

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/CS/HB 899 North Collier Fire Control and Rescue District, Collier County
SPONSOR(S): Local & Federal Affairs Committee; Local Government Affairs Subcommittee; Passidomo
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|------------------------------------------|------------------|----------|---------------------------------------|
| 1) Local Government Affairs Subcommittee | 12 Y, 0 N, As CS | Zaborske | Miller |
| 2) Finance & Tax Committee | 16 Y, 1 N | Pewitt | Langston |
| 3) Local & Federal Affairs Committee | 16 Y, 0 N, As CS | Zaborske | Kiner |

SUMMARY ANALYSIS

The bill constitutes the unified charter of the North Collier Fire Control and Rescue District. The North Collier Fire Control and Rescue District was created on January 1, 2015, through the voluntary merger of the North Collier Fire Control and Rescue District and the Big Corkscrew Island Fire Control and Rescue District. The electors of each district approved the merger by a referendum vote on November 4, 2014.

The proposed charter for the North Collier Fire Control and Rescue District satisfies the requirements in s. 189.074(4)(a), F.S. It accurately combines the charter for the North Collier Fire Control and Rescue District, as amended, and the charter for the Big Corkscrew Island Fire Control and Rescue District into a unified charter, and includes any additional requirements in s. 189.074, F.S.

The bill also repeals chapter 99-450, 2000-395, and 2006-353, Laws of Fla., which set forth the charters for the North Collier Fire Control and Rescue District, the charter for the Big Corkscrew Island Fire Control and Rescue District, and an amendment to the charter for the North Collier Fire Control and Rescue District, respectively.

The merger of the independent special districts is projected to result in over \$2 million in cost savings over the first five years and no increase in the current millage rate for the component independent special districts comprising the merged district.

The act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

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:

- 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 evidence of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of Chapter 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 unit of special purpose. . . government within a limited boundary, 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 defined as any district that is not a “dependent special district” (a special district where the membership 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 district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of 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. (fire control district may continue to be governed by a 3 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), (3), (4), 191.011, F.S.

¹⁰ S. 191.012, F.S.

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

¹² S. 189.031, F.S.

¹³ Art. III, s. 11(a)(21), Fla. Const., enables 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 the district is consistent with approved local planning 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

Voluntary Merger of Special Districts

Independent special districts may merge voluntarily.²² This 2012 legislation was proposed after a 2010 report by the Senate Committee on Community Affairs that mergers and consolidations of independent special districts can provide increased government efficiency while saving taxpayers money.²³ The 2012 legislation, codified in ch. 189, F.S., provides for various forms of merger,²⁴ including the voluntary merger of independent special districts.²⁵

Merger proceedings for the voluntary merger of two or more contiguous independent special districts may be commenced by a joint resolution of the governing bodies of each district endorsing a proposed joint merger plan or by a qualified elector initiative.²⁶ Statute prescribes what the joint merger plan by resolution must specify.²⁷ The merger plan²⁸ sets forth the effective date of the merger and is not contingent upon the future act of the Legislature.²⁹

When independent special districts voluntarily merge, on or after the effective date of a merger the district is treated and considered for all purposes as one entity and all rights and assets that each separate district had before the merger are deemed transferred to and vested in the merged independent district.³⁰ Specifically, upon the effective date of the merger:

- The rights, privileges, and franchises of each district and all assets, real and personal property, books, records, papers, seals, and equipment, as well as other things in action,

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 Com'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 Art. VII, s. 9(b), Fla. Const.

²² Ch. 2012-16, s. 1, Laws of Fla.

²³ The Florida Senate, Committee on Community Affairs, *Merger of Independent Special Districts*, Interim Report 2011-110, Oct. 2010, available at <http://www.flsenate.gov/Committees/InterimReports/2011/2011-110ca.pdf> (last visited on 3/8/2015).

²⁴ S. 189.071, F.S. (merger of dependent special districts by ordinance or special act); s. 189.073, F.S. (legislative merger of independent special districts by special act); s. 189.075, F.S. (involuntary merger of independent special districts).

²⁵ S. 189.074, F.S.

