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DATE: August 7, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-333, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: CS/HB 979/1ST ENG

RELATING TO: North Okaloosa Fire District

SPONSOR(S): Committee on Fiscal Policy & Resources and Representative Melvin & others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill codifies all existing Okaloosa County ordinances relating to the North Okaloosa Fire District (District) in Okaloosa County to provide a single comprehensive special act charter for the district.

The bill conforms the District's charter to the provisions of the Independent Fire Control District Act.

The bill declares the District to be an independent special district.

This bill does not make any substantive changes to current ordinances governing the district.

The bill authorizes the District to impose annual assessments and levy against the taxable property in the district. The board has an initial schedule of assessments which is equal to their current assessments. These amounts may be increased as provided by statute or by 3% annually; whichever provides greater revenue to the district. The District currently does not levy ad valorem tax.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

The Crestview Area Okaloosa County Fire District was created in 1977, by county ordinance number 77-18. The purpose of the District is to provide fire protection and other services in emergency and crisis situations for the benefit of the residents and properties within the District. On May 6, 1997, by county ordinance number 97-28, the district was confirmed and renamed the North Okaloosa Fire District (District). The District is governed by five commissioners who reside within the fire district. The board of commissioners is designated as the governing body of the District.

Chapter 191, Florida Statutes, Provisions

Chapter 191, Florida Statutes, is the “Independent Special Fire Control District Act” (Act). The Act’s purpose is to establish standards and procedures concerning the operations and governance of the 53 independent special fire control districts, and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of such districts to ensure greater accountability to the public. The Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply. The section provides that it is the intent of the Legislature that this Act supersedes all special acts or general laws of local application provisions that contain the charter of an independent special fire control district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted. Chapter 191, Florida Statutes, also does not repeal any authorization providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other charges.

District Board of Commissioners

Section 191.005, Florida Statutes, provides for the election of the district board of commissioners, including its membership, officers, and meetings. This section requires the business affairs of each district to be conducted and administered by a five-member board that is elected in nonpartisan staggered elections by the electors of the district. Districts that currently have three-member boards were required to increase to five members unless a special act was enacted after 1997 that provides that they are three-member boards. Although a special act is needed to have fewer than five members, a district can have more than five commissioners on its governing board. Pursuant to paragraph (c) of subsection 191.005(1), the Act does not require the elimination of board seats from those boards with more than five commissioners.

Candidates for the board are required to qualify with the county supervisor of elections. Except as specifically stated in chapter 191, Florida Statutes, elections must be held at the same time and in the same manner as prescribed by law for holding general elections in accordance with subsections 189.405(2)(a) and (3), Florida Statutes. Each member is elected for a term of 4 years and serves until the member's successor is chosen and qualified. Candidates for the board must qualify by paying a filing fee equal to 3 percent of the salary or honorarium paid for the office, or a filing fee of \$25, whichever is more. In the alternative, candidates may qualify by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors, or any lesser amount of signatures as directed by chapter 99, chapter 582, or other general or special law. No election or party assessment shall be levied if the election is nonpartisan. The forms are to be submitted and checked in the same manner as petitions filed by nonpartisan judicial candidates pursuant to section 105.035, Florida Statutes.

If a district presently elects members of its board, the next election must be conducted in accordance with section 191.005, F.S. This section does not require the early expiration of any member's term of office by more than 60 days.

Members of the board may each be paid a salary or honorarium that is determined by at least a majority-plus-one vote of the board. Such salary or honorarium is prohibited from exceeding \$500 per month for each member. Members may be reimbursed for travel and per diem expenses pursuant to section 112.061, Florida Statutes.

When a vacancy occurs on the board, the remaining members are permitted to appoint a qualified person to fill the seat until the next general election, at which time an election must be held to fill the vacancy. Upon assuming office, each member must take and subscribe to the oath of office and within 30 days after assuming office, give a surety bond in the sum of \$5,000. The cost of such bond is borne by the district.

