

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 895 West Manatee Fire and Rescue District, Manatee County

**SPONSOR(S):** Local Government Affairs Subcommittee, Boyd

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	8 Y, 0 N, As CS	Monroe	Miller
2) Finance & Tax Committee	16 Y, 0 N	Pewitt	Langston
3) Local & Federal Affairs Committee			

### SUMMARY ANALYSIS

The West Manatee Fire and Rescue District (District) was created by Chapter 2000-401, Laws of Florida, which merged the Anna Maria Fire Control District and the Westside Fire Control District. As part of merging the two earlier districts, Chapter 2000-401 provided specific details regarding the initial composition of the board and arranged for the length of those initial terms in order to provide for staggered elections of the board members. This local bill removes those provisions as obsolete and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms.

In addition, Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, provides for the levy of non-ad valorem assessments by the District and the procedures regarding such assessments, including a listing of maximum assessment rates for various parcels. This bill removes that list, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. reflecting actual practice in recent years as general law provisions have superseded those of the special acts. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by District resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### 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 an independent fire control district’s charter.<sup>4</sup> The Chapter requires every independent fire control district be governed by a five-member board<sup>5</sup> and provides for:

- 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 evidences of debt.<sup>10</sup>

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

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<sup>1</sup> 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.

<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. *Id.*

<sup>5</sup> 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.

<sup>6</sup> 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).

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

<sup>8</sup> Section 191.006(14); 191.009(1), F.S.

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

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

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

<sup>12</sup> Section 189.031, F.S.

<sup>13</sup> Article 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 the House and the Senate.

- Create special districts which do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;<sup>14</sup>
- Exempt district elections from the requirements of s. 189.04, F.S.;<sup>15</sup>
- Exempt a district from the requirements for bond referenda under s. 189.042, F.S.;<sup>16</sup>
- Exempt a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;<sup>17</sup>
- Create 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.<sup>18</sup>

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.<sup>19</sup> A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.<sup>20</sup>

Section 191.005, F. S., provides for the election of the district board of commissioners, including its membership, officers, and meetings. The initial District charter<sup>21</sup> complied with this general law requirement and provided for both the initial board members and the initial elections and term lengths for those board members.

Under s. 191.009, F.S., districts are authorized to levy ad valorem taxes and non-ad valorem assessments for district purposes. Each district is authorized by this general provision to levy ad valorem taxes up to 3.75 mills, upon voter approval, notwithstanding lower millage caps in the special acts of individual districts. This provision applies unless a higher amount has previously been authorized. In that event, the higher, previously authorized rate applies.<sup>22</sup>

Non-ad valorem assessments levied by independent fire districts are governed by s. 191.009(2), F.S., which includes requirements for the levying of such assessments and limitations on the growth of the assessment rates. The rate of non-ad valorem assessments must be set by resolution properly adopted by the board of the District, and may exceed the maximum rates set in the authorizing act, county ordinance, the previous year's resolution, or referendum by up to the average growth rate in Florida personal income over the previous 5 years.<sup>23</sup> The District first adopted rates which exceeded the caps set in the authorizing act in 2006. On July 16, 2015, the District's board adopted resolution 2015-03, establishing the current rates for non-ad valorem assessments in the District.<sup>24</sup>

The District's enabling act also includes specific provisions regarding the levy of special assessments and the procedures regarding such assessment. Under the enabling act, assessments are based on property type which has been divided into three categories. The three categories are vacant parcels, residential parcels, and commercial parcels.<sup>25</sup> The amount of the assessment depends on not only

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<sup>14</sup> Section 189.031(2)(a), F.S.

<sup>15</sup> Section 189.031(2)(b), F.S.

<sup>16</sup> Section 189.031(2)(c), F.S.

<sup>17</sup> Section 189.031(2)(d), F.S.

<sup>18</sup> Section 189.031(2)(e), F.S.

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

<sup>20</sup> Article VII, s. 9(b), Fla. Const.

<sup>21</sup> Ch. 2000-401, Laws of Fla.

<sup>22</sup> Section 191.009(1), F.S.

<sup>23</sup> Section 191.009(2)(a), F.S.

<sup>24</sup> West Manatee Fire & Rescue District Resolution 2015-03, at <http://www.wmfr.org/financials/> (accessed 1/7/2016). See Minutes of West Manatee Fire & Rescue District Commission Regular Meeting for July 16, 2015, at [www.wmfr.org/wp-content/uploads/2015/07/Board-Minutes-Jul-16-2015.pdf](http://www.wmfr.org/wp-content/uploads/2015/07/Board-Minutes-Jul-16-2015.pdf) (accessed 1/17/2016).

<sup>25</sup> Ch. 2000-401, Section 13 of Section 2, Laws of Fla.

what type of parcel the property is, but also the square footage of the home/building. The enabling act was amended by Chapter 2001-334, Laws of Florida, to provide that this list of assessment amounts is a listing of the maximum rates which may be assessed.<sup>26</sup>

### Proposed Changes

Chapter 2000-401, Laws of Florida, provided specific details regarding the initial composition of the board and arranged the initial terms in order to provide for staggered elections of the board members. This bill removes those provisions as obsolete and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms.

In addition, Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, provided for the levy of non-ad valorem assessments and the procedures regarding such assessments, including a listing of maximum assessment rates for various parcels. This bill removes that list, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

#### B. SECTION DIRECTORY:

**Section 1** amends Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, which is the enabling act of the West Manatee Fire and Rescue District. The bill removes obsolete provisions regarding the initial board members and their terms and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms. In addition, it removes the schedule of maximum non-ad valorem assessments which was contained in Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

**Section 2** provides that this bill shall take effect upon becoming law.

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 16, 2015

WHERE? Manatee County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

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<sup>26</sup> Ch. 2001-334, Section 1, Laws of Fla.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide authority or require implementation by administrative agency rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 13, 2016 the Local Government Affairs subcommittee adopted one amendment which removed a sentence stating that “the district is authorized to exceed the maximum assessment rates established in this act.” Since the bill also removed the listing of maximum assessment rates in the act, the sentence was not functional. In addition, the bill corrected the date that Resolution 2015-03 was adopted.

This analysis is drafted to the bill as amended.