

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1363 Santa Rosa County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Williamson  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Banner	Miller
2) Ways & Means Committee	18 Y, 0 N	Dobson	Langston
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Independent special fire control districts are 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. Independent fire control districts are governed by both ch.189, F.S., the "Uniform Special District Accountability Act," and ch. 191, F.S., the "Independent Special Fire Control District Act."

The bill creates the Pace Fire Rescue District, an independent special fire control district in Santa Rosa County. The bill provides all necessary elements for the charter of the new district, including powers, financing, and memberships and terms for commissioners.

The bill provides that the act takes effect only upon its approval by a majority vote of qualified electors residing within the boundaries of the district. The referendum must occur no later than December 31, 2020. Sections 13 and 14 of the bill take effect upon becoming law.

According to the Economic Impact Statement (EIS) filed on March 15, 2017, there is an anticipated cost of \$10,000 for Fiscal Year 2017-2018 and \$25,000 for Fiscal Year 2019-2020 for legal and administrative costs associated with the preparation of the referendum and the creation of the district, if approved.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present 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 statute 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>

- Create special districts which do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;<sup>14</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 expected 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 161.006(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. This paragraph prohibits 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.

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

- 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> Therefore, any boundary expansion must be approved by the Legislature.<sup>20</sup> A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.<sup>21</sup>

As a local bill, a proposed special district also must meet the Local Bill Policy of the House, which provides that no local bill may be considered by the Local, Federal and Veterans Affairs Subcommittee – or other House committees or subcommittees – prior to the receipt of an original Economic Impact Statement and a Local Bill Certification Form.<sup>22</sup> The Economic Impact Statement should assess the cost of implementation, state who will bear such cost, and identify who will benefit from the passage of the special act. The Local Bill Certification Form certifies the purpose of the bill cannot be accomplished locally, a public hearing has been held, all statutory and constitutional requirements have been met, and a majority of the local legislative delegation<sup>23</sup> approves the bill.

### Pace Fire Rescue District

The Pace Volunteer Fire Department was originally founded in the 1950's and became established as a corporation in 1959. Redesignated as Pace Fire Rescue District in 2007, the department became a combination department housing both volunteer as well as career personnel. Currently, the district has a total of 15 career firefighters. An additional 15 volunteer firefighters supplement as their schedules allow.<sup>24</sup>

The Pace Fire Rescue District serves the Pace, Pea Ridge, Floridatown and Wallace communities, as well as the southern tip of the Chumuckla area, a total area of 64-square miles with approximately 35,000 residences.<sup>25</sup> The district is one of nine in Santa Rosa County and currently relies on Municipal Services Benefits Units (MSBU) fees, assessed to residents for community services and

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<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> 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.”).

<sup>21</sup> Article VII, s. 9(b), Fla. Const.

<sup>22</sup> Florida House of Representatives, Local, Federal & Veterans Affairs Subcommittee, 2017-2018 Local Bill Policies and Procedures Manual.

<sup>23</sup> A legislative delegation is a group of legislators representing the same county.

<sup>24</sup> Pace Fire Rescue District, About Us, available at <http://www.pacefirerescuedistrict.com/page2.html> (last accessed March 14, 2017).

<sup>25</sup> Kevin Robinson, *Pace fire district seeks independence*, Pensacola News Journal (October 30, 2016).

<http://www.pnj.com/story/news/local/pace/2016/10/30/pace-fire-district-seeks-independence/92793094/>

improvements, to cover operation costs.<sup>26</sup> The revenue provided by the MSBU, an estimated \$1.315 million, pays for payroll, equipment, operational costs and training.<sup>27</sup>

In the November 2016 General Election, voters approved, with 68.93 percent affirmative votes, a referendum to establish the district as an independent special fire control district.<sup>28</sup>

### Requirements for the Creation of Independent Special Districts

This section examines whether the proposed Pace Fire Rescue District charter meets the statutory criteria as required by chs. 191 and 189, F.S.

#### *Meeting the Statutory Criteria for Creation*

Section 189.031(2)(a), F.S. – Comply with s. 189.031(3), F.S.

