

Fire and ambulance service in unincorporated area

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Subject:

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LEGISLATURE--CREATION OF SPECIAL FIRE PROTECTION AND AMBULANCE SERVICE DISTRICT NOT PROHIBITED

To: Jon C. Thomas, Senator, 30th District, Fort Lauderdale

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QUESTION:

Can the Florida Legislature, by a special act, create a special district to provide fire protection and ancillary emergency services, such as ambulance service, to serve a populated but unincorporated area of a noncharter county in view of s. 163.633, F. S.?

SUMMARY:

Section 163.633, F. S., does not prohibit the enactment of a special act creating a special district to provide fire protection and ancillary emergency services, such as ambulance services, to serve a populated but unincorporated area of a noncharter county.

Section 163.633, F. S., provides:

"Pursuant to s. 11(a)(21), Art. III, of the State Constitution, the Legislature hereby prohibits special laws pertaining to the future creation of independent special districts for any of the purposes set forth in this act."

The cited provision of the State Constitution prohibits the enactment of special laws or general laws of local application pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house." Chapter 75-204, Laws of Florida, which created s. 163.633, F. S., passed both houses of the Legislature by such three-fifths margin and, thus, by operation of s. 11(a)(21), Art. III of our State Constitution, there presently exists a prohibition against the enactment of a special law "pertaining to the future creation of independent special districts *for any of the purposes set forth in this act.*" (Emphasis supplied.)

As you will note upon examination of the language italicized above, the prohibition does not encompass the creation of all independent special districts, but only the creation of those which are for "the purposes set forth in this act." Section 2, Ch. 75-204, Laws of Florida. Such purposes are found at s. 163.603(1), F. S., which states, in pertinent part:

"(1) This act shall constitute the sole authorization for the future establishment of independent special districts *having the power to provide the capital improvements for sewer, road, water management and supply, solid waste, and erosion control systems and community facilities for development of lands*, except for independent special districts and municipal service taxing and benefit units established pursuant to chapters 125, 153, 163, and 298 and s. 1, Art. VIII of the State Constitution. . . ." (Emphasis supplied.)

Also see the definitions at subsections (11), (12), and (13) of s. 163.604, F. S. It is clear from the foregoing that the purposes for which independent special districts may be established under Part V of Ch. 163, F. S., do not include the providing of fire protection and/or ambulance service. Thus, s. 163.633 does not prohibit the enactment of a special act to create a special district for the purpose of providing fire protection and ancillary emergency services, such as ambulance service, to serve a populated but unincorporated area of a noncharter county. It should be noted, parenthetically, that any special district created by special law must have the tax millage authorized by that law approved by vote of the electors pursuant to s. 9(b), Art. VII of our State Constitution.