

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

Chapter 191, F.S., the Independent Special Fire Control District Act

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act." Section 191.002, F.S., sets forth the act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts, and to provide greater uniformity in financing authority, operations and procedures for electing members of district governing boards. An "independent special fire control district" is defined as an independent special district (as defined in s. 189.403) created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district.

District Powers

Unless otherwise exempted by special or general law, the act requires each district to comply with its provisions. The act further provides that it is the intent of the Legislature that the act supersedes all special acts or general laws of local application provisions that contain the charter of a district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are exempted. 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.

An independent special fire control district's general governmental powers include, but are not limited to, the following:

- to sue and be sued, to adopt a seal, and to make and execute contracts;
- to provide for a pension or retirement plan for its employees, and to provide for an extra compensation program;
- to contract for the services of consultants;
- to borrow money and accept gifts, and to apply for grants and loans;
- to adopt resolutions, procedures, ordinances and resolutions that are necessary to conduct district business;
- to maintain an office;
- to acquire real and personal property;
- 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 lease any facility or property as lessor or lessee;
- 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;
- to charge user and impact fees and to enforce their receipt and collection;
- to exercise the power of eminent domain;
- to cooperate or contract with other persons or entities, including other governmental agencies;

- to assess and impose ad valorem taxes and non-ad valorem assessments on real property in the district;
- to impose and foreclose non-ad valorem assessment liens or to impose, collect and enforce non-ad valorem assessments;
- to select a depository for its funds;
- to provide adequate insurance;
- and to organize, participate in, and contribute to monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services or district administration.

Independent special fire control districts also 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. Their boards are authorized to carry out the following such powers:

- to 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;
- to employ, train and equip firefighting and other personnel, including volunteer firefighters, as necessary to accomplish the duties of the district;
- to conduct public education to promote awareness of methods to prevent fires and reduce loss of life and property;
- to adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal;
- to conduct arson investigations and cause-and-origin investigations;
- to adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency, as provided in ch. 252, F. S., and
- to contract with general-purpose local governments for emergency management planning and services.

District Funding Mechanisms

Section 191.009, F.S., authorizes special fire control districts to levy ad valorem taxes, special assessments, user charges and impact fees.

Ad Valorem Taxes

An elected board may levy and assess ad valorem taxes on all taxable property in the district to construct, operate and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied and collected in the same manner as county taxes.

Non-Ad Valorem Assessments

A district may levy non-ad valorem assessments to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. 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. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the act without a referendum. Non-ad valorem assessments must be imposed, collected and enforced pursuant to general law.

User Charges

The board may provide a reasonable schedule of user charges for the following services:

- special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, aircraft or rail cars or as a result of the operation of such motor vehicles or marine vessels, to which the district is called to render such emergency service, and may charge a fee for the services rendered in accordance with the schedule;
- fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump or burn is not authorized by general or special law, rule, regulation, order or ordinance and which the district is called upon to fight or extinguish;
- responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property or the environment, to which the district has been called, including a charge for responding to false alarms; and
- inspecting structures, plans and equipment to determine compliance with firesafety codes and standards.

The district has a lien upon any real property, motor vehicle, marine vessel, aircraft or rail car for any user charge assessed.

Impact Fees

If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is in whole or in part the result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. The board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. The board may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

Independent special fire control districts also 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.¹

District Boundaries/Municipal Annexation within an Independent Special District

Pursuant to s. 191.014, F.S., the boundaries of an independent special fire control district may be modified, extended or enlarged upon approval or ratification by the Legislature. 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.

Chapter 171, F.S., the "Municipal Annexation or Contraction Act," contemplates a municipality's annexation of property within the jurisdictional boundaries of an independent special district.² In such an instance, the municipality may elect to assume the special district's service responsibilities. Upon such an election, the municipality and the district may enter into an interlocal agreement which provides for the orderly transfer of service responsibilities. This agreement also must address the prevention of loss of any district revenues which may be detrimental to the continued operations of the district, and the status and employee rights of any adversely affected employees. If the municipality and the district are unable to enter into an interlocal agreement, the district remains the service provider in the annexed area for a period of four years. 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. The district and the municipality can mutually agree upon an extension for the provision of services at the end of four years.

Three possible scenarios for district boundaries are contemplated in the case of a municipal annexation:

1. If the municipality elects not to assume the district's responsibilities, the district remains the service provider for the annexed area and the geographical boundaries of the district continue to include the annexed area.
2. If the municipality elects to assume the district's responsibilities pursuant to an interlocal agreement, the districts boundaries contract to exclude the annexed area at the time and in the manner as provided in the agreement.
3. 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. The district may not levy ad valorem taxes on the annexed property in the calendar year in which its boundaries contract, but may assess user charges and impact fees within the area while it remains the service provider.

The Lealman Special Fire Control District

The Lealman Special Fire Control District is an independent special district located in Pinellas County which employs over 50 firefighters and staff. The district's charter states that any land within the district's boundaries that is annexed by a municipality will be excluded from the district, effective the following January 1st. In 2002, the Legislature passed a local bill³ which amended the district's charter to provide that if a municipality or another fire control district annexed land within the district's boundaries, the district would continue as the sole taxing, enforcing and service providing authority for

¹ See, s. 191.012, F.S.

