

FINAL BILL ANALYSIS

BILL #: HB 4205

FINAL HOUSE FLOOR ACTION:

112 Y's 0 N's

SPONSOR: Rep. Holder

GOVERNOR'S ACTION: Approved

COMPANION BILLS: N/A

SUMMARY ANALYSIS

HB 4205 passed the House on April 20, 2011. The bill was approved by the Governor on June 2, 2011, chapter number, Laws of Florida not designated, and took effect on June 2, 2011. This bill abolishes the Pinecraft Lighting District, an independent special district located in Sarasota County, and repeals the special acts relating to the district. The bill also transfers the assets and the liabilities of the district to Sarasota County.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Chapter 189, F.S./Special Procedures for Inactive Districts

Chapter 189, F.S., the “Uniform Special District Accountability Act of 1989,” provides general provisions for the definition, creation and operation of special districts. Section 189.4044(1), F.S., provides that the Department of Community Affairs may declare any special district inactive by documenting that:

- The district meets one of the following criteria:
 - The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government has notified the department in writing that the district has taken no action for two or more years;
 - Following an inquiry from the department, the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government has notified the department in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for two or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government has failed to respond to the department’s inquiry within 21 days; or
 - The department has determined, pursuant to s. 189.421, F.S., that the district has failed to file any of the reports listed in s. 189.419., F.S.
- The department, special district, or local general-purpose government has published a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the territory of the special district is located and sent a copy of such notice by certified mail to the registered agent or chair of the board, if any. Such notice must include the name of the special district, the law under which it was organized and operates, a general description of the territory included in the district, and a statement that any objections must be filed pursuant to ch. 120, F.S., within 21 days after the publication date; and
- Twenty-one days have elapsed from the publication date of the notice of proposed declaration of inactive status and no administrative appeals were filed.

If a special district is declared inactive pursuant to this section, the property or assets of the special district are subject to legal process for payment of any district debts. After payment of all the debts of the inactive special district, the remainder of its property or assets escheat to the county or municipality where the district is located. If, however, it is necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed and levied by order of the local general-purpose government wherein the district is situated and is assessed by the county property appraiser and collected by the county tax collector. In the case of a district created by special act of the Legislature, the department is required to send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate. This notice is required to reference each known special act creating or amending the charter of the district.

In the case of a district created by one or more local general-purpose governments, the department is required to send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government that created the district. In the case of a district created by interlocal agreement, the department sends the notice to the chair of the governing body of each local general-purpose government which entered into the interlocal agreement.

The entity that created a special district declared inactive under this section must dissolve the special district by repealing its enabling laws or by other appropriate means.

The Pinecraft Lighting District

The Pinecraft Lighting District is an independent special district located in Sarasota County. This district was established by the Florida Legislature pursuant to ch. 67-2050, L.O.F., which has been subsequently amended by chs. 69-1588, 70-931, 71-911, 72-689 and 76-486, L.O.F. The primary purpose of the district is to provide street lighting for which it is authorized to levy special assessments. The County Tax Collector receives these payments, and the funds are deposited to the district's local bank. The district has arranged for automatic payments to be made to Florida Power and Light, the utility, for its bills.¹

In October 2009, the Department of Community Affairs contacted Sarasota County to report that the Pinecraft Lighting District had not filed its required reports in several years and that efforts to contact district board members were unsuccessful. County staff located and discussed the matter with the sole remaining member of the board.² This individual and other members of the Pinecraft Community expressed their interest in dissolving the district.

On February 12, 2010, the department published a "Notice of Proposed Declaration of Inactive Status of the Pinecraft Lighting District" in the Sarasota Herald-Tribune. This notice required any party objecting to the inactive status to file an objection with the department pursuant to ch. 120, F.S., within 21 days after the date of publication of the notice. The department did not receive any objections. Therefore, on March 8, 2010, the department changed the status of the district from "active" to "inactive."

The Secretary of the Department of Community Affairs sent a letter dated April 16, 2010, to House Speaker Larry Cretul and Senate President Jeff Atwater declaring the inactive status of the Pinecraft Light District. This letter provides that on January 27, 2010, the chair of the Sarasota County Board of County Commissioners, Joseph A. Barbetta, notified the department that the district had not had a sufficient number of governing board members to constitute a quorum for more than two years. The chair requested that the department declare the district inactive pursuant to s. 189.4044, F.S.³

¹ E-mail dated March 18, 2011, from Marsha Hosack, Intergovernmental Relations Manager for Sarasota County.

² The board is supposed to be governed by a five member board of commissioners. According to correspondence dated December 10, 2009, from Mervin J. Hochstetler to Sarasota County Commission Chair Jon Thaxton, several of the district board members were deceased.

³ Section 189.4044(3), F.S., provides that this declaration of inactive status is sufficient notice as required by s. 10, Art. III of the State Constitution, which provides that no special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Nonetheless, this particular piece of legislation also has been noticed in a newspaper as contemplated by s. 11.02, F.S.. See, II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS of this analysis.

Effect of the Bill

HB 4205 repeals chs. 67-2050, 69-1588, 70-931, 71-911, 72-689 and 76-486, L.O.F., the special acts of the Pinecraft Lighting District. It also abolishes the district and transfers its assets and liabilities to Sarasota County. A representative of the county has indicated that the district has no known liabilities other than the payment of the lighting bills for which the district's revenues are collected.⁴

According to a letter dated January 27, 2010, from the Sarasota County Board of County Commissioners to the Department of Community Affairs, once the district is dissolved, the process will begin to create a Municipal Service Taxing Unit whereas the county will assess the requisite millage to pay for the street lighting.

The bill took effect upon becoming a law on June 2, 2011.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 12, 2011.

WHERE? The *Sarasota Herald-Tribune*, a daily newspaper of general circulation published in Sarasota 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 ☐

According to the Economic Impact Statement, Florida Power and Light sets the current rates for district lighting services. Annual revenues are \$7,500 for 522 parcels (\$11 to \$25 per parcel).

⁴ E-mail dated March 18, 2011, from Marsha Hosack, Intergovernmental Relations Manager for Sarasota County.