

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1399

North Naples Fire Control and Rescue District, Collier County

SPONSOR(S): Davis

TIED BILLS:

IDEN./SIM. BILLS: SB 2780

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1399 amends the special act relating to the North Naples Fire Control and Rescue District in Collier County. The bill provides that a municipality which annexes within the boundaries of the district must annually pay the district the equivalent of the premium tax revenues that are attributable to the annexed property for a four-year period, or until the expiration of a period provided for by interlocal agreement or the extension of any such agreement, whichever is later.

During the term of the district's provision of fire protection services to the annexed area, the district's regulations and inspection requirements apply, and the district retains its authority to collect inspection fees and impact fees. The bill provides an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Municipal Annexation within Independent Special Districts

The purpose of s. 171.093, F.S., a provision within the "Municipal Annexation or Contraction Act," is to provide an orderly transition of special district service responsibilities in an annexed area from an independent special district which levies ad valorem taxes to a municipality following the municipality's annexation of property located within the jurisdictional boundaries of an independent special district, if the municipality elects to assume such responsibilities."

The municipality may make such an election by adopting a resolution evidencing the election and forwarding the resolution to the office of the special district and the property appraiser and tax collector of the county in which the annexed property is located. In addition, the municipality may incorporate its election into the annexation ordinance.

Upon a municipality's election to assume the district's responsibilities, the municipality and the district may enter into an interlocal agreement addressing the orderly transfer of service responsibilities, real assets, equipment and personnel to the municipality. The agreement must address:

- allocation of responsibility for special district services;
- avoidance of double taxation of property owners for such services in the area of overlapping jurisdiction;
- prevention of loss of any district revenues which may be detrimental to the continued operations of the independent district;
- avoidance of impairment of existing district contracts;
- disposition of property and equipment of the independent district and any assumption of indebtedness for it;
- the status and employee rights of any adversely affected employees of the independent district; and
- any other matter reasonably related to the transfer of responsibilities.

If the municipality and the district are unable to enter into an interlocal agreement, the municipality is required to so advise the district and the property appraiser and tax collector of the county in which the annexed property is located. The district remains the service provider in the annexed area for a period of four years beginning October 1 of the calendar year immediately following the calendar year in which the municipality declares its intent to assume service responsibilities in the annexed area. During the four-year period, the municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district.

By the end of the four-year period, or any mutually agreed upon extension, the municipality and the district are required to enter into an agreement that identifies the existing district property located in the municipality or primarily serving the municipality that will be assumed by the municipality, the fair market value of such property, and the manner of transfer of such property and any associated indebtedness. If the municipality and district are unable to agree to an equitable distribution of the

district's property and indebtedness, the matter proceeds to circuit court. In equitably distributing the district's property and associated indebtedness, the taxes and other revenues paid the district by or on behalf of the residents of the annexed area are taken into consideration.

During the four-year period, or during any mutually agreed upon extension, district service and capital expenditures within the annexed area are required to be rationally related to the annexed area's service needs. Service and capital expenditures within the annexed area also must be rationally related to the percentage of district revenue received on behalf of the residents of the annexed area when compared to the district's total revenue. The district cannot make a capital expenditure greater than \$25,000 for use primarily within the annexed area without the express consent of the municipality.

If the municipality elects not to assume the district's responsibilities, the district remains the service provider in the annexed area. The geographical boundaries of the district continue to include the annexed area, and the district may continue to levy ad valorem taxes and assessments on the real property located within the annexed area. If the municipality elects to assume the district's responsibilities, the district's boundaries contract to exclude the annexed area at the time and in the manner provided in the agreement.

If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period.

Nothing in this section precludes the contraction of the boundary of any independent special district by a special act of the Legislature. The district may not levy ad valorem taxes or assessments on the annexed property in the calendar year in which its boundaries contract and subsequent years, but it may continue to collect and use all ad valorem taxes and assessments levied in prior years. Nothing in the section prohibits the district from assessing user charges and impact fees within the annexed area while it remains the service provider.

In addition to any other authority provided by law, the municipality is authorized to levy assessments on property located in an annexed area to offset all or a portion of the costs incurred by the municipality in assuming district responsibilities. Such assessments may be collected pursuant to and in accordance with applicable law.

These provisions do not apply to districts created pursuant to chs. 190 (community development districts) or 373 (water management districts), F.S.

