

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 487 Fire Prevention and Control

SPONSOR(S): Government Operations & Technology Appropriations Subcommittee, Fetterhoff and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1092

FINAL HOUSE FLOOR ACTION: 118 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/HB 487 passed the House on March 11, 2020, as SB 1092.

Cancer has become the second leading cause of death among firefighters. Firefighters have a higher risk of diagnosis and death from cancer than the general U.S. population. Following certain procedures and using specific equipment has been shown to provide enhanced protection for firefighters against frequent exposure to cancer causing agents.

The Division of State Fire Marshal (DSFM), Office of the Director, is located within the Department of Financial Services (DFS). The Division is comprised of the Bureau of Fire Prevention and the Bureau of Fire Standards and Training.

The bill creates the Firefighter Cancer Decontamination Equipment Grant Program within DSFM to provide financial assistance in an effort to help protect firefighters from acquiring cancer. Funds allocated through this program can be used for equipment, supplies, and education training related to mitigating exposure to hazardous fire contaminants. The program will award grants on a need-based basis and require grant recipients to contribute a minimum of 25 percent nonstate funding. DSFM is given rulemaking authority to adopt rules and procedures for the program.

Although special districts occasionally provide services to other governmental entities outside of their geographical boundaries, the Florida Supreme Court recently ruled that this practice is not authorized by ch. 189, F.S., the Uniform Special District Accountability Act. In *Halifax Hospital Medical Center v. State*, 278 So. 3d 545 (Fla. 2019), the Court ruled that special districts only have the power to provide services and operate within their established geographic boundaries. The bill provides statutory authority for independent special fire control districts to operate outside established geographic boundaries through interlocal agreements.

The bill provides a \$250,000 appropriation to DFS for the Firefighter Cancer Decontamination Equipment Grant Program. The bill has no fiscal impact on local government revenue or expenditures.

The bill was approved by the Governor on June 27, 2020, ch. 2020-96, L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Industry Exposure

Cancer has become the second leading cause of death to firefighters.¹ Cancer caused 61 percent of career firefighter line of duty deaths between January 1, 2002 and December 31, 2016.² Firefighters have a 9 percent higher risk of being diagnosed with cancer and a 14 percent higher risk of dying from cancer than the general U.S. population.³

Inhalation of dangerous chemicals is one of many cancer-causing risks associated with firefighting, as well as skin absorption.⁴ Newer homes are made with high levels of plastics and synthetics, intensifying the carcinogenic atmosphere firefighters work in.⁵ While performing firefighting activities, body temperature usually increases 3-5 degrees.⁶ With every 5 degree increase in skin temperature, the skin's absorption rate increases by 400%.⁷ The neck area is one of the most likely areas to become contaminated with toxic chemicals, even with the protection of a hood.⁸ Firefighters who have only a single hood experience heightened exposure to hazardous, cancer-causing chemicals, since they cannot immediately decontaminate their hood after use.

In 2016, Florida law established the Firefighter Assistance Grant Program, to annually provide financial assistance to volunteer and combination fire departments.⁹ Grants offered through this program are awarded based on the Florida Fire Service Needs Assessment Survey, which is to be conducted annually by applicants.¹⁰ The goal of the Firefighter Assistance Grant Program is to improve firefighter safety and enable fire departments to provide services to their communities.

In August, 2018, DFS distributed a grant of one million dollars to be dispersed to Florida fire departments. Partial funds were allocated to decontamination kits, used for further prevention of cancer. Over 4,200 kits have been distributed to 405 Florida fire departments, each containing a 5-gallon bucket, detergents, scrub brushes, hoses, and spray bottles, all of which are used to effectively clean gear following a fire.¹¹

Studies have been conducted to determine the best ways to help firefighters prevent cancer on and off the job.¹² These steps include immediate decontamination of equipment, wearing full personal

¹ *Firefighter Cancer Alliance*, Firefighter Cancer Alliance, 2018.

² Robert Daniels, *NIOSH Science Blog*, Centers for Disease and Control Prevention (May 2017), blogs.cdc.gov/niosh-science-blog/2017/05/10/ff-cancer-facts/ (last visited Nov. 27, 2019).

³ National Institute for Occupational Safety and Health conducted a study on 30,000 firefighters located in three different metro areas, focusing on understanding the potential link between firefighting and cancer.

