

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 1297

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Peters

118 Y's

1 N's

**COMPANION
BILLS:** N/A

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 1297 passed the House on April 25, 2014, and subsequently passed the Senate on April 29, 2014.

The Lealman Special Control Fire District (District) was created by special act of the Legislature in 2000. Pending referendum approval, ch. 2000-426, L.O.F, established geographic boundaries and an elected governing board for the district, provided the powers of the district, and authorized district ad valorem taxing authority of up to 10 mills. On November 7, 2000, district electors approved creation of the district. The district serves a relatively low-income unincorporated area between St. Petersburg and Pinellas Park, which consists of approximately 11 square miles and less than 50,000 residents, and presently employs 50 full-time personnel including staff and firefighters.

Since 2000, neighboring cities have selectively annexed the most tax-desirable properties in the community, such as industrial parks, restaurants, car dealerships, and other businesses.

Currently, ch. 2000-426, L.O.F., provides that if a municipality annexes unincorporated territory within district boundaries *before July 1, 2016*, the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district. These payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibilities in the annexed territory.

HB 1297 removes the sunset provision of July 1, 2016, as provided in ch. 2000-426, L.O.F. Therefore, unless the Legislature further amends the special act, if a municipality annexes unincorporated territory within district boundaries at any time in the future, the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district. These payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibilities in the annexed territory.

This bill does not appear to have a fiscal impact on state or local governments.

The bill was approved by the Governor on May 12, 2014, and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

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

An “independent special fire control district” is defined as an independent special district¹ created by a special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district.²

Chapter 191, F.S., the “Independent Special Fire Control District Act,” provides general and special powers for fire control districts, and addresses district creation, expansion and merger, and funding mechanisms. Section 191.002, F.S., sets forth the act’s purpose, which is to achieve the following:

- Provide standards, direction and procedures concerning district operations and governance;
- Provide greater uniformity in operations and authority;
- Provide greater uniformity in financing authority without hampering the efficiency and effectiveness of currently authorized and implemented methods and procedures of raising revenue;
- Improve communication and coordination between special fire control districts and other local governments with respect to short-range and long-range planning to meet the demands for service delivery while maintaining fiscal responsibility; and
- Provide uniform procedures for electing members of district governing boards to ensure greater accountability to the public.

Unless otherwise exempted by special or general law, this 1997 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 and which address the same subjects as the act, except where such laws address district boundaries and geographical subdistricts for the election of governing board members. Chapter 191, F.S., also does not repeal any authorizations providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other charges.

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 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 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 also 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

¹ See, s. 189.403, F.S., for a definition of “independent special district.”

² Section 191.003(5), F.S. 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.

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. 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.

User Charges

A district may provide a reasonable schedule of user charges for the following services:

- Special emergency services, including firefighting occurring in structures outside the district;
- Fighting fires occurring in or at refuse dumps or as a result of an illegal burn;
- Responding to or assisting or mitigating emergencies that 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 fire safety standards.

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, a district may establish a schedule of impact fees to pay for the cost of new facilities and equipment. A district also may enter into agreements with general purpose local governments to share the revenues from fire protection impact fees.

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.³

Municipal Annexation within an Independent Special District

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.⁴ If the municipality elects to assume the special district's service responsibilities, 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 rights of any adversely affected employees.⁵

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.⁶ 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 for the equitable distribution of the district's property and associated indebtedness, or the matter proceeds to circuit court.

³ See, s. 191.012, F.S.

⁴ See, s. 171.093, F.S.

⁵ If the municipality elects to assume the district's responsibilities pursuant to an interlocal agreement, the district's boundaries contract to exclude the annexed area at the time and in the manner as provided in the agreement.

⁶ 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.

During the four-year period, or any mutually agreed upon extension, district service and capital expenditures within the annexed area must 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. A capital expenditure greater than \$25,000 cannot be made by the district 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 for 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.

Pinellas County

Pinellas County residents receive fire protection and emergency medical services through a complex system requiring cooperation between 14 municipalities and four independent special fire districts (East Tarpon Lake, Lealman, Palm Harbor and Pinellas Suncoast Fire and Rescue District). This system evolved over time as the county became more densely populated and developed.⁷ Ad valorem taxes levied on property are the primary funding source for these local government services, which had an estimated countywide cost of \$210.9 million in Fiscal Year 2008-2009.⁸

The Office of Program Policy Analysis & Government Accountability (OPPGA) report presented to the Joint Legislative Auditing Committee on March 8, 2010, recommended that Pinellas County would benefit from the establishment of a broad-based planning entity to oversee a more coordinated approach to planning for fire protection and emergency medical services, and the creation of a system for reporting and tracking related financial information.