²⁶ S. 198.074(a)(a)-(b), F.S. See s. 189.07(5) (defining "[j]oint merger plan"); s. 189.087(11), F.S. (defining "[q]ualified elector"); s. 189.07(4), F.S. (defining "[i]nitiative").

²⁷ S. 189.074(2), F.S.

²⁸ A "[m]erger plan" is defined as "a written document that contains the terms, agreements, and information regarding the merger of two or more independent special districts." S. 189.07(8), F.S.

²⁹ S. 189.074(4), F.S.

³⁰ S. 189.074(6)(a)-(b), F.S. See s. 189.07(6), F.S. (defining "[m]erged independent distict").

belonging to each district before the merger are deemed as transferred to and vested in the merged district without further act or deed.³¹

- All property, rights-of-way, and other interests the property of the merged district and the title to real estate, by deed or otherwise, vested in any district before the merger may not be deemed to revert or be in any way impaired by reason of the merger.³²
- The merged district in all respects is subject to all obligations and liabilities imposed, and possesses all the rights, powers, and privileges vested by law in other similar entities.³³
- The merger plan is subordinate in all respects to the contract rights of all holders of any securities or obligations of the districts outstanding at the effective date of the merger.³⁴
- The new registration of electors is not necessary as a result of the merger.³⁵

The governing body³⁶ of a merged independent district from the effective date of the merger until the next general election is required to be comprised of the governing body members of the districts that were merged.³⁷ With the next general election after the effective date of the merger the governing body must be comprised of 5 members and they shall serve unequal terms of 2 and 4 years, with each seat having a designated number (1, 2, 3, 4, or 5), with seats 1, 3, and 5, designated for 4-year terms and 2 and 4 for 2-year terms.³⁸ After the first general election all subsequent governing body members are to serve 4-year terms.³⁹

In general, upon the effective date of merger, the terms of the joint merger plan or elector-initiated merger plan apply to all appointive offices and positions existing in the districts involved in the merger.⁴⁰

All valid and lawful debts and liabilities existing against a merged district, or which may arise or accrue against the merged district, which but for merger would be valid and lawful debts or liabilities against any of the districts that were merged, are debts against or liabilities of the merged district.⁴¹ The merged district must defray and answer the debts and liabilities of the component individual special districts⁴² to the same extent, and not more, as the districts would have been bound without a merger.⁴³ Creditors' rights and all liens upon property prior to the merger are preserved unimpaired and the respective component districts are deemed to continue in existence to preserve such rights and liens.⁴⁴ All debts, liabilities, and duties of any of the component districts attach to the merged independent district.⁴⁵ All bonds, contracts, and obligations of the districts that were merged are obligations of the merged independent district, and are issued or entered into by and in the name of the merged district.⁴⁶

³¹ S. 189.074(6)(a), F.S.

³² S. 189.074(6)(b), F.S.

³³ S. 189.074(6)(c), F.S.

³⁴ S. 189.074(6)(d), F.S.

³⁵ S. 189.074(6)(e), F.S.

³⁶ See s. 189.07(3), F.S. (defining "[g]overning body").

³⁷ S. 189.074(7)(a), F.S.

³⁸ S. 189.074(7)(b), F.S.

³⁹ S. 189.074(7)(c), F.S.

⁴⁰ S. 189.074(8), F.S. The merger plan will not apply to the extent law provides otherwise or to those officials and employees protected by tenure of office, civil service provisions, or a collective bargaining agreement. *Id.* Chapter 447, F.S., applies to those employees who are members of a bargaining unit certified by the Public Employees Relations Commission. *Id.* The merger plan may address duplicative positions and other matters such as varying lengths of employee contracts, varying pay levels or benefits, different civil service regulations in the constituent entities, and differing ranks and position classifications for similar positions. *Id.*

⁴¹ S. 189.074(9)(a), F.S.

⁴² A "[c]omponent independent special district" is defined as "an independent special district that proposes to be merged into a merged independent district, or an independent special district as it existed before its merger into the merged independent district of which it is now a part." S. 189.07(a), F.S.

⁴³ *Id.*

⁴⁴ S. 189.074(9)(b), F.S.

⁴⁵ *Id.*

⁴⁶ S. 189.074(9)(c), F.S.