⁴ *Taking Action against Cancer in the Fire Service*, Firefighter Cancer Support Network (Aug. 2013),

<https://firefightercancersupport.org/wp-content/uploads/2017/11/taking-action-against-cancer-in-the-fire-service-pdf.pdf> (last visited Nov. 25, 2019).

⁵ Marilyn Meyer, *Florida Doesn't Have a Presumptive-Cancer Law*, *The Ledger* (Oct. 2017),

<https://www.theledger.com/news/20171021/florida-doesnt-have-presumptive-cancer-law> (last visited Nov. 20, 2019) (quoting Jim Davis, Program Coordinator at Polk State College Fire Science Technology Program).

⁶ *Firefighter Cancer Reduction and Decontamination Suggested Guideline*, NJ Department of Community Affairs.

⁷ *Taking Action Against Cancer in the Fire Service*, Firefighter Cancer Support Network (Aug. 2013).

⁸ Kenneth Fent, *et al*, *Evaluation of Dermal Exposure to Polycyclic Aromatic Hydrocarbons in Fire Fighters*, U.S. Department of Health and Human Services Centers for Disease Control and Prevention National Institute for Occupational Safety and Health, Dec. 2013. Report No. 2010-0156-3196.

⁹ S. 633.135, F.S.

¹⁰ *Id.*

¹¹ *CFO and State Fire Marshal Jimmy Patronis Delivers Cancer-Fighting Kits to Orange County Fire Rescue*, Press Release (Aug. 2018) <https://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?id=5083> (last visited Nov. 20, 2019).

¹² *See generally*, Chief Todd J. LeDuc, *6 Ways to Reduce Cancer in the Fire Service*, International Fire Chiefs Association (Nov. 2019), <https://www.iafc.org/iCHIEFS/iCHIEFS-article/6-ways-to-reduce-cancer-in-the-fire-service> (last visited Nov. 25, 2019); Chief James P.

protective equipment throughout an entire incident, providing a second set of gear to each firefighter within a department, and keeping contaminated equipment out of interior areas, especially following exposure to combustion.¹³ When a firefighter enters an atmosphere with fire, smoke, or byproducts of combustion, he or she comes into contact with a number of cancer-causing chemicals, including but not limited to arsenic, benzene, cadmium, chlorophenols, carbon monoxide, formaldehyde, and vinyl chloride.¹⁴ Proper education, use, and storage of equipment will lessen the extent of contact with these hazardous post-fire contaminants. With only a single set of gear, a firefighter must wait until the end of a shift to decontaminate his or her gear, potentially elongating exposure to cancer-causing chemicals. Funds from this program will assist departments' abilities to have the proper gear and equipment offered to all firefighters.

The Federal Government has appropriated funds to assist the Centers for Disease Control and Prevention in creating and maintaining a registry of firefighters, in an effort to track occupational history and related incidences of cancer.¹⁵ Additionally, the National Fire Protection Association requires firefighters to receive annual medical examinations, improving efforts to track the correlation between work and health.¹⁶

Independent Special Fire Control Districts

Chapter 191, F.S., the "Independent Special Fire Control District Act" (the Act), establishes standards and procedures for the operation and governance of independent special fire control districts and provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts.¹⁷ New independent fire control districts may be created only by the Legislature under s. 189.031, F.S., and district boundaries can be altered upon approval or ratification by the Legislature.¹⁸

Unless otherwise exempted by special or general law, each district, whether created by special act, a general law of local application, or county ordinance, must comply with the Act. The Act supersedes any special act or general law of local application containing the charter of a district, excluding provisions addressing district boundaries and geographical sub-districts for the election of members of the governing board.¹⁹

The Act prescribes procedures for the election, composition, and general administration of a district's governing board, and contains a broad list of the district's general powers to be exercised by a majority vote of the governing board.²⁰ The Act grants districts special powers related to facilities and duties, and requires districts to provide for fire suppression and prevention by establishing and maintaining fire stations and substations, and by acquiring and maintaining firefighting and fire protection equipment necessary to prevent or fight fires.²¹ All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.²²

Seavey Sr., *Lavender Ribbon Report: 11 Actions to Mitigate the Risk of Cancer*, International Fire Chiefs Association (Aug. 2018), https://www.iafc.org/docs/default-source/1vcos/vcoslavendaribbonreport.pdf?sfvrsn=13f88b0d_8 (last visited Nov. 25, 2019). Grace LeMasters, et al, *Cancer Risk Among Firefighters: A Review and Meta-Analysis of 32 Studies*. J Occup. Environ. Med., 48, 1189-202 (2006).

