

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 760

INTRODUCER: Senator Brandes

SUBJECT: Independent Special Fire Control Districts

DATE: January 31, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	<b>Pre-meeting</b>
2.	_____	_____	IS	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 760 amends the general powers of independent special fire control districts to allow them to provide fire control and rescue services outside the geographical boundaries of their district. Independent fire control districts would be able to provide these services outside of their district through an interlocal agreement with another governmental entity that shares powers in common with the district.

Although special districts occasionally provide services to other governmental entities outside of their geographic boundaries,<sup>1</sup> the Florida Supreme Court recently ruled that this practice is unauthorized by ch. 189, F.S., the Uniform Special District Accountability Act. In *Halifax Hospital Medical Center v. State* (decided April 18, 2019), the court ruled that special districts only have the power to provide services and operate within the specific geographic boundaries established for a district in its charter.

The bill only circumvents this ruling in regards to independent special fire control districts governed by ch. 191, F.S.

**II. Present Situation:**

**Special Districts**

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance,

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<sup>1</sup> See Florida Auditor General, *Health Care District of Palm Beach* (Report No. 2019-011, August 2018), available at: [https://flauditor.gov/pages/pdf\\_files/2019-011.pdf](https://flauditor.gov/pages/pdf_files/2019-011.pdf) (last visited Jan. 28, 2020). In finding 4, the auditor general recommends that the district enter into cooperative agreements with other government authorities to provide services outside the district’s boundaries, *id.* at 4.

or rule of the Governor and Cabinet.”<sup>2</sup> Special districts are created to provide a wide variety of services, such as mosquito control,<sup>3</sup> beach facilities,<sup>4</sup> children’s services,<sup>5</sup> fire control and rescue,<sup>6</sup> or drainage control.<sup>7</sup>

Special districts are classified as “dependent special districts” or “independent special districts.” For a special district to be classified as a dependent special district, the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms; or
- The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.<sup>8</sup>

Alternatively, an independent special district is any special district that does not meet the definition of a “dependent special district.”<sup>9</sup> Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.<sup>10</sup>

Excluding community development districts, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions, and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and

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<sup>2</sup> Section 189.012(6), F.S.

<sup>3</sup> Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, *see s.* 388.021(2), F.S.).

<sup>4</sup> *See* Section 189.011, F.S.

<sup>5</sup> Section 125.901(1), F.S.

<sup>6</sup> Section 191.002, F.S.

<sup>7</sup> Section 298.01, F.S.

<sup>8</sup> Section 189.012(2), F.S.

<sup>9</sup> Section 189.012(3), F.S.

<sup>10</sup> *Id.*

- District boundaries.

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.<sup>11</sup>

Special districts may enter into interlocal agreements with one or more other local governmental units, provided that the special district is authorized to operate in the geographic bounds of the other local government unit.<sup>12</sup> Under such an agreement, the special district may exercise jointly with the other participating local governments, those powers, privileges, or authorities which they have in common, and each may exercise separately.<sup>13</sup>

### **Independent Special Fire Control Districts**

Chapter 191, F.S., the “Independent Special Fire Control District Act” (Fire Control Act or 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.<sup>14</sup> There are currently 64 fire control districts established by ch. 191, F.S., operating across Florida.<sup>15</sup>

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 Fire Control 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.<sup>16</sup>

The Fire Control 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.<sup>17</sup> The Act grants districts special powers related to facilities and duties, and are required 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. All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.<sup>18</sup>

A fire control district may levy ad valorem taxes up to 3.75 mills unless a greater millage rate is authorized by law, subject to a referendum as required by the Florida Constitution and the Fire

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<sup>11</sup> FLA. CONST. Art. VII, s. 9(a),.

<sup>12</sup> Sections 163.01(2) and (3)(b), F.S.

<sup>13</sup> Section 163.10(4), F.S.

<sup>14</sup> Section 191.002, F.S.

<sup>15</sup> See Florida Department of economic Opportunity, Official List of Special Districts Online, *available at*: <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Jan. 30, 2020).

<sup>16</sup> Section 191.004, F.S.

<sup>17</sup> Section 191.006, F.S.

<sup>18</sup> Section 191.008, F.S.

Control Act. Districts may also be authorized to levy special assessments, user charges, and impact fees under the Fire Control Act.<sup>19</sup> Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature.<sup>20</sup> New independent fire control districts may be created only by the Legislature under s. 189.031, F.S.

