

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 555 Indian River Mosquito Control District, Indian River County

SPONSOR(S): Mayfield

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Duncan	Hoagland
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The Indian River Mosquito Control District (District) was first established in 1925, with the stated purpose of controlling and eradicating mosquitoes and sand flies in designated areas of Indian River County. In 2006, as required by the Uniform Special District Accountability Act, all prior acts of the district were codified and reenacted into a single act by the Legislature pursuant to chapter 2006-344, L.O.F. This bill:

- Deletes obsolete language throughout the District's charter.
- Requires the District's election of its Board to occur pursuant to the election provisions in the Uniform Special District Accountability Act and consistent with the Florida Election Code.
- Permits the District's Board to elect a secretary/treasurer.
- Clarifies that commissioners and employees must be paid according to per diem compensation expense and mileage rates established for officials and employees of the state pursuant to s. 112.061, F.S.
- Requires the expense of the surety bond required for commissioners to be borne by the District.
- Provides that the goods, supplies, equipment, or material purchased for the District may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the competitive bid and advertising requirement amounts required by state law under chapter 287, F.S.
- Clarifies the provisions relating to the Board's authority to borrow by removing superfluous language.
- Revises the provisions relating to the Board's authority to borrow and those related to the requirement of the Board to provide insurance for property damage, bodily injury, or death.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Indian River Mosquito Control District (District) was first established in 1925,¹ with the stated purpose of controlling and eradicating mosquitoes and sand flies in designated areas of Indian River County. In 1947, the original enabling act was repealed, and a new law re-establishing the district and revising its authority was enacted. In 2006,² as required by the Uniform Special District Accountability Act,³ all prior acts of the district were codified and reenacted into a single act.

The governing board (Board) of the District is composed of 3 members, known as commissioners. Included in the Board's authority is the appointment of a chief engineer, a consulting engineer, an attorney and other agents and employees the Board may require. The commissioners are elected in a nonpartisan election for 4-year terms so that one commissioner is elected at one general election by the highest number of votes cast and two commissioners are elected by the first and second highest number of votes cast at the next ensuing general election. As soon as practicable after each general election, the commissioners must meet to organize and elect a chair, vice chair, and secretary.

The Uniform Special District Accountability Act establishes the general requirements and processes for electing the governing boards of independent and dependent special districts.⁴ Any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county. Any independent special district that conducts its elections through the office of the supervisor must make election procedures consistent with the Florida Election Code.⁵

Before assuming office, each commissioner is required to give the District a good and sufficient surety bond in the sum of \$5,000, conditioned for the faithful performance of the duties of his or her office. The bond must be approved by and filed with the Clerk of the Circuit Court of Indian River County.

The commissioners must be paid for each day's service and for each mile actually traveled going to and from the District's office according to per diem compensation expense and mileage rates established from time to time for officials and employees of the state.

Among its powers is the Board's authority to:

- Do any and all things necessary for the control and complete elimination of all species of mosquitoes and sandflies and diseases transmitted by the same in the District.
- Employ engineers, scientists, helpers, and all other servants, agents, and employees necessary to control and eliminate all species of mosquitoes and sandflies in the District.
- Purchase goods, supplies, or material for the District's use without advertising or calling for bids regarding the purchase when the amount to be paid by the District does not exceed \$10,000 or when the goods, supplies, or materials to be purchased may be obtained from only one source or supplier.

The Board is authorized to borrow in any one tax year a sum not to exceed 80 percent of the estimated taxes to be collected on behalf of the District within such year and to evidence such loan made to the District by its tax anticipation note or notes bearing interest at a rate not to exceed 10 percent per annum, and which notes are required to be payable at a time not greater than 1 year from the date of borrowing said funds. The sums borrowed must be repaid out of the next taxes collected by the District to the extent necessary for the repayment, together with interest at a rate not to exceed 6 percent per

¹ Chapter 11128, L.O.F.

² Chapter 2006-344, L.O.F.

³ Chapter 189, F.S.; and s. 189.429, F.S.

⁴ Section 189.405, F.S.

⁵ Section 189.405(2)(a), F.S.

annum. No sums are permitted to be borrowed as in any subsequent year unless all moneys borrowed in any preceding year have been entirely paid meaning both principal and interest.

The Board is required to secure and keep insurance covering liability for property damage or bodily injury or death.

Effect of Proposed Changes

The bill amends the powers of the governing board's District to employ, rather than appoint, a director for the Board and other experts and consultants required by the Board and deletes obsolete language throughout the District's charter. The provision authorizing the complete elimination of all species of mosquitoes and sandflies is deleted throughout the District's charter.

The bill modifies the election process for the commissioners of the Board to provide that the nonpartisan election must occur pursuant to the election provisions in the Uniform Special District Accountability Act and consistent with the Florida Election Code. The provision providing that one commissioner is elected at one general election by the highest number of votes cast and two commissioners are elected by the first and second highest number of votes cast at the next ensuing general election is deleted. The bill permits the Board to elect a secretary/treasurer as opposed to a secretary. The bill requires the expense of the surety bond required for commissioners to be borne by the District.

With respect to compensation, the bill clarifies that in addition to commissioners, employees must be paid according to per diem compensation expense and mileage rates established from time to time for officials and employees of the state pursuant to s. 112.061, F.S. The provision requiring pay for each day's service and for each mile actually traveled to and from the District's office is deleted.

The bill includes equipment in the list of items the District is authorized to purchase. The bill provides that these items may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the "competitive bid and advertising requirement amounts required by state law under chapter 287, F.S." State law does not provide "competitive bid and advertising amount requirements." State law does, however, establish purchasing category threshold amounts⁶ and competitive solicitation processes used for the procurement of commodities and contractual services.⁷ It is not clear as to whether the District wants to follow the process provided in state law or increase the current \$10,000 threshold amount provided for in the District's charter.

The bill revises the provisions relating to the Board's authority to borrow and provides that in any one tax year a sum not to exceed 80 percent of the estimated taxes to be collected on behalf of the District within such year and issue negotiable promissory notes and bonds or such instruments to secure the loan to enable the Board to carry out the responsibilities in the District's charter. The provisions stating that no sums are permitted to be borrowed as in any subsequent year unless all moneys borrowed in any preceding year have been entirely paid meaning both principal and interest is retained.

The bill also revises the provisions regarding insurance for property damage, bodily injury, or death. The bill provides that the District, acting through its Board, has the power to purchase and pay for insurance as a legitimate public expenditure without waiving its right to defend any action filed against it on the grounds of sovereign immunity while reserving all rights and defenses available. This makes the provision of insurance by the District an option, rather than a requirement as provided in the current charter.

B. SECTION DIRECTORY:

Section 1: Amends ss. 2-5, 7,9,10, and 11 of section 3 of ch. 2006-344, L.O.F., to remove obsolete language and revise provisions related to the operations of the District.

Section 2: Provides an effective date of July 1, 2011.

⁶ Section 287.017, F.S.

⁷ Chapter 287, F.S.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 29, 2010

WHERE? Scripps Treasure Coast Newspapers, Indian River Press Journal, Vero Beach, FL

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that items, such as goods and supplies may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the "competitive bid and advertising requirement amounts required by state law under chapter 287, F.S."

This provision is not clear as state law does not provide "competitive bid and advertising amount requirements." State law does, however, establish purchasing category threshold amounts and competitive solicitation processes used for the procurement of commodities and contractual services. It is not clear as to whether the District wants to follow the process provided in state or law or increase the current \$10,000 threshold amount provided for in the District's charter. Staff suggests an amendment clarifying the District's preference.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.