

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 823 North Okaloosa Fire District, Okaloosa County

SPONSOR(S): Maney

TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 823 passed the House on March 4, 2024, and subsequently passed the Senate on March 7, 2024.

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 the Uniform Special District Accountability Act and the Independent Special Fire Control District Act.

Local governments may impose impact fees to fund infrastructure needed to expand local services to meet the demands of population growth caused by new growth. The board of an independent special fire control district may impose an impact fee if authorized by law and the county or municipality in which it is located has not adopted an impact fee for fire services that is distributed to the district for the purchase of new facilities or equipment. Impact fees collected by an independent special fire control district must be kept separate from other revenues of the district and be used exclusively to acquire, purchase, or construct new facilities to provide fire protection and emergency services to new construction.

The bill authorizes the board of fire commissioners of the North Okaloosa Fire District (District) to establish a schedule of impact fees for new construction in order to pay for the cost of new facilities and equipment following the procedure for fire protection impact fees established in general law. The bill also authorizes the District to enter into agreements with the county or a municipality to share in revenues, if the government imposes impact fees for fire protection services.

The Economic Impact Statement filed with the bill anticipates approximately \$76,000 in additional revenue for the District for each of the first two fiscal years after bill is in effect.

The bill was approved by the Governor on June 13, 2024, ch. 2024-286, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁴

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁵

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁶

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁷

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature to provide fire suppression and related activities within the territorial jurisdiction of the district.⁸ As of January 12, 2024, there were 54 active independent special fire control districts.⁹

¹ S. 189.012(6), F.S.

² See ss. 189.02(1), 189.031(3), and 190.005(1), F.S.; see generally s. 189.012(6), F.S.

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&Committeeld=3227&Session=2024&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited Jan. 12, 2024).

⁴ The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3)(k), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District); see also, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S.

⁷ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

⁸ S. 191.003(5), F.S.

⁹ Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Jan. 12, 2024).

The Independent Special Fire Control District Act (ISFCDA)¹⁰ provides standards, direction, and procedures for the uniform operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and elections.¹¹ The ISFDCA controls over more specific provisions in any special act or general law of local application creating a fire control district's charter,¹² requires every fire control district be governed by a five-member board,¹³ and provides:

- General powers.¹⁴
- Special powers.¹⁵
- Authority and procedures for the assessment and collection of ad valorem taxes.¹⁶
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees.¹⁷
- Issuance of district bonds and evidence of debt.¹⁸

Fire control districts may levy ad valorem taxes on real property within the district of no more than 3.75 mills unless a greater amount was previously authorized.¹⁹ A district also may levy non-ad valorem assessments and adopt a schedule of reasonable fees for services performed.²⁰

Additionally, the district board may impose an impact fee if authorized by law and the county or municipality in which it is located has not adopted an impact fee for fire services that is distributed to the district for the purchase of new facilities and equipment.²¹ Impacts fees collected by the district must be kept separate from other revenues of the district and used exclusively to acquire, purchase, or construct new facilities to provide fire protection and emergency services to new construction.²² The board of the district must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. If the county or municipality adopts an impact fee for fire protection services, the board of the district may enter into agreements with that government to share in the revenues generated by the fire protection impact fee.²³

¹⁰ Ch. 191, F.S.

¹¹ S. 191.002, F.S.

¹² 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.

¹³ S. 191.005(1)(a), F.S. (fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997).

¹⁴ S. 191.006, F.S. (e.g. the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

¹⁵ S. 191.008, F.S.

¹⁶ Ss. 191.006(14) and 191.009(1), F.S.

¹⁷ Ss. 191.006(11) and (15); 191.009(2), (3), and (4); and 191.011, F.S.

¹⁸ S. 191.012, F.S.

¹⁹ S. 191.009(1), F.S. *But see* art. VII, s. 9, Fla. Const. (special districts may not levy an ad valorem tax in excess of the millage "authorized by law approved by vote of the electors.")

²⁰ S. 191.009(2) and (3), F.S. If the district levies a non-ad valorem assessment to fund emergency medical and transport services, the district is prohibited from levying an ad valorem tax to fund those services.

²¹ S. 191.009(4), F.S.

²² *Id.* For purposes of this section, "new facilities" is defined as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment, as well as upgrades to existing facilities for the purpose of providing service to new construction.

²³ *Id.*

Impact Fees

Local governments impose impact fees to fund infrastructure²⁴ needed to expand local services to meet the demands of population growth caused by new growth.²⁵ Impact fees must meet the following minimum criteria when adopted:

- The fee must be calculated using the most recent and localized data.²⁶
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.²⁷
- Charges imposed for the collection of impact fees must be limited to the actual costs.²⁸
- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.²⁹
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.³⁰
- The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.³¹
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.³²
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.³³
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.³⁴

The types of impact fees charged and the timing of their collection after issuing a building permit are within the discretion of the local government or special district authorities choosing to impose the fees.³⁵ Local governments must credit against impact fee collections any contribution related to public facilities or infrastructure on a dollar-for-dollar basis at fair market value for the general category or class of public facilities or infrastructure for which the contribution was made.³⁶

Local governments may increase impact fees only under limited circumstances. A fee may be increased no more than once every four years, may not be increased retroactively, the increase may not exceed 50 percent of the current impact fee amount, and any increase must be consistent with a statutorily-compliant plan for the imposition, collection, and use of the fees. An increase not exceeding

²⁴ "Infrastructure" means the fixed capital expenditure or outlay for the construction, reconstruction, or improvement of public facilities with a life expectancy of five or more years, together with specific other costs required to bring the public facility into service but excluding the costs of repairs or maintenance. The term also includes specific equipment. S. 163.31801(3), F.S.

