

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 691

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Steube

116 Y's

1 N's

**COMPANION
BILLS:** N/A

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 691 passed the House on April 24, 2015, and subsequently passed the Senate on April 29, 2015. The bill amends the charter for the Sarasota-Manatee Airport Authority (SMAA), a two-county independent special district that owns and operates the Sarasota Bradenton International Airport, to allow SMAA to enforce the Florida Fire Prevention Code within an enclave of the Sarasota Bradenton International Airport not within the jurisdiction of nearby independent fire control districts. SMAA currently operates its own Airport Rescue and Fire Fighting Department to provide aircraft fire protection and airport medical services within the Air Operations Area of the Airport to comply with federal requirements. However, the charter for SMAA does not expressly authorize SMAA to enforce the Florida Fire Prevention Code. The bill amends the charter for the Sarasota-Manatee Airport Authority (SMAA) to allow SMAA to enforce the Florida Fire Prevention Code within the enclave.

The Economic Impact Statement (EIS) projects that SMAA will incur a one-time estimated \$10,000 expenditure to inspect all existing structures and conditions within SMAA's jurisdiction for compliance with fire codes. The EIS also estimates ongoing costs associated with routine inspections, enforcement, plans review, and the establishment of a board of appeals (in concert with other fire service providers in Manatee County). Those ongoing costs are estimated to be \$5,000 per year.

The bill was approved by the Governor on June 10, 2015, ch. 2015-185, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Sarasota-Manatee Airport Authority

In 1955 the Legislature created the Sarasota-Manatee Airport Authority (SMAA).¹ SMAA is a two-county independent special district.² SMAA owns and operates the Sarasota Bradenton International Airport (Airport), which is situated in unincorporated areas of Manatee and Sarasota Counties, as well as within the City of Sarasota. Most of the Air Operations Area of the Airport (AOA) is located in Manatee County.

In 2003, special laws pertaining to the SMAA were codified, amended, and reenacted.³ The charter for SMAA provides that SMAA is a public instrumentality with numerous powers, including the power to operate any airport facilities within either or both Counties of Sarasota and Manatee.⁴ The charter also sets forth law enforcement functions of SMAA.⁵ The current charter does not address fire control.

Independent fire control districts in Manatee straddle the AOA, but their boundaries do not embrace the AOA itself.⁶ Because Manatee County government does not employ fire personnel but instead relies on the independent fire control districts within the county, the AOA essentially is an enclave not presently served by any Fire Marshal.

SMAA is not an independent special fire control district or a general purpose local government such as a county or municipality. SMAA has fire and rescue responsibilities derived from its statutory power to operate the airport and from its Federal Aviation Administration operating certificate which requires it to provide the airport, during air carrier operations, rescue and firefighting capability necessary to maintain a certain level of safety.⁷ SMAA currently operates its own Airport Rescue and Fire Fighting Department (ARFFD) employing Florida Certified Firefighter/Emergency Medical Technicians to provide aircraft fire protection and airport medical services within the AOA so as to comply with federal regulatory requirements. Firefighting personnel include individuals certified as State Fire Safety Inspectors.

Fire Prevention & Control

Chapter 633, F.S., provides that the responsibilities of the State Fire Marshal are carried out through the Florida Department of Financial Services (DFS). The Chief Financial Officer is designated as the State Fire Marshal,⁸ and the Division of State Fire Marshal is a part of DFS.⁹ The State Fire Marshal

¹ Ch. 31263, 1955, Laws of Fla.

² Ch. 2003-209, as amended by ch. 2004-401, 2006-361, & 2010-262, Laws of Fla.

³ Ch. 2003-309, Laws of Fla.

⁴ *Id.* at s. 3, s. 5(5).

⁵ *Id.* at s. 3, s. 14.

⁶ An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.⁶ S. 191.003(5), F.S. The Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District straddled the AOA. See Cedar hammock Fire Control District Boundaries, available at <http://chfr.org/boundaries/> (last visited 03/21/2015); Chapter 2000-402, s. 3 at s. 3, Laws of Fla. (Southern Manatee Fire and Rescue District boundaries).

⁷ See 14 C.F.R. ss. 139.315-139.319 (regulations pertaining to aircraft rescue and firefighting requirements); Federal Aviation Administration, Airports, Aircraft Rescue & Fire Fighting (ARFF) Airports, Part 139 Airports & Requirements, Part 139 Airport Certification Statute List (including ARFF Index) http://www.faa.gov/airports/airport_safety/aircraft_rescue_fire_fighting/ (last visited 03/21/2015).

⁸ S. 633.104, F.S.