**Requires each proposed independent special district comply with the requirements of s. 189.031(3), F.S., as outlined below:**

Section 189.031(3)(a), F.S. – Purpose of the District

**Section 3** states the purpose of the District, including:

- Managing the operations and governance of the District.
- Providing the District with financing authority without disrupting previously authorized revenue sources.
- Improving communication and coordination between the District and other local governments to provide service delivery in a cost-effective manner.
- Ensuring public accountability.

Section 189.031(3)(b), F.S. – Powers, Functions, and Duties

***The powers, functions, and duties of the district regarding 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.***

**Section 7** states that the District may exercise all powers set out in chs. 189 and 191, F.S., which shall include fire control, fire prevention, and emergency medical, rescue response and public safety services.

**Section 8** provides for the powers, functions and duties of the district regarding revenue-raising capabilities, including but not limited to ad valorem taxation, non-ad valorem assessments, and bond issuance, pursuant to chs. 170, 189, 191, and 197, F.S. The District must adopt an annual budget, for fiscal year October 1 through September 30, in accordance with chs. 189, 192, and 200, F.S.

Section 189.031(3)(c), F.S. – Methods for Establishing the District

**Section 13** directs the Santa Rosa County Supervisor of Elections to conduct a referendum on or before December 31, 2020 on the question of whether the district shall be created by special act.

Section 189.031(3)(d), F.S. – Method for Amending the Charter

**Section 11** states that the charter of the District may only be amended by special act of the Legislature.

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Aaron Little, *Pace Fire Rescue District's establishment will take some time, officials say*, Santa Rosa's Press Gazetter (November 25, 2016). <http://www.srpressgazette.com/news/20161125/pace-fire-rescue-districts-establishment-will-take-some-time-officials-say> .

Section 189.031(3)(e), F.S. – Membership and Organization of Governing Body

***The membership and organization of the governing body of the district. If the district being created uses a one-acre/one-vote election principle, it shall provide for a governing body consisting of five members. Three members shall constitute a quorum.***

**Section 4** provides that the District will be governed by a board of five commissioners, who elect a chair, vice chair, secretary and treasurer from among their ranks. Each commissioner is required to take an oath of office<sup>29</sup> and execute a performance bond, as required by statute.<sup>30</sup>

**Section 5** states that the District's elections be held in accordance with chs. 189 and 191, F.S. As each member of the board must be a qualified elector,<sup>31</sup> and the statute defines "elector" as a person who resides in the district,<sup>32</sup> each member of the board must be a resident of the district at the time of qualifying and throughout their tenure. Commissioners are elected at-large on a nonpartisan basis. If any commissioner's seat becomes vacant, the board may appoint a qualified person to serve in the interim until the next general election. Commissioners serve on a volunteer basis, but they may be compensated for travel and per diem expenses in accordance with existing law.<sup>33</sup> A commissioner may be removed for unexcused absences. Each commissioner shall assume office 10 days after the election and serve a term of 4 year term.<sup>34</sup>

Section 189.031(3)(f), F.S. – Maximum Compensation of Governing Body Member

**Section 4** provides that commissioners are entitled to travel and per diem expenses as provided by general law but may not receive a salary.

Section 189.031(3)(g), F.S. – Administrative Duties of the Governing Body

**Section 6** authorizes the governing body to adopt rules and regulations for the prevention of fires, fire control, public safety, and rescue work within the district.

**Section 7** states that District funds may only be used to purchase firefighting and rescue equipment and facilities and other services as necessary to provide those services. The District is also authorized to buy, own, lease, and maintain a fire and rescue department and obtain equipment and property as necessary to exercise authorized powers.

Section 189.031(3)(h), F.S. – Applicable Financial Disclosure, Noticing and Reporting Requirements

**Section 4** requires commissioners to comply with ethics requirements established by ch. 112, F.S., or as otherwise provided by law or regulation.

**Section 5** provides for an official record of the district's meetings, resolutions, and other proceedings and that this official record will be open to the public in compliance with the public record laws.

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<sup>29</sup> Section 5(b), Art. II, Fla Const. and s. 876.05, F.S.

<sup>30</sup> Section 191.005(6), F.S.

<sup>31</sup> Section 191.005(2), F.S. A member who ceases to be a qualified elector is automatically removed from office by this statute.

<sup>32</sup> 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.

<sup>33</sup> See s. 112.061, F.S.

