

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 2020

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Firefighting

DATE: April 24, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.			BI	
3.			JU	
4.				
5.				
6.				

**I. Summary:**

The committee substitute (CS) expands the current statutory exemptions from jury duty to include full-time firefighters. It authorizes an independent special fire control district to recover court costs and attorney’s fees in civil actions to enforce fire suppression and prevention codes, and the firesafety code. It also exempts real property owned by a religious institution and used primarily as a place of worship from non-ad valorem assessments levied by an independent special fire control district.

This CS requires premium tax revenues to be paid to the fire service provider if a municipality annexes unincorporated land that is located within a fire control district. It also provides a deadline for payments from the municipality to the district.

This CS substantially amends sections 40.013, 191.008, and 191.011 of the Florida Statutes. It also creates section 191.016 of the Florida Statutes.

**II. Present Situation:**

**Jury Duty**

Section 40.01, F.S., requires jurors to be at least 18 years of age, citizens of the United States, and legal residents of the state and county, and to possess a driver’s license or identification card issued by the Department of Highway Safety and Motor Vehicles. The department delivers a list of qualified voters to the clerk of the circuit court quarterly. Section 40.013, F.S., exempts the following persons from jury duty:

- (1) persons who are under prosecution for any crime, or who have been convicted of bribery, forgery, perjury, larceny, or any other offense that is a felony (unless such persons have had their civil rights restored);
- (2) the Governor, Lieutenant Governor, Cabinet officers, clerk of courts, and judges, and full-time federal, state or local law enforcement officers or such entities' investigative personnel (unless such persons choose to serve);
- (3) persons interested in the issue being tried;
- (4) expectant mothers and any parent who is not employed full-time and who has custody of a child less than six years of age (upon such person's request);
- (5) in the discretion of the presiding judge, a practicing attorney, a practicing physician, or a person who has a physical infirmity;
- (6) persons upon a showing of hardship, extreme inconvenience, or public necessity;
- (7) persons who were summoned and reported as a prospective juror in any court in that person's county of residence within the past year;
- (8) persons 70 years of age or older (upon such person's request); and
- (9) persons who are responsible for the care of a person who, because of mental illness, mental retardation, senility, or other physical or mental incapacity, is incapable of caring for himself or herself.

Section 251.13, F.S., also exempts officers and enlisted individuals of the Florida State Defense Force from jury duty during such person's service.

### **Independent Special Fire Control Districts**

Pursuant to s. 191.003, F.S., an independent special fire control district is defined as a special district, created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. This term does not include a municipality, a county, a dependent special district as defined in s. 189.403, F.S., a district providing primarily emergency medical services, a community development district established under ch.190, F.S., or any other multiple-power district performing fire suppression and related services in addition to other services.

### **Building and Firesafety Standards and Enforcement**

Chapter 553, F.S., establishes minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity, mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, exit systems, safe materials, energy efficiency, and accessibility by persons with physical disabilities. Chapter 633, F.S., establishes fire prevention and control standards applicable to buildings and structures in the state. All

buildings in the state are required to meet these standards as a minimum. Each local jurisdiction may add more restrictive requirements.<sup>1</sup>

Fire inspection personnel are authorized to enforce these statutory provisions. For example, fire inspection personnel conduct annual, specialized fire protection system inspections, such as standpipe and automatic fire sprinkler protection system testing, smoke evacuation systems testing, and general fire alarm system testing. Section 633.052, F.S., provides that firesafety inspectors, who have probable cause to believe that a person has committed a civil infraction in violation of a duly enacted firesafety ordinance, may issue a citation to appear before the county court.

Section 162.30, F.S., provides that in addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action may be brought in county or circuit court, depending on the relief sought. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment.

#### **Non-Ad Valorem Special Assessments**

Special assessments are a revenue source that may be used to fund local improvements or essential services. Pursuant to s. 191.009(2), F.S., an independent special fire control district may levy non-ad valorem assessments to construct, operate, and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board. Section 191.011, F.S., provides that an independent special fire control district may provide for the levy of non-ad valorem assessments on the lands and real estate benefited by their exercise of powers. Non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such services or improvements.

Religious institutions generally are exempt from taxation, but subject to payment of special assessments.<sup>2</sup> Florida courts have upheld the use of special assessments imposed upon churches to fund fire services.<sup>3</sup> Previously, the Florida Legislature has exempted property owned or occupied by a religious institution and used as a place of worship or education from municipal special assessments if the municipality so desires.<sup>4</sup>

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<sup>1</sup> Section 633.025, F.S., provides that “[t]he Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshal, which shall operate in conjunction with the Florida Building Code, shall be deemed adopted by each municipality, county and special district with firesafety responsibilities. The minimum firesafety codes shall not apply to buildings and structures subject to the uniform firesafety standards under s. 633.022, F.S., and buildings and structures subject to the minimum firesafety standards adopted pursuant to s. 394.879, F.S. Each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code and the Life Safety Code as the minimum firesafety code required by this section.”

<sup>2</sup> Section 3(a) of Art. VII of the State Constitution, and ss. 196.012(1) and 196.192(1), F.S.

<sup>3</sup> *Sarasota County v. Sarasota Church of Christ*, 667 So. 2d 180 (Fla. 1995).

<sup>4</sup> Section 170.201, F.S.

**Premium Tax Revenues**

Chapter 175, F.S., provides funding for firefighters' pension plans. It provides for a "uniform retirement system" with defined benefit retirement plans for firefighters and sets standards for the operation and funding of these pension systems. Under s. 175.101, F.S., each municipality or special fire control district with a lawfully established trust fund is authorized to assess an excise tax of 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the municipal jurisdiction or the legally defined boundaries of a special district. Revenues from this excise tax are one of the funding sources for firefighters' pension plans.

**III. Effect of Proposed Changes:**

Section 40.013, F.S., is amended to excuse any full-time firefighter, as defined in s. 112.81, F.S.,<sup>5</sup> from jury duty unless the person chooses to serve.

Section 191.008, F.S., is amended to allow an independent special fire control district to recover court costs and attorney's fees from nonprevailing parties in civil actions to enforce provisions relating to fire suppression and prevention, and the fire safety code.

Section 191.011, F.S., is amended to exempt real property owned by a religious institution and used primarily as a place of worship from non-ad valorem assessments levied by an independent special fire control district.

Section 191.016, F.S., is created to require a municipality to pay premium tax revenues the fire service provider if a municipality annexes unincorporated land that is located within a fire control district. It also provides a deadline for payments from the municipality to the district.

The CS takes effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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<sup>5</sup> Section 112.81, F.S., defines "firefighter" as any person who is certified in compliance with s. 633.35, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires. "Employing agency" is defined as any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters.

**D. Other Constitutional Issues:**

Section 6, Art. III of the State Constitution, imposes a single subject restriction on laws enacted by the Legislature: “Every law shall embrace but one subject and matter properly connected therewith....” The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise or fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal under the single subject rule so long as the matters included in the enactment have a natural or logical connection.<sup>6</sup>

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Under this CS, an independent special fire control district may recover court costs and attorney’s fees from nonprevailing parties in civil actions to enforce provisions relating to fire suppression and prevention, and the fire safety code.

**C. Government Sector Impact:**

Under this CS, municipalities annexing land within a fire control district must pay premium tax revenues used to fund firefighters’ pensions, which is collected from the area that was annexed, to the district that is providing fire services for a specified period.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>6</sup> Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981).



## **VIII. Summary of Amendments:**

None.

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