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DATE: July 1, 2002

****AS PASSED BY THE LEGISLATURE****
VETOED BY THE GOVERNOR

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 979, 1ST ENG.
RELATING TO: Cedar Hammock Fire Control District
SPONSOR(S): Representative Bennett
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2) SMARTER GOVERNMENT COUNCIL (W/D)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill amends chapter 2000-391, Laws of Florida and provides for incorporation as a special fire control district.

The bill provides that the Cedar Hammock Fire Control District not increase assessment rates more than 10 percent in any year and increases the maximum allowable rates that may be levied for non-ad valorem assessments.

No fiscal impacts are anticipated according to the Economic Impact Statement (EIS).

The Governor vetoed the bill on April 29, 2002.

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 checked="" type="checkbox"/> | N/A <input 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:

The bill increases the limits on impact fee rates that may be imposed by the Cedar Hammock Fire Control District. The bill amends current law to state that the rate of non-ad valorem assessments shall be fixed by a resolution of the Board, and will not exceed the amounts set forth in section 5, unless increased to an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, as provided by law.

B. PRESENT SITUATION:

The Cedar Hammock Fire Control District (District) is an independent special district located in Manatee County. The District's current charter may be found in chapter 2000-391, Laws of Florida.

During the 2001 Legislative Session, House Bill 921 effectively merged the Manatee County/Fire & Rescue District, with the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District to create and establish a new independent fire control district in Manatee County to be known as the South Manatee Fire & Rescue District. The bill died on the House Calendar.

The Joint Legislative Auditing Committee directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a limited policy review (Report No. 01-67) of the failed merger of the two independent special fire control districts, Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District. The Legislature became concerned when the two Manatee County districts terminated their longstanding cooperative agreement while the 2001 Legislature was considering a bill that would have merged the two districts. The termination occurred after more than five years of improved service and cost savings, and was apparently related to disagreements between the districts' governing boards.

According to OPPAGA review (Report No. 01-67), in early 2001, the Cedar Hammock Board of Commissioners began making unilateral decisions that had financial implications for a merged district. These actions also disrupted some of the equalization of salaries and benefits that had been achieved in anticipation of merging the two districts. For example, in January 2001, the Cedar Hammock Fire Commission fired the longtime chief who had served both districts, doing so without the formal approval of the Southern Manatee Board of Commissioners. The former chief has filed a breach of contract suit against Cedar Hammock, and the newly formed district would have assumed any liabilities related to settling the case. Cedar Hammock also promoted and gave salary increases to several staff without consulting Southern Manatee.

The Southern Manatee Board of Commissioners questioned the legitimacy of these actions and expressed concern that with a merger taxpayers residing in their jurisdiction would be financially responsible for the decisions. Consequently, the district withdrew its support for the planned merger. The long-standing interlocal agreement between the two districts was also dissolved. Because of this conflict members of the local legislative delegation withdrew their support for the proposed merger legislation, and it did not become law.

According to the report by OPPAGA, the dissolution of the interlocal agreement resulted in increased costs and could have implications for the delivery of fire protection services. The two districts are now incurring costs associated with establishing two separate administrative infrastructures, when one structure formerly served both districts.

Cedar Hammock estimates an increase of \$237,387 in annual costs related to the dissolution of the interlocal agreement. Each district also reported it has incurred additional costs to replace vehicles and equipment; Cedar Hammock has spent \$81,285 and Southern Manatee \$50,835.

In addition to cost implications, the quality of fire protection services in the two districts could be affected. Although the districts state there has been no change in the quality of services provided, service levels and efficiency could decline. For example, fire departments that share resources have greater flexibility in meeting their staffing needs; they have access to combined labor pools to cope with firefighter absences and to staff vehicles. The consequences of the breakdown of cooperation may become increasingly evident as the districts attempt to implement a federal firefighter safety standard, which calls for higher levels of staffing.

Any change in the quality of fire protection services being provided could result in higher insurance premiums for homeowners and businesses.

The breakdown of the cooperative relationship between the two districts has also affected Manatee County government, which had to reconfigure its emergency dispatch system when the two districts ceased operating as a combined jurisdiction.

The district reports cooperative endeavors with other fire departments in Manatee County, and continues to participate in countywide discussions about consolidating operations to improve services and reduce cost.

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 board of any district may request the local legislative delegation that represents the area within the district to create by special law geographical subdistricts for board seats. Any board of five members or larger elected on a subdistrict basis as of the effective date of this act shall continue to elect board members from such previously designated subdistricts, and this act shall not require the elimination of board seats from such boards.

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 levy non-ad valorem assessments against the taxable real estate lying within the territorial bounds of the District. As provided in section 191.009(2), Florida Statutes, non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum, in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years.
- 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. In order to levy ad valorem taxes in a newly annexed area, approval at referendum is required.

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:

The bill amends chapter 2000-391, Laws of Florida.

The bill provides for the incorporation as a special fire control district.

The bill provides that the Cedar Hammock Fire Control District not increase assessment rates more than 10 percent in any year. The bill provides that once the maximum allowable rates set forth in section 5 of this bill have been attained, the district may exceed the maximum rates in an amount not to exceed the average annual growth rate in Florida personal income over the previous 5 years, a provision currently authorized in general law.