The board is required to maintain records of all meetings, resolutions, proceedings, certificates, bonds given by commissioners, and corporate acts. The records are open to inspection in the same manner as state, county, and municipal records are open under chapter 119, Florida Statutes. All meetings of the board are open to the public and governed by chapter 286, Florida Statutes, section 189.417, Florida Statutes, and other applicable general laws.

Powers of the District

The district's general governmental powers, which may be exercised by majority vote, include but are not limited to the following:

- To provide for a pension or retirement plan for its employees. The board is also authorized to provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees.
- To adopt resolutions and procedures prescribing the powers, duties, and functions of the officers of the district, the conduct of the business of the district, the maintenance of records, and the form of other documents and records of the district. The board is also authorized to adopt ordinances and resolutions that are necessary to conduct district business.
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate for any purpose authorized in the Act.
- To hold, control, and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by the Act.

- To borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes, and assessments, warrants, notes, or other evidence of indebtedness, and to mortgage real and personal property when necessary.
- To charge user and impact fees authorized by resolution of the board, in amounts necessary to conduct district activities and services, and to enforce their receipt and collection "in the manner prescribed by resolution not inconsistent with law."
- To exercise the power of eminent domain pursuant to chapter 73, Florida Statutes, or chapter 74, Florida Statutes, over any property within the district, except municipal, county, state, special district, or federal property used for a public purpose. Eminent domain may only be exercised for district purposes relating solely to the establishment and maintenance of fire stations and substations.
- To assess and impose upon real property in the district ad valorem taxes and special assessments.
- To impose and foreclose special assessment liens or to impose, collect, and enforce non-ad valorem assessments pursuant to chapter 197, Florida Statutes.

Special Powers of the District

- Independent special fire control districts are granted "special powers" relating to the provision of fire suppression and prevention, which involves the establishment and maintenance of fire stations and substations and the acquisition and maintenance of firefighting and fire-protection equipment deemed necessary to prevent or fight fires. The board is authorized to carry out the following powers:
- Establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to chapter 401, Florida Statutes, and any certificate of public convenience and necessity or its equivalent issued for those purposes.
- Employ, train, and equip firefighting and other personnel, including volunteer firefighters, as necessary to accomplish the duties of the district.
- Conduct public education to promote awareness of methods to prevent fires and reduce loss of life and property.
- Adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal.
- Conduct arson investigations and cause-and-origin investigations.
- Adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency, as provided in chapter 252, Florida Statutes.
- Contract with general-purpose local government for emergency management planning and services.

Taxes and Assessments

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. With respect to user charges, the board is permitted to provide a schedule of charges for emergency services, including firefighting occurring in or to structures outside the district.

The board may establish a schedule of impact fees, if the general-purpose local government has not adopted an impact fee for fire services. The schedule of impact fees must be in compliance with any standards set by general law for new construction to pay for the cost of new facilities and equipment. The board may enter into agreements with general-purpose local governments to share in the revenues from fire protection impact fees imposed by such governments.

Bonds

Independent special fire control districts are authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidences of indebtedness to finance all or part of any proposed improvements by this Act or under general law or special law. The total annual payments for the principal and interest on such indebtedness must not exceed 50 percent of the total annual budgeted revenues of the district. The bonds are payable from the non-ad valorem assessments or other non-ad valorem revenues, including user fees or charges or rental income authorized by this Act or general law. No proceedings may be required for the issuance of bonds other than those provided by this section and by general law. Detailed and lengthy provisions are set forth relating to issuance of bonds and the use of bond proceeds, and authority is given for the issuance of refunding bonds.

Boundaries and Mergers

There are conditions under which the boundaries of an independent special fire control district are permitted to be modified, extended, enlarged or dissolved. Lands may be added or deleted from a district only by special act of the Legislature, subject to a referendum vote.

The merger of a district with all or part of another independent special district or dependent fire control district is effective only when it is ratified by the Legislature. A district's merger with another governmental entity is not justification for increasing the ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless such increase is approved by the electors of the district by referendum.

