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# State Affairs Committee

**Thursday, February 6, 2020  
8:00 AM – 11:00 AM  
Morris Hall (17 HOB)**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### State Affairs Committee

**Start Date and Time:** Thursday, February 06, 2020 08:00 am  
**End Date and Time:** Thursday, February 06, 2020 11:00 am  
**Location:** Morris Hall (17 HOB)  
**Duration:** 3.00 hrs

#### Consideration of the following bill(s):

CS/CS/HB 7 Legal Notices by Judiciary Committee, Local, Federal & Veterans Affairs Subcommittee, Fine  
CS/HB 423 Town of Ocean Breeze, Martin County by Local Administration Subcommittee, Overdorf  
CS/HB 597 Tri-Par Estates Park and Recreation District, Sarasota County by Local Administration  
Subcommittee, Newton  
CS/HB 617 Holiday Park Park and Recreation District, Sarasota County by Local Administration  
Subcommittee, Buchanan  
HB 855 Special Districts by Payne  
CS/HB 925 Manatee County by Local Administration Subcommittee, Gregory  
HB 1009 Special Neighborhood Improvement Districts by Newton  
HB 1041 Florida Keys Mosquito Control District, Monroe County by Raschein  
CS/HB 1215 City of Weeki Wachee, Hernando County by Local Administration Subcommittee, Ingolia  
HB 1375 Holmes, Jackson, and Washington Counties by Drake  
HB 7007 OGSR/E-mail Addresses/Tax Notices by Oversight, Transparency & Public Management  
Subcommittee, LaMarca  
HB 7023 OGSR/Child Abuse Death Review Committees by Oversight, Transparency & Public Management  
Subcommittee, Pigman  
HB 7037 Constitutional Amendments Proposed By Initiative by Judiciary Committee, Grant, J.

#### Consideration of the following proposed committee bill(s):

PCB SAC 20-04 -- Public Records and Meetings/Applicant for President/State University or Florida College  
System Institution

**NOTICE FINALIZED on 02/04/2020 4:00PM by Denson.Tori**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 7 Legal Notices

**SPONSOR(S):** Judiciary Committee, Local, Federal & Veterans Affairs Subcommittee, Fine and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1340

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	7 Y, 5 N, As CS	Darden	Miller
2) Judiciary Committee	11 Y, 7 N, As CS	Padgett	Luczynski
3) State Affairs Committee		Darden	Williamson

### SUMMARY ANALYSIS

The Florida Constitution requires public notice be given for meetings at which official acts are to be taken or where public business is to be conducted. Several statutory provisions require notice to be given for certain actions undertaken by local governments. Chapter 50, F.S., prescribes government notice requirements.

The bill allows a governmental agency the option to publish legally required advertisements and notices on a publicly accessible website if certain conditions are met. Specifically, the bill allows a governmental agency:

- In a county that has not been designated a fiscally constrained county, to publish legally required advertisements and notices on a publicly accessible website if online publication would result in a cost savings for the government.
- In a fiscally constrained county, to publish advertisements and notices on a publicly accessible website after making a determination at a publicly noticed meeting that online publication:
  - Is in the public interest;
  - Will be less expensive than newspaper publication; and
  - Will not, after taking into account the level of internet access in the county, unreasonably restrict access to advertisements and legal notices.

If a local government publishes advertisements and notices on a publicly accessible website, the bill requires the governmental agency to publish a notice at least once a year in a newspaper of general circulation or other publication mailed and delivered to all residents and property owners in the government's jurisdiction stating the resident or property owner may receive legally required notices or advertisements via first-class mail or e-mail by registration of their name, address, and e-mail address with the governmental agency.

The bill revises the criteria a newspaper must meet to be eligible to publish advertisements and legal notices, allowing a governmental agency to publish advertisements and notices in a free newspaper.

The bill allows the operators of self-service storage facilities and self-contained storage units to publish notice for 14 consecutive days on a public website customarily used for conducting personal property auctions in lieu of publication in a newspaper of general circulation.

The bill may have an indeterminate fiscal impact on local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Constitutional Notice Requirements for Local Governments

All meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted must be open to the public and notice must be given.<sup>1</sup> While this requirement is self-executing, the Legislature may enact general laws enforcing the provision and may provide exemptions by a two-thirds vote.<sup>2</sup> All exemptions require a specific statement of public necessity justifying the exemption.