The Lealman Special Fire Control District

The Lealman Special Control Fire District was created by the Legislature in 2000. Pending referendum approval, ch. 2000-426, L.O.F, established geographic boundaries and an elected governing board for the district, provided the powers of the district, and authorized district ad valorem taxing authority of up to 10 mills. On November 7, 2000, district electors approved creation of the district.

The district serves an unincorporated area between St. Petersburg and Pinellas Park,⁹ which consists of approximately 11 square miles and less than 50,000 residents, and presently employs 50 full-time personnel including staff and firefighters.

Lealman is located in a relatively low-income area of unincorporated Pinellas County, and relies on commercial property within its boundaries to support its tax base. Since 2000, neighboring cities have selectively annexed the most tax-desirable properties in the community, such as industrial parks, restaurants, car dealerships and other businesses, and thus shifted approximately \$400,000 per year in fire taxes onto remaining district residents. As a direct result of the annexations, the district must levy a high millage rate.¹⁰

In 2002-2003, the district's millage rate was 5.32 mills, and in 2004-2005, the rate was 4.99. The district's millage rates and total revenues for the past six years were as follows:

Year	Millage Rate	Total Revenues
2005-2006	4.7	\$6,381,506
2006-2007	4.3	\$6,956,070

⁷ Office of Program Policy Analysis & Government Accountability, February 2010, Report No. 10-25.

⁸ *Id.* One of the independent special fire districts, Pinellas Suncoast Fire and Rescue District, receives its funding from a fire services assessment.

⁹ Seminole is on the west end, and Kenneth City lies in the middle of the fire control district.

¹⁰ Chris Lyon, Lewis, Longman & Walker, P.A, attorney for the district.

2007-2008	3.69	\$7,458,324
2008-2009	3.98	\$6,785,325
2009-2010	4.48	\$6,912,441
2010-2011	4.48	\$5,891,206
2011-2012	4.48	\$5,170,101
2012-2013	4.48	Not yet reported

Thus, although the current district millage rate is less than it was in 2002, it has increased since Fiscal Year 2008-2009, while district revenues have correspondingly decreased¹¹. The average Pinellas County fire service millage rate has increased from 2.40 in 2002 to 2.72 in 2011, with the highest rates levied by Lealman.

Recently, the drop in property values has reduced annexation pressure from the cities. However, it is assumed that annexation activity will increase along with property values. Another problem associated with annexation is the fact that the original fire control district, Lealman Fire/Rescue Company, entered into a 1990 countywide mutual aid agreement under which the closest fire unit goes to a fire or accident regardless of the jurisdiction. This agreement requires Lealman to respond to events in areas that have been annexed from the district and from which it receives no tax revenues.¹²

The original charter for the district provided that property within its boundaries annexed by a municipality would be treated as lying within the corporate boundaries of the municipality, and no longer subject to a levy of ad valorem taxes by the district. This act also provided that the property was excluded from the district effective the next January 1 following annexation.¹³

The charter was amended in 2002¹⁴ by the Legislature effective January 1, 2003, to protect the district from annexation in that it provided that the district would continue to provide services to any annexed area and continue as the sole taxing authority (although a municipality or fire control district that annexed district land could collect the tax and pay the district for such services at its annually adopted standard rate). These provisions were scheduled to essentially revert to original charter language effective January 1, 2008.¹⁵

In 2007, the Legislature created the Lealman Special Fire Control District Task Force to review the foregoing provisions governing district land annexation, and consider whether the future repeal of those changes should be rescinded. The Legislature also amended the district charter to reflect original charter language effective July 1, 2008, rather than January 1 of that year.¹⁶ The Task Force issued a report to the Pinellas County Legislative Delegation on October 29, 2007, which recommended that the most productive way to move forward was to pursue interlocal agreements between the various parties covering the issues of annexation and reimbursement for fire services.

¹¹ Local Government Financial Reports, *available at* <https://apps.fldfs.com/LocalGov/Reports/default.aspx>.

¹² It is noted that, pursuant to Section 9 of this agreement, a party may withdraw upon 90 days written notice.

¹³ Chapter 2000-426, L.O.F.

¹⁴ Also, this year, the Pinellas County Planning Department issued a "Lealman Incorporation Feasibility Study," responding to requests from Lealman residents to the Board of County Commissioners, to determine the feasibility of incorporating Lealman. The residents wanted to preserve the integrity of their community, and to protect the tax base of the special fire control district. Taxable values in Lealman were found to be significantly lower (approximately one-half) than those in the rest of the unincorporated county. The study found that if Lealman were to incorporate, the new government would have to look at other revenue sources for basic operating expenses that ad valorem revenues would not cover. The report estimated that if Lealman were to incorporate, taxes and fees would increase significantly, between 3.6 and 68.6 percent.

¹⁵ Chapter 2002-352, L.O.F.

¹⁶ Chapter 2007-288, L.O.F.

