statutes, relates to the millage limitation for counties; section 200.081, Florida Statutes, relates to the millage limitation for cities; section 200.091, Florida Statutes, provides for a referendum to increase the millage for counties; section 200.101, Florida Statutes, provides for a referendum to increase the millage for municipalities; section 200.141, Florida Statutes, relates to the millage following consolidation of city and county functions.

Background on Chapter 191, Florida Statutes

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 55 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.

Taxes and Assessments under Chapter 191, F.S.

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 under Chapter 191, F.S.

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.

C. SECTION DIRECTORY:

- Section 1: Provides that the bill is the codification of all special acts relating to the District; provides legislative intent to preserve the current authority of the District.
- Section 2: Codifies, reenacts, amends, and repeals chapters 96-532 and 97-356, Laws of Florida.
- Section 3: Recreates and reenacts the charter of the District.¹²

¹² Except as noted, all provisions are as provided by chapter 96-532, Laws of Florida.

- Section 1: Provides that all the lands in the County of St. Lucie are part of the District; sets forth the purpose of the District.
- Section 2: Creates the governing body of the District or “the board;” provides for seven members; gives all the powers of a body corporate; permits the board to contract, sue and be sued, adopt and alter a seal, control real estate and personal property, employ experts, agencies, and employees; borrow money and issue negotiable promissory notes; adds attorneys to the list the board is authorized to employ;¹³ provides for the general exercise of powers.
- Section 3: Board composition; terms; elections.-- provides that the seven member board is to consist of one member appointed by the governor and two members to be elected by and from each of the following: the Board of County Commissioners, the City Commission of the City of Fort Pierce, and the City Council of the City of Port St. Lucie; provides terms of office of two years and essential qualifications; requires the election of a chairperson and vice chairperson and a quorum to transact business.
- Section 4: Books; audits. -- requires the board to annually have the books audited by an independent certified public accountant.
- Section 5: Depositories; use of funds. -- directs the deposit of funds of the District; prohibits payment or disbursement except by check; sets forth how funds of the district may be used.
- Section 6: Gifts; purchases; loans.-- permits the board to have the power and authority to hold, control, and acquire real or personal property; authorizes payment in installments or deferred payments; grants the power of eminent domain; authorizes the board to borrow money not to exceed \$1,500,000 in any one year unless there is a District emergency; prohibits total borrowing from exceeding \$5 million; allows the board to issue promissory notes; sets forth the definition of “emergency” for the District; gives the board power: to acquire firefighting and other equipment, to hire necessary personnel, to inspect all property and investigate for fire hazards; and to prescribe rules and regulations.
- Section 7: Records; adoption of rules.-- provides that the officers of the board have duties similar to those of like officers; requires a record to be kept of all meetings of the board; permits the board to adopt rules and regulations.
- Section 8: Annual reports; fiscal year.-- requires the board to make an annual report of its actions and accounting of its funds and to file the report with the Clerk of the Court of St. Lucie County; fixes the date of the fiscal year.
- Section 9: Rights under civil service; retirees.-- provides that all rights of firefighting personnel under the civil service and retirement laws of the City of Fort Pierce are preserved unto such personnel.
- Section 10: Millage; taxes.-- authorizes the board to annually levy upon all the real and personal taxable property in the District; provides that such levy shall not exceed 3 mills unless authorized by chapter 191, Florida Statutes; permits the levy of taxes permitted by the charter or chapter 191, Florida Statutes; requires the levy

¹³ Payment for the fees and expenses of an attorney was previously provided by chapter 96-532, Laws of Florida, and continues to be included in section 11 of the charter.

of taxes to be by resolution and sets forth requirements for delivery of such resolution; provides that the determination of millage and collection of taxes shall be in accordance with chapter 200, Florida Statutes, and other applicable laws; declares that the special assessment taxes are special assessments for special or peculiar benefit accruing to properties within the District; provides that the duties and responsibilities of the board are public purposes as well as county, district, and municipal purposes.

- Section 11: Payment of expenses. -- authorizes the board to pay expenses, including the fees and expenses of an attorney; requires funds to be paid out only upon check and sets forth requirements for such checks.
- Section 12: Fire chief. -- requires the board to appoint and employ a fire chief and provides responsibilities for the fire chief.
- Section 13: Clerk-treasurer. -- requires the board to appoint and employ a clerk-treasurer to be the financial officer and maintain the records of the District; sets forth a \$10,000 bond requirement for the clerk-treasurer and for payment of the bond.¹⁴
- Section 14: Insurance for employees and dependents; retirees.-- permits the District to pay certain insurance premiums for its employees and the families of such employees; allows the District to have retired former personnel and eligible dependents participate in group insurance or self-insurance plans; authorizes the "commingling of the claims experience" for the retiree group with the active employees.
- Section 15: Torts; negligence.-- prohibits any action from being brought against the District for any negligent and wrongful injury or damage to persons or property unless brought within 12 months from the time of the injury or damage; prevents any suit arising out of any action in tort or sounding in tort from being maintained against the District unless a written notice of the claim, giving time, place, and circumstance of the injury or damage, is given to the chairperson, vice chairperson, or the clerk-treasurer of the District within 30 days after the occurrence of the injury or damage.
- Section 16: Removal of fire hazards; enforcement of liens. -- permits the board to require, by resolution, that lands in St. Lucie County be cleared of weeds, debris, and any materials which may create a fire hazard; provides for action by the board if the property owner fails to comply including allowing the board to clear the land and assess a lien.
- Section 17: Miscellaneous provisions.-- provides that any obligation issued or incurred by the District shall be approved by the qualified freeholder electors when required by the laws of Florida; provides that whoever willfully damages the property of the District will be punished as provided by the general laws; provides a savings clause; provides for liberal construction to accomplish the purposes; identifies the provisions of sections 200.071-200.141, Florida Statutes, as inapplicable and superseded to the extent the power and authority of the District to levy, assess, collect, and enforce ad valorem taxes is effected.

Section 4: Repeals chapters 96-532 and 97-356, Laws of Florida.

Section 5: Provides that the bill will take effect upon becoming law.

¹⁴ As provided by chapter 96-532, Laws of Florida, as amended by chapter 97-356, Laws of Florida.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in the Fort Pierce/Port St. Lucie Tribune on November 8, 2003.

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

The economic impact statement indicates no economic impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

The bill grants the District rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

No drafting issues or other comments.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On March 3, 2004, the Committee on Local Government & Veterans' Affairs adopted three amendments, without objection:

Amendment 1 on page 13, lines 353-356 to remove the provision which declares all inconsistent general, special, or local laws, or parts thereof, inapplicable to the bill and reinsert existing exemption to general law.

Amendment 2 on page 4, line 111 to remove line and insert same line with "Chief Financial Officer" instead of "State Treasurer."

Amendment 3 on page 8, line 208 to remove line and insert same line with "Chief Financial Officer" instead of "Comptroller."

The bill was then reported favorably as a committee substitute.