¹³ *Lavender Ribbon Report: 11 Actions to Mitigate the Risk of Cancer*, pg. 9.

¹⁴ Jesse Roman, *Facing Cancer*, National Fire Protection Association Journal (May 2017), <https://www.nfpa.org/News-and-Research/Publications-and-media/NFPA-Journal/2017/May-June-2017/Features/Facing-Cancer> (last visited Nov. 25, 2019).

¹⁵ Firefighter Cancer Registry Act of 2018, H.R. 931, 115th Cong. (2018).

¹⁶ NFPA 1582: Standard on Comprehensive Occupational Medical Program for Fire Departments, Chapter 7.

¹⁷ S. 191.002, F.S.

¹⁸ S. 191.014, F.S.

¹⁹ S. 191.004, F.S.

²⁰ S. 191.006, F.S.

²¹ S. 191.008, F.S.

²² *Id.*

Fire control districts are authorized to cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or purpose authorized by the Act.²³

Florida Interlocal Cooperation Act of 1969

The Florida Interlocal Cooperation Act provides local governmental units the right to enter into mutually advantageous agreements to provide services or facilities to other localities.²⁴ This section of the law allows public agencies of the state to exercise jointly with any other public agency of the state, of any other state, or the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.²⁵ To effectuate interlocal cooperation under this section, local governmental units jointly exercising power must form and execute a contract detailing the terms and conditions of the interlocal relationship.²⁶

Halifax Hospital Medical Center v. State, 278 So.3d 545 (Fla. 2019)

Created in 1925 as the Halifax Hospital District,²⁷ the Halifax Hospital Medical Center (commonly known as Halifax Health)²⁸ is an independent special district located in a portion of Volusia County.²⁹ As originally adopted, the charter for Halifax Hospital District authorized the establishment, construction, operation, and maintenance of hospitals as necessary for the use of the people in the district.³⁰ The 1925 enabling act and subsequent amendments³¹ were recodified in 1979.³² Halifax Hospital Medical Center interpreted a change in the first sentence of the basic authorization section in the 1979 charter³³ as allowing the district to provide services and open facilities outside the borders of the district.³⁴

Applying this interpretation, the district operated facilities and provided services outside of district boundaries for several years.³⁵ The text on which the district relies was substantially unchanged when the 1979 charter and subsequent amending acts³⁶ were again recodified in 2003.³⁷ Each version of the charter for the Halifax Hospital Medical Center required the act to be liberally interpreted to achieve its stated purposes.³⁸

²³ S. 191.006(13), F.S.

²⁴ Section 163.01, F.S.

²⁵ *Id.* at (4)

²⁶ *Id.* at (5)

²⁷ Chapter 11272, Laws of Fla. (1925).

²⁸ See Halifax Health, "Our History," at <https://www.halifaxhealth.org> (last visited Jan. 30, 2020). The official name of the district in the current charter is "Halifax Hospital Medical Center" and is so referenced in this analysis.

²⁹ Chapter 2003-374, Laws of Fla.

³⁰ Chapter 11272, s. 5, Laws of Fla. (1925).

³¹ Chapters 13489 & 13490, Laws of Fla. (1927); ch. 16037, Laws of Fla. (1933); ch. 17977, Laws of Fla. (1937); chapter 19097, Laws of Fla. (1939); chapters 21748 & 21749, Laws of Fla. (1943); chapters 22688 & 22689, Laws of Fla. (1945); chapters 26280, 26283, 26292, Laws of Fla. (1949); chapter 27944, Laws of Fla. (1951); chapters 29579 & 29580, Laws of Fla.; chapter 31333, Laws of Fla. (1955); chapters 57-1925, 59-1952, 59-1953, 59-1954, 61-2961, 61-2963, 61-2964, 63-2019, 65-2353, 65-2354, 65-2356, 67-2155, 67-2156, 72-710, 72-711, 72-712, 74-622, 77-661, 77-662, Laws of Fla.

³² Chapter 79-577, Laws of Fla.

³³ Chapter 79-577, s. 5, Laws of Fla.