Chapter 171, F.S., continues to apply to all annexations by a city within the component independent special districts' boundaries after merger occurs.⁴⁷ Any moneys owed to a district prior to the merger pursuant to s. 171.093, F.S., or any interlocal service boundary agreement as a result of annexation predating the merger, shall be paid to the merged district after merger.⁴⁸

If on the effective date of the merger a district was a party to a pending action or proceeding, the merged district may be substituted as a party and the action or proceeding may be prosecuted to judgment as if merger had not taken place.⁴⁹ Lawsuits may be brought and maintained against a merged independent district in the same manner as against any other independent special district.⁵⁰ The merged district is authorized to continue or conclude procedures under ch. 200, F.S., on behalf of the component independent special districts, and must make the calculations required by ch. 200, F.S., for each component individual special district separately.⁵¹

As soon as practicable after the effective date of the merger, the merged district must submit to the Legislature a unified charter of the district.⁵² The unified charter must be consistent within the merged independent district and repeal the special acts of the districts which existed before the merger.⁵³

Big Corkscrew Island Fire Control and Rescue District

The Big Corkscrew Island Fire Control and Rescue District, an independent fire control district, was created in 1977.⁵⁴ In 2000, all special acts relating to the Big Corkscrew Island Fire Control and Rescue District were codified and repealed, and the charter for the independent special district was re-created and reenacted.⁵⁵ The district's charter⁵⁶ provides in summary:

- Section 1 sets forth the district's boundaries.
- Section 2 provides that it is an independent special district.
- Section 3 provides that the district was created by the Legislature in 1977 and its charter may only be amended by special act of the Legislature.
- Section 4 provides that the district will have a 3-member board of district residents to be elected as provided in ch. 191, F.S.
- Section 5 sets forth the officer positions and provides that the district and board may exercise all the general and special powers and duties in the charter and ch. 189 and 191, F.S.
- Section 6 provides that the board may adopt policies and regulations for the prevention of fire and for fire control in the district and provides a posting requirement for their effectiveness.
- Section 7 provides that the board will annually prepare, consider and adopt a budget pursuant to the requirements in ch. 200, F.S.
- Section 8 provides that the district may levy against the taxable property in the district a tax not to exceed 2.0 mills except as provided by ch. 191, F.S.
- Section 9 provides:
 - The district has all powers, functions and duties set forth in ch. 189 and 191, F.S., regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates for non-ad valorem assessments, and contractual agreements.
 - The district may finance the district using any financing method established in the charter, ch. 189 or 191, F.S., or any other general or special law.

⁴⁷ S. 189.074(11), F.S.

⁴⁸ *Id.*

⁴⁹ S. 189.074(10), F.S.

⁵⁰ *Id.*

⁵¹ S. 189.074(12), F.S.

⁵² S. 189.074(4)(a), F.S.

⁵³ *Id.*

⁵⁴ Ch. 77-585, Laws of Fla.

⁵⁵ Ch. 2000-395, Laws of Fla.

⁵⁶ Ch. 2000-395, s. 3, Laws of Fla.

- Non-ad valorem assessments, fees, or service charges will be assessed and collected as provided in ch. 170, 189, 191, or 197, F.S.
- Financial disclosures, meeting notices, reporting requirements, public records maintenance, and per diem expenses for officers and employees will be as provided in ch. 112, 119, 189, 191, and 286, F.S.
- The district's planning requirements are as provided in the charter and ch. 189 and 191, F.S.

North Collier Fire Control and Rescue District

The North Collier Fire Control and Rescue District, an independent fire control district, was created in 1984.⁵⁷ In 1999, all special acts relating to the North Collier Fire Control and Rescue District were codified and repealed, and the charter for the independent special district was re-created and reenacted.⁵⁸ The district's charter provides in summary:

- Article I provides the charter's preamble.
- Article II names the district the North Collier Fire Control and Rescue District and provides that it is an independent special district.
- Article III states the district's boundaries and the method for adding any lands to the district, as well as the method by which any future annexed property may be assessed ad valorem taxes.
- Article IV sets forth the powers of the district, providing in summary:
 - Section 1 provides that the district will have the authority to establish, equip, operate, and maintain a fire department and rescue squad within the district and may buy, lease, sell, exchange, or otherwise acquire and dispose of firefighting and rescue equipment and other property it deems necessary to prevent and extinguish fires or provide rescue services.⁵⁹ It also gives the board the authority to extend services outside the district when providing cooperation with another governmental entity.
 - Section 2 provides that the district may establish and maintain emergency medical and rescue response services, consistent with the requirements of this section.
 - Section 3 provides that, in addition to the other borrowing powers in the charter, the district may borrow sufficient funds to provide 3 months' operating expenses with the loan to be repaid from anticipated revenues.
 - Section 4 provides that the district may inspect and investigate all property for fire hazards and that the board, by a duly adopted resolution, may assess fees for fire inspection and maintenance and replacement of hydrants and create a lien or civil enforcement of the assessments.
 - Section 5 provides that the district may promulgate rules and regulations for the prevention of fire and for fire control in the district and provides a posting requirement for their effectiveness.
 - Section 6 provides that the board's duties and powers are as set forth in the charter and ch. 191, F.S.
- Article V pertains to the governing body:
 - Section 1 provides that a 4-commissioner board of district residents will govern the district as provided in s. 191.005, F.S.
 - Section 2 sets forth the board positions.
 - Section 3 provides that each commissioner may not receive more than \$500 in compensation per month.
 - Section 4 provides that board members will be reimbursed for travel and per diem expenses as provided in s. 112.061, F.S.
 - Section 5 sets forth when a commissioner may be removed.
 - Section 6 provides that the board will operate procedurally in accordance with the charter and ch. 189 and 191, F.S., and any other applicable general or special law.

⁵⁷ Ch. 84-816, Laws of Fla.

⁵⁸ Ch. 99-450, s. 3, Laws of Fla.

⁵⁹ In 2006, Section 1 of Article IV was amended by a special act of the Legislature, giving the district the authority to provide housing or housing assistance for its employed personnel. Ch. 2006-353, s. 1, Laws of Fla.

- Article VI pertains to the district's finances:
 - Section 1 provides that the district's powers, functions, and duties regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates for non-ad valorem assessments, and contractual agreements, and the methods for financing the district and for collecting non-ad valorem assessments, fees, or service charges are as provided in the charter, ch. 170, 189, 191, and 197, F.S., and any applicable general or special law.
 - Section 2 provides that the board will annually, in June, make an itemized estimate of the money needed to carry out its duties and stating the purpose for which the moneys are required and the amount necessary to be raised by taxation within the district, and that the budget and proposed millage rate must be noticed, heard and adopted in accordance with ch. 192 through 200, F.S.
 - Section 3 provides that the total millage for the district will not exceed 1 mill in any one fiscal year, but the total millage may be increased pursuant to s. 191.009, F.S., after the increase is approved by a referendum.
 - Section 4 provides that taxes will be assessed and collected in the same manner and form as the assessment and county taxes are collected, except as provided differently in the charter.
 - Section 5 provides that when the tax collector, after collecting taxes provided in the charter, must report the collection to the board.
 - Section 6 provides that the board's secretary-treasurer pays any warrants for the payment of labor, equipment, materials, and other allowable expenses incurred by the board.
 - Section 7 provides that the district has the power to issue general obligation bonds, assessment bonds, bond anticipation notes, notes, or certificates or other evidences of indebtedness pledging the district's full faith, credit, and taxing power for capital projects consistent with the district's purpose and in accordance with s. 191.012, F.S., and other applicable law. It also sets forth specific authority, procedures, and requirements regarding such bonds.
 - Section 8 provides that the board may allow the assessment and collection of impact fees for capital improvement on new construction within the district. It also sets forth several declarations regarding impact fees, provides impact fee amounts, requirements relating to how impact fees are calculated, against which types of construction they will be assessed, how they may be used, the maximum amount that may be assessed in any one fiscal year, and allows for a reduction of the amount assess when fire sprinklers are installed.
- Article VII provides that the district will reimburse the county for the costs of any referendum or special election required by the charter, and that the procedures for conducting any election and the qualifications of an elector are as set forth in ch. 189 and 191, F.S.
- Article VIII provides that the district has the authority to exercise the power of eminent domain, pursuant to ch. 73, 74, and 191, F.S., over any property, except governmental property, located within the district for the purpose of acquiring property to locate fire stations.
- Article IX sets forth miscellaneous provisions, including a requirement that all financial disclosures, meeting notices, reporting, public records maintenance, and planning will be as provided in ch. 189, 191, and 286, F.S.