##### Notice Requirements

All legal notices and publications must be made in a newspaper that meets the following qualifications:<sup>3</sup>

- Published at least once a week;
- At least 25 percent of its words are in English;
- Considered a periodical by the post office;
- For sale to the general public; and
- Contains information of interest or value to the general public in the affected area.

If no newspaper is published in the county, at least three copies of the notice or advertisement must be posted on the front door of the county courthouse and two other locations in the county, as well as published in a newspaper in the nearest county in which a newspaper is published.<sup>4</sup>

If the newspaper publishing the legal notice maintains a website, the legal notice must appear on the newspaper's website the same day it appears in the printed publication.<sup>5</sup> The notice must be published at no additional charge on a separate web page titled "Legal Notices," "Legal Advertising," or with comparable identifying language. The site must contain a search function and the newspaper publisher may not charge a fee or require registration to view or search legal notices. The newspaper must also place a copy of the notice on a repository website maintained by the Florida Press Association and provide the ability for members of the public to sign up for an e-mail notification to be received when new legal notices are published.<sup>6</sup>

The publication of legal notice may not be considered effective unless:<sup>7</sup>

- The notice is published for the period prescribed for such a notice;
- The newspaper has been in existence for at least a year at the time the notice is published; and
- The newspaper has been entered as a periodical at a post office in the county where the notice is published.

Proof of publication is established by the use of a uniform notice.<sup>8</sup> The proof of publication affidavit must be on paper formatted in a specific manner or an electronic version that complies with the electronic notarization requirements of s. 117.021, F.S. The proof of publication affidavit must contain

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<sup>1</sup> Art. I, s. 24(b), Fla. Const.

<sup>2</sup> Art. I, s. 24(c), Fla. Const.

<sup>3</sup> S. 50.011, F.S.

<sup>4</sup> S. 50.021, F.S.

<sup>5</sup> S. 50.0211, F.S.

<sup>6</sup> The repository maintained by the Florida Press Association is available at: <http://www.floridapublicnotices.com>. See s. 50.0211(3)(a), F.S.

<sup>7</sup> S. 50.031, F.S.

<sup>8</sup> S. 50.041, F.S.

the name of the newspaper, the frequency of publication, the city and county of publication, and the signature of a notary public.<sup>9</sup>

The fees for a legal notice are set by statute and may not be rebated, commissioned, or refunded. The fee for publishing a legal notice is 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion. Notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. If the regular established minimum commercial rate per square inch is greater than the rate stipulated in statute, the publisher may charge the minimum commercial rate for each insertion, except that notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. All notices and legal advertisements are charged on the basis of 6-point type on 6-point body, unless otherwise specified by statute.<sup>10</sup>

### Enforcement of Self-Storage Facility Liens

The owner of a self-service storage facility or self-contained storage unit has a lien for rent, labor charges, or other charges on all personal property located in the facility for expenses related to the preservation of the property and reasonably related to its sale or other disposition for nonpayment.<sup>11</sup> The owner must provide written notice in person, e-mail, or registered mail to the tenant's last known address and post notice on the storage unit before satisfying the lien.<sup>12</sup> If the owner does not receive a response, return receipt, or delivery confirmation of a notice sent via e-mail, the owner must provide notice by certified mail.

The notice provided to the tenant must include:<sup>13</sup>

- An itemized statement of the owner's claim, showing the amount due at the time of the notice and when the amount became due;
- A description of the personal property provided in the rental agreement;
- A demand for payment within a specified time no less than 14 days after delivery of the notice;
- A conspicuous statement that the personal property will be advertised for sale or other disposition and sold or otherwise disposed of at a specified time and place if the amount due is not paid in the time stated in the notice; and
- The name, address, and telephone number of the owner.

After the expiration of the time given in the notice, the owner must place an advertisement of the sale or other disposition at least once a week for two consecutive weeks in a newspaper of general circulation in the area where the facility is located.<sup>14</sup> If there is no newspaper of general circulation in the area where the facility is located, the owner must post the advertisement in at least three conspicuous places in the neighborhood where the facility is located.<sup>15</sup> The advertisement must include:<sup>16</sup>

- A brief and general description of the personal property contained in the storage unit;
- The address of the facility and the name of the tenant; and
- The time, place, and manner of the sale or other disposition.<sup>17</sup>

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<sup>9</sup> S. 50.051, F.S.

