

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 815 Ocean City-Wright Fire Control District, Okaloosa County

SPONSOR(S): State Affairs Committee, Maney

TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 815 passed the House on April 27, 2023, and subsequently passed the Senate on May 4, 2023.

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 jurisdictional boundaries of the district. Independent fire control districts are governed by both the "Uniform Special District Accountability Act" and the "Independent Special Fire Control District Act."

The Ocean City-Wright Fire Control District (District) is an independent special fire control district created by special act in 1963. The District's charter was codified in 1999. The District provides services to areas known as Ocean City and Wright in unincorporated Okaloosa County, near the municipal boundaries of the City of Ft. Walton Beach. The District covers approximately 11.5 square miles and serves approximately 40,000 residents.

The bill provides that, notwithstanding s. 171.093, F.S., if a municipality annexes property within the District's boundaries, the annexing municipality may levy any applicable taxes, assessments, or fees, but must pay the District for its services in an amount equal to the taxes, assessments, or fees that the District would have collected if the property had not been annexed, based on the lower of the millage rate of the District on the effective date of the bill or the current millage rate for that year. These payments would continue for 10 years.

The bill provides that if litigation is required to enforce its provisions, the prevailing party is entitled to an award of attorney fees and costs.

According to the economic impact statement, the bill is not expected to have a fiscal impact.

The bill was approved by the Governor on June 9, 2023, ch. 2023-329, L.O.F., and became effective on that date.

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” (Act), provides 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 The Act controls over more specific provisions in any special act or general law of local application creating an independent fire control district’s charter.⁴ The Act requires every independent fire control 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 also are subject to ch. 189, F.S., the “Uniform Special District Accountability Act.”¹²

An independent special district only possesses the powers granted by the authorizing law.¹³ Therefore, any boundary expansion must be approved by the Legislature.¹⁴ A special district may not levy ad valorem taxes without approval by the affected voters in a referendum.¹⁵

¹ A “special district” is a local government unit of special purpose, as opposed to general purpose, operate[d] within a limited boundary and created by general law, special act, local ordinance, or 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. See s. 189.012(3), F.S.

² S. 191.003(5), F.S.

³ 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. *Id.*

⁵ S. 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 S. 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 S. 191.008, F.S.

⁸ S. 191.006(14); 191.009(1), F.S.

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

¹⁰ S. 191.012, F.S.

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

¹² S. 189.031, F.S.

¹³ *Bd. of Comm’rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007). See also *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

¹⁴ S. 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.”).

¹⁵ Art. VII, s. 9(b), Fla. Const.

Municipal Annexation of Independent Special District Territory

If a municipality annexes property within the boundaries of an independent special district that levies ad valorem taxes to provide services also provided by the municipality, the municipality may choose to provide those services instead subject to certain conditions.¹⁶ The municipality must inform the special district, as well as the tax collector and the property appraiser of the county in which the annexed property is located, of its intent to deliver the service currently provided by the district.¹⁷ The municipality may include this information in its annexation ordinance.

Upon making the election to provide the service, the municipality and special district may enter into an interlocal agreement to address the orderly transfer of responsibilities, assets, equipment, and personnel from the district to the municipality.¹⁸ The agreement must also address:

- Allocation of responsibilities for those services between the municipality and the district;
- Avoiding double taxation of property owners in areas of overlapped jurisdiction;
- Preventing loss of district revenues that would be detrimental to continued operation of the district;
- Avoiding the impairment of existing district contracts;
- Depositing of district property and equipment, as well as the assumption of associated debt;
- Determining the status and employee rights of any adversely affected employee of the district; and
- Any other matter reasonably related to the transfer of responsibilities.

If the municipality and special district are unable to enter into an interlocal agreement, the municipality may unilaterally declare its intent to provide services to the annexed area. This declaration starts a four-year period, starting on October 1 of the calendar year following the calendar year in which the declaration is issued, in which the district remains the service provider in the annexed area, but receives payment from the municipality equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district.¹⁹ At the conclusion of the four-year period, or any agreed-to extension, the municipality and the special district must enter into an agreement that:

- Identifies the existing district property located in the municipality or primarily serving the municipality that will be assumed by the municipality;
- The fair market value of such property; and
- The manner of transfer of such property and any associated indebtedness.²⁰

If the municipality and the special district are unable to reach an agreement, either party may file suit in circuit court.

