

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1237 North River Fire District, Manatee County

**SPONSOR(S):** Robinson, W.

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

| REFERENCE   | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| 1) Local Administration, Federal Affairs & Special Districts Subcommittee | 17 Y, 0 N | Roy     | Darden                                   |
| 2) Ways & Means Committee   | 21 Y, 0 N | LaTorre | Aldridge                                 |
| 3) State Affairs Committee  | 17 Y, 0 N | Roy     | Williamson                               |

### SUMMARY ANALYSIS

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the jurisdictional boundaries of the district. Independent special fire control districts are governed by both the "Uniform Special District Accountability Act" and the "Independent Special Fire Control District Act."

The North River Fire District (District) is an independent special fire control district created in 1989. The District provides services in an 82 square mile area that includes the communities of Ellenton, Gillette, Memphis, Palmetto, Palm View, Piney Point, Rubonia, Snead Island, and Terra Ceia. The District is governed by a seven-member board elected by residents of the District to a four-year term.

The district has the power to levy non-ad valorem assessments against the taxable real estate lying within its boundaries, as well as to assess an additional charge for hazardous or emergency conditions. The board of the District sets the rate of these assessments, subject to limitations based on parcel type.

The bill provides that the District may not impose a non-ad valorem assessment on property in the District that is eligible for an exemption from ad valorem taxation due to its use for charitable, religious, scientific, or literary purposes.

According to the Economic Impact Statement, the bill is expected to result in revenue decreases in Fiscal Years 2023-24 and 2024-25 of approximately \$17,190 each year.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>1</sup> Special districts are created by general law,<sup>2</sup> special act,<sup>3</sup> local ordinance,<sup>4</sup> or rule of the Governor and Cabinet.<sup>5</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.<sup>6</sup> Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>7</sup>

A “dependent special district” is a special district where the membership of the governing body 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 the governing body of a single county or municipality.<sup>8</sup> An “independent special district” is any district that is not a dependent special district.<sup>9</sup>

The charter of a newly-created district must state whether it is dependent or independent.<sup>10</sup> Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.<sup>11</sup>

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>12</sup>

Special districts may enter into interlocal agreements with one or more other local governmental units.<sup>13</sup> Under such an agreement, the special district may exercise jointly with the other participating local governments those powers, privileges, or authorities that they have in common and each may exercise separately.<sup>14</sup>

##### Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial

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<sup>1</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>2</sup> S. 189.031(3), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> S. 189.02(1), F.S.

<sup>5</sup> S. 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>6</sup> *Halifax Hosp. Med. Center, supra* at 548.

<sup>7</sup> *Local Gov’t Formation Manual* at p. 58, available at

<https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2023&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited Apr. 13, 2023).

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

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

<sup>10</sup> S. 189.031(5), F.S.

<sup>11</sup> S. 189.031(3), F.S.

<sup>12</sup> Art. VII, s. 9(a), Fla. Const.

<sup>13</sup> S. 163.01(2), (3)(b), F.S.

<sup>14</sup> S. 163.10(4), F.S.

jurisdiction of the district.<sup>15</sup> The “Independent Special Fire Control District Act” (Act)<sup>16</sup> 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.<sup>17</sup> The Act controls over more specific provisions in any special act or general law of local application creating an independent fire control district’s charter.<sup>18</sup> The Act requires every independent special fire control district be governed by a five-member board<sup>19</sup> and provides for:

- General powers;<sup>20</sup>
- Special powers;<sup>21</sup>
- Authority and procedures for the assessment and collection of ad valorem taxes at a rate of no more than 3.75 mills;<sup>22</sup>
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and impact fees;<sup>23</sup> and
- Issuance of district bonds and evidences of debt.<sup>24</sup>

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district’s boundary in cooperation with another governmental agency that shares such powers in common with the district.<sup>25</sup>

As a type of independent special district,<sup>26</sup> independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”<sup>27</sup>

#### Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

When calculating ad valorem taxes, a property’s value is reduced by any exemptions provided by law, including exemptions for educational, literary, scientific, religious, or charitable purposes.<sup>28</sup> The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.<sup>29</sup> These implementation provisions give property appraisers a guide when assessing or exempting property.<sup>30</sup> Ad valorem tax exemptions are strictly construed, with cases of doubt resolved against the applicant.<sup>31</sup>

In determining whether the use of a property qualifies the property for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.<sup>32</sup> Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation.<sup>33</sup> Property owned by an exempt organization used exclusively for exempt purposes is totally exempt from ad valorem taxation.

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<sup>15</sup> S. 191.003(5), F.S.

<sup>16</sup> Chapter 191, F.S.