The bill increases the maximum allowable rates that may be levied for non-ad valorem assessments by the Cedar Hammock Fire Control District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides a single, comprehensive special act charter pursuant to section 191.015, Florida Statutes; preserves all powers granted by this act and any additional authority granted by chapters 189 and 191, F.S., states the district's charter was codified in chapter 2000-391, L.O.F., preserves all district authority.

Section 2. Reenacts, amends, and repeals chapter 2000-391, Laws of Florida.

Section 3. Provides for the re-creation and reenactment of the charter for the district and the re-creation of the district and the following provisions:

Section 1. Provides for the incorporation of the district; states district is an independent special fire control district and a public municipal corporation; provides that the District is organized and exists pursuant to Chapters 189 and 191, Florida Statutes; provides charter may be amended only by special act of the Legislature.

Section 2. Describes the District boundaries.

Section 3. Provides for the governing board of the District.

Subsection (1) provides that the business and affairs of the District shall be conducted and administered by a five-member board of fire commissioners in accordance with chapter 191, Florida Statutes; provides for nonpartisan elections to be held in the manner prescribed in section 189.405(2)(a), Florida Statutes; provides that each member of the board shall be elected for a term of four years and shall serve until his or her successor assumes office.

Subsection (2) provides for designated seats on the board and for candidates to designate which seat on the board he or she is qualifying for; also provides that the name of each candidate shall be on the ballot in a way that clearly indicates the seat for which he or she is a candidate.

Subsection (3) provides that each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term.

Subsection (4) provides that each elected member shall assume office 10 days following the member's election and that the board shall organize officers from its membership within 60 days after the new members have taken office.

Subsection (5) provides that members of the board may each be paid a salary or honorarium to be determined by at least a majority plus one vote of the board, pursuant to Chapter 191, Florida Statutes.

Subsection (6) provides that if a vacancy occurs on the board due to the resignation, death, or removal of a board member or the failure of anyone to qualify for a board seat, the remaining members may appoint a qualified person to fill the seat until the next general election.

Subsection (7) provides that procedures for conducting district elections or referenda and for the qualification of electors shall be pursuant to Chapters 189 and 191, Florida Statutes.

Subsection (8) provides that the board shall have those administrative duties set forth in this Act and Chapters 189 and 191, Florida Statutes.

Section 4. Provides the authority to levy non-ad valorem assessments as defined in section 197.3632(1)(d), Florida Statutes, with the rate of such assessments to be determined annually by a resolution; provides the district shall not increase assessment rates more than 10% in any year, however once the maximum allowable rates in section 5 of this act have been attained, the district may exceed the maximum rates in an amount not to exceed the average annual growth rate in Florida personal income over the previous 5 years; provides that the assessments may be imposed, collected, and enforced pursuant to the provisions of sections 197.363 - 197.3635, Florida Statutes.

Section 5. Provides that all property in the district shall be divided into three general classifications: vacant parcels, residential parcels, and commercial/industrial parcels; provides descriptions and maximum allowable rates that may be charged by the district.

Section 6. Provides legislative findings and legislative intent for impact fees; provides for impact fees and declares them to be just, reasonable, and equitable; provides that impact fees collected are to be kept as a separate fund from other revenues of the District and shall be used exclusively for new facilities and defines new facilities.

Section 7. Provides that the District shall hold all powers, functions, and duties set forth in Chapters 189, 191, and 197, Florida Statutes, in addition to the powers set forth in this act; provides that the District may be financed by any method established in this act, Chapters 189 and 191, Florida Statutes, or any other applicable general or special law.

Section 8. Provides that the District's planning requirements shall be as set forth in this act, Chapters 189 and 191, Florida Statutes, and other applicable general or special laws.

Section 9. Provides that the District's geographic boundary limitations shall be as set forth in this act.

Section 10. Provides that requirements for financial disclosure, meeting notices, public records maintenance, and per diem expenses for officers and employees shall be as set forth in Chapters 112, 119, 189, 191, and 286, Florida Statutes.

Section 11. Provides the procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the District shall be as set forth in this Act, Chapter 191, Florida Statutes, and any other applicable general or special law.

Section 4. Provides that this act is remedial and shall be liberally construed to promote the purposes for which it is intended.

Section 5. Provides for severability.

Section 6. Repeals chapter 2000-391, L.O.F.

Section 7. Deletes reference of district from paragraph (a) of subsection (1) of section 1 of chapter 93-352, L.O.F., as amended by chapter 94-373, L.O.F.

Section 8. Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 16, 2001

WHERE? Bradenton Herald in Bradenton, Manatee, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

HB 921 relating to the Manatee County/Fire & Rescue District, this bill merged the Cedar Hammock Fire Control District and the Southern Manatee Fire and Rescue District to create and establish a new independent fire control district in Manatee County to be known as the South Manatee Fire & Rescue District. The bill was heard in the 2001 Legislative Session and subsequently died on the House Calendar.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs adopted two amendments at its meeting on February 12, 2002. The first amendment, in compliance with section 191.015, Florida Statutes, provides for a single, comprehensive special act charter for the district and repeals the previous codified charter of the district (chapter 2000-391, Laws of Florida). The second amendment deletes an obsolete reference to the district contained in another local bill (chapter 93-352, Laws of Florida, as amended).

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith

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

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith