

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill authorizes the Holley-Navarre Fire District to impose impact fees on new users of the District's fire protection and emergency services to pay for the cost of new facilities and equipment needed as a result of new development.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Fire Control Districts and Impact Fees Generally

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act" (the Act). Section 191.002, F.S., sets forth the Act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts (districts), and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts. There are currently 56 districts in Florida.

Section 191.004, F.S., of the Act provides that it is the intent of the Legislature that the Act supersede all special acts or general laws of local application provisions that contain the charter of a district. Therefore, unless otherwise exempt by special or general law, each district is required to comply with the Act.

Typically, the business affairs of each district are governed by a board whose five members are elected by qualified electors of the district. A district governing board may exercise its powers by a majority vote of its members. Section 191.006, F.S., lists the general powers of a district, which include the power "[t]o 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 and authorized by law."

Section 191.009, F.S., authorizes districts to levy ad valorem taxes, special assessments, user charges, and impact fees. With respect to impact fees, if the general purpose local government has not adopted an impact fee for fire services which is distributed to a district for construction within its jurisdictional boundaries, a district may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is a result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase, or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. Districts must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment and may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

Under Florida case law, an impact fee must meet what is referred to as the "dual rational nexus test" in order to withstand legal challenge.¹ First, there must be a reasonable connection, or rational nexus, between the anticipated need for additional capital facilities and the growth in population generated by the new development. Second, there must be a reasonable connection, or rational nexus, between the

¹ *Local Government Financial Information Handbook*, Florida Legislative Committee on Intergovernmental Relations, Dec. 2003.

expenditure of the funds collected and the benefits accruing to the new development from those expenditures.²

Holley-Navarre Fire District

The Holley-Navarre Fire District ("District") in Santa Rosa County was created in 1980.³ In 2004, the District's charter was codified and updated by the Legislature to reflect general law, specifically the provisions governing fire control districts found in chapter 191, F.S.

A five-member elected board governs the District, which was created for the purpose of providing fire protection and rescue services, facilities, and equipment.

The District is authorized by s. 191.009, F.S., and its charter to levy non-ad valorem assessments at a rate set by the District subject to certain limitations. The District's budget for FY 2004-2005 reflects approximately \$495,000 in non-ad valorem assessments, which is almost 60% of the District's total revenues of \$834,496. The District is not authorized to impose impact fees.

The District is authorized to levy of ad valorem taxes on taxable property within the District if approved by qualified voters of the District. Three attempts to obtain voter approval of an ad valorem tax levy have been unsuccessful.

Effect of Proposed Changes

This bill authorizes the District to impose impact fees on new users of the District's fire protection and emergency services to pay the cost of new facilities and equipment needed as a result of new development. The authorization appears to be consistent with the provisions in Chapter 191, F.S., governing impact fees.

The bill declares that the cost of new facilities should be borne by new users of the District's services to the extent new construction requires new facilities. The bill further declares that the Legislative intent is to transfer a fair share of the costs of new facilities to new users of District fire protection and emergency services.

The bill provides that an impact fee may be imposed only if the general purpose local government in which the District is located has not adopted an impact fee for fire services which is distributed to the District for construction within its jurisdictional boundaries. Impact fees collected by the District must be kept as a separate fund from other District revenues and must be used exclusively for the acquisition, purchase, or construction of new facilities necessary to provide fire protection and emergency service to new construction. "New facilities" is defined as land, buildings, and capital equipment, including, but not limited to, emergency vehicles and radio telemetry equipment. Impact fees may not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. Adequate records must be maintained by the District to ensure that impact fees are expended only for permissible new facilities.

C. SECTION DIRECTORY:

- Section 1. Authorizes the District to impose impact fees on new users of services.
- Section 2. Provides an effective date.

² *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 4th DCA 1983); See also *St. Johns County v. N.E. Fla. Builders Assoc.*, 583 So.2d 635 (Fla. 1991).

³ Ch. 80-603, L.O.F.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 19, 2004.

WHERE? Northwest Florida Daily News published at Fort Walton Beach, Okaloosa County.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.