<sup>34</sup> Note: The commissioners initially elected to seats 2 and 4 shall serve a 2 year term. Thereafter, the terms of all commissioners will be 4 years.

Section 189.031(3)(i), F.S. – Procedures and Requirements for Issuing Bonds, if applicable

**Section 8** provides the authority for the District to issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes to finance all or a part of any proposed improvements pursuant to ch. 189, F.S., s. 191.012, F.S., or other general law.

Section 189.031(3)(j), F.S. – District Elections or Referenda

***The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district.***

**Section 5** provides that the District's elections be held in accordance with chs. 189 and 191, F.S.

**Section 13** directs the Santa Rosa County Supervisor of Elections to conduct a referendum on or before December 31, 2020 on the question of whether the district shall be created by special act.

Section 189.031(3)(k), F.S. – Methods for Financing the District

**Section 8** authorizes the board to levy ad valorem taxes, non-ad valorem assessments, and impact fees for capital improvements and issue bonds in accordance with s. 191.012, F.S.

Section 189.031(3)(l), F.S. – Authorized Millage Rate, if applicable

***If an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the millage rate that is authorized.***

**Section 8** provides authority to the governing board to levy ad valorem taxes up to 3.75 mills,<sup>35</sup> non-ad valorem assessments, and impact fees for capital improvements.

Section 189.031(3)(m), F.S. – Method for Collection of Assessments or Fees

***The method or methods for collecting non-ad valorem assessments, fees or service charges.***

**Section 8** provides authority to the governing board to levy non-ad valorem assessments and impact fees for capital improvements, which would be collected under the authority of the charter and chapters 170, 189, 191, and 197, F.S.

Section 189.031(3)(n), F.S. – Planning requirements

**Section 7** states that the District may exercise all powers set out in chs. 189 and 191, F.S.

**Section 9** requires the District to comply with the planning requirements set forth in part VIII of ch. 189, F.S.

Section 189.031(3)(o), F.S. – Geographic boundary limitations

**Section 2** provides for the boundaries of the District.

**Section 10** requires approval or ratification by the Legislature for any boundary modifications, extensions or enlargements.

Section 189.031(2)(b), F.S. – Elections Conducted in Compliance with s. 189.04, F.S.

**Section 5** provides for the composition, terms, election, qualifications, and certification of candidates for the election of the District governing body.

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<sup>35</sup> Ad valorem taxes imposed by an independent fire control district may not exceed the rate of 3.75 mills. Section 191.009(1), F.S.

Section 189.031(2)(c), F.S. – Comply with Bond Referenda pursuant to s. 189.042, F.S.

**Section 8** specifies the powers, functions, and duties of the district with regard to financing.

Section 189.031(2)(d), F.S. – Comply with Reporting, Notice and Public Meeting Requirements

**Section 5** provides for these requirements.

Section 189.031(2)(e), F.S. – Statement to the Legislature

- 1. *The purpose of the proposed district.***
- 2. *The authority of the proposed district.***
- 3. *An explanation of why the district is the best alternative.***
- 4. *A resolution or official statement of the governing body or administrator of the local jurisdiction stating the approval of the local government or that the local government has no objection to the creation of the proposed district.***

The requirements of s. 189.031(2)(e)1. and 2., F.S., are provided in sections 3 and 6-8, respectively.

The Local Bill Certification Form includes a brief explanation as to why the creation of the proposed district is the best alternative.

A letter dated January 26, 2017 from the Santa Rosa County Administrator indicated that the Santa Rosa County Board of Commissioners unanimously approved the request from Pace Fire/Rescue District to become an independent fire district.<sup>36</sup>

### **Effect of Proposed Changes**

The bill creates the Pace Fire Rescue District (District), an independent special fire control district in Santa Rosa County, to provide fire prevention and emergency rescue services.

The charter provides for a five-member board of commissioners, with commission members serving 4 year terms, elected in non-partisan elections. As each member of the board must be a qualified elector,<sup>37</sup> and the statute defines “elector” as a person who resides in the district,<sup>38</sup> each member of the board must be a resident of the district at the time of qualifying and throughout their tenure. Annually, within 60 days after newly elected members have taken office, the commission will organize by electing from its members a chair, vice-chair, secretary and treasurer. The positions of secretary and treasurer may be held by one member. Commission members are elected to 5 at large seats.

