

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 937 Tierra Verde Fire Control & Rescue District, Pinellas County

SPONSOR(S): Local Government Affairs Subcommittee; Peters

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 1 N, As CS	Darden	Miller
2) Finance & Tax Committee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

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 ch.189, F.S., the "Uniform Special District Accountability Act," and ch. 191, F.S., the "Independent Special Fire Control District Act."

The bill creates the Tierra Verde Fire Control and Rescue District, an independent special fire control district in Pinellas County. The bill provides all necessary elements for the charter of the new district, including powers, financing, and memberships and terms for commissioners.

The bill provides for a referendum to be held at the next general election following the certification of a petition of ten percent of the electors residing in the district, to be held no later than December 31, 2031, except that sections 2 and 3 of the bill shall take effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exception to general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

Article III, s. 11(a)(21), of the State Constitution prohibits any special law pertaining to any subject when prohibited by general law passed by 3/5 vote of the membership of the House and of the Senate. Because general law requires the local government in the jurisdiction of which an independent special district is being created to state its consent or that the creation complies with local planning, and because Pinellas County has not provided such a statement, the 3/5 vote requirement may be implicated.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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,” 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 an independent fire control district’s charter.⁴ The statute 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 are also subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”¹² That Act prohibits special laws or general laws of local application that:¹³

- Create special districts which do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴

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 Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ Section 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 Section 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 Section 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 Section 191.008, F.S.

⁸ Section 191.006(14); 191.009(1), F.S.

⁹ Section 191.006(11), (15), 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

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

¹² Section 189.031, F.S.

¹³ Article III, s. 11(a)(21), Fla. Const. This paragraph prohibits 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 the House and the Senate.

¹⁴ Section 189.031(2)(a), F.S.

- Exempt district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempt a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempt 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
- Create 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

Effect of Proposed Changes

The bill creates the Tierra Verde Fire Control and Rescue District (District), an independent special district in Pinellas County and provides a charter for the district. The charter provides:

- **Charter Section 1** provides that the bill may be cited as the "Tierra Verde Fire Control and Rescue District Act."
- **Charter Section 2** provides the boundaries for the District.
- **Charter Section 3** states the purpose of the District, including:
 - Managing the operations and governance of the District
 - Providing uniformity between the District and other independent special fire control districts
 - Providing the District with financing authority without disrupting previously authorized revenue sources
 - Improving communication and coordination between the District and other local governments to provide service delivery in a cost-effective manner.
 - Ensuring public accountability
- **Charter Section 4** provides the structure of the board of the District. The District would be governed by a board of five commissioners, who elect a chair, vice chair, secretary, and treasurer from among their ranks. Commissioners are required to execute a performance bond, as required by statute.²² Commissioners may approve, by a "majority plus one vote" (four of five members), a salary of up to \$500 a month for themselves. The compensation of the treasurer may be a different amount than the other board members, but is still subject to the \$500 cap. Commissioners are entitled to travel and per diem expenses as provided by general law. Commissioners must comply with ethics requirements established by ch. 112, F.S., or as otherwise provided by law or regulation.
- **Charter Section 5** provides that the District's elections be held in accordance with chs. 189 and 191, F.S. As each member of the board must be a qualified elector,²³ and the statute defines

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

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

²⁰ Section 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 Article VII, s. 9(b), Fla. Const.

²² Section 191.005(6), F.S.

²³ Section 191.005(2), F.S. A member who ceases to be a qualified elector is automatically removed from office by this statute.

“elector” as a person who resides in the district,²⁴ each member of the board must be a resident of the district at the time of qualifying and throughout their tenure. Commissioners are elected at-large on a nonpartisan basis. If any commissioner’s seat becomes vacant, the board may appoint a qualified person to serve in the interim until the next general election. Commissioners may be removed for unexcused absences. This section of the charter also provides for an official record of the district’s meetings, resolutions, and other proceedings and that this official record will be open to the public in compliance with the public records laws.

