

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1577 Midway Fire District, Santa Rosa County

**SPONSOR(S):** Andrade and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N	Roy	Darden
2) Ways & Means Committee	21 Y, 0 N	Rexford	Aldridge
3) State Affairs Committee	15 Y, 5 N	Burgess	Williamson

### SUMMARY ANALYSIS

Independent special fire control districts are a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction 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. Independent special fire control districts may levy ad valorem taxes as provided in the special act creating the district, and may also levy non-ad valorem assessments subject to statutory limitations and referendum approval.

The Midway Fire District (District) is an independent special fire control district created by special act in 1980, with its charter re-codified in 2003. The District is governed by a five-member board elected by residents of the District to serve four-year terms. The District has the power to levy an ad valorem tax of up to 3.75 mills. During Fiscal Year (FY) 2022-23, the District levied an ad valorem tax of 2.4818 mills, which generated approximately \$6.6 million in revenue.

The bill amends the District's charter, effective October 1, 2024, to remove its authority to assess and levy ad valorem taxes. The bill also imposes restrictions on the District's ability to levy non-ad valorem assessments, imposing maximum rates in the following amounts:

- \$300 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional \$10.32 per acre in excess of three acres.

The bill allows the District's board to adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately \$661,983 for the first FY after the bill is in effect.

**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. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

# 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, special act, local ordinance, or rule of the Governor and Cabinet.<sup>2</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>3</sup> Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.<sup>4</sup>

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.<sup>5</sup>

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.<sup>6</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>7</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 jurisdiction of the district.<sup>8</sup> The Independent Special Fire Control District Act (Act)<sup>9</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>10</sup> The Act controls over more specific provisions in any special act or general law of local application creating an independent special

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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> See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See *generally* ss. 189.012(6), F.S.

<sup>3</sup> Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Feb. 1, 2024).

<sup>4</sup> The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). See *also*, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

<sup>5</sup> S. 189.012(2), F.S.

<sup>6</sup> S. 189.012(3), F.S.

<sup>7</sup> See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

<sup>8</sup> S. 191.003(5), F.S.

<sup>9</sup> Ch. 191, F.S.

<sup>10</sup> S. 191.002, F.S.

fire control district's charter.<sup>11</sup> The Act requires every independent special fire control district be governed by a five-member board<sup>12</sup> and provides for general powers, special powers, and issuance of district bonds and evidences of debt.<sup>13</sup>

The Act provides that an independent special fire control district may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services at a rate not to exceed 3.75 mills, unless a higher amount has been previously authorized by law and approved by the electors of the district.<sup>14</sup>

An independent special fire control district may also levy non-ad valorem assessments to construct, operate, and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.<sup>15</sup> The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set using an assessment apportionment methodology that meets fair apportionment standards.<sup>16</sup> The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.<sup>17</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>18</sup>

As a type of independent special district,<sup>19</sup> independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."<sup>20</sup>

### Midway Fire District

The Midway Fire District (District) is an independent special fire control district created by special act in 1980,<sup>21</sup> with its charter re-codified in 2003.<sup>22</sup> The District is governed by a five-member board elected by residents of the District to serve four-year terms.<sup>23</sup>

The District has the power to levy an ad valorem tax of up to 3.75 mills.<sup>24</sup> The District's charter also provides the authority to assess non-ad valorem assessments in accordance with general law.<sup>25</sup> During Fiscal Year (FY) 2022-23, the District levied an ad valorem tax of 2.4818 mills which generated approximately \$6.6 million in revenue.<sup>26</sup>

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<sup>11</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>12</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>13</sup> Ss. 191.006, 191.008, and 191.012, F.S.

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

<sup>15</sup> S. 191.009(2)(a), F.S.

<sup>16</sup> See s. 191.011(1), F.S.

<sup>17</sup> S. 191.009(2)(a), F.S.

<sup>18</sup> S. 191.006(13), F.S.

<sup>19</sup> S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

<sup>20</sup> S. 189.031, F.S.

<sup>21</sup> Ch. 80-607, Laws of Fla.

<sup>22</sup> Ch. 2003-364, Laws of Fla.

<sup>23</sup> Ch. 2003-364, s. 3(3)(1), Laws of Fla.

<sup>24</sup> Ch. 2003-364, s. 3(5)(1), Laws of Fla. See also s. 191.009(1), F.S.

<sup>25</sup> Ch. 2003-364, s. 3(5)(3), Laws of Fla.

<sup>26</sup> Midway Fire District, *FY2023 Final Budget*, available at <https://www.midwayfire.com/financial-information> (last visited Feb. 1, 2024).

## Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove its ability to assess and levy ad valorem taxes. The bill also establishes the following maximum rates that the District can levy for non-ad valorem assessments:

- \$300 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional \$10.32 cents per acre in excess of three acres.

The bill allows the District's board to adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in the bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately \$661,983 for the first FY after the bill is in effect.

### B. SECTION DIRECTORY:

Section 1: Amends ch. 2003-364, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.

Section 2: Allows the District to adopt an initial levy of a non-ad valorem assessment without a referendum.

Section 3: Provides an effective date of upon becoming a law except as otherwise expressly provided in the bill.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa county.

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. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.