² See, s. 171.093, F.S.

³ See ch. 2002-352, L.O.F.

fire control purposes to this property. Pursuant to the bill, a municipality could choose to collect the applicable tax or assessment for fire services and remit it to the district at the district's standard rate.⁴ These provisions sunset effective January 1, 2008.

EFFECT OF PROPOSED CHANGES

Task Force

The bill creates the Lealman Special Fire Control District Task Force which must meet not later than 30 days after the effective date of the bill to review changes made to law which granted the district taxing, enforcing, and service-providing authority over district lands annexed by any municipality or other fire control district, and shall consider whether the future repeal of those changes should be rescinded. The task force must issue a report with its findings and recommendations to the Pinellas County Legislative Delegation no later than November 1, 2007.

The members of the task force consist of the following:

1. chair of the Lealman Fire Control District Board of Supervisors;
2. one member appointed jointly by the Mayor of the City of Pinellas Park, the Mayor of the City of St. Petersburg, the Mayor of Kenneth City, and the Mayor of the City of Seminole, representing one vote; and
3. one member of the Pinellas County Board of County Commissioners appointed by the chair of the Pinellas County Board of County Commissioners.

The bill provides authority for the task force to hire a professional facilitator, to be paid from district funds, to assist in the review.

Continuation of Services

The bill, effective July 1, 2008, removes a provision in the Formation and Boundaries section of ch. 2002-352, L.O.F., that allowed the District to continue to provide services in an area that was annexed by a municipality.

Annexation and Ad Valorem Taxes

The bill removes, as of July 1, 2008, the requirement in current law that the District continue as the sole taxing, enforcing, and service providing authority in an area in the district that has been annexed by a municipality. The municipality could collect the applicable assessment at the District's rate and submit the fees to the district. The bill replaces this provision to require, after annexation, that any annexed area is now treated as lying within the corporate boundaries of the annexing municipality and is not subject to a levy by the District.

Repeal

The bill repeals two sections of ch. 2002-352, L.O.F., that were scheduled to go into effect January 1, 2008, which would have accomplished what this bill proposes relating to Continuation of Services and Annexation and Ad Valorem Taxes described above, but not until January 1, 2008.

The bill states that except as otherwise provided in the bill, it takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Creates the Lealman Special Fire Control District Task Force.

Section 2: Removes the requirement that the District continue to provide services to an annexed area.

⁴ The District's current millage rate is 4.7.

Section 3: Provides that any annexation of an incorporated area within the District is to be treated as lying within the corporate boundaries of the annexing municipality and may not be subject to levy by the District.

Section 4: Repeals sections 3 and 4 of ch. 2002-352, L.O.F.

Section 5: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 27, 2007

WHERE? St. Petersburg Times

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:

None.

D. STATEMENT OF THE SPONSOR

- In 1999, the residents of Lealman voted to create the Lealman Special Fire Control District, giving the District ad valorem taxing authority. Beginning in 2000, the surrounding cities (Pinellas Park, Seminole, St. Petersburg, Largo) began selectively annexing the most tax-desirable properties in the District, such as hospitals, restaurants, car dealerships, etc. These high tax-value properties are an important part of the District's tax base.
- Since 2000, selective annexation has cost the District over \$85 million in taxable property and over \$2.7 million in tax revenue. These figures do not take into account the explosion in development and property values that has occurred in Pinellas County since 2000 and would be much higher given

today's values. Despite decreased revenues, the District's fire protection burden has remained the same and expenses have slightly increased.

- The selective annexation and corresponding decrease in revenues shifted the burden of funding fire service onto the mostly low-income residents of the District. As a direct result of these annexations, the District has a current millage rate of 4.7 mills, more than twice that of the other special fire districts in Pinellas County, even though a recent county study found that the District is the second most efficient fire department in the county on a cost-per-call basis.
- Seeing the harm caused by the selective annexations, in 2002, the District's Special Act was amended to authorize the District to provide fire services to annexed areas within its boundaries and receive payment for such service. This amendment, often referred to as the "Farkas Bill", provided much needed protection to the District by stabilizing revenues and since its enactment millage rates in the District have in fact fallen. The amendment was also supposed to encourage Pinellas County and the adjoining cities to formulate a policy to provide high-quality fire service to the residents of the District at a reasonable rate. To date, however, the County and adjoining cities have not addressed the issue.
- For the past 3 years, the District has sought to remove the sunset provision through legislation so as to further protect its residents and encourage the County and adjoining cities to enact a responsible fire policy for the District. The legislation has been vigorously opposed by at least two adjoining cities and, despite approval from the county delegation each year, has been defeated.
- In an effort to solve the ongoing stalemate the sponsor of this legislation and all of the stakeholders came together agreeing to form a task force and work with a professional facilitator to mediate the differences between the District and the cities.
- HB 1097 creates that task force, made up of representatives from Lealman, Pinellas County, and the surrounding cities, to study the issue and make recommendations to the legislative delegation. The bill extends the protection in the Farkas Bill for 6 months to give the task force time to accomplish its objectives.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES