

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/CS/HB 1203	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Local & Federal Affairs Committee; Finance & Tax Committee; Local Government Affairs Subcommittee, Steube	116 Y's	1 N's
COMPANION BILLS:	N/A	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 1203 passed the House on April 24, 2015, and subsequently passed the Senate on April 29, 2015. The bill amends the special acts comprising the charter of the Cedar Hammock Fire Control District to incorporate a number of changes since the charter was recodified in 2000. The changes include:

- Revising the District's boundary description;
- Revising terms and conditions in the charter and a separate act resulting from a successful merger with another fire control district in 2007;
- Codifying referendum results authorizing the District to increase impact fees;
- Codifying referendum results authorizing the District to impose annual ad valorem taxes at a rate not to exceed 3.75 mills;
- Revising the terms pertaining to the District's authority to levy non-ad valorem assessments, including the Board's authority to adjust rates under general law;
- Removing the schedule of non-ad valorem assessments provided in the charter in 2000.

The bill is projected to make no changes in revenues or expenditures of the special district.

The bill was approved by the Governor on June 10, 2015, ch. 2015-197, and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Ch. 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 for:

- 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 such as impact 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

Ad Valorem Taxation

Independent special fire control districts are authorized to levy and assess ad valorem taxes on all taxable property in the district. Ad valorem assessments for operating expenses, exclusive of debt service on bonds, cannot exceed 3.75 mills unless a higher rate was previously authorized by law and approved by referendum of the qualified voters in the district.¹² Under the statute, a referendum is not required to levy ad valorem taxes in an amount previously authorized by general or special law.

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.” S. 189.012(6), 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. S. 189.012(3), F.S. As a type of independent special district, independent special fire control districts are also subject to applicable provisions of Chapter 189, F.S. S. 191.003(5), F.S.

² S. 191.003(5), F.S.

³ Ch. 97-256, s. 2, Laws of FL, codified as s. 191.002, F.S.

⁴ S. 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 S. 191.005(1)(a), F.S.

⁶ S. 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 S. 191.008, F.S.

⁸ Ss. 191.006(14) & 191.009(1), F.S.

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

¹⁰ S. 191.012, F.S.

¹¹ S. 191.014(2), F.S.

¹² S. 191.009(1), F.S.

Non-Ad Valorem Assessments

The charters of all independent special districts must provide for the collection of annual non-ad valorem assessments¹³ pursuant to ch. 197, F.S., or monthly assessments pursuant to ch. 170, F.S.¹⁴ Independent special fire control districts are authorized to levy non-ad valorem assessments for facilities and services authorized under ch. 191, F.S., as well as the district's enabling legislation.¹⁵ While a district may be authorized to provide emergency medical and transport services,¹⁶ a district levying a non-ad valorem assessment for such services must cease collecting ad valorem taxes for the same services.¹⁷ To levy non-ad valorem assessments, the district board must follow the specific statutory procedures,¹⁸ including adopting by resolution an assessment roll and detailed description of the relevant services, expenses, lands subject to assessment, and other required factors.¹⁹

Impact Fees

The board of an independent fire control district may adopt a schedule of impact fees for new construction if so authorized by special act or other general law and if the general purpose local government has not adopted an impact fee for fire services that is distributed to the district for construction within that government's boundaries.²⁰ Impact fees must be kept separate from other revenues and used exclusively to acquire, purchase, or construct new facilities needed to provide fire and emergency services to new construction.

Cedar Hammock Fire Control District

Cedar Hammock Fire Control District (District) is an independent fire control district in Manatee County first created and authorized by the Legislature in 1957.²¹ Operating four fire stations in a 25 square mile area, the District serves a seasonal population between 50,000 – 70,000 and responds to over 5,000 emergency calls annually.²²

For fiscal year 2014-2015 the District has a total budget of \$10,055,887. Ad valorem taxes are imposed at a millage rate of 1.3 mills, projected to generate \$2,721,449 in revenues. The primary source of District funding is non-ad valorem assessments, projected to generate \$6,315,794 during the fiscal year. By resolution, the District board adopted the schedule of non-ad valorem assessment rates for 2014.²³ The District also projects collecting \$12,000 in impact fees.²⁴

¹³ Special assessments levied to defray the costs of particular services within a specified area, not based on the values of properties within that area (non-ad valorem assessments), are valid if 1) the particular service provides a special benefit to the assessed properties, and 2) the assessment for the service is properly apportioned. *Lake County v. Water Oak Management Corporation*, 695 So. 2d 667, 669 (Fla. 1997).

¹⁴ S. 189.05, F.S.

¹⁵ S. 191.009(2)(a), F.S.

¹⁶ S. 191.008(1), F.S. The provision of such services is recognized as benefitting all the real property within the district. S. 191.009(2)(b)2., F.S. See also *Lake County v. Water Oak Management Corporation*, supra at 695 So. 2d 669-670.

¹⁷ S. 191.009(2)(b)1., F.S.

¹⁸ S. 191.011, F.S.

¹⁹ S. 191.011(2), F.S.

²⁰ S. 191.009(4), F.S.

²¹ Ch. 57-1546, Laws of Fla.

²² Cedar Hammock Fire Control District webpage, "Office of the Chief," at <http://chfr.org/personnel/operations/a-day-in-the-life-of-a-ff/office-of-the-chief/> (accessed 3/21/2015).

²³ Cedar Hammock Fire Control District Resolution 2014-07, "Adoption of the 2014 Non-Ad Valorem Fire Assessment Rate," a copy of which is attached as Appendix A.

²⁴ "Final Budget Summary, Cedar Hammock Fire Control District, Fiscal Year 2014-2015," at <http://chfr.org/budget/> (accessed 3/21/2015).