<sup>10</sup> S. 50.061, F.S.

<sup>11</sup> S. 83.805, F.S.

<sup>12</sup> S. 83.806(1), F.S.

<sup>13</sup> S. 83.806(2), F.S.

<sup>14</sup> S. 83.806(4), F.S.

<sup>15</sup> S. 83.806(4)(c), F.S.

<sup>16</sup> S. 83.806(4)(b), F.S.

<sup>17</sup> The sale or disposition may not occur until at least 15 days after first publication.

## Effect of Proposed Changes

The bill allows a governmental agency<sup>18</sup> the option to publish legally required advertisements and notices on a publicly accessible website<sup>19</sup> if certain conditions are met. Specifically, the bill allows a governmental agency:

- In a county that has not been designated a fiscally constrained county,<sup>20</sup> to publish legally required advertisements and notices on a publicly accessible website if online publication would result in a cost savings for the government.<sup>21</sup>
- In a fiscally constrained county, to publish advertisements and notices on a publicly accessible website after making a determination at a publicly noticed meeting that online publication:
  - Is in the public interest;
  - Will be less expensive than newspaper publication; and
  - Will not, after taking into account the level of internet access in the county, unreasonably restrict access to advertisements and legal notices.

All advertisements and legal notices posted on a governmental agency's website must be in a searchable format.

The bill requires each governmental agency that uses a publicly accessible website to publish legally required advertisements and public notices to publish notice at least once a year in a newspaper of general circulation, a newsletter or periodical, or other publication mailed and delivered to all residents and property owners in the government's jurisdiction, stating the resident or property owner may receive legally required notices or advertisements via first-class mail or e-mail by registration of their name, address, and e-mail address with the governmental agency. The governmental agency must maintain a registry of names, addresses, and e-mail addresses of residents and property owners who request in writing to receive legally required advertisements and notices from the governmental agency by first-class mail or e-mail.

The bill requires any legally required notices and advertisements published on the governmental agency's publicly accessible website to be placed conspicuously on the website or made accessible through a direct link on the homepage. The homepage or linked page must indicate the date on which the advertisement was first published.

The bill authorizes a governmental agency operating a governmental access channel to include a summary of all advertisements and public notices published on its website on the channel.

The bill revises the criteria a newspaper must meet to be eligible to publish advertisements and legal notices, allowing a governmental agency to publish advertisements and notices in a free newspaper.

The bill makes conforming changes to other provisions requiring a governmental agency to publish a notice to allow for the publication of such notices and advertisements on a publicly accessible website. A notice published on a local government website must be published for the same period a printed notice would have been available to the public.<sup>22</sup>

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<sup>18</sup> "Governmental agency" means a county, municipality, school board, or other unit of local government or political subdivision of this state.

<sup>19</sup> A "publicly accessible website" means a governmental agency's official website or other private website designated by the governmental agency for the posting of legal notices and advertisements that is accessible via the internet.

<sup>20</sup> A "fiscally constrained county" means a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

<sup>21</sup> There are currently 29 fiscally constrained counties. Florida Department of Revenue, *Fiscally Constrained Counties*, <http://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited Jan. 31, 2020).

<sup>22</sup> *E.g.*, if a printed notice must be published at least 30 days before a meeting is held, a notice available on the local government website must be posted and retained on the website for at least 30 days before the meeting is held.

The bill allows the operator of a self-service storage facility or a self-contained storage unit to publish notice for 14 consecutive days on a public website customarily used for conducting personal property auctions in lieu of publication in a newspaper of general circulation.

The bill provides an effective date of July 1, 2021.

**B. SECTION DIRECTORY:**

Section 1 amends s. 50.011, F.S., relating to where and in what language legal notices are to be published.

Section 2 amends s. 50.021, F.S., relating to publication when no newspaper is published in the county.

Section 3 amends s. 50.0211, F.S., relating to internet website publication.

Section 4 amends s. 50.031, F.S., relating to newspapers in which legal notices and process may be published.