Voluntary Merger of Districts

In November 2010, the electors of the Big Corkscrew Island Fire Control and Rescue District and of the North Collier Fire Control and Rescue District voted in favor of consolidation of the fire districts.⁶⁰

⁶⁰ Merger Plan for the Big Corkscrew Island Fire Control and Rescue District and the North Collier Fire Control and Rescue District (dated August 14, 2014) at p. 4, available at <http://www.northcollierfire.com/merger-update/> (last visited 03/08/2015).

On February 6, 2014, the governing boards for each district approved an interlocal agreement setting forth the terms and conditions to consolidate administrative operations.⁶¹ In addition, the Big Corkscrew Island Fire Control and Rescue District adopted Resolution 14-001, and the North Collier Fire Control and Rescue District adopted Resolution 14-003, each supporting a voluntary merger of the two districts with the resulting entity to be named the North Collier Fire Control and Rescue District.⁶²

The August 2014 merger plan for the Big Corkscrew Island Fire Control and Rescue District and the North Collier Fire Control and Rescue District, Collier County, projects in the first five years \$974,084 in savings for the Big Corkscrew Island Fire Control and Rescue District delivery area and \$1,329,126 for the North Collier Fire Control and Rescue District delivery area.⁶³

On November 4, 2014, in separate referenda, the electors of each district approved the merger.⁶⁴

On January 1, 2015, the North Collier Fire Control and Rescue District, Collier County, was created and commenced operations.

Effect of Proposed Changes

The bill constitutes the unified charter of the North Collier Fire Control and Rescue District, with Section 3 of the bill setting forth the charter.

The unified charter is consistent within the merged independent districts and repeals the special acts of the districts which existed before the merger. The unified charter incorporates into one document the charters for the Big Corkscrew Island Fire Control and Rescue District and the North Collier Fire Control and Rescue District as they existed at the time of the effective date of the merger. Section 3 of the bill, the unified charter for the North Collier Fire Control and Rescue District, provides in summary:

- Section 1 sets forth the charter's preamble, combining the preamble in Article I of the North Collier Fire Control and Rescue District charter and Section 2 of the charter for the Big Corkscrew Island Fire Control and Rescue District.
- Section 2 sets forth the new district's name, the "North Collier Fire Control and Rescue District" and provides that it is an independent special district.
- Section 3 sets forth the district's boundaries, combining the boundaries of the Big Corkscrew Island Fire Control and Rescue District, set forth in Section 1 of its charter, and the North Collier Fire Control and Rescue District, set forth in Article III of its charter, and setting forth a legal description of the combined boundaries. The combined district, starting at line 135 of the bill, excludes two areas previously not excluded from the North Collier Fire Control and Rescue District, "Hole in the Wall" and "Moorings Park." The property descriptions otherwise are identical to the property descriptions set forth in the charters for the districts before they merged. It also describes two separate delivery areas, the "Big Corkscrew Island Service Delivery Area" and the "North Naples Service Delivery Area."
- Section 4 sets forth the powers of the district, incorporating all of the powers set forth in Article IV of the charter for the North Collier Fire Control and Rescue District, as amended, and those set forth in Sections 6 and 9 of the charter for the Big Corkscrew Island Fire Control and Rescue District.
- Section 5 provides the governing board for the merged district, setting forth the election method as prescribed in s. 189.074(7), F.S. It otherwise combines Article V of the charter for the North Collier Fire Control and Rescue District and Sections 4 and 5 of the charter for the Big Corkscrew Island Fire Control and Rescue District. The charter for the merged district also defines a quorum and that official action requires a majority affirmative vote of present voting members. The charters for the individual districts prior to the merger do not expressly contain such a requirement.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at p. 22.

⁶⁴ Fire District Merger – Big Corkscrew & North Naples Big Corkscrew Fire District Election Results for November 4, 2014, available at <http://www.colliervotes.com/index.php?id=240> (last visited 03/08/2015).

