

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/CS/HB 1579 North Okaloosa Fire District, Okaloosa County
SPONSOR(S): Policy & Budget Council and Brown
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Nelson</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u>10 Y, 0 N, As CS</u>	<u>Nelson</u>	<u>Cooper</u>
3) <u>Policy & Budget Council</u>	<u>27 Y, 0 N, As CS</u>	<u>Diez-Arguelles</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill amends the special act creating the charter for the North Okaloosa Fire District. It authorizes the elected board of commissioners to levy and assess ad valorem taxes and non-ad valorem assessments. It also provides procedures for the levy and collection of non-ad valorem assessments. The bill provides that the act will take effect upon its approval by a majority of those qualified electors of the district voting in a referendum to be held within two years.

The Economic Impact Statement estimates that the cost of administration, implementation and enforcement of the bill will be a county property appraiser fee of three percent (\$13,000) and a county tax collector fee of three percent (\$13,000) in FY 06-07. Both of these fees are anticipated to increase to \$38,400 in FY 07-08.

If the charter amendment successfully passes referendum, all individuals and businesses will be assessed based on property values at a rate not to exceed 3.75 mills. The district anticipates that the initial assessment rate will be 0.8 mills.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes

This bill may result in increased taxes and assessments paid by those benefiting from the services of an independent special fire control district.

Maintain public security

This bill may result in the increased physical security of persons or property benefiting from the services of an independent special fire control district.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Independent Special Fire Control District Act

Chapter 191, F.S., the "Independent Special Fire Control District Act," was enacted in 1997. The Act's purpose is to establish standards and procedures concerning the operations and governance of Florida's 57¹ independent special fire control districts,² 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 or general law of local application, to comply, and provides that it is the intent of the Legislature that the Act supersedes all special acts or general laws of local application provisions containing the charter of such a district which address the same subjects of the Act, except for provisions which address district boundaries and geographical subdistricts for the election of members of the governing board. Additionally, the Act does not require any modification to district financing or operations which would impair existing contracts, including collective bargaining agreements, debt obligations, or covenants and agreements relating to bonds validated or issued by the district. 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. The general provisions of the Act include those relating to district boards of commissioners, general and special powers, taxes and assessments, and district issuance of bonds.

District Funding Mechanisms

Section 191.009, F.S., authorizes 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 a 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

¹ [Http://floridaspecialdistricts.org/OfficialList/criteria.asp](http://floridaspecialdistricts.org/OfficialList/criteria.asp).

² Pursuant to s. 191.003, 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 the term does not include a municipality, a county, 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.

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 a 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.

Procedures for the Levy and Collection of Non-Ad Valorem Assessments

Section 191.011, F.S., provides that a district may provide for the levy of non-ad valorem assessments on the lands and real estate benefited by the exercise of its powers. Non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from services or improvements. The district may use any assessment apportionment methodology that meets fair apportionment standards, and must adopt a non-ad valorem assessment roll pursuant to the act or s. 197.3632, F.S., relating to tax collections, sales and liens, under certain circumstances.

North Okaloosa Fire District

The North Okaloosa Fire District consists of over 110 square miles, and has been described as approximately a seven-mile deep “doughnut” around the City of Crestview that extends west beyond Milligan, east and south to the Shoal River/Eglin reserve, and north to the state line. It initially was incorporated in 1977 as a small, completely rural, dependent special district of Okaloosa County. Early records identify that the population at that time was approximately 250 people, and that fire protection was managed through a service contract with the City of Crestview. Twenty years later, with a population of 10,000, the district became independent but maintained its service contract structure. In August of 1998, with a population of 12,000 and growing, the district began providing fire and rescue services directly to its membership. In 2005, the district added 30 new roads, 40 new water hydrants, 4000 people, and validated 380 permit releases for future buildings. Currently, the district serves a population of 22,000 with a total of 18 full time employees and 20 volunteers. The district’s call volume has grown from a rate of 800 per year in 1998 to 2011 calls in the year 2006.

Chapter 2001-333, L.O.F., the special act which created and established the North Okaloosa Fire District, allows its board to levy a non-ad valorem assessment on taxable property within the district, with the initial following schedule: \$10 for 5 or less acres of vacant land; an additional \$2 per acre for each acre or portion thereof up to a maximum of \$70 for 35 acres or more; \$75 for a single-family residence; \$94 for special commercial property; \$188 for all other commercial property; and \$250 for trailer parks from two to nine units and an additional \$200 for each 10 trailers or portion thereof. These amounts may be increased as provided by statute or by three percent per annum, whichever provides greater revenue to the district. If a rate increase is to be greater than the amount provided by statute, the increase must be approved by a unanimous vote of the board. These non-ad valorem assessments become a lien on the property so assessed until paid. If the assessment lien becomes delinquent, it is subject to the same penalties, charges and fees for enforcement and collection as county non-ad valorem assessments and is enforced and collected as provided by law. The district's non-ad valorem assessments are a first lien superior to all other liens except liens for county ad valorem taxes. The board may accept gifts and donations and may carry on community projects for fundraising purposes.