Section 5 creates s. 50.0311, F.S., relating to publication of advertisements and public notices on a publicly accessible website and governmental access channels.

Section 6 amends s. 50.041, F.S., relating to proof of publication; uniform affidavits required.

Section 7 amends s. 50.051, F.S., relating to proof of publication; form of uniform affidavit.

Section 8 amends s. 50.0711, F.S., relating to court docket fund; service charges; publications.

Section 9 amends s. 83.806, F.S., relating to enforcement of lien.

Sections 10 through 33 amends ss. 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09, and 932.704, F.S., conforming provisions to changes made by the act.

Section 34 provides an effective date of July 1, 2021.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Indeterminate. The bill provides an option to publish legal notices on a publicly available website; as such, the bill may reduce a governmental agency's expenditures related to publishing legal notices and advertisements in a newspaper. If a governmental agency exercises this option, the agency is also required to provide notice, at least annually, in a newspaper or another publication that is



mailed or delivered to all residents and property owners throughout the government's jurisdiction indicating that the property owner and resident may receive legally required advertisements and public notices from the governmental agency by first-class mail or e-mail. The costs associated with this requirement will vary depending on the number of residents and property owners that register and request personal notification.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may reduce revenue for newspapers to the extent the elimination of the print publishing requirements for legal notices and advertisements results in local governments not publishing legal notices and advertisements in newspapers.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide rulemaking authority or require executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 158 – 164 of the bill define the term “publicly accessible website” for purposes of s. 50.11, F.S.; however, no such section exists. It appears the bill should be referencing s. 50.011, F.S.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 15, 2020, the Local, Federal & Veterans Affairs Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarified a governmental agency must provide annual notice in a newspaper or other publication of the ability to receive notices by email or first-class mail only if the governmental agency uses a publically accessible website to publish notice; and
- Provided that notices for public-private partnership projects must be published in the Florida Administrative Register and in each county where the project is located.

On January 30, 2020, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment republished existing statutory provisions to correct a technical drafting error.

The analysis is drafted to the committee substitute as approved by the Judiciary Committee.

1                   A bill to be entitled  
2           An act relating to legal notices; amending s. 50.011,  
3           F.S.; providing for the publication of legal notices  
4           on certain publicly accessible websites; amending ss.  
5           50.021, 50.0211, and 50.031, F.S.; conforming  
6           provisions to changes made by the act; creating s.  
7           50.0311, F.S.; providing definitions; allowing a  
8           governmental agency to publish legal notices on a  
9           publicly accessible website under certain  
10          circumstances; providing criteria for website  
11          publication; authorizing a fiscally constrained county  
12          to use a publicly accessible website to publish  
13          legally required advertisements and public notices  
14          only if certain requirements are met; requiring a  
15          governmental agency to provide specified notice to  
16          certain residents and property owners relating to  
17          alternative methods of receiving legal notices;  
18          authorizing a governmental agency to publish certain  
19          public notices and advertisements on its governmental  
20          access channels; amending s. 50.041, F.S.; removing  
21          provisions relating to the publication of legal  
22          notices in newspapers; amending s. 50.051, F.S.;  
23          revising a form for affidavits of publication;  
24          amending s. 50.0711, F.S.; revising provisions  
25          relating to the use of court docket funds; amending s.

26 83.806, F.S.; providing that an advertisement of a  
 27 sale or disposition of property may be published on  
 28 certain websites for a specified time period; amending  
 29 ss. 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12,  
 30 166.041, 189.015, 190.005, 190.046, 194.037, 197.402,  
 31 200.065, 338.223, 348.0308, 348.635, 348.7605,  
 32 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09,  
 33 and 932.704; conforming provisions to changes made by  
 34 the act; providing an effective date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Section 50.011, Florida Statutes, is amended to  
 39 read:

40 50.011 Publication of ~~Where and in what language~~ legal  
 41 notices ~~to be published.~~ Whenever by statute an official or  
 42 legal advertisement or a publication, or notice in a newspaper  
 43 or governmental agency website has been or is directed or  
 44 permitted in the nature of or in lieu of process, or for  
 45 constructive service, or in initiating, assuming, reviewing,  
 46 exercising or enforcing jurisdiction or power, or for any  
 47 purpose, including all legal notices and advertisements of  
 48 sheriffs and tax collectors, the contemporaneous and continuous  
 49 intent and meaning of such legislation all and singular,  
 50 existing or repealed, is and has been and is hereby declared to