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 the purpose authorized by the Fire Control Act.<sup>21</sup> Additionally, the Act affords districts the right to issue usage charges for special emergency services, including firefighting occurring in or to structures outside the district, if called to render such emergency services.<sup>22</sup>

### **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.<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup>

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

Created in 1925 as the Halifax Hospital District,<sup>26</sup> the Halifax Hospital Medical Center (commonly known as Halifax Health)<sup>27</sup> is an independent special district located in a portion of Volusia County.<sup>28</sup> 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.<sup>29</sup> The 1925 enabling act and subsequent amendments<sup>30</sup> were recodified in 1979.<sup>31</sup> Halifax Hospital Medical Center interpreted a change in the first sentence of the basic

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<sup>19</sup> Section 191.009, F.S.

<sup>20</sup> Section 191.014, F.S.

<sup>21</sup> Section 191.006(13), F.S.

<sup>22</sup> Section 191.009(3)(a), F.S.

<sup>23</sup> Section 163.01, F.S.

<sup>24</sup> *Id.* at (4)

<sup>25</sup> *Id.* at (5)

<sup>26</sup> Chapter 11272, Laws of Fla. (1925).

<sup>27</sup> 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.

<sup>28</sup> Chapter 2003-374, Laws of Fla.

<sup>29</sup> Chapter 11272, s. 5, Laws of Fla. (1925).

<sup>30</sup> 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.

<sup>31</sup> Chapter 79-577, Laws of Fla.

authorization section in the 1979 charter<sup>32</sup> as allowing the district to provide services and open facilities outside the borders of the district.<sup>33</sup>

Applying this interpretation, the district established and operated extra-territorial facilities and services for several years.<sup>34</sup> The text on which the district relies was substantially unchanged when the 1979 charter and subsequent amending acts<sup>35</sup> were again recodified in 2003.<sup>36</sup> Each version of the charter for the Halifax Hospital Medical Center required the act to be liberally interpreted to achieve its stated purposes.<sup>37</sup>

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.<sup>38</sup> 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.<sup>39</sup> Following the statutory procedure,<sup>40</sup> the district filed a complaint in the Circuit Court to validate the bonds.<sup>41</sup> 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.<sup>42</sup> 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 any operation outside the district boundaries.<sup>43</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 191.006, F.S., to expressly provide that independent special fire control districts have all powers and duties provided in ch. 189, F.S., (Uniform Special District Accountability Act), ch. 191, F.S., (Fire Control Act), and s. 163.01, F.S., (Florida Interlocal Cooperation Act), including the exercise of such powers within or without the independent

<sup>32</sup> Chapter 79-577, s. 5, Laws of Fla.

<sup>33</sup> 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.

<sup>34</sup> Appellant's Initial Brief, 8.

<sup>35</sup> Chapters 79-578, 84-539, 89-409, 91-352, Laws of Fla.

<sup>36</sup> Chapter 2003-374, Laws of Fla.

<sup>37</sup> Chapter 11272, s. 20, Laws of Fla. (1925); chapter 79-577, s. 15, Laws of Fla.; chapter 2003-374, s. 15 of s. 3, Laws of Fla.

<sup>38</sup> Appellant's Initial Brief, 10. See s. 163.01, F.S.

<sup>39</sup> Appellant's Initial Brief, 10. See chapter 2003-374, s. 8 of s. 3, Laws of Fla.

<sup>40</sup> Chapter 75, F.S.

<sup>41</sup> *Halifax Hospital Medical Center v. State of Florida, et al.*, Case no. 2018 30059 CICI, in the 7<sup>th</sup> Judicial Circuit Court in and for Volusia County, Florida.

<sup>42</sup> "Order on Motion for Final Judgment," Case no. 2018 30059 CICI (4/17/2018).

<sup>43</sup> *Halifax Hospital Medical Center v. State of Florida*, 278 So.3d 545, No. SC18-683 (Fla. Apr. 18, 2019).

special fire control district's boundary in cooperation with another governmental agency when such agency shares such powers in common with the district.

**Section 2** states the bill will take effect on July 1, 2020.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact for special independent fire control districts. These districts may be able to increase revenues by entering interlocal agreements and providing services outside the specific geographic boundaries established in a district charter.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 191.006 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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