Effect of Proposed Changes

This bill amends the special act creating the charter of the North Okaloosa Fire District, ch. 2001-333, L.O.F. The bill provides that the elected board of commissioners may levy and assess ad valorem taxes not to exceed 3.75 mills 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.³ The

³ The District has indicated that it is requesting to add ad valorem taxes to its charter because it requires increased revenues to purchase additional equipment, hire additional personnel, and build new facilities needed as a result of the growth in the unincorporated areas of north Okaloosa County. The district has indicated that it currently operates with three engine apparatus that include an aging fleet ranging from a 1971 Airport Rescue Fire Fighting vehicle to a 1998 1,000 gallon pumper. Its other vehicles are two pumpers, a tanker/tender with capabilities of interconnection with all other districts’ equipment, a quint (five function) ladder aerial sprayer truck, and command vehicles. The district also has two non-transporting rescue vehicles, one on loan from the Department of Forestry, and have accepted a donated Airport Rescue Fire Fighting vehicle. In 2006, the district added nine additional fulltime equivalents (seven full-time and four part-time) paid employees through the approval of a Department of Homeland Security grant program. These grant positions are executed under a 50/50 reimbursement program, of which the district’s 50 percent will be

levy of ad valorem taxes must be approved by referendum called by the board. Such tax shall be assessed, levied and collected as provided in ch. 200, F.S., which provides for the determination of millage. The levy of ad valorem taxes approved by referendum must be reported within 60 days after the vote to the Department of Community Affairs. This language regarding ad valorem taxes in the bill is nearly identical to the general law provisions relating to independent special fire control districts contained in s. 191.009(1), F.S.

The bill also provides for non-ad valorem assessments assessed by the board to provide funds to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to the procedures contained in the act. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by any special act, any county ordinance, the previous year's resolution, or a 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 that 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. This language generally conforms to the provisions relating to fire control districts contained in s. 191.009(2), F.S.

Additionally, the bill provides procedures for the levy and collection of non-ad valorem assessments. The bill updates the district's initial schedule for levying non-ad valorem assessments on taxable property within the district: \$10.95 (increased from \$10) for five or less acres of vacant land, an additional \$2.19 (increased from \$2) per acre for each acre or portion thereof up to a maximum of \$76.65 (increased from \$70) for 35 acres or more; \$82.13 (increased from \$75) for a single-family residence; \$102.93 (increased from \$94) for special commercial property; \$205.87 (increased from \$188) or all other commercial property; and \$273.75 (increased from \$250) for trailer parks from two to nine units and an additional \$219.00 (increased from \$200) for each 10 trailers or portion thereof.

The bill also provides new language which is based on provisions contained in ss. 191.011 and 197.3632, F.S., for the levy and collection of such assessments, as follows:

- The rate of assessment shall be fixed by resolution of the board of commissioners each year.
- The non-ad valorem assessment amounts are subject to annual increases, as may be approved by the board.
- The board may adopt by resolution the current tax assessment and collection roll compiled and prepared by the property appraiser, or may, at its discretion, prepare or cause to be prepared an assessment and collection roll setting forth a description of each lot or parcel of land subject to taxation in the district, and deliver the roll to the tax collector for collection.
- Any property owner in the district has the right to file a protest against the proposed assessments and the amount or rate thereof and to appear before the board in support of such protest at a meeting.

funded through bank loans until such time as the district can provide for them through ad valorem assessments. Lack of ad valorem assessments will mean the deletion of these positions and require the scaling back of existing positions. The district has indicated that even with present staffing, which includes the grant positions, it is only operating from one location in compliance with Florida's "2-in/2 out" rule. One station remains critically understaffed with only one or two firefighters, while another station is staffed with volunteers. There currently are three fire stations in the district with another (the Bob Sikes Station) partially constructed. The new station will be located in the northeastern quadrant of the district to support airport operations and fill in coverage gaps created by industry growth projects at the county airport property. It is estimated that it will cost \$1 million to complete this project.

- The board is required to adopt a resolution fixing the rate of special assessments, noting the amount of the levy against each parcel of property described in the tax roll, and transmit the tax roll and a certified copy of the resolution to the county tax assessor. The county tax collector is required to include the assessment in the county tax role, collect such assessments and deliver the proceeds, less the statutory fee, to the board.
- The special assessments become a lien upon the land so assessed along with county taxes until paid and, if the same become delinquent, are considered a part of the county tax, subject to the same penalties, charges, fees and remedies for enforcement and collection.
- Such special assessments are to be of equal benefit to all property with fire protection being provided by the district.

Lastly, the act provides that it shall only take effect upon its approval by a majority of those qualified electors of the district voting in a referendum election to be called by the board to be held within two years after the final section of the bill becomes law. This section is effective upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ss. 6 and 7 of s. 2 of ch. 2001-333, L.O.F. relating to the North Okaloosa Fire District.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28 and 31, 2007

WHERE?

The *Northwest Florida Daily News*, a newspaper of general circulation, published daily in Okaloosa County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Within two years after the final section of the bill becomes law.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The Economic Impact Statement estimates that the cost of administration, implementation, and enforcement of the bill will be an Okaloosa County Property Appraiser Fee of three percent (\$13,000) and an Okaloosa County Tax Collector Fee of three percent (\$13,000) in FY 06-07. Both of these fees are anticipated to increase to \$38,400 in FY 07-08.

If the charter amendment successfully passes referendum, all individuals and businesses will be assessed based on property values at a rate not to exceed 3.75 mills. The district anticipates that the initial assessment rate will be 0.8 mills. The amendment may result in a reduced assessment rates for

lower value residential properties, but may result in larger charges for higher valued residential and commercial properties. It is anticipated that the staffing and facility upgrades this action allows will improve and expand protected areas within the district and establish lower ISO ratings (insurance town ratings) for many residential and commercial area, and that reduced ratings could significantly offset the costs of increased assessments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 28, 2007, the Government Efficiency & Accountability Council reported HB 1579 favorably with a council substitute to incorporate the amendments adopted by the Committee on Urban & Local Affairs which conforms the provisions of the bill to ch. 191, F.S. This analysis has been updated to reflect the council substitute.

On April 5, 2007, the Policy and Budget Council adopted three amendments to update references to "tax assessor," a term that is outdated. The analysis has been updated to reflect these changes.