

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/HB 861	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Local Government Affairs Subcommittee; Passidomo	116 Y's	1 N's
COMPANION BILLS:	N/A	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 861 passed the House on April 24, 2015, and subsequently passed the Senate on April 29, 2015.

The Greater Naples Fire Rescue District (District) was formed in 2014 by the merger of the East Naples Fire Control and Rescue District and Golden Gate Fire Control and Rescue District. The District serves approximately 147,000 residents in an area of 283 square miles.

The bill annexes additional territory into the East Naples Division of the District, subject to approval in a referendum by a majority of resident electors in the affected area. The bill will result in a reduced tax burden for residents in the annexed area and improved response time.

The bill provides for a referendum to be held in conjunction with a general, special, or other election in Collier County held no later than December 31, 2016.

The bill was approved by the Governor on June 10, 2015, ch. 2015-189, L.O.F., and section 2 of the bill became effective on that date. Section 1 of the bill will become effective only upon approval by a majority of qualified electors residing within the area being transferred from Collier County to the Greater Naples Fire Rescue District in a referendum to be conducted no later than December 31, 2016.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

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,” 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.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating a district’s charter.⁴ The Chapter requires every 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 are also subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”¹² Chapter 189 prohibits the following types of special laws or general laws of local application:¹³

- Creating special districts that do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴
- Exempting district elections from the requirements of s. 189.04, F.S.;¹⁵

¹ 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.

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.

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 S. 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 Fla. Const. art. III, s. 11(a)(21). (enabling the prohibition of 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 house.

¹⁴ S. 189.031(2)(a), F.S.

- Exempting a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempting a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Creating 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.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ Therefore, any boundary expansion must be approved by the Legislature.²⁰ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²¹

Greater Naples Fire Rescue District: Creation and Today

The Greater Naples Fire Rescue District (GNFD) was created by the merger of two fire control districts in Collier County, the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District. The merger was passed by the Legislature during the 2014 session²² and approved by the voters of each district on November 4, 2014.²³

The East Naples Fire Control and Rescue District (ENFD) was created in 1961.²⁴ ENFD contained approximately 70,000 residents in a territory spanning 150 square miles.²⁵ ENFD had 75 employees, including 56 shift personnel manning five fire stations, and responded to 10,235 emergency calls annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with projected revenues of \$10,251,760 in FY 2013-2014.²⁶

The Golden Gate Fire Control and Rescue District (GGFD) was created in 1967.²⁷ GGFD contained approximately 77,000 residents in a territory spanning 133 square miles.²⁸ GGFD had 75 employees, including 65 shift personnel manning four fire stations, and responded to 6,056 emergency calls

¹⁵ S. 189.031(2)(b), F.S.

¹⁶ S. 189.031(2)(c), F.S.

¹⁷ S. 189.031(2)(d), F.S.

¹⁸ S. 189.031(2)(e), F.S.

¹⁹ *Board of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ 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.").

²¹ Fla. Const. art. VII, s. 9(b).

²² Ch. 2014-240, Laws of Fla.

²³ Collier County Supervisor of Elections, *2014 General Election*, <http://www.colliervotes.com/?id=240> (last visited May 4, 2015). Residents of the East Naples Fire Control District approved of the merger 67.5 percent to 32.5 percent, while the residents of the Golden Gate Fire Control District approved 70 percent to 30 percent.

²⁴ Ch. 61-2034, Laws of Fla.

²⁵ East Naples – Golden Gate Fire Control and Rescue Districts, *Golden Gate/East Naples Merger Playbook*, ([hereinafter "Merger Playbook"].

²⁶ *Id.*

²⁷ Ch. 67-1240, Laws of Fla., later codified in Ch. 2000-392, s. 2, Laws of Fla.

²⁸ Merger Playbook, *supra* note 25.

annually. The district levied ad valorem taxes at a millage rate of 1.5 mills, with projected revenues of \$6,760,747 in FY 2013-2014.²⁹

Before the merger, ENFD and GGFD had operated for a year under an interlocal agreement as a consolidated entity.³⁰ In the first year of operation under the interlocal agreement, the districts saved \$612,998.³¹

The GNFD today contains the former territories of the East Naples Fire Control and Rescue District and the Golden Gate Fire Control and Rescue District.³² In 2014 the merged entity received an average of 1,430 emergency calls per month.³³ The district is currently administered by an eight-member Board of Fire Commissioners.³⁴ The size of the board will change from eight members to five members after elections in November 2018, consistent with s. 191.005(1)(a).³⁵ The GNFD charter maintains a distinction between the former territory of the East Naples and Golden Gate special fire control districts for the purpose of interim board elections.³⁶

The area to be annexed currently has no permanent residents, but a development of 1,154 homes is expected to be completed by the end of 2015.³⁷ The area is currently located in the Collier County Fire Control municipal service taxing unit (MSTU).³⁸

Effect of Bill

The bill expands the boundaries of the district to include all of Section 1, Township 51 South, Range 26 East as part of the “East Naples Division.” This will bring residents in the area under the service duties and taxing authority of the district. The bill also provides for a referendum of qualified electors residing within the annexed area at the time of the next general, special, or other election held in Collier County. Unless a majority of the electors in the affected area vote to approve the expansion, the remainder of the bill will not go into effect.

The bill will enable the GNFD to continue to provide current levels of service after the development on the annexed land is completed. The bill will enable GNFD to collect impact fees to construct a new fire rescue facility that will better be able to provide resources to the annexed area.³⁹

The bill will also result in a reduced tax burden. The developer of the property is currently paying 2.0 mills to the Collier County Fire Control MSTU. The millage rate of the GNFD is 1.5 mills, a twenty-five percent reduction.

II. FISCAL ANALYSIS, ECONOMIC IMPACT STATEMENT, & NOTICE/REFERENDUM

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² CS/HB 949 (2014) authorized the annexation of the Isles of Capri Fire & Rescue District into the East Naples Fire Control & Rescue District, subject to voter approval. The bill passed and was signed by the Governor, but was rejected by the residents of Isles of Capri Fire & Rescue District on August 26, 2014. Collier County Supervisor of Elections, *2014 Primary Election*, <http://www.colliervotes.com/?id=239> (last visited May 4, 2015).

³³ See Greater Naples Fire Rescue, *Welcome to the Greater Naples Fire Rescue District*, <http://enfd.org/index.html> (last visited May 4, 2015).

³⁴ Article IV, section 4.01, Charter of Greater Naples Fire Rescue District, as codified in s.4, Ch. 2014-240, Laws of Fla. [hereinafter “Greater Naples Fire Charter”].

³⁵ *Id.* S. 191.004(1)(a) requires independent special fire control districts to have a five-member board.

³⁶ See article II, section 2.01, Greater Naples Fire Charter (drawing a distinction between the “Golden Gate Division” and “East Naples Division”) and article IV, section 4.01, Greater Naples Fire Charter (reserving board seats for each previous district’s territory on an interim basis).

³⁷ Email from Tara Bishop, Deputy Director, Greater Naples Fire Rescue District, to Kevin Comerer (Mar. 6, 2015). Email retained by House Local Government Affairs Subcommittee staff.

³⁸ *Id.*

³⁹ *Id.*

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will have a negative fiscal impact on the Collier County Fire Control MSTU and a positive fiscal impact on the GNFD.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes ☒ No ☐

D. NOTICE PUBLISHED? Yes ☐ No ☒

IF YES, WHEN? N/A

WHERE? N/A

E. REFERENDUM(S) REQUIRED? Yes ☒ No ☐