- Section 6 provides for the district's financing, granting it all of the powers set forth in Article VI of the charter for the North Collier Fire Control and Rescue District and Section 8 and 9 of the charter for the Big Corkscrew Island Fire Control and Rescue District. The millage calculations comport with the requirement that the merged district make the calculations required by ch. 200 for each component individual special district separately.⁶⁵ Each service delivery area is a separate taxing unit, and the merged district may levy a millage rate up to 1 mill in the North Naples Service Delivery area and up to 3.75 mills in the Big Corkscrew Island Service Delivery Area, subject to Section 7 of the charter, which concerns referenda or special elections.⁶⁶ It also provides that the district desires to have, and will have, an equalized ad valorem millage rate within the merged district once the general fund revenues for the Big Corkscrew Island Service Delivery Area are sufficient to meet that delivery area's general fund budgeted expenses without using reserved funds.
- Section 7 combines Article VII of the charter for the North Collier Fire Control and Rescue District and Section 4 of the charter for the Big Corkscrew Island Fire Control and Rescue District regarding referenda or special elections.
- Section 8 incorporates Article VIII of the charter for the North Collier Fire Control and Rescue District regarding eminent domain.
- Section 9 sets forth the miscellaneous provisions in Article IX of the charter for the North Collier Fire Control and Rescue District and Section 9 of the charter for the Big Corkscrew Island Fire Control and Rescue District.

B. SECTION DIRECTORY:

- Section 1: Provides that the act constitutes the unified charter of the North Collier Fire Control and Rescue District, Collier County.
- Section 2: Provides that the incorporated lands described in section 3 of the charter shall be incorporated into the North Collier Fire Control and Rescue District, Collier County.
- Section 3: Creates the charter for the North Collier Fire Control and Rescue District, Collier County. The charter names district as an independent special fire and rescue district in Collier County, describes the lands to be incorporated in the district, describes the powers of the district, creates the structure and organization of the district governing board, describes the powers, functions, and duties pertaining to the financing and authority of district, and requires compliance with existing law pertaining to financial disclosure, meeting notices, reporting, public records, and reimbursement of per diem expenses to officers and employees.
- Section 4: Provides the charter will be liberally construed to effectively carry out the purposes of the act.
- Section 5: Provides the act shall control if there is a conflict between any provision of the act and another act.
- Section 6: Sets forth the millage previously approved by referendum for the special districts before they were combined shall remain the millage rate and that the millage rate for the North Naples Service Delivery Area may only increase upon approval at a referendum; provides that the North Collier Fire Control and Rescue District desires to have, and will have, an equalized ad valorem millage rate within the merged district once the general fund revenues for the Big Corkscrew Island Service Delivery Area are sufficient to meet that delivery area's general fund budgeted expenses without using reserved funds.
- Section 7: Repeals chapters 99-450, 200-395, and 2006-353, Laws of Fla.
- Section 8: The act shall take effect upon becoming a law.

⁶⁵ S. 189.074(12), F.S.

⁶⁶ Whether this structure is constitutional is discussed below in the section addressing constitutional issues.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 2, 2015

WHERE? Naples Daily News

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:

The State Constitution provides that “special districts may[] be authorized by law to levy ad valorem taxes.”⁶⁷ A “[m]erged independent district” is defined as “a single independent special district that results from a successful merger of two or more independent special districts.”⁶⁸ A “[s]pecial district” is defined as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary.”⁶⁹ As a special district, the North Collier Fire Control and Rescue District is “a unit of local government”⁷⁰ and it is authorized to levy ad valorem taxes.

The State Constitution requires that “[a]ll ad valorem taxation . . . be at a uniform rate within each taxing unit.”⁷¹ Historically, “[t]he uniformity of taxation required by the constitution relates to uniformity in each of the many taxing units severally in the State and does not require collective uniformity of taxation for all taxation units; viz., ad valorem taxation for State purposes must be uniform throughout the State, for county purposes throughout the county, and for district purposes throughout the district, each severally.”⁷² In a case challenging a tax as violating the uniform rate requirement, the Florida Supreme Court held, in the context of a municipal service taxing unit (MSTU), that the county could assess a rate within the MSTU, comprised of the unincorporated area of the county, different from the county-wide ad valorem taxing rate and without voter approval, so long as the rate within the MSTU was uniform.⁷³

Current law authorizes a “merged independent special district . . . to continue or conclude procedures under chapter 200 on behalf of the component independent special districts [and provides that t]he merged independent special district shall make the calculations required by chapter 200 for each component individual special district separately.”⁷⁴ Accordingly, the unified charter provides that each

⁶⁷ Art. VII, s. 9(a), Fla. Const.