During the four-year period, or any agreed-to extension, district service and capital expenditures in the annexed area must continue to be rationally related to both the annexed area's service needs and the proportion of total district revenue.²¹ The municipality must approve any capital expenditure of more than \$25,000 that is intended to be used primarily in the annexed area.

Annexed territory remains within the boundaries of the district as long as the municipality has not chosen to assume responsibility for services provided by the district.²² If the municipality elects to provide services, the annexed territory is removed from the boundaries of the district at the time provided in the interlocal agreement or at the beginning of the four-year transition period.²³

¹⁶ S. 171.093, F.S.

¹⁷ S. 171.093(2), F.S.

¹⁸ S. 171.093(3), F.S.

¹⁹ S. 171.094(4)(a), F.S.

²⁰ S. 171.094(4)(b), F.S.

²¹ S. 171.094(4)(c), F.S.

²² S. 171.094(5), F.S.

²³ S. 171.094(6), F.S.

Ocean City-Wright Fire Control District

The Ocean City-Wright Fire Control District (District) is an independent special fire control district created in 1963.²⁴ The District's charter was codified in 1999.²⁵ The District provides services to areas known as Ocean City and Wright in unincorporated Okaloosa County, near the municipal boundaries of the City of Ft. Walton Beach. The District covers approximately 11.5 square miles and serves approximately 40,000 residents.²⁶ The District is administered by a five-member board elected by the voters of the district in nonpartisan elections to four-year terms.²⁷

The District is authorized to levy ad valorem taxes against the taxable real estate within the district at a rate not to exceed 3.75 mills.²⁸ The District imposed a millage rate of 2.75 mills for the Fiscal Year (FY) 2021-22.²⁹ In addition, the District has the authority to levy non-ad valorem assessments, the rate of such assessments being fixed annually by a resolution of the board.³⁰ The District may also impose and collect impact fees and issue bonds.³¹ The District's adopted budget for FY 2021 was \$9,245,005.³²

Effect of the Bill

The bill provides that notwithstanding s. 171.093, F.S., if a municipality annexes property within the District's boundaries, the annexing municipality may levy any applicable taxes, assessments, or fees, but must pay the District for its services in an amount equal to the taxes, assessments, or fees that the District would have collected if the property had not been annexed, based on the lower of the millage rate of the District on the effective date of the bill or the current millage rate for that year. These payments continue for 10 years.

If litigation is necessary to enforce the provisions of this act, the prevailing party will be awarded attorney fees and costs.

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:

²⁴ Ch. 63-1965, Laws of Fla.

²⁵ Ch. 99-478, Laws of Fla., Ch. 2001-315, Laws of Fla., revised the boundaries of Ocean City-Wright Fire Control District.

²⁶ Ocean City-Wright Fire Control District, *OCWFCD Audited Financial Statements*, available at <https://www.ocwfcd.org/wp-content/uploads/2022/06/2021-ocean-city-wright-fire-control-district.pdf> (last visited Mar. 22, 2023).

²⁷ Ch. 99-478, s. 5, Laws of Fla.

²⁸ Ch. 99-478, s. 9(1), Laws of Fla.

²⁹ Ocean City-Wright Fire Control District, *OCWFCD Audited Financial Statements*, available at <https://www.ocwfcd.org/wp-content/uploads/2022/06/2021-ocean-city-wright-fire-control-district.pdf> (last visited Mar. 22, 2023).

³⁰ Ch. 99-478, s. 9(2), Laws of Fla.

³¹ Ch. 99-478, Laws of Fla.

³² Ocean City-Wright Fire Control District, *OCWFCD Audited Financial Statements*, available at <https://www.ocwfcd.org/wp-content/uploads/2022/06/2021-ocean-city-wright-fire-control-district.pdf> (last visited Mar. 22, 2023).

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 15, 2022

WHERE? *The Northwest Florida Daily News*, a daily newspaper of general circulation in Okaloosa County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No