A district may only be dissolved by special act of the Legislature, subject to referendum vote of the electors of the district. If legislative dissolution of a district is proposed in order to consolidate fire services under county government, the county is required to prepare a report describing the plans for merger. The county commission is required to consider the report at a public hearing. If the commission adopts the report, the request for legislative dissolution is permitted to proceed. The report must be filed as an attachment to the economic impact statement regarding the special act or general law of local application dissolving the district.

C. EFFECT OF PROPOSED CHANGES:

This bill codifies all existing Okaloosa County ordinances relating to the North Okaloosa Fire District in Okaloosa County into a single comprehensive special act charter for the district. The bill conforms the District's charter to the provisions of the Independent Fire Control District Act.

The bill authorizes the District to annually assess and levy against the taxable property in the district. The board has an initial schedule of assessments which is equal to their current assessments. These amounts may be increased as provided by statute or by 3% annually; whichever provides greater revenue to the district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that this act constitutes the District's charter codification as a single, comprehensive special act charter for the district, including all current legislative enactments and any additional authority granted by this act.

Section 2. Creates the North Okaloosa Fire District charter as follows:

Section 1. Declares that the District is an independent special fire control district, a public municipal corporation for the public benefit, with perpetual existence; provides for powers of the District; describes the District boundaries; states any federal lands located within the boundaries of the City of Crestview are excluded from the district; states if any portion of the district is annexed into a municipality or becomes part of another fire district, the District will be entitled to receive all revenues from that property in the calendar year of annexation.

Section 2. Provides the District is an independent special fire control district pursuant to Chapter 191, Florida Statutes.

Section 3. Provides that the District's governing board consists of five commissioners who reside in the District; provides for organization of the Board of Commissioners; provides for assumption of office; allows for compensation of board members; provides for reimbursement of travel and per diem expenses; provides for additional allowance for treasurer; provides maximum compensation.

Section 4. Provides for a four-year term limit in office; provides for geographic areas regarding residency of board members; provides for vacancies.

Section 5. Provides for the records of all meetings; provides for a majority of members for any action by the board; provides for public records.

Section 6. Authorizes the District to annually assess and levy against the taxable property in the district; provides for an initial schedule of assessments and these amounts may be increased as provided by statute or by 3% annually, whichever provides greater revenue to the district; provides for a referendum; provides for liens on property; authorizes the District to accept gifts and donations; states fiscal year.

Section 7. Provides for the collection of taxes.

Section 8. Provides limits and guidelines for indebtedness of the District.

Section 9. Provides for authorization of District funds.

Section 10. Provides for a penalty of any person who violates any provision of this act or rule commits a misdemeanor of the second degree, punishable as provided in sections 775.082 and 775.083, Florida Statutes.

Section 11. Provides for ratification of prior acts.

Section 12. Provides for District expansion and merger upon approval or ratification by the Legislature; provides for annexation; provides the District may not, solely by reason of merger, increase ad valorem taxes on property within the original limits of the District as established by the District's enabling act, unless approved by referendum.

Section 3. Provides that the validity of remaining provisions of the act should any part of the act be held invalid.

Section 4. Provides for act's control if there are conflicting provisions.

Section 5. Provides for a referendum; provides this section is effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? As provided in section 5 of the bill.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Chapter 2001-345, Laws of Florida, relating to the Dorcas Fire District, provides for amending the boundaries of the District by transferring a specified area of the District into the North Okaloosa Fire District. However, this property transfer is only effective upon voter approval as provided in section 5 of chapter 2001-333, Laws of Florida.

Mr. Bert Moore, counsel representing the District, stated that the North Okaloosa Fire District currently does not levy ad-valorem tax.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 17, 2001, the Committee on Fiscal Policy & Responsibility adopted three technical amendments to the bill. The first two amendments made corrections to the boundaries of the district. The third amendment made a formatting change. The bill was adopted as a Committee Substitute and

STORAGE NAME: h0979z.lgva.doc

DATE: August 7, 2001

PAGE: 8

passed the House on April 30, 2001. The Senate amended the Committee Substitute by removing a line and passed the Committee Substitute, as amended, on May 4, 2001. The House concurred with the Senate amendment and passed the Committee Substitute as amended on May 4, 2001.

VI. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

Greg Turbeville

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

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