

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 951	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Finance & Tax Subcommittee; Local & Federal Affairs Committee; Hudson	118 Y's	0 N's
COMPANION BILLS:	CS/HB 949; SB 1186; SB 1286	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 951 passed the House on April 25, 2014, and subsequently passed the Senate on April 29, 2014.

The bill merges two independent special fire control and rescue districts in Collier County, the East Naples Fire Control and Rescue District (ENFD) and the Golden Gate Fire Control and Rescue District (GGFD), into a single, new independent fire control and rescue district named the "Greater Naples Fire Rescue District" (Greater Naples).

Collier County has several independent and two dependent fire districts. In a straw vote conducted in 2010, 67 percent of those voting approved the concept of merging the various fire districts into one independent district. In 2013, the respective boards of ENFD and GGFD voted to enter into an interlocal agreement providing for consolidation of certain operations, resulting in significant savings over the continuation of separate operations. The boards approved the merger structure proposed in the bill.

Fire control and rescue districts are created, dissolved, or merged by special act of the Legislature and are governed as provided in chapters 189 and 191, F.S. The bill merges the territorial jurisdictions of ENFD and GGFD into a single, new independent fire control and rescue district. The bill describes the total area included in the single fire district, creates the complete charter for the Greater Naples district, provides for all present contracts and obligations of ENFD and GGFD, respectively, to continue after the merger, and transfers the respective assets and liabilities of ENFD and GGFD to Greater Naples. The board of supervisors for Greater Naples initially will have eight members, composed of the five board members from ENFD and the three board members from GGFD, reducing to five total members in 2018. The bill requires the question of merger be submitted to a voter referendum to be conducted on November 4, 2014, the date of the general election, and requires approval by a majority of the qualified electors in each district before the merger takes effect.

No impacts are projected for revenues or expenses of state or local governments. The bill caps at 1.5 mills the rate of ad valorem taxes the merged district may impose, the same as the rates presently imposed in ENFD and GGFD. Under the current joint operating agreement the districts have substantially reduced costs due to elimination of certain duplicative functions. Additional savings in operating costs are projected after completion of the merger.

The bill was approved by the Governor on May 12, 2014, and sections 11 and 14 became effective on that date. The remainder of the bill will become effective only upon approval by separate majorities of the qualified voters within ENFD and GGFD, respectively, at the referendum to be conducted on November 4, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Chapter 191, F.S.: Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district¹ created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.² 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.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating a district’s charter.⁴ The Chapter requires every district be governed by a five member board⁵ and provides the following:

- General powers;⁶
- Special powers;⁷
- Authority and procedures for the assessment and collection of ad valorem taxes;⁸
- Authority and procedures for the imposition, levy and collection of non-ad valorem assessments, charges, and fees;⁹ and
- Issuance of district bonds and evidence of debt.¹⁰

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

Chapter 189, F.S.: “Uniform Special District Accountability Act of 1989”¹²

As a type of independent special district,¹³ independent special fire control districts are also subject to applicable provisions of Chapter 189, F.S.

Chapter 189, F.S., was passed originally by a 3/5 majority in each Chamber.¹⁴ Accordingly, s. 189.404(2), F.S., prohibits any special law or general law of local application which achieves the following:

¹ 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 in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.403(3), F.S.

² Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ 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.

⁵ 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.

⁶ Section 191.006, F.S. For example, the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain.

⁷ Section 191.008, F.S.

⁸ Sections 191.006(14) & 191.009(1), F.S.

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

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(2), F.S.

¹² Section 189.401, F.S.

¹³ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.404, F.S.

¹⁴ Ch. 89-169, s. 67, LOF. Under the Florida Constitution, a law passed with a 3/5 majority vote may be amended or repealed only by another 3/5 majority vote. Art. III, s. 11(a)(21), Fla. Const.; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977). The statute limits the prohibition to those criteria stated in s. 189.404(2), F.S.

- Creates special districts that do not conform with the minimum requirements for district charters under s. 189.404(3), F.S.;
- Exempts district elections from the requirements of s. 189.405, F.S.;
- Exempts a district from the requirements for bond referenda under s. 189.408, F.S.;
- Exempts a district from the requirements for reporting, notice, or public meetings under ss. 189.4085, 189.415, 189.417, or 189.418, F.S.;
- Creates a district for which a statement documenting the following is not submitted to the Legislature:
 - The purpose of the proposed district;
 - The authority of the proposed district;
 - An explanation of why the district is the best alternative; and
 - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district.

