

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 1265

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Passidomo

114 Y's 0 N's

COMPANION None
BILLS:

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 1265 passed the House on March 4, 2016, and subsequently passed the Senate on March 8, 2016.

The Greater Naples Fire Rescue District was formed in 2014 by the merger of the East Naples Fire Control and Rescue District and Golden Gate Fire Control and Rescue District. The District serves approximately 147,000 residents in an area of 283 square miles. 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 the Greater Naples Fire Rescue District subject to approval in a referendum by a majority of resident electors in the affected area. The merger should result in a reduced tax burden for residents in the annexed area and improved response time.

The bill was approved by the Governor on March 25, 2016, ch. 2016-261, L.O.F. The bill provides for a referendum to be held in conjunction with a general, special, or other election in Collier County no later than December 31, 2016. The bill takes effect only upon approval by the majority of the resident electors in the area to be annexed into the district voting in a referendum, except for the provision for the referendum, which took effect upon becoming law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

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;⁹ and
- Issuance of district bonds and evidences of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”¹² Chapter 189 prohibits the following types of special laws or general laws of local application:¹³

- Creating special districts that do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴

¹ A “special district” is a local government unit of “special purpose, as opposed to general purpose, operat[ed] within a limited boundary and 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 any special district that is not a “dependent special district,” which is defined as a special district in which: the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the special district’s governing body are removable at will during their unexpired terms by the governing body of a single county or municipality, **or** the district’s budget is subject to the approval of the governing body of a single county or municipality. S. 189.012(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 three-member board if authorized by special act adopted in or after 1997.

⁶ Section 191.006, F.S. (such as 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 Section 191.006(14); s. 191.009(1), F.S.

⁹ Section 191.006(11), (15); s. 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹² Section 189.031, F.S.

¹³ Art. III, s. 11(a)(21), Fla. Const. (enabling the prohibition of any special law or general law of local application on a subject, if such prohibition is passed as a general law approved by three-fifths vote of the membership of each house. A general law passed in this manner may be amended or repealed by “like vote.” The Uniform Special District Accountability Act (Ch. 89-169, s. 67, Laws of Fla.) was originally passed by a three-fifths majority in each house.

¹⁴ Section 189.031(2)(a), F.S.

- Exempting district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempting a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempting a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Creating 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 that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ Therefore, any boundary expansion must be approved by the Legislature.²⁰ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²¹

Greater Naples Fire Rescue District: Creation and Today

The Greater Naples Fire Rescue District (GNFD) was created by the merger of two fire control districts in Collier County, the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. The merger was passed by the Legislature during the 2014 session²² and approved by the voters of each district on November 4, 2014.²³

At the time the merger was approved by the voters, the East Naples Fire Control and Rescue District served approximately 70,000 residents in a territory spanning 150 square miles.²⁴ ENFD had 75 employees, including 56 shift personnel manning five fire stations, and responded to 10,235 emergency calls annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with revenues of \$10,724,348 in FY 2013-2014.²⁵ The Golden Gate Fire Control and Rescue District (GGFD) served approximately 77,000 residents in a territory spanning 133 square miles.²⁶ GGFD had 75 employees, including 65 shift personnel manning four fire stations, and responded to 6,056 emergency calls

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

¹⁹ *Board of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ Section 191.014(2), F.S. ("The territorial boundaries of [an independent special fire control] district may be modified, extended, or enlarged with the approval or ratification of the Legislature.").

²¹ Art. VII, s. 9(b), Fla. Const.

²² Ch. 2014-240, Laws of Fla.

²³ Collier County Supervisor of Elections, *2014 General Election*, <http://www.colliervotes.com/?id=240> (last visited Mar. 1, 2016).

Residents of the East Naples Fire Control District approved of the merger 67.5 percent to 32.5 percent, while the residents of the Golden Gate Fire Control District approved 70 percent to 30 percent.

²⁴ East Naples – Golden Gate Fire Control and Rescue Districts, *Golden Gate/East Naples Merger Playbook*. [hereinafter "Merger Playbook"].

²⁵ *Local Government General Ad Hoc Report for East Naples Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Mar. 1, 2016). Each special district with revenues (or total expenditures and expenses) exceeding \$100,000 must file an audited financial report within 9 months from the end of the fiscal year being reported. Section 218.39(1), F.S. A copy of the audit report must be filed with the Auditor General per s. 218.39(7), F.S., and accompany the district's annual financial report filed with the Department of Financial Services, per s. 218.32(1), F.S. Because the financial report for GNFD's FY 2014-2015 has not yet been filed, this analysis uses the most recent information available from the reports of its predecessor districts.