In the event a vacancy occurs on the commission, or no one qualifies to run for a vacant seat, the remaining members may appoint a qualified person to serve until the next general election. Commission members may be removed after three consecutive, unexcused absences from regularly scheduled meetings. Commission members are not entitled to compensation, however, may receive reimbursement as provided in general law for travel and per diem expenses. Commissioners must comply with ethics requirements established by ch. 112, F.S., or as otherwise provided by law or regulation.

The charter requires the commission to provide for an official record of the district’s meetings, resolutions, and other proceedings and that this official record will be open to the public in compliance with public records laws. The commission is also authorized to adopt rules and regulations necessary for the prevention of fires or for completing fire control and rescue work. Rules and regulations must be

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<sup>36</sup> Tony Gomillion, Santa Rosa County Administrator. Letter to Mr. Robbie Whitfield, Fire Chief, Pace Fire Rescue District. RE: Support for request for creation of independent special district. (January 26, 2017). (on file with Local, Federal and Veterans Affairs Subcommittee).

<sup>37</sup> See supra note 31.

<sup>38</sup> See supra note 32.

signed by the president and secretary of the District and made available on the District's website and in at least three public places for up to ten days before taking effect.

The charter provides for a fiscal year of October 1 – September 30. The commission shall prepare, consider, and adopt a district budget stating the purpose for which revenue is required and the amount necessary to be raised by taxation. The budget and proposed millage rate shall be noticed, heard and adopted in accordance with general law.<sup>39</sup> District funds may only be used to purchase firefighting and rescue equipment and facilities and for other services as necessary to fire control, fire prevention, and emergency medical, rescue response and public safety services. The board may buy, own lease, or otherwise acquire firefighting and rescue equipment and maintain a fire and rescue department within the district.

The charter authorizes the District to levy and collect ad valorem taxes, non-ad valorem assessments and impact fees for capital improvements on new construction. The District may also issue bonds and revenue bonds in accordance with general law. The maximum millage rate that can be levied in any one year is 2.50 mills.

The bill provides that the charter shall take effect upon the approval by a majority of qualified electors voting in a referendum held on or before December 31, 2020. The Supervisor of Elections of Santa Rosa County shall conduct the referendum.

#### B. SECTION DIRECTORY:

- Section 1. Creates the Pace Fire Rescue District Act and provides for the charter.
- Section 2. Provides the physical boundaries of the District.
- Section 3. Provides the general purpose(s) of the District.
- Section 4. Provides the administrative organization and functions of the Board of Commissioners.
- Section 5. Provides for the election of the Board of Commissioner, including terms, election qualifications, and certification of candidates.
- Section 6. Provides authority for the Board of Commissioners to adopt rules and regulations.
- Section 7. Provides for the use of district funds.
- Section 8. Provides for the financial management of the District, including the authority to levy ad valorem taxes, non-ad valorem assessments, and charge impact fees for capital improvement; issue bonds; and prepare and adopt a budget and millage rate. The bill caps the ad valorem millage that can be assessed in any one year at 3.750 mills, unless a lower maximum rate is authorized by referendum.
- Section 9. Requires the District to comply with planning requirements in part VIII of ch. 189, F.S.
- Section 10. Requires any modifications to the physical boundaries be approved by the Legislature.
- Section 11. Requires any amendment to charter be done by special act of the Legislature.
- Section 12. Provides a severability clause.
- Section 13. Provides for the referendum on creating the District on or before December 31, 2020 and provides the ballot question.

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<sup>39</sup> See generally chs. 189, 192 and 191, F.S.



Section 14. Provides act takes effect upon approval by a majority of qualified electors voting in the referendum. Provides sections 13 and 14 take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? On or before December 31, 2020.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted two amendments and reported the bill favorably as a committee substitute (CS). The amendments add the full legal description for the district and reduce the maximum millage rate that can be requested on the original referendum creating the district from 3.75 mills to 2.50 mills.

This analysis is drafted to the bill as amended by the Local, Federal & Veterans Affairs Subcommittee.

# APPENDIX A MAP OF PROPOSED AREA OF INCORPORATION