51 | be and to have been, and the rule of interpretation is and has  
 52 | been the following:

53 |       (1) A publication in a newspaper printed and published  
 54 | periodically at least once a week ~~or oftener~~, containing at  
 55 | least 25 percent of its words in the English language, entered  
 56 | or qualified to be admitted and entered as periodicals matter at  
 57 | a post office in the county where published, ~~for sale to the~~  
 58 | ~~public generally~~, available to the public generally for the  
 59 | publication of official or other notices and customarily  
 60 | containing information of a public character or of interest or  
 61 | of value to the residents or owners of property in the county  
 62 | where published, or of interest or of value to the general  
 63 | public; or

64 |       (2) On a publicly accessible website pursuant to s.  
 65 | 50.0311.

66 |       Section 2. Section 50.021, Florida Statutes, is amended to  
 67 | read:

68 |       50.021 Publication when no newspaper in county.—When any  
 69 | law, or order or decree of court, directs ~~shall direct~~  
 70 | advertisements to be made in a ~~any~~ county and there is ~~be~~ no  
 71 | newspaper published in the ~~said~~ county, the advertisement may be  
 72 | posted on a publicly accessible website as provided in s.  
 73 | 50.0311 or made by posting three copies thereof in three  
 74 | different places in the ~~said~~ county, one of which shall be at  
 75 | the front door of the courthouse, and by publication in the

76 | nearest county in which a newspaper is published.

77 | Section 3. Subsections (2) and (3) of section 50.0211,  
78 | Florida Statutes, are amended to read:

79 | 50.0211 Internet website publication.—

80 | (2) If a governmental agency publishes a legal notice in a  
81 | newspaper, each legal notice must be posted on the newspaper's  
82 | website on the same day that the printed notice appears in the  
83 | newspaper, at no additional charge, in a separate web page  
84 | titled "Legal Notices," "Legal Advertising," or comparable  
85 | identifying language. A link to the legal notices web page shall  
86 | be provided on the front page of the newspaper's website that  
87 | provides access to the legal notices. If there is a specified  
88 | size and placement required for a printed legal notice, the size  
89 | and placement of the notice on the newspaper's website must  
90 | optimize its online visibility in keeping with the print  
91 | requirements. The newspaper's web pages that contain legal  
92 | notices must present the legal notices as the dominant and  
93 | leading subject matter of those pages. The newspaper's website  
94 | must contain a search function to facilitate searching the legal  
95 | notices. A fee may not be charged, and registration may not be  
96 | required, for viewing or searching legal notices on a  
97 | newspaper's website if the legal notice is published in a  
98 | newspaper.

99 | (3) (a) If a legal notice is published in a newspaper, the  
100 | newspaper publishing the notice shall place the notice on the

101 statewide website established and maintained as an initiative of  
102 the Florida Press Association as a repository for such notices  
103 located at the following address: [www.floridapublicnotices.com](http://www.floridapublicnotices.com).

104 (b) A legal notice placed on the statewide website created  
105 under this subsection must be:

106 1. Accessible and searchable by party name and case  
107 number.

108 2. Posted for a period of at least 90 consecutive days  
109 after the first day of posting.

110 (c) The statewide website created under this subsection  
111 shall maintain a searchable archive of all legal notices posted  
112 on the publicly accessible website ~~on or after October 1, 2014,~~  
113 for 18 months after the first day of posting. Such searchable  
114 archive shall be provided and accessible to the general public  
115 without charge.