Merger of Independent Special Districts

Prior to 2012, the merger of independent special fire control districts was provided under Ch. 191, F.S., subject to legislative ratification.¹⁵ The statute was amended to delete the provision on merger, limiting independent special fire control districts to the merger requirements under s. 189.4042, F.S.¹⁶

The statute provides for three different methods of merging two or more independent special districts: legislative merger by special act,¹⁷ voluntary merger initiated by joint resolution of the governing bodies of each affected district,¹⁸ or involuntary merger.¹⁹ Because the merger results in a single independent district, a special act merging independent districts and creating a new district would be required to meet the minimum requirements of s. 189.404(2), F.S.²⁰

Proposed Merger of Independent Special Fire Control Districts

East Naples Fire Control and Rescue District

The East Naples Fire Control and Rescue District (ENFD) was created in 1961.²¹ 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 2013-2014.²²

In 1997 the Legislature directed each independent special fire control district to draft a proposed charter codifying all special acts pertaining to the district for submission to, and enactment by, the Legislature.²³ In 2000 the special acts for ENFD were codified, reenacted, amended, and repealed and the district's charter reestablished by Ch. 2000-444, LOF.²⁴ The charter was amended by Ch. 2004-433, LOF, to update language preempted by Chapters 189 and 191, F.S.²⁵ In 2012 the charter was again amended to remove obsolete language, provide references to applicable general law, to revise

¹⁵ Section 191.014(3), Fla. Stat. (2011).

¹⁶ Ch. 2012-16, s. 2, LOF.

¹⁷ Section 189.4042(4), F.S.

¹⁸ Section 189.4042(5), F.S.

¹⁹ Section 189.4042(6), F.S.

²⁰ Discussion in n. 14, supra. See also s. 189.4031, F.S.

²¹ Ch. 61-2034, LOF, as referenced in Ch. 2000-444, s. 1, LOF.

²² 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 3/12/2014) [herein "Merger Playbook"].

²³ Ch. 97-256, s. 15, LOF, later amended and now codified as s. 191.015, F.S.

²⁴ Ch. 2000-444, LOF; Staff analysis h1641z.ca, prepared by staff of the House Committee on Community Affairs (May 22, 2000).

²⁵ Ch. 2004-433, LOF; Staff analysis h1145a.lgv.doc, prepared by staff of the House Local Government & Veterans' Affairs Subcommittee (March 10, 2004).

the boundaries of the district due to annexations by the City of Naples, and to remove the district's authority to provide water supply.²⁶

Golden Gate Fire Control and Rescue District

The Golden Gate Fire Control and Rescue District (GGFD) was created in 1967.²⁷ Wholly contained in Collier County, FL, GGFD provides fire suppression services to approximately 77,000 residents in a territorial jurisdiction of 133 square miles. GGFD has 75 employees, 56 of whom are shift personnel staffing 4 fire stations, and annually responded to a total of 6,056 emergency calls. With a current millage rate of 1.5, GGFD projects ad valorem tax receipts of \$6,760,747 for FY 2013-2014.²⁸

Pursuant to the 1997 legislative directive for codification, in 2000 the special acts for GGFD were codified, reenacted, amended, and repealed and the district's charter reestablished by Ch. 2000-392, LOF.²⁹ GGFD currently is governed by a three member board.³⁰

Steps to Proposed Merger

In a 2010 non-binding referendum conducted in Collier County over 67 percent of those voting³¹ supported consolidating the five separate independent and two dependent fire districts in the county into a single independent fire district. On April 23, 2013, the respective governing boards of ENFD and GGFD approved an interlocal agreement specifying terms and conditions for consolidating their respective fire and rescue services.³² Joint operations subsequently began with integration of certain personnel and facilities.³³ As of March 7, 2014, the districts reported combined net savings of \$430,548.51 in operations.³⁴

Effect of the Bill

The bill merges the ENFD and GGFD into a district, the "Greater Naples Fire Rescue District" (GNFD). Created by special act subject to approval by a majority of the qualified electors in the affected area, the GNFD may be dissolved only by another special act subject to voter approval. The charter of GNFD may be amended only by special act.

- The bill defines the boundaries for the merged GNFD, incorporating all areas currently under the respective territorial jurisdictions of ENFD and GGFD. Section 4 of the bill, creating section 2.02 of the proposed GNFD charter, includes the boundary description for the Isles of Capri Municipal Rescue and Fire Services Capital Improvement District (Isles of Capri District), a municipal services taxing unit,³⁵ and references HB 949 also filed in the 2014 Session. Now CS/HB 949, that bill proposes the annexation of the Isles of Capri District into ENFD. If CS/HB 949 becomes law and the annexation subsequently approved by the voters, CS/HB 951 provides the area of the proposed annexation will be included in GNFD.
- GNFD is established as an independent special fire control district with all the powers stated in the bill and under chapters 189 and 191, F.S.
- The bill establishes an eight member governing board for the GNFD, composed of the five present members of the ENFD board and the three present members of the GGFD board.

²⁶ Ch. 2012-231, LOF; Staff analysis h0267a.CMAS, prepared by staff of the Community & Military Affairs Subcommittee (Jan. 5, 2012).