Firefighters' Pension Plans

Chapter 175, F.S., originally enacted in 1939, regulates and provides funding for municipal and special district firefighters' pension plans. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993. This chapter creates a uniform retirement system providing defined-benefit retirement plans for firefighters, setting standards for operation and funding of these pension systems. Municipalities and special districts that elect to create plans governed by this chapter may impose a premium tax on property insurance covering properties within their jurisdiction.¹

Retirement plan funding comes from the premium tax, employee contributions, and other pledged revenue sources. If these sources are insufficient, the municipality or special district must pay what is necessary to keep the plan actuarially sound. Responsibility for overseeing and monitoring these plans

¹ The amount of premium taxes collected under ch. 175, F.S., is equal to 1.85 percent of all property insurance written within the city limits or boundaries (in the case of fire districts) of the participating plan. When a property insurance policy is written, the insurance agent is required to report to the insurance company whether the property is located within a municipality/district making the policy subject to a premium tax. The insurance company is then liable for collecting the tax, reporting aggregate monies to each municipality/district, and paying the tax collected over to the state. The Department of Revenue collects the tax, and reports the aggregate collections from all insurance companies to the Division of Retirement, which distributes the appropriate funds to each municipality/district.

lies with the Division of Retirement of the Department of Management Services, but day-to-day operational control rests with local boards of trustees.

North Naples Fire Control and Rescue District

Chapter 99-450, L.O.F. is the special act which codified the special laws relating to the North Naples Fire Control and Rescue District in Collier County (ch. 61-2032, L.O.F.; ch. 75-359, L.O.F.; ch. 76-349, L.O.F.; ch. 77-532, L.O.F.; ch. 77-533, L.O.F.; ch. 78-493, L.O.F.; ch. 80-488, L.O.F.; ch. 80-491, L.O.F.; ch. 82-283, L.O.F.; ch. 83-390, L.O.F.; ch. 84-416, L.O.F.; s. 1 of ch. 88-519, L.O.F.; ch. 89-448, L.O.F.; ch. 89-455, L.O.F.; ss.1 and 3 of ch. 91-375, L.O.F.; ch. 96-512, L.O.F.; and all references to the North Naples Fire Control and Rescue District contained in ch. 98-489, L.O.F. The act has not been amended since 1999.

Section 3 of Art. III of this act currently provides that if property in the North Naples Fire Control and Rescue District is annexed by the City of Naples between January 1 and July 1 of any year, the property will be regarded as removed from the district as of January 1 of that year for the purpose of the levy of general ad valorem taxes by the district. If annexation occurs after July 1, the property is assessed by the district for ad valorem taxes for that year.

On and after the effective date of annexation, the district is relieved of providing fire service to the annexed area. The city and the district may reach an agreement to determine what portion, if any, of the existing indebtedness or property of the district shall be assumed by the city, the fair value of such indebtedness or property, and the manner of transfer and financing. The annexed property is not relieved from the payment of general obligation debt service incurred by the district before annexation. This language was added by ch. 89-44, L.O.F.

Effect of Proposed Changes

HB 1399 amends section 3 of Art. III of s. 3 of ch. 99-450, L.O.F, to remove current provisions regarding annexations within the district. The new language provides that s.171.093, F.S., applies to annexations by a municipality within the boundaries of the district.

The bill additionally provides that the annexing municipality is required to annually pay the district the equivalent of the premium tax revenues authorized in ss. 175.041 and 175.101, F.S, that are attributable to annexed properties during the duration of the period provided for in s.171.093(4), F.S., or the expiration of an interlocal agreement, or any extension of such agreement, as authorized in s. 171.093(3), F. S., whichever is later. This language would appear to require an annexing municipality to pay the district premium tax revenues for the four-year period triggered by s. 171.093, F.S., whether or not the district provides services within the area at issue, thereby causing a funding deficit for its own retirement plan.

During the term of the district's provision of fire protection services to the annexed area, the district's regulations and inspection requirements are to apply within the annexed area, terms which could be subject to negotiation under the various scenarios described under s. 171.093, F.S. Also, the bill confirms that during the term of the districts' provision of fire protection services it retains the authority to collect inspection fees and impact fees within the annexed area. See, s. 171.093(6), F.S.

The act provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends section 3 of Art. III of s. 3 of ch. 99-450, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 20, 2006

WHERE? The *Naples Daily News*, a newspaper published in Collier 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:

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill as it may provide exemptions to s. 171.093 and ch. 175, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment that:

- removes all language referring to annexation within the charter of the North Naples Fire Control and Rescue District, and adds a statement affirming that s. 171.093, F.S. applies to annexations by a municipality within the boundaries of the district.
- provides that the district has the authority to provide housing or housing assistance for its employed personnel.