²⁵ S. 163.31801(2), F.S. Water and sewer connection fees are not impact fees. S. 163.31801(12), F.S.

²⁶ S. 163.31801(4)(a), F.S.

²⁷ S. 163.31801(4)(b), F.S.

²⁸ S. 163.31801(4)(c), F.S.

²⁹ S. 163.31801(4)(d), F.S.

³⁰ S. 163.31801(4)(e), F.S.

³¹ S. 163.31801(4)(f), F.S.

³² S. 163.31801(4)(g), F.S.

³³ S. 163.31801(4)(h), F.S.

³⁴ S. 163.31801(4)(i), F.S.

³⁵ See s. 163.31801(2), F.S.

³⁶ S. 163.31801(5)(a), F.S.

25 percent of the current fee amount must be implemented in two equal annual increments, while an increase greater than 25 percent but not exceeding 50 percent of the current amount must be implemented in four equal annual installments. However, a local government may increase a fee more than once in four years or for more than 50 percent of a current impact fee amount if it has:

- Prepared a demonstrated-need study within 12 months before adopting the increase showing extraordinary circumstances necessitating the need for the increase.
- Conducted at least two publicly noticed workshops on the extraordinary circumstances justifying the increase.
- Approved the increase by at least a two-thirds vote of the governing body.³⁷

A local government that increases an impact fee must still provide the holder of any impact fee credit the full benefit of the density and intensity prepaid by the credit balance.³⁸

With each annual financial report or audit filed³⁹ a local government must report specific information on impact fees imposed, including the specific purpose of the fee, the impact fee schedule describing the method of calculating the fee, the amount assessed for each purpose and for each type of dwelling, the total amount of fees charged by type of dwelling, and each exception or waiver to the imposition of impact fees provided for construction of affordable housing.⁴⁰ Additionally, the chief financial officer, or executive officer if there is no chief financial officer, must submit with the annual financial report an affidavit attesting that all impact fees were collected and expended by the local government, or on its behalf, in full compliance with the spending period provisions in the local ordinance and that funds expended from each impact fee account were used to acquire, construct, or improve those specific infrastructure needs.⁴¹

North Okaloosa Fire District

The North Okaloosa Fire District (District), formerly known as the Crestview Area Okaloosa County Fire District, is an independent special fire control district created by local ordinance in 1977.⁴² The District's charter was recodified in 2001.⁴³ The District serves approximately 77 square miles in Okaloosa County and was established for the purpose of providing fire protection, fire prevention, emergency medical and rescue services, and acquiring and maintaining firefighting, fire protection, rescue, medical, and other emergency equipment.⁴⁴

The District is divided into four separate geographic areas⁴⁵ and governed by a five-member elected board of fire commissioners (Board).⁴⁶ Each geographic area elects a member to represent the area on the Board and one member is elected at-large by all electors residing within the District.⁴⁷

The District has the power to levy and assess ad valorem taxes and non-ad valorem assessments.⁴⁸ The District may not levy ad valorem taxes exceeding 3.75 mills. The District does not currently levy ad valorem taxes and generates the majority of its revenue via property assessments and charges.⁴⁹

³⁷ S. 163.31801(6), F.S.

³⁸ S. 163.31801(7), F.S.

³⁹ See ss. 218.32 and 218.39, F.S.

⁴⁰ S. 163.31801(13), F.S.

⁴¹ S. 163.31801(8), F.S.

⁴² Ord. No. 77-18, Okaloosa County (June 14, 1977). See also North Okaloosa Fire District, *Financial Statements, September 30, 2021* 13, <https://northokaloosafire.com/wp-content/uploads/2022/08/Audit-2021.pdf> (last visited Jan. 14, 2024) (providing history of the North Okaloosa Fire District).

⁴³ Ch. 2001-333, Laws of Fla.

⁴⁴ North Okaloosa Fire District, *About NOFD*, <https://northokaloosafire.com/about-us/> (last visited Jan. 14, 2024).

⁴⁵ Ch. 2001-333, s. 4, Laws of Fla. The boundaries of the four geographic areas are set by the fire commissioners based on geographic and population criteria. The location of the District's fire stations and precinct lines are also considered.

⁴⁶ Ch. 2001-333, s. 3, Laws of Fla.

⁴⁷ Ch. 2001-333, s. 4, Laws of Fla.

⁴⁸ Ch. 2007-311, s. 6(1), Laws of Fla.

⁴⁹ See North Okaloosa Fire District, *FY 2024 Budget*, available at <https://northokaloosafire.com/documents/> (last visited Jan. 14, 2024).

Effect of the Bill

The bill authorizes the Board to establish a schedule of impact fees for new construction in order to pay for the cost of new facilities and equipment, provided the county or a municipality has not adopted an impact fee for fire services that is distributed to the District. The bill directs the District to use the funds generated by impact fees solely to acquire, purchase, or construct new facilities and equipment needed to provide fire protection and emergency services and requires the funds be kept separate from other revenues. The Board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. These requirements mirror the requirements in general law for an independent special fire control district to collect impact fees.

If the county or a municipality adopts an impact fee for fire protection services, the bill allows the Board to enter into agreements with that government in order to share in the revenues generated by fire protection impact fees.

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:

The Economic Impact Statement filed with the bill anticipates approximately \$76,000 in additional revenue for the District for each of the first two fiscal years after bill is in effect.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 9, 2023.

WHERE? The *Crestview News Bulletin*, a newspaper of general circulation in Okaloosa County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?