²⁷ Ch. 67-1240, LOF, as referenced in Ch. 2000-392, s. 2, LOF.

²⁸ 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 3/4/2014).

²⁹ Ch. 2000-392, LOF; Staff analysis h0865z.ca, prepared by staff of House Committee on Community Affairs (May 8, 2000).

³⁰ Ch. 98-489, s. 1, LOF.

³¹ 18,731 total ballots cast. Merger Playbook, supra at 2.

³² Merger Playbook, supra at 2, 6-11.

³³ Merger Playbook, supra at 13-14, 17-18.

³⁴ Merger Playbook, supra at 23.

³⁵ The Isles of Capri District was created by the Collier County Commission pursuant to s. 125.01(1)(q), F.S. 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 3/5/2014).

The charter provides a transition period of four years. In 2018, three seats on the board are eliminated and the board reduced to five members.

- **Section 191.005(1)(a), F.S., requires an independent special fire control district to have a five member board. The provision in section 3 of the bill for an eight member board for the new GNFD, with a four year transition period, is an exception to this general law.**
- Charter section 4.03 (section 4 of the bill) requires each member of the board to be a qualified elector in accordance with chapter 191, F.S., at the time of qualifying for election and continually throughout the term. As each member of the board must be a qualified elector,³⁶ and the statute defines “elector” as a person who resides in the district,³⁷ each member of the board must be a resident of the district at the time of qualifying and throughout their tenure.
- The bill immunizes GNFD, its officers, agents, and employees, from tort liability, subject to the waiver of immunity and other provisions of s. 768.28, F.S., applicable to other governmental entities.
- The bill provides express directions for judicial interpretation, if necessary. The provisions of the bill are to be interpreted liberally and any provisions held invalid are to be severed so the remaining valid parts will continue in effect.
- If there is any conflict between the provisions of the bill as enacted and any other act, the terms of this bill control.³⁸
- The bill expressly limits the authority of GNFD to levy ad valorem taxes to a millage rate of 1.5 mills, the current rate imposed in both ENFD and GGFD.³⁹ Although this present rate is less than the maximum millage rate of 3.75 mills independent special fire districts may impose for ad valorem assessments,⁴⁰ the bill conditions any increase above 1.5 mills to voter approval in a subsequent referendum.
- The bill expressly transfers all assets and liabilities of both ENFD and GGFD to GNFD. The bill exempts all property and assets of GNFD from taxation.⁴¹ All contracts and obligations of ENFD and GGFD continue in full force and effect after the merger is approved.
- The bill repeals the laws establishing and chartering ENFD⁴² and GGFD,⁴³ respectively.
- The bill requires the question of merging ENFD and GGFD be submitted to a referendum of the qualified electors in the affected districts. Sections 1 – 10, 12, and 13 of the bill take effect only if the question of merger is approved by a majority vote of the qualified electors. Only bill section 11, creating the ballot question for the referendum, and section 14, requiring a referendum for approval, take effect upon the act becoming law.
- According to bill section 14, the referendum is to be conducted within the boundary area described in section 2.01 of the proposed charter (section 4 of the bill), including the present territorial descriptions of ENFD & GGFD, and including in ENFD the area of the Isles of Capri District described in section 2.02 of the proposed charter (if the voters in Isles of Capri approve annexation into ENFD in an August 26, 2014 referendum).⁴⁴ The bill specifies the

³⁶ Section 191.005(2), F.S. A member who ceases to be a qualified elector is automatically removed from office by this statute.

³⁷ Section 191.003(3), F.S.: “Elector” means a person who is a resident of the district and is qualified to vote in a general election within the local general-purpose government jurisdiction in which the district is located.

³⁸ This provision enables the initial creation in the bill of an 8 member board for GNFD, later reduced to 5 members, despite the requirement in s. 191.005(1)(a), F.S. Although s. 191.004, F.S., preempts provisions in other laws, to the extent this bill may conflict with Ch. 191, F.S., the terms of this bill should be interpreted as the most recent expression of legislative intent. *J.M. v. Florida Agency for Persons with Disabilities*, 938 So. 2d 535, 540-541 (Fla. 1st DCA 2006).

³⁹ The present millage rate in the Isles of Capri District is 2 mills. <http://www.marconews.com/news/2012/nov/14/isle-of-capri-fire-officials-to-discuss-possible/> (accessed 3/5/2014).

⁴⁰ Section 191.009(1), F.S.

⁴¹ Section 191.007, F.S.

⁴² Chapters 2000-392, 2004-433, and 2012-231, LOF.

⁴³ Chapter 2000-444, LOF.

⁴⁴ CS/HB 951 expressly makes the inclusion of this area in the merged fire districts contingent on the referendum provided in CS/HB 949.

referendum question must be approved by separate majorities of the electors in each district. .

