

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 949 East Naples Fire Control and Rescue District, Collier County

**SPONSOR(S):** Local & Federal Affairs Committee, Hudson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1186

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 0 N, As CS	Miller	Rojas
2) State Affairs Committee	13 Y, 0 N	Stramski	Camechis

### SUMMARY ANALYSIS

The Isles of Capri Municipal Rescue and Fire Services Capital Improvement District is a municipal services taxing unit (MSTU) created by Collier County to provide fire and rescue services in an unincorporated area of the County. The bill proposes to annex the area currently serviced by the Isles of Capri MSTU into an adjacent independent special fire control and rescue district, the East Naples Fire Control and Rescue District (ENFD).

The current ad valorem millage rate for the Isles of Capri MSTU is 2 mills. The current millage rate imposed in ENFD is 1.5 mills. Because the annexation affects the rate of taxes paid by those in the MSTU, the bill provides for a referendum on the annexation. The present bill provides only that the referendum be conducted according to current election law. The timing of the referendum is important because HB 951 proposes a merger of ENFD with another independent district, the Golden Gate Fire Control and Rescue District. If the referendum on annexation of the MSTU is not conducted prior to the separate referendum on merger of the two independent special fire control and rescue districts, it is unclear whether the voters currently within the MSTU would be able to vote on the separate merger even if the annexation is approved.

The bill describes the present area included within ENFD identically to the description in CS/HB 951, and states the specific date of the referendum is August 26, 2014, the date of the primary election.

The bill provides section 1, which annexes the Isles of Capri MSTU to the ENFD, becomes effective only upon approval of a majority of the qualified electors of the Isles of Capri MSTU at a referendum. Sections 2 and 3, creating the ballot question and requiring the referendum, are effective on becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Ch. 191, F.S.: Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district<sup>1</sup> created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.<sup>2</sup> Chapter 191, F.S., the “Independent Special Fire Control District Act,” is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.<sup>3</sup> Chapter 191 controls over more specific provisions in any special act or general law of local application creating a district’s charter.<sup>4</sup> The Chapter requires every district be governed by a five member board<sup>5</sup> and provides:

- general powers;<sup>6</sup>
- special powers;<sup>7</sup>
- authority and procedures for the assessment and collection of ad valorem taxes;<sup>8</sup>
- authority and procedures for the imposition, levy and collection of non-ad valorem assessments, charges, and fees;<sup>9</sup> and
- issuance of district bonds and evidence of debt.<sup>10</sup>

The territorial boundaries of an independent special fire control district may be modified, extended, or enlarged with the approval or ratification of the Legislature.<sup>11</sup>

##### Municipal Services Taxing Unit

A county commission may create, and subsequently merge or abolish, a municipal services taxing unit (MSTU) for part or all of the unincorporated area of the county. The MSTU may be designed to provide a variety of services, from fire protection to law enforcement, recreational facilities, water, garbage collection, or other enumerated functions. If the county commission chooses to impose ad valorem

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<sup>1</sup> A “special district” is “a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” Section 189.403(1), F.S. An “independent special district” is characterized by having a governing body the members of which are not identical to, all appointed by, or removable at will by, the governing body of a single county or municipality, and by a district budget that is not subject to approval or veto by the governing body of a single county or municipality. Section 189.403(3), F.S.

<sup>2</sup> Section 191.003(5), F.S.

<sup>3</sup> Section 191.002, F.S.

<sup>4</sup> Section 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section.

<sup>5</sup> Section 191.005(1)(a), F.S. A fire control district may continue to be governed by a 3 member board if authorized by special act adopted in or after 1997. For example, the Golden Gate Fire Control and Rescue District continues to be governed by a 3 member board. Ch. 98-489, s. 1, LOF, as incorporated into the re-codification of the District’s charter by Ch. 2000-392, s. 3, LOF.

<sup>6</sup> Section 191.006, F.S. Such powers include the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain.

<sup>7</sup> Section 191.008, F.S.

<sup>8</sup> Sections 191.006(14) & 191.009(1), F.S.

<sup>9</sup> Sections 191.006(11), (15), 191.009(2), (3), (4), 191.011, F.S.

<sup>10</sup> Section 191.012, F.S.