116 Section 4. Section 50.031, Florida Statutes, is amended to  
117 read:

118 50.031 Newspapers in which legal notices and process may  
119 be published.—If a governmental agency publishes a legal notice  
120 in a newspaper, no notice or publication required to be  
121 published ~~in a newspaper~~ in the nature of or in lieu of process  
122 of any kind, nature, character or description provided for under  
123 any law of the state, whether heretofore or hereafter enacted,  
124 and whether pertaining to constructive service, or the  
125 initiating, assuming, reviewing, exercising or enforcing

126 jurisdiction or power, by any court in this state, or any notice  
127 of sale of property, real or personal, for taxes, state, county  
128 or municipal, or sheriff's, guardian's or administrator's or any  
129 sale made pursuant to any judicial order, decree or statute or  
130 any other publication or notice pertaining to any affairs of the  
131 state, or any county, municipality or other political  
132 subdivision thereof, shall be deemed to have been published in  
133 accordance with the statutes providing for such publication,  
134 unless the same shall have been published for the prescribed  
135 period of time required for such publication, in a newspaper  
136 which at the time of such publication shall have been in  
137 existence for 1 year and shall have been entered as periodicals  
138 matter at a post office in the county where published, or in a  
139 newspaper which is a direct successor of a newspaper which  
140 together have been so published; provided, however, that nothing  
141 herein contained shall apply where in any county there shall be  
142 no newspaper in existence which shall have been published for  
143 the length of time above prescribed. No legal publication of any  
144 kind, nature or description, as herein defined, shall be valid  
145 or binding or held to be in compliance with the statutes  
146 providing for such publication unless the same shall have been  
147 published in accordance with the provisions of this section or  
148 s. 50.0311. Proof of such publication shall be made by uniform  
149 affidavit.

150 Section 5. Section 50.0311, Florida Statutes, is created

151 to read:

152 50.0311 Publication of advertisements and public notices  
153 on a publicly accessible website and governmental access  
154 channels.-

155 (1) For purposes of this chapter, "governmental agency"  
156 means a county, municipality, school board, or other unit of  
157 local government or political subdivision in this state.

158 (2) For purposes of notices and advertisements required  
159 under s. 50.11, the term "publicly accessible website" means a  
160 governmental agency's official website or other private website  
161 designated by the governmental agency for the posting of legal  
162 notices and advertisements that is accessible via the Internet.  
163 All advertisements and public notices published on a website as  
164 provided in this chapter must be in searchable form.

165 (3) "Fiscally constrained county" means a county within a  
166 rural area of opportunity as designated by the Governor pursuant  
167 to s. 288.0656 or a county for which the value of a mill will  
168 raise no more than \$5 million in revenue, based on the certified  
169 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,  
170 from the previous July 1.

171 (4) A governmental agency in a county that is not a  
172 fiscally constrained county may use a publicly accessible  
173 website to publish legally required advertisements and public  
174 notices if the cost of publishing advertisements and public  
175 notices on a website is less than the cost of publishing



176 advertisements and public notices in a newspaper.

177 (5) A governmental agency in a fiscally constrained county  
178 may use a publicly accessible website to publish legally  
179 required advertisements and public notices only if the  
180 governmental agency, after a public hearing which has been  
181 noticed in a newspaper as provided in this chapter, makes a  
182 determination of the following:

183 (a) Publishing advertisements and public notices on a  
184 publicly accessible website is in the public interest.

185 (b) The cost of publishing advertisements and public  
186 notices on a publicly accessible website is less than the cost  
187 of publishing advertisements and public notices in a newspaper.

188 (c) The residents of the county have sufficient access to  
189 the Internet by broadband service as defined in s. 364.02(2) or  
190 any other means such that publishing advertisements and public  
191 notices on a publicly accessible website will not unreasonably  
192 restrict public access.

193 (6) A governmental agency that uses a publicly accessible  
194 website to publish legally required advertisements and public  
195 notices shall provide notice at least once per year in a  
196 newspaper of general circulation or another publication that is  
197 mailed or delivered to all residents and property owners  
198 throughout the government's jurisdiction, indicating that  
199 property owners and residents may receive legally required  
200 advertisements and public notices from the government agency by

201 first-class mail or e-mail upon registering their name and  
202 address or e-mail address with the governmental agency. The  
203 governmental agency shall maintain a registry of names,  
204 addresses, and e-mail addresses of property owners and residents  
205 who request in writing that they receive legally required  
206 advertisements and public notices from the governmental agency  
207 by first-class mail or e-mail.

208 (7) A link to advertisements and public notices published  
209 on a publicly accessible website shall be conspicuously placed  
210 on the website's homepage or accessible through a direct link  
211 from the homepage. Each advertisement or public notice shall  
212 indicate the date on which the advertisement or public notice  
213 was first published on the publicly accessible website.