⁶⁸ S. 189.07(6), F.S.

⁶⁹ S. 189.012(6), F.S.

⁷⁰ S. 189.012(6), F.S.

⁷¹ Art. VII, s. 2, Fla. Const.

⁷² *W.J. Howey Co. v. Williams*, 142 Fla. 415, 418-19 (Fla. 1940) (decided under predecessor to Art. VII, s. 2, Fla. Const.).

⁷³ *Gallant v. Stephens*, 358 So. 2d 536 (Fla. 1978).

⁷⁴ S. 189.074(12), F.S.

service delivery area (the “Big Corkscrew Island Service Delivery Area” and the “North Naples Service Delivery Area”) is a separate taxing unit, and the merged district may levy a millage rate up to 1 mill in the North Naples Service Delivery Area and up to 3.75 mills in the Big Corkscrew Island Service Delivery Area, subject to Section 7 of the charter, which concerns referenda or special elections. The rates vary within the district as a unit, but not within component taxing units within the unit of local government. Even though no court has addressed the constitutionality of differing rates between the component units comprising a merged independent special district, where the rates are uniform, voter-approved rates, the bill provides that the North Collier Fire Control and Rescue District desires to have, and will have, an equalized ad valorem millage rate within the district once the general fund revenues for the Big Corkscrew Island Service Delivery Area are sufficient to meet that delivery area’s general fund budgeted expenses without using reserved funds.

B. RULE-MAKING AUTHORITY:

The bill continues the provision for necessary internal regulation-making within the district but neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 3 of the bill, starting at line 135, excludes two areas, “Hole in the Wall” and “Moorings Park,” that previously were not excluded from the boundary description for the service delivery area for the North Naples Service Delivery Area within the North Collier Fire Control and Rescue District. They are excluded because, prior to the merger of the independent special districts, “Hole in the Wall” and “Moorings Park” were annexed into the City of Naples and excluded from the service delivery responsibilities of the North Naples Fire Control and Rescue District.⁷⁵

Section 5 of the bill at lines 779-781 defines a quorum and requires that official action requires a majority affirmative vote of present voting members even though no such requirement is expressly provided in the charter for either component independent special district.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2015, the Local Government Affairs Subcommittee adopted a technical amendment and reported the bill favorably as a committee substitute. The amendment corrects the section numbering.

On April 9, 2015, the Local and Federal Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. Currently, the ad valorem millage rate for the Big Corkscrew Island Service Delivery Area may be up to 3.75 mills; whereas, the maximum millage rate for the North Naples Service Delivery Area is 1 mill. The amendment provides that the merged district desires to have an equalized ad valorem millage rate within the district once the general fund revenues for the Big Corkscrew Island Service Delivery Area are sufficient to meet that delivery area’s general fund budgeted expenses without using reserved funds. It further provides that the merged district will reduce the millage rate in the Big Corkscrew Island Service Delivery Area once the general fund revenues of that taxing subunit are sufficient to meet that delivery area’s general fund budgeted expenses without using reserved funds. This analysis is drafted to the committee substitute as passed by the Local and Federal Affairs Committee.

⁷⁵ See Interlocal Service Boundary Agreement (between Collier County and the North Naples Fire Control and Rescue District), at Ex. 3, City of Naples Ordinance No. 07-11886 (amending the Charter of the City of Naples to annex “Hole in the Wall”), recorded in the Official Records for Collier County at OR4353, PG 1838, available at <https://www.collierclerk.com/records-search/official-land-records-search> (last visited 03/09/2015); City of Naples Resolution No. 05-11077 (resolution to assume special district service responsibilities of the North Naples Fire Control and Rescue District in the annexed area of “Moorings Park”), available at <http://www.naplesgov.com/DocumentCenter/Index/123> (last visited 03/09/2015).