Lealman entered into a settlement agreement with the City of Pinellas Park dated February 7, 2007, resolving *Lealman Special Fire Control District v. City of St. Petersburg and City of Pinellas Park*, which provides that the city will not annex property within the district for a period of 10 years.¹⁷

Additionally, Lealman entered into an interlocal agreement with the City of Seminole on November 13, 2007, which provides that the city will not annex within the district for a period of 15 years.

On August 13, 2010, Lealman filed a two-count petition against the Town of Kenneth City. *Lealman Special Fire Control District v. Town of Kenneth City*, Case No. 10-000046AP-88B, was assigned to the appellate division of the Sixth Judicial Circuit in Pinellas County. The actions filed by the district sought to quash the town's annexation of 16 properties that were formerly within the district's boundaries on grounds that the annexations violated applicable laws. Specifically, the district alleged that the town's annexations failed to comply with procedural requirements; created enclaves, pockets or finger areas; failed to result in a reasonable, compact, urban municipal boundary; and deprived the district of revenue and increased the tax burden on the district's remaining taxpayers as the district continues to be obligated under existing mutual aid agreements to respond to many of the annexed properties. Additionally, the district sought to compel the town to comply with the provisions in ch.171, F.S. Specifically, the district requested the court compel the town to coordinate with the district on the orderly transition of fire and rescue services within the annexed properties, and pay the district its lost ad valorem revenue for fire district services for a four-year period pursuant to s. 171.093, F.S.¹⁸

The action in this Court was stayed for the parties to complete the conflict resolution procedure. The parties completed mediation and reached an impasse in the dispute resolution process, and an Order Lifting Stay was entered on February 21, 2013.

In August 2013, the Sixth Judicial Circuit granted the petition to challenge the Town of Kenneth's voluntary annexation of 16 parcels within the District's jurisdictional boundaries. Accordingly, the court held the Town did not observe the essential requirements of law when it approved the annexation ordinances.¹⁹

In 2012, the Legislature passed HB 1033 which amended ch. 2000-426, L.O.F., the charter for the Lealman Fire Control District in Pinellas County. The amended charter now provides that, notwithstanding s. 171. 093, F.S., if a municipality annexes unincorporated territory within the boundaries of the district before July 1, 2016, the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district, using the millage rate as of the effective date of the bill, or any lower rate that may be levied by the district. The payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibility in the annexed territory. If litigation is required to enforce these provisions, the prevailing party is entitled to an award of attorney fees and costs.

The language, in effect, creates an exception to s. 171.093, F.S., in that, a municipality may not elect to provide fire and rescue services to any district property it annexes before July 1, 2016, and must make payments for these services to the district in perpetuity, unless the district agrees otherwise. The new

¹⁷ A later settlement stipulation executed by the parties on May 21, 2008, appears to make this moratorium effective until May 21, 2016.

¹⁸ A letter provided to the legislature dated March 15, 2010, from the Town of Kenneth City Major, Teresa Zemaitis, indicated that the town had a contract with Lealman for fire services, after closing its own volunteer fire department almost 15 years earlier. During this time, Lealman was the first responder and the surrounding fire districts would assist as per the mutual aid agreement. When Kenneth City annexed approximately 20 properties worth approximately \$17,000 annually in ad valorem taxes, Lealman cancelled the contract, which was worth over \$200,000 annually for the next five years. The town currently is under contract with Pinellas Park for fire services, and has reopened its fire station in the center of town. If Kenneth City is to grow, i.e., annex, it must do so into the district, which surrounds the town.

¹⁹ *Lealman Special Fire Control Dist. v. Town of Kenneth City*, No. 10-000046AP-88B (Fla. 6th Cir. App. Ct. 2013).

amended charter was expected to discourage annexation within the boundaries of the Lealman Fire Control District, and thus prevent further erosion of the district's ad valorem tax base. The four-year sunset date (July 1, 2016) for the bill's requirements was intended to coincide with the expiration of the settlement agreement between the district and the City of Pinellas Park,²⁰ and has no other significance.

Effect of the Bill

HB 1297 removes the sunset provision of July 1, 2016, as provided in ch. 2000-426, L.O.F., the special act dealing with the Lealman Special Fire Control District in Pinellas County. The effect of the change is that, unless the Legislature amends the district's special act, when a municipality annexes unincorporated territory within district boundaries the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district. These payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibilities in the annexed territory.

II. FISCAL ANALYSIS, ECONOMIC IMPACT STATEMENT, & NOTICE/REFERENDUM

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 2014

WHERE? *Tampa Bay Times*, a daily newspaper published in St. Petersburg, Pinellas County, Florida.

²⁰ January 11, 2012, e-mail from Chris Lyon.

E. REFERENDUM(S) REQUIRED? Yes No