<sup>11</sup> Section 191.014(2), F.S. Art. VIII, sec. 4 of the State Constitution additionally provides that “[b]y law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.”

taxes within the MSTU to support the services being rendered, the millage rate may not exceed 10 mills.<sup>12</sup>

### East Naples Fire Control and Rescue District

The East Naples Fire Control and Rescue District (ENFD) was created in 1961.<sup>13</sup> Wholly contained in Collier County, FL, ENFD provides fire suppression services to approximately 70,000 residents in a territorial jurisdiction of 150 square miles. ENFD has 75 employees, 56 of whom are shift personnel staffing 5 fire stations, and annually responded to a total of 10,235 emergency calls. With a current millage rate of 1.5, ENFD projects ad valorem tax receipts of \$10,251,760 for FY 2013-2014.<sup>14</sup>

### Isles of Capri Municipal Rescue and Fire Services Capital Improvement District

The Isles of Capri Municipal Rescue and Fire Services Capital Improvement District (Isles of Capri MSTU) is an MSTU created and existing pursuant to Collier County ordinance.<sup>15</sup> The purpose of the MSTU is to provide fire and rescue services within a specific area of unincorporated Collier County. For fiscal year 2013, Isles of Capri MSTU had a fiscal budget of \$1.26 million.<sup>16</sup>

The present millage rate imposed in the Isles of Capri MSTU is 2 mills. This prompted residents of 280 homes in part of a subdivision called "Fiddler's Creek" to seek annexation of their property into ENFD, which already provides service to the remainder of that subdivision. At its meeting of July 9, 2013, the Collier County Commission voted unanimously for the County Attorney to negotiate with ENFD to merge the area currently within the Isles of Capri MSTU into ENFD.<sup>17</sup>

### Effect of Proposed Changes

The bill incorporates the present area included within the Isles of Capri MSTU within the territorial boundaries of ENFD. Under the bill, the annexation is not effective unless approved by a majority vote of the qualified electors within the MSTU area. The bill also creates the specific ballot question for the referendum, including a provision for the millage rate in the annexed area to be reduced to the 1.5 mills currently imposed in ENFD. The referendum will take place on August 26, 2014, the date of the primary election. No assets or liabilities of Collier County are being transferred to ENFD.

#### B. SECTION DIRECTORY:

Section 1: Describes the lands presently in ENFD and the Isles of Capri MSTU as the lands to be incorporated in the ENFD at the completion of the annexation.

Section2: Creates the ballot question for annexation to be considered in a referendum of the qualified electors in the MSTU.

Section 3: Calls for a referendum of qualified electors in the Isles of Capri MSTU. Provides the referendum will take place on August 26, 2014. Provides the annexation does not take effect unless approved by a majority vote of the electors. Provides bill sections 2 and 3 are effective upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

<sup>12</sup> Section 125.01(1)(q), F.S.

<sup>13</sup> Ch. 61-2034, LOF, as referenced in Ch. 2000-444, s. 1, LOF.

<sup>14</sup> Data as of 10/31/2013, from "Fire Districts Merger Initiative – Merger Playbook," p. 20, at <http://ggfire.com/index.asp> and <http://enfd.org/> (accessed March 31, 2014) [herein "Merger Playbook"].

<sup>15</sup> Collier County, Florida, Code of Ordinances, Part I, Ch. 122, Art. LXVII, section 122-1876, at <http://library.municode.com/index.aspx?clientId=10578&stateId=9&stateName=Florida> (accessed March 31, 2014).

<sup>16</sup> Katherine Albers, "Isle of Capri fire officials to discuss possible merger with East Naples," Marconews.com at <http://www.marconews.com/news/2012/nov/14/isle-of-capri-fire-officials-to-discuss-possible/> (accessed March 31, 2014).

<sup>17</sup> BCC Regular Meeting Minutes, July 9, 2013, 51-60, in possession of staff of the House Local & Federal Affairs Committee.

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? The bill provides only for a referendum according to the present elections laws.

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:

No rulemaking authority is created by the bill nor is any needed for implementation of the annexation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The boundary description for ENFD in the committee substitute is identical to that description contained in CS/HB 951 filed this session.

The bill now specifies the date for the referendum is August 26, 2014, providing the referendum on annexation will take place prior to the referendum on merging the East Naples Fire Control and Rescue District with the Golden Gate Fire Control and Rescue District. That merger is the subject of pending CS/HB 951, which provides the referendum on the merger will take place on November 4, 2014.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2014, the Local & Federal Affairs Committee approved without objection a technical amendment, conforming the boundary description for ENFD in the bill with that stated in HB 951. The amendment also clarifies the referendum on annexation will be conducted on the specific date of the primary election in Collier County: August 26, 2014. This analysis is drawn to the bill as amended.