<sup>17</sup> S. 191.002, F.S.

<sup>18</sup> 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. *Id.*

<sup>19</sup> S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

<sup>20</sup> S. 191.006, F.S. (e.g. power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

<sup>21</sup> S. 191.008, F.S.

<sup>22</sup> S. 191.006(14); 191.009(1), F.S.

<sup>23</sup> Ss. 191.006(11), (15), 191.009(2)-(4), 191.011, F.S.

<sup>24</sup> S. 191.012, F.S.

<sup>25</sup> S. 191.006(13), F.S.

<sup>26</sup> S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

<sup>27</sup> S. 189.031, F.S.

<sup>28</sup> Art. VII, s. 3., Fla. Const.

<sup>29</sup> Ch. 196, F.S.

<sup>30</sup> *State ex rel. Cragor Co. v. Doss*, 150 Fla. 486, 8 So.2d 15 (1942).

<sup>31</sup> *Haines v. St. Petersburg Methodist Home, Inc.*, 173 So.2d 176 (Fla 2d DCA 1965).

<sup>32</sup> S. 196.196(1)(a)-(b), F.S.

<sup>33</sup> S. 196.196(2), F.S.

## Special Assessments and Non-Ad Valorem Assessments

Special assessments are levies against property to pay for an improvement or service that provides a special benefit to the property or properties in question. They are imposed upon the theory that when a local improvement or service enhances the value of neighboring property, that property should pay for the improvement or service in proportion to the benefit it receives.<sup>34</sup> This contrasts to a common concept of a tax, as an enforced burden imposed on the theory of a state's right to compel all citizens and property therein to contribute to the payment of general government expenses without a return or special benefit to the property.<sup>35</sup> Although this distinction may not be important to the person required to pay the special assessment or tax, it is important when determining a local government's power to levy the assessment.

Considerable litigation has ensued over the years attempting to determine when a special assessment is a valid levy under home rule authority and not an unauthorized tax. The general rule that has developed is that a special assessment must satisfy a two-pronged test: (1) the improvement or services at issue must provide a special benefit to assessed property; and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.<sup>36</sup> Generally, special assessments are collected on the annual ad valorem tax bill. Under this statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."<sup>37</sup>

### North River Fire District

The North River Fire District (District) is a special district created by special act in 1989.<sup>38</sup> The District provides services in an 82 square mile area that includes the communities of Ellenton, Gillette, Memphis, Palmetto, Palm View, Piney Point, Rubonia, Snead Island, and Terra Ceia.<sup>39</sup> The District is governed by a seven-member board elected by residents of the District.<sup>40</sup> Members of the board serve four-year terms and are elected in nonpartisan elections.<sup>41</sup>

The District has the power to levy non-ad valorem assessments against the taxable real estate lying within its boundaries, as well as to assess an additional charge for hazardous or emergency conditions.<sup>42</sup> The board sets the rate of these assessments, subject to limitations based on parcel type.<sup>43</sup>

### **Effects of Proposed Changes**

The bill provides that the District may not impose a non-ad valorem assessment on property in the District that is eligible for an exemption from ad valorem taxation due to its use for charitable, religious, scientific, or literary purposes.

According to the Economic Impact Statement, the bill is expected to result in revenue decreases in Fiscal Years 2023-24 and 2024-25 of approximately \$17,190 each year.

#### **B. SECTION DIRECTORY:**

Section 1: Amends ch. 2007-280, Laws of Fla., concerning the North River Fire District, Manatee County.

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<sup>34</sup> *Blake v. City of Tampa*, 156 So. 97, 99 (1934).

<sup>35</sup> *Id.*

<sup>36</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992), modified sub nom. *Collier Cty. v. State*, 733 So. 2d 1012 (Fla. 1999), and holding modified by *Sarasota Cty. v. Sarasota Church of Christ, Inc.*, 667 So. 2d 180 (Fla. 1995)

<sup>37</sup> Section 197.3632(1)(d), F.S.

<sup>38</sup> Ch. 89-502, Laws of Fla.

<sup>39</sup> North River Fire District, *About Us*, <https://www.nrfd.org/about-us> (last visited Apr. 13, 2023).

<sup>40</sup> Ch. 2007-280, s. 3, Laws of Fla.

<sup>41</sup> Ch. 2007-280, s. 4, Laws of Fla.

<sup>42</sup> Ch. 2007-280, s. 5(1), Laws of Fla.

<sup>43</sup> Ch. 2007-280, ss. 5(1), 15, Laws of Fla.

Section 2: Provides an effective date of upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 19, 2023

WHERE? The *Bradenton Herald*, a daily newspaper of general circulation published in Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.