Compliance with s. 189.404(2), F.S.

As noted above, the proposed charter must comply with the mandatory requirements of s. 189.404(2), F.S. The following chart shows compliance with the mandate:

Statutory Mandate	Specific Statute	Requirement	Compliance with Mandate	
			Yes/No	Bill/Charter Section or Statement to Legislature
189.404(2)(a)		Charter must include the minimum requirements of s. 189.404(3), F.S.	Y	
	189.404(3)(a)	Purpose of district	Y	Bill s. 2; Charter s. 3.01
	189.404(3)(b)	Powers/functions/duties of district re: <ul style="list-style-type: none"> • Ad valorem taxation • Issuing bonds • Other revenue-raising capabilities • Budget preparation • Budget approval • Liens • Foreclosure of liens • Use of tax deeds, tax certificates for non-ad valorem assessments • Contracting 	Y	Charter s. 3.03: “district shall have all powers and duties granted by this charter and chapters 189 and 191...” <ul style="list-style-type: none"> • Charter s. 5.01 • Budget: also at Charter s. 5.03
	189.404(3)(c)	Method of establishing district	Y	<ul style="list-style-type: none"> • s. 191.003(5), F.S. • Special Act: Bill ss. 1 & 2 • Referendum: Bill ss. 11 & 14
	189.404(3)(d)	Method of amending charter	Y	Bill s. 2
	189.404(3)(e)	Governing board of district: <ul style="list-style-type: none"> • Membership • Organization • If elected on basis of 1 acre = 1 vote, requires 5 member board; 3 member quorum. 	Y	<ul style="list-style-type: none"> • Membership: Charter ss. 4.02, 4.03 • Organization: Charter s. 4.04
	189.404(3)(f)	Maximum compensation of board members	Y	Charter s. 4.05
	189.404(3)(g)	Administrative duties of board	Y	Charter ss. 4.08, 4.09
	189.404(3)(h)	Applicable requirements for: <ul style="list-style-type: none"> • Financial disclosure 	Y	All in Charter s. 6.01

		<ul style="list-style-type: none"> • Noticing • Reporting 		
189.404(2)(a)	189.404(3)(i)	If district is authorized to issue bonds, procedures & requirements for issuing	Y	Charter s. 5.01, incorporating ss. 189.4085, 191.012, F.S.
	189.404(3)(j)	<ul style="list-style-type: none"> • Procedures to conduct any district election/referenda • Qualifications of district elector 	Y	Charter s. 4.07
	189.404(3)(k)	District financing methods	Y	Charter s. 5.01
	189.404(3)(l)	If district authorized to levy ad valorem taxes – millage rate	Y	Charter ss. 5.02 & 10
	189.404(3)(m)	Method to collect non-ad valorem assessments, fees, charges	Y	Charter ss. 5.05, 5.06
	189.404(3)(n)	Planning requirements	Y	Charter ss. 3.01, 3.03; s. 191.006, F.S.
	189.404(3)(o)	Geographic boundary limits of district	Y	Charter Art. II
189.404(2)(b)	189.405	District elections must comply with s. 189.405, F.S.	Y	Charter s. 4.07
189.404(2)(c)	189.408	District bond referenda must comply with s. 189.408, F.S.	Y	Charter s. 5.01, incorporating ss. 189.4085, 191.012, F.S.
189.404(2)(d)	189.4085 189.415 189.417 189.418	District must comply with reporting, notice, public meetings requirements	Y	All covered in charter s. 6.01; Charter s. 5.01, incorporating ss. 189.4085, 191.012, F.S.
189.404(2)(e)		Statement to Legislature documenting:	Y	
	189.404(2)(e)1.	Purpose of proposed district	Y	Bill s. 2
	189.404(2)(e)2.	Authority of proposed district	Y	Bill s. 2; Charter Arts. III, V
	189.404(2)(e)3.	Explanation why dist. is best alt.	Y	Local Bill Certification
	189.404(2)(e)4.	Resolution/official statement of governing body/administrator of local jurisdiction within which proposed district is located: <ul style="list-style-type: none"> • Creation of district is consistent with approved local plans of local gov't • No objection to 	Y	Resolutions of boards of each district, Interlocal operating agreement

Because the bill is conditioned on approval by vote of the electors in the affected areas, prior publication of the intent to seek enactment is not required.⁴⁵

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

The bill caps at 1.5 mills the rate of ad valorem taxes the merged district may impose, the same as the rates presently imposed in ENFD and GGFD. Under the current joint operating agreement the districts have substantially reduced costs due to elimination of certain duplicative functions. Additional savings in operating costs are projected after completion of the merger.

D. NOTICE PUBLISHED? Yes No

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 4, 2014

⁴⁵ Art. III, s. 10, Fla. Const.