²⁶ Merger Playbook, *supra* note 25.

annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with projected revenues of \$6,912,610 in FY 2013-2014.²⁷

Before the 2014 merger, ENFD and GGFD had operated for a year under an interlocal agreement as a consolidated entity.²⁸ In the first year of operation under the interlocal agreement, the districts saved \$612,998.²⁹

The GNFD today contains the former territories of the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. In 2014, the merged entity received more than 17,100 calls for service.³⁰ Sixty-three percent of calls related to medical emergencies, while thirty-seven percent related to fires and other types of calls of service.³¹ GNFD also conducted over 6,000 fire and life safety inspections.

The district is currently administered by an eight-member Board of Fire Commissioners.³² The size of the board will change from eight members to five members after elections in November 2018, consistent with s. 191.005(1)(a).³³ The GNFD charter maintains a distinction between the former territory of the East Naples and Golden Gate special fire control districts for the purpose of interim board elections.³⁴

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.³⁵ The purpose of the MSTU is to provide fire and rescue services within a specific area of unincorporated Collier County.

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 on September 10, 2013, the Collier County Board of County Commissioners approved the negotiation of an interlocal agreement for the Isles of Capri MSTU to be operationally managed by the ENFD, pending discussions between the county and the Legislature on expanding the ENFD’s boundaries.³⁶ Chapter 2014-239, Laws of Fla., would have merged the Isles of Capri MSTU into the ENFD, but the merger was rejected by Isles of Capri residents in a referendum held August 26, 2014.³⁷ The residents of the Fiddler’s Creek subdivision, however, voted strongly in favor of annexation.³⁸ The Legislature

²⁷ *Local Government General Ad Hoc Report for Golden Gate Fire Control and Rescue District, FY 2014*, at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (last visited Mar. 1, 2016).

²⁸ Merger Playbook, *supra* note 25.

²⁹ *Id.*

³⁰ 2014 GNFD Annual Report, available at <http://www.greaternaplesfire.org/who-we-are/annual-report.html> (last visited Mar. 1, 2016).

³¹ *Id.*

³² Art. IV, s. 4.01, Charter of Greater Naples Fire Rescue District, as codified in s.4, Ch. 2014-240, Laws of Fla. [hereinafter “Greater Naples Fire Charter”].

³³ *Id.* S. 191.004(1)(a) requires independent special fire control districts to have a five-member board.

³⁴ See art. II, s. 2.01, Greater Naples Fire Charter (drawing a distinction between the “Golden Gate Division” and “East Naples Division”) and art. IV, s. 4.01, Greater Naples Fire Charter (reserving board seats for each previous district’s territory on an interim basis).

³⁵ 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> (last visited Mar. 1, 2016).

³⁶ Collier County Board of County Commissioners Minutes, Nov. 12, 2013, Agenda Item 11C. Available at <http://www.colliergov.net/Index.aspx?page=2280>.

³⁷ Collier County Supervisor of Elections, *2014 Primary Election*, <http://www.colliervotes.com/?id=239> (last visited Jan. 17, 2016).

³⁸ *Isle of Capri voters oppose fire merger*, NBC 2, available at <http://www.nbc-2.com/story/26378921/isle-of-capri-voters-oppose-fire-merger#.Vpu6ME1gnct> (last visited Mar. 1, 2016).

approved the annexation of Fiddler's Creek in 2015,³⁹ subject to a referendum to be held in conjunction with the Presidential Preference Primary on March 15, 2016.⁴⁰

Effect of Changes

The bill incorporates the present area included within the Isles of Capri MSTU, with the exception of the Fiddler's Creek area, into the GNFD as part of the "East Naples Division." This will bring residents in the area under the service duties and taxing authority of the district. The bill also provides for a referendum of qualified electors residing within the annexed area at the time of a general, special, or other election held in Collier County before December 31, 2016. Unless a majority of the electors in the affected area vote to approve the expansion, the remainder of the bill will not go into effect.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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?

WHERE?

E. REFERENDUM(S) REQUIRED? Yes No

³⁹ Ch. 2015-188, Laws of Fla.

⁴⁰ See Editorial: *Right idea, wrong approach and bad timing on Collier straw ballot*, Naples Daily News, Jan. 14, 2016, available at <http://www.naplesnews.com/opinion/editorials/editorial-right-idea-wrong-approach-and-bad-timing-on-collier-straw-ballot-293ad942-b69a-3aa6-e053-0-365290591.html> (last visited Mar. 1, 2016).