³⁴ See Amended Brief of Halifax Hospital Medical Center, 17-18, 20, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 6/19/2018) [herein Appellant's Initial Brief]; Reply Brief of Halifax Hospital Medical Center, 3-5, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 9/19/2018) [herein Appellant's Reply Brief]. At the time these arguments were made, the legal standard for reviewing an agency's determination of its operative law required the court to give deference to the agency's interpretation if further interpretation was necessary. On November 6, 2018, the voters of Florida approved proposed Amendment 6 to the Florida Constitution, creating art. V, s. 21, which prohibits a reviewing court from deferring to an agency's interpretation of law and requiring an original, or *de novo* review by the court. That amendment was effective on January 8, 2019. Art. XI, s. 5(e), Fla. Const. The Supreme Court found the laws at issue were unambiguous and could be applied by the Court without need for other rules of interpretation. *Halifax Hospital Medical Center v. State of Florida*, No. SC18-683 (Fla. Apr. 18, 2019), 4.

³⁵ Appellant's Initial Brief, 8.

³⁶ Ch. 79-578, 84-539, 89-409, 91-352, Laws of Fla.

³⁷ Ch. 2003-374, Laws of Fla.

³⁸ Ch. 11272, s. 20, Laws of Fla. (1925); ch. 79-577, s. 15, Laws of Fla.; ch. 2003-374, s. 15 of s. 3, Laws of Fla.

On November 6, 2017, Deltona and the Halifax district entered into an interlocal agreement for the district to construct and operate health facilities within the City.³⁹ To finance the development and completion of the Deltona hospital, on January 8, 2018, the Board of the Halifax district adopted a resolution to issue \$115 million in bonds using the district's authority.⁴⁰ Following the statutory procedure,⁴¹ the district filed a complaint in the Circuit Court to validate the bonds.⁴² The Circuit Court found the district was not authorized to construct the Deltona hospital outside the geographical boundaries of the district, and accordingly refused to validate the proposed bond issue.⁴³ On April 18, 2019, the Supreme Court affirmed the decision of the circuit court, holding that the district's enabling law and ch. 189, F.S., did not expressly authorize operation of a special district outside of district boundaries.⁴⁴

Effect of Proposed Changes

The bill creates the Firefighter Cancer Decontamination Equipment Grant Program (program), within DSFM, to assist in protecting firefighters from exposure to hazardous post-fire contaminants.

The program will award financial assistance to fire departments, including volunteer departments, on a need-based basis. Grant applicants must include a minimum of 25 percent nonstate funding. Funds awarded will assist fire departments in purchasing equipment like decontamination kits and additional personal protective gear, used to reduce the risk of cancer. Fire departments can also allocate grant funds to other equipment and educational training.

The DSFM is given rulemaking authority to adopt rules and procedures for the program that require grant recipients to:

- Report their activity to the DSFM for submission in the Fire and Emergency Incident Information Reporting System created under s. 633.136, F.S.
- Comply with the Florida Firefighters Occupational Safety and Health Act, under ss. 633.502-633.536, F.S.
- Comply with any other rule determined by the State Fire Marshal to effectively and efficiently implement, administer, and manage the program.

The bill ensures that independent special fire control districts can act outside of their geographic district boundaries. It gives the districts all powers and duties provided in the Florida Interlocal Cooperation Act,⁴⁵ the Uniform Special District Accountability Act,⁴⁶ and ch. 191, F.S., relating to independent special fire control districts, in cooperation with another governmental agency when the agency shares such powers in common with the district. This includes such powers within or without a district's boundary.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

³⁹ Appellant's Initial Brief, 10. See s. 163.01, F.S.

⁴⁰ Appellant's Initial Brief, 10. See ch. 2003-374, s. 8 of s. 3, Laws of Fla.

⁴¹ Ch. 75, F.S.

⁴² *Halifax Hospital Medical Center v. State of Florida, et al.*, Case no. 2018 30059 CICI, in the 7th Judicial Circuit Court in and for Volusia County, Florida.

⁴³ "Order on Motion for Final Judgment," Case no. 2018 30059 CICI (4/17/2018).

⁴⁴ *Halifax Hospital Medical Center v. State of Florida*, 278 So.3d 545 (Fla. 2019).

⁴⁵ S. 163.01, F.S.

⁴⁶ Ch. 189, F.S.; Part III specifically relates to independent special districts.

None.

2. Expenditures:

The bill provides \$250,000 in recurring funds from the Insurance Regulatory Trust Fund to implement the program. According to DFS, the program will not require staffing beyond current resources.⁴⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁴⁷ Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services, RE: HB 487 Decontamination Grant Program Questions (Nov. 22, 2019).