

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: SB 1496

INTRODUCER: Senator Bennett

SUBJECT: Independent Fire Control Districts

DATE: March 9, 2006

REVISED: 3/14/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Fav/1 amendment
2.			BI	
3.			JU	
4.				
5.				
6.				

Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill authorizes independent special fire control districts to recover certain court costs and attorney's fees when the district prevails in civil actions involving enforcement of the firesafety code.

This bill substantially amends section 191.08 of the Florida Statutes.

II. Present Situation:

Independent Special Fire Control Districts - Pursuant to s. 191.03, F.S., an independent special fire control district is defined as a special district created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. This section specifies that this definition does not include a municipality, a county, or a dependent special district as defined in s. 189.403, F.S., a district providing primarily emergency medical services, a community development district established under ch. 190, F.S., or any other multiple-power district performing fire suppression and related services in addition to other services.¹ According to the Department of Community Affairs'

¹ Section 189.403(2), F.S., defines a special district as "dependent" if it meets one of the following criteria: (1) its governing body is identical to that of a single county or municipality; (2) all members of the governing body are appointed by a single county or municipality; (3) the members of the governing body can be removed during their expired term by a single county

Special District Information Program, there are currently 57 active independent special fire control districts in operation throughout the state.

Section 191.006, F.S., provides independent special fire control districts with a number of specific powers, including:

- To sue and be sued in the name of the district, and to execute contracts and other instruments necessary or convenient to the exercise of its powers;
- To contract for the services of consultants to perform planning, engineering, legal, or other professional services;
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate therein for any purpose authorized by this act and to trade, sell, or otherwise dispose of surplus real or personal property;
- 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 mortgage real and personal property when necessary to carry out the district's duties and authority;
- To assess and impose upon real property in the district ad valorem taxes and non-ad valorem assessments as authorized; and
- To impose and foreclose non-ad valorem assessment liens as provided by this act or to impose, collect, and enforce non-ad valorem assessments pursuant to ch. 197, F.S.

Section 191.008, F.S., provides independent special fire control districts with certain special powers. Districts are directed to provide for fire suppression and prevention by establishing and maintaining fire stations and fire substations and acquiring and maintaining such firefighting and fire protection equipment deemed necessary to prevent or fight fires. Districts are authorized to exercise additional special powers, including:

- Establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to the provisions of ch. 401, F.S., and any certificate of public convenience and necessity or its equivalent;
- Employ, train, and equip such personnel, and train, coordinate, and equip such volunteer firefighters, as are necessary to accomplish the duties of the district. The board shall prescribe the duties of such person, which shall include supervision and management of the operations of the district and its employees and maintenance and operation of its facilities and equipment;

or municipality; or (4) its budget requires approval of or can be vetoed by a single county or municipality. Section 189.403(3), F.S., defines an "independent special district as a special district that is not classified as dependent under the criteria of s. 189.403(2), F.S. A district that includes more than one county is an independent district unless the district is wholly within the boundaries of a single municipality.

- Adopt and enforce firesafety standards and codes and enforce the rules of the State Fire Marshal consistent with the exercise of the duties authorized by ch. 553, F.S., or ch. 633, F.S., with respect to fire suppression, prevention, and firesafety code enforcement.

Building and Firesafety Standards/Enforcement - Chapter 553, F.S., establishes minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, exit systems, safe materials, energy efficiency, and accessibility by persons with physical disabilities. Chapter 633, F.S., establishes fire prevention and control standards applicable to buildings and structures in the state. All buildings in the state are required to meet these standards as a minimum. Each local jurisdiction may add more restrictive requirements.²

Fire inspection personnel are authorized to enforce these statutory provisions. For example, fire inspection personnel conduct annual, specialized fire protection system inspections, such as standpipe and automatic fire sprinkler protection system testing, smoke evacuation systems testing, and general fire alarm system testing. Section 633.052, F.S., provides that firesafety inspectors who have probable cause to believe that a person has committed a civil infraction in violation of a duly enacted firesafety ordinance, may issue a citation to appear before the county court. If the applicable county or municipality has created a code enforcement board or special magistrate system pursuant to ch.162, F.S., the citation may be referred to that body for hearing. Section 633.052, F.S., stipulates that an ordinance implementing firesafety codes must provide:

- that a violation of such an ordinance is a civil infraction;
- a maximum civil penalty not to exceed \$500;
- a civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation;
- for the issuance of a citation by an officer who has probable cause to believe that a person has committed a violation of an ordinance relating to firesafety;
- for the contesting of a citation in the county court; and
- such procedures and provisions necessary to implement any ordinances enacted under the authority of this section.

² Section 633.025, F.S., provides that the Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshal, which shall operate in conjunction with the Florida Building Code, shall be deemed adopted by each municipality, county, and special district with firesafety responsibilities. The minimum firesafety codes shall not apply to buildings and structures subject to the uniform firesafety standards under s. 633.022, F.S., and buildings and structures subject to the minimum firesafety standards adopted pursuant to s. 394.879, F.S. Each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code and the Life Safety Code as the minimum firesafety code required by this section.

Section 163.20, F.S., provides that in addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action may be brought in county or circuit court, depending on the relief sought. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment.

III. Effect of Proposed Changes:

Section 1 amends s. 191.008, F.S., to authorize districts to recover reasonable court costs, including attorney's fees, from the non-prevailing party in any civil action to enforce the requirements of ch. 553, F.S., ch. 633, F.S., or s. 191.008, F.S., concerning fire suppression and prevention in which the district is the prevailing party.

Section 2 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private entities that challenge an enforcement action undertaken by a special district would be subject to the payment of court costs, including attorney's fees.

C. Government Sector Impact:

The bill would enable special districts to recoup court costs when prevailing in code enforcement proceedings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

Barcode 833294 by Community Affairs:

The amendment excuses full-time firefighters from jury duty, and allows an independent special fire district to exempt all religious institutions within its boundaries from the levy of non-ad valorem assessments.

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