⁹ S. 20.121(2)(b), F.S.

adopts the Florida Fire Prevention Code at three year intervals.¹⁰ The Code is deemed adopted by each municipality, county, and special district with fire safety responsibilities.¹¹ Local fire officials within each county, municipality, and special fire district in the state enforce the fire code provisions.¹² The chiefs of county, municipal, and special-district fire service providers, designated fire service provider personnel, and personnel designated by local governments having no organized fire service providers are authorized to enforce all rules prescribed by the State Fire Marshal within their respective jurisdictions.¹³

Declaratory Statement

A substantially affected person may seek a declaratory statement regarding an agency's interpretation of its statutes, rules, and orders as they apply to a particular set of circumstances.¹⁴ Accordingly, SMAA petitioned DFS for a declaratory statement as to whether SMAA is a "special district fire service provider" authorized to enforce ch. 633, F.S., all rules prescribed by the State Fire Marshal, and the Florida Fire Prevention Code within an enclave of airport land sandwiched between the boundaries of adjacent independent fire control districts.¹⁵

On September 9, 2014, DFS issued a declaratory statement in response to SMAA's petition.¹⁶ DFS in the declaratory statement declares that SMAA:

- Meets the statutory definition of a fire service provider¹⁷ and
- Could be authorized to function as the authority having jurisdiction to enforce the Florida Fire Prevention Code, provided the local government in charge of the fire service area designates SMAA to enforce the Florida Fire Prevention Code within the enclave of airport land.¹⁸

Manatee County Resolution

On January 13, 2015, the Manatee Commission adopted a Resolution authorizing the Chief of the ARFFD to exercise the authority given to fire agency chiefs in s. 633.118, F.S., within those portions of the Airport situated in Manatee County that are not under the jurisdiction or served by any other fire district.¹⁹ The Resolution:

- Designates SMAA's Fire Chief as the Fire Marshal for the airport lands within Manatee County which are not under the jurisdiction of any other fire district; and
- Provides that the designation shall continue until the Florida Legislature revises the Airport's charter to confirm the power to designate the Airport's own Fire Chief as its Fire Marshal or until revoked by the Manatee County Commission.

¹⁰ S. 633.202, F.S.

¹¹ S. 633.208(1), F.S.

¹² Florida's Chief Financial Officer, Division of State Fire Marshal, Florida Fire Prevention Code, available at http://www.myfloridacfo.com/division/sfm/BFP/FloridaFirePreventionCodePage.htm#.VQyV02zD_cs (last visited 03/20/2015).

¹³ S. 633.118, F.S. A "[f]ire service provider" is "a municipality or county, the state, or any political subdivision of the state, including authorities and special districts, employing firefighters or utilizing volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property." S. 633.102(13), F.S.

¹⁴ S. 120.565, F.S.; Rule 28-105.001, F.A.C.

¹⁵ Notice of receipt of the Petition was published in vol. 40, no. 120, of the Fla. Admin. Register, on June 20, 2014.

¹⁶ Declaratory Statement Sarasota Manatee Airport Authority, Case. No. 155557-14-DS, (September 9, 2014).

¹⁷ S. 633.102, F.S.

¹⁸ S. 633.118, F.S.

¹⁹ Resolution 15-10, Manatee County, available at

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CB4QFjAA&url=http%3A%2F%2Fwww.mymanatee.org%2Fpublished%2FJanuary%252013%2C%25202015%2520-%2520Regular%2520Meeting%2520on%2520Tuesday%2C%2520January%252013%2C%25202015%2FB54E1CEB-1A36-43D8-87C3-3834447A61C0.pdf&ei=UIUNVerFA8WwggTY9oDoDA&usq=AFQjCNECPU3NjgqWPjRQF6Jp-wUvjriKA&bvm=bv.88528373.d.eXY> (last visited 03/21/2015).

Effect of the bill

The bill amends the charter for SMAA to add the definition of “enclave.” The bill defines the term “enclave” as “those lands owned by the authority in unincorporated Manatee County, including the air operations area and various tenant parcels, which are not within the boundaries of the Cedar Hammock Fire Control District and not within the boundaries of the Southern Manatee Fire and Rescue District.”

Additionally, the bill gives SMAA the power to enforce the Florida Fire Prevention Code within the enclave of the airport and to carry out the following functions:

- Read, interpret, and enforce fire prevention and life safety codes and regulations;
- Perform building and facilities inspections to check for code and regulation compliance;
- Investigate alleged code violations and instruct on required corrections;
- Provide the public with fire prevention and fire safety information;
- Prepare inspection and investigation reports;
- Conduct annual inspections of all airport hangars and buildings;
- Review and approve building and construction plans;
- Issue permits, including for welding and burning and include follow-up inspections; and
- Maintain enforcement of applicable Federal Aviation Regulations.

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:

The Economic Impact Statement (EIS) projects that SMAA will incur a one-time estimated \$10,000 expenditure to inspect all existing structures and conditions within SMAA’s jurisdiction for compliance with fire codes. The EIS also estimates ongoing costs associated with routine inspections, enforcement, plans review, and the establishment of a board of appeals (in concert with other fire service providers in Manatee County). Those ongoing costs are estimated to be \$5,000 per year.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 10, 2014

WHERE? Bradenton Herald, Manatee County, Florida

E. REFERENDUM(S) REQUIRED? Yes No