Since its adoption, the District charter was subject to numerous subsequent amendments.²⁵ In 1997 the Legislature created ch. 191, F.S.,²⁶ for the purpose of providing greater uniformity in the law under which all independent fire control districts were to operate.²⁷ The new statute included a requirement for each existing independent fire control district to recodify its charters, including all amendments, into a single charter document no later than December 1, 2004.²⁸

The purpose of recodification was to collect all of a district's special acts "so that its special acts may be codified into a single act for reenactment by the Legislature..."²⁹ The District prepared and submitted a draft recodification in 2000, subsequently passed by the Legislature.³⁰ The charter authorized ad valorem taxation by the District but did not provide a specific millage rate to be imposed.³¹ The charter also provided a schedule for rates of non-ad valorem assessments imposed to fund District activities³² as well as criteria for imposing impact fees for new construction.³³

In a 2002 referendum the District voters approved the imposition of ad valorem taxes at the maximum rate of 3.75 mills.³⁴ A 2005 act amended the charter provision on impact fees, deleting the specific schedule of impact fees in the charter and providing generally for the board to establish a schedule of impact fees under ch. 191, F.S.³⁵

Resolution 2006-03 adopted by the District board in 2006 resulted in a referendum on a proposed merger with Whitfield Fire Control District, approved by the voters.³⁶ In 2007 the District and Whitfield merged and submitted the merged charter for review and passage by the Legislature. In recognizing the merger and expanded territory of the District, the Legislature adopted a law restating the charter and revising the boundaries of the District³⁷ but retaining the original 2000 text of the impact fee provision.³⁸

²⁵ See, chapters 57-1546, 59-1537, 59-1538, 61-2453, 65-1897, 71-759, 72-613, 72-614, 75-429, 79-507, 81-433, 82-326, 84-478, 85-450, 88-486, 89-483, and 90-454, Laws of FL.

²⁶ Ch. 97-256, Laws of FL.

²⁷ Ch. 97-256, s. 2, Laws of FL, codified as s. 191.002, F.S.

²⁸ S. 191.015, F.S.

²⁹ Id. The full text of the statute states: "Each fire control district existing on the effective date of this section, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the Department of Economic Opportunity pursuant to s. [189.016\(2\)](#)." (emphasis supplied)

³⁰ Ch. 2000-391, Laws of FL.

³¹ Ch. 2000-391, s. 3, Laws of FL. Section 7 of the recodified charter stated: "Section 7. Other district powers, functions, and duties.--In addition to any powers set forth in this act, the district shall hold all powers, functions, and duties set forth in chapters 189, 191, and 197, Florida Statutes, as they may be amended from time to time, including, but not limited to, ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements. The district may be financed by any method established in this act, chapter 189, Florida Statutes, or chapter 191, Florida Statutes, or any other applicable general or special law, as they may be amended from time to time."

³² Ch. 2000-391, s. 3, Laws of FL, charter s. 5.

³³ Ch. 2000-391, s. 3, Laws of FL, charter s. 6.

³⁴ In Resolution 2002-03, the District Board approved a request for the Manatee County Supervisor of Elections to include on the ballot for the general election a ballot question for the electors in the District to decide whether to authorize the express authority for the District to levy ad valorem taxes at the rate of no more than 3.75 mills.

³⁵ Ch. 2005-297, Laws of FL.

³⁶ The ballot question contained in Resolution 2006-03 referred to a continuation of the District's authority for ad valorem taxes not to exceed 3.75 mills.

³⁷ Ch. 2007-283, Laws of FL.

³⁸ As a subsequent enactment, ch. 2007-283, s. 1, Laws of Fla., charter s. 6, could be construed as replacing the 2005 modification of the impact fee section with the original 2000 text.

Chapter 93-352, Laws of Fla., as amended by ch. 94-373, Laws of Fla., required a number of independent fire control districts in Manatee County, including the District, to be governed by 5 member boards elected as provided in ch. 191, F.S.³⁹ The provisions of these acts are substantively included in the present District charter.⁴⁰

Effect of the Bill

The bill provides a new description for the present boundaries of the District, according to the revision prepared by Darrell E. Gerken PSM, Inc.⁴¹ The bill revises existing terms of the District's charter to eliminate obsolete language pertaining to the completed merger with the Whitfield Fire Control District. The bill also deletes obsolete references to the Cedar Hammock and Whitfield Fire Control Districts in a special act applicable to a number of fire control districts in Manatee County.⁴²

The bill codifies the results of the 2002 and 2006 referenda to expressly provide the existing authority of the District to impose ad valorem taxes is capped at 3.75 mills. The provisions for non-ad valorem assessments are updated to incorporate the statutory authority for the board to revise the rates annually by resolution and to delete the original schedule of assessments included in the charter in 2000.

The bill confirms the current non-ad valorem assessment rates charged by the District by specifically referencing Cedar Hammock Fire Control District Resolution 2014-07.

The bill updates the District's authority to impose impact fees to conform with that adopted by referendum in 2004.

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 [X] No []

³⁹ S. 191.005(1)(a), F.S.

⁴⁰ Ch. 2000-391, s. 1, Laws of Fla., as amended by ch. 2007-283, s. 1, Laws of Fla.

⁴¹ The firm was engaged to prepare a new boundary description for the District, according to that letter of January 27, 2015, from William J. McAllister, President of the engineering firm, to Jeffrey S. Hoyle, Fire Chief. A copy of the explanation is attached as Appendix B.

⁴² Chapter 93-352, Laws of Fla., s. 1(1)(a), Laws of Fla., as amended by ch. 94-373, Laws of Fla.

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 22, 2015

WHERE? Bradenton Herald, Bradenton, Manatee County, FL

E. REFERENDUM(S) REQUIRED? Yes No