- **Charter Section 6** authorizes the board to adopt rules and regulations necessary for the prevention of fires or for completing fire control and rescue work. Rules and regulations must be signed by the president and secretary of the District and made available on the District’s website and in at least three public places for up to ten days before taking effect.
- **Charter Section 7** states that District funds may only be used to purchase firefighting and rescue equipment and facilities and for other services as necessary to provide those services. The District may exercise all powers set out in chs. 189 and 191, F.S. for these purposes.
- **Charter Section 8** states the financing mechanisms for the district. The board may levy ad valorem taxes up to two mills, non-ad valorem assessments, and impact fees for capital improvements. The District must adopt an annual budget and has the authority to issue bonds in accordance with s. 191.012, F.S.
- **Charter Section 9** states that the District will comply with the planning requirements of Part VIII of Ch. 189, F.S.
- **Charter Section 10** requires any modification, extension, or enlargement of the District’s boundaries to be approved or ratified by the Legislature.
- **Charter Section 11** states that the charter of the District may only be amended by special act of the Legislature.
- **Charter Section 12** requires the District to enter into an agreement with the Pinellas County Emergency Medical Services Authority to provide emergency medical services and first responder services, with a requirement for cost recovery for the district for first responder services in Fort DeSoto Park.
- **Charter Section 13** requires the District to enter into the Automatic Aid/Closest Unit Response Agreement dated October 16, 1990, within one year after the act takes effect.
- **Charter Section 14** provides for severability of the act.

The bill provides that the charter shall take effect upon approval by a majority of qualified electors voting in a referendum held on or before December 30, 2031. This referendum can only be called upon the submission of a petition signed by 10 percent of the District’s electors. This petition must be certified by the Pinellas County Supervisor of Elections at no cost to the county or the state. The Board of County Commissioners of Pinellas County is required to conduct the referendum at the next general election following certification.

Compliance with s. 189.031(2), F.S.

A proposed charter must meet the requirements of 189.031(2), F.S. The following chart compares the District charter to the statutory requirement:

Statutory Mandate	Specific Statute	Requirement	Compliance with Mandate	
			Yes/No	Bill/Charter Section or Statement to Legislature
189.031(2)(a)		Charter must include the minimum requirements of s. 189.031(3), F.S.	Y	

²⁴ Section 191.003(3), F.S.: “Elector” means a person who is a resident of the district and is qualified to vote in a general election within the local general-purpose government jurisdiction in which the district is located.

	189.031(3)(a)	Purpose of district	Y	Charter s. 3
	189.031(3)(b)	Powers/functions/duties of district re: <ul style="list-style-type: none"> • Ad valorem taxation • Issuing bonds • Other revenue-raising capabilities • Budget preparation • Budget approval • Liens • Foreclosure of liens • Use of tax deeds, tax certificates for non-ad valorem assessments • Contracting 	Y	Charter s. 7(1): “district has, and the board may exercise, all the powers and duties set forth in chapters 189 and 191, Florida Statutes.” <ul style="list-style-type: none"> • Charter s. 8(1) • Budget: Charter s. 8(3)
	189.031(3)(c)	Method of establishing district	Y	<ul style="list-style-type: none"> • s. 191.003(5), F.S. • Special Act: Bill s. 1 • Referendum: Bill ss. 2 & 3
	189.031(3)(d)	Method of amending charter	Y	Charter s. 11
	189.031(3)(e)	Governing board of district: <ul style="list-style-type: none"> • Membership • Organization • If elected on basis of 1 acre = 1 vote, requires 5 member board; 3 member quorum. 	Y	<ul style="list-style-type: none"> • Membership: Charter ss. 4(1), 5(1), & 5(2) • Organization: Charter ss. 4(1) & 5(5)
	189.031(3)(f)	Maximum compensation of board members	Y	Charter s. 4(3)
	189.031(3)(g)	Administrative duties of board	Y	Charter ss. 7(1) & 7(2)
	189.031(3)(h)	Applicable requirements for: <ul style="list-style-type: none"> • Financial disclosure • Noticing • Reporting 	Y	Charter ss. 4(4), 5(9), & 5(10)
189.031(2)(a)	189.031(3)(i)	If district is authorized to issue bonds, procedures & requirements for issuing	Y	Charter s. 8(1)
	189.031(3)(j)	<ul style="list-style-type: none"> • Procedures to conduct any district election/referenda • Qualifications of district elector 	Y	Charter s. 5(1)
	189.031(3)(k)	District financing methods	Y	Charter s. 8(1)
	189.031(3)(l)	If district authorized to levy ad valorem taxes – millage rate	Y	Bill s. 2; Charter s 8(2). Maximum millage rate would be

				2.0 mills.
	189.031(3)(m)	Method to collect non-ad valorem assessments, fees, charges	Y	Charter ss. 8(3) & 8(4)
	189.031(3)(n)	Planning requirements	Y	Charter ss. 7(1) & 7(2); s. 191.006, F.S.
	189.031(3)(o)	Geographic boundary limits of district	Y	Charter s. 2
189.031(2)(b)	189.04	District elections must comply with s. 189.04, F.S.	Y	Charter s. 5(1)
189.031(2)(c)	189.042	District bond referenda must comply with s. 189.042, F.S.	Y	Charter s. 8(1), incorporating ss. 189.051, 191.012, F.S.
189.031(2)(d)	189.015 189.016 189.051 189.08	District must comply with reporting, notice, public meetings requirements	Y	Charter ss. 4(4), 5(9), & 5(10)
189.031(2)(e)		Statement to Legislature documenting:	N	
	189.031(2)(e)1.	Purpose of proposed district	Y	Charter s. 3
	189.031(2)(e)2.	Authority of proposed district	Y	Charter ss. 4 & 7
	189.031(2)(e)3.	Explanation why dist. is best alt.	Y	Local Bill Certification
	189.031(2)(e)4.	Resolution/official statement of governing body/administrator of local jurisdiction within which proposed district is located: <ul style="list-style-type: none"> Creation of district is consistent with approved local plans of local gov't No objection to creation 	N	Pinellas County has not passed a resolution or made an official statement expressing support for the creation of the district.

The bill provides all terms and conditions required for the creation and chartering of an independent special district.²⁵ However, there is no resolution or other official statement from the Board of Commissioners of Pinellas County stating either that the board has no objection to the creation of the District or that the creation of the District is consistent with the county's comprehensive plan. Thus, the bill may require passage by 3/5 vote in the House and in the Senate.²⁶

B. SECTION DIRECTORY:

Section 1: Creates the Tierra Verde Fire Control and Rescue District as an independent special fire control district in Pinellas County.

²⁵ Section 189.031, F.S.

²⁶ Art. III, s. 11(a)(21), Fla. Const.; s. 189.031(2), F.S.

- Section 2: Provides that the Board of County Commissioners of Pinellas County shall call a referendum of the qualified electors of the proposed district upon the certification of a petition containing 10 percent of the electors of district.
- Section 3: Provides that the bill shall take effect only upon approval by a majority vote of qualified electors of the district voting in a referendum held on or before December 30, 2031, except that this section and section 2 take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? At the next general election following the certification by the Pinellas County Supervisor of Elections of a petition signed by ten percent of electors residing in the boundaries of the proposed district.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Article III, s. 11(a)(21), of the Florida Constitution prohibits any special law pertaining to any subject when prohibited by general law passed by 3/5 vote of the membership of the House and of the Senate, unless amended or repealed by like vote. Because general law requires the local government in the jurisdiction of which an independent special district is being created to state its consent or that the creation complies with local planning, and because Pinellas County has not provided such a statement, the 3/5 vote requirement may be implicated.

B. RULE-MAKING AUTHORITY:

This bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 135-136 of the bill state that the District's elections and referenda shall be held in accordance with ch. 191, F.S., but does not include the special district election requirements in ch. 189, F.S.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2016, the Local Government Affairs Subcommittee adopted a technical amendment and reported the bill favorably as a committee substitute. The amendment corrected a cross-reference concerning election provisions for the district.

This analysis is drawn to the bill as amended.