214 (8) A governmental agency that has a governmental access  
215 channel authorized under s. 610.109 may also include on its  
216 governmental access channel a summary of all advertisements and  
217 public notices that are posted on its publicly accessible  
218 website.

219 Section 6. Section 50.041, Florida Statutes, is amended to  
220 read:

221 50.041 Proof of publication; uniform affidavits required.—

222 (1) All affidavits ~~of publishers of newspapers (or their~~  
223 ~~official representatives)~~ made for the purpose of establishing  
224 proof of publication of public notices or legal advertisements  
225 shall be uniform throughout the state.

226 (2) Each such affidavit shall be printed upon white paper  
 227 and shall be 8 1/2 inches in width and of convenient length, not  
 228 less than 5 1/2 inches. A white margin of not less than 2 1/2  
 229 inches shall be left at the right side of each affidavit form  
 230 and upon or in this space shall be substantially pasted a  
 231 clipping which shall be a true copy of the public notice or  
 232 legal advertisement for which proof is executed. Alternatively,  
 233 the affidavit may be provided in electronic rather than paper  
 234 form, provided the notarization of the affidavit complies with  
 235 the requirements of s. 117.021.

236 (3) ~~In all counties having a population in excess of~~  
 237 ~~450,000 according to the latest official decennial census, in~~  
 238 ~~addition to the charges which are now or may hereafter be~~  
 239 ~~established by law for the publication of every official notice~~  
 240 ~~or legal advertisement,~~ There may be a charge not to exceed \$2  
 241 levied for the preparation and execution of each such proof of  
 242 publication or ~~publisher's~~ affidavit.

243 Section 7. Section 50.051, Florida Statutes, is amended to  
 244 read:

245 50.051 Proof of publication; form of uniform affidavit.—  
 246 The printed form upon which all such affidavits establishing  
 247 proof of publication are to be executed shall be substantially  
 248 as follows:

249 NAME OF COUNTY ~~NEWSPAPER~~  
 250 ~~Published (Weekly or Daily)~~

251                                   ~~(Town or City)~~ ~~(County)~~ FLORIDA  
 252 STATE OF FLORIDA  
 253 COUNTY OF .....:  
 254           Before the undersigned authority personally appeared .....,  
 255 who on oath says that he or she is .... of ~~the ....., a ....~~  
 256 ~~newspaper published at .... in~~ .... County, Florida; that the  
 257 attached copy of advertisement, being a .... in the matter of  
 258 .... in the .... Court, was published on the publicly accessible  
 259 website of the governmental agency or in a ~~said~~ newspaper. ~~in~~  
 260 ~~the issues of .....~~  
 261           Affiant further says that the website or newspaper complies  
 262 with all legal requirements for publication in chapter 50,  
 263 Florida Statutes. ~~said .... is a newspaper published at ....., in~~  
 264 ~~said .... County, Florida, and that the said newspaper has~~  
 265 ~~heretofore been continuously published in said .... County,~~  
 266 ~~Florida, each .... and has been entered as periodicals matter at~~  
 267 ~~the post office in ....., in said .... County, Florida, for a~~  
 268 ~~period of 1 year next preceding the first publication of the~~  
 269 ~~attached copy of advertisement; and affiant further says that he~~  
 270 ~~or she has neither paid nor promised any person, firm or~~  
 271 ~~corporation any discount, rebate, commission or refund for the~~  
 272 ~~purpose of securing this advertisement for publication in the~~  
 273 ~~said newspaper.~~  
 274 Sworn to and subscribed before me this .... day of .....,  
 275 ... (year) ..., by ....., who is personally known to me or who has

276 | produced (type of identification) as identification.  
 277 | ... (Signature of Notary Public) ...  
 278 | ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...  
 279 | ... (Notary Public) ...

280 | Section 8. Section 50.0711, Florida Statutes, is amended  
 281 | to read:

282 | 50.0711 Court docket fund; service charges; publications.—

283 | (1) The clerk of the court in each county may establish a  
 284 | court docket fund for the purpose of paying the cost of  
 285 | publication of the fact of the filing of any civil case in the  
 286 | circuit court of the county by the style and of the calendar  
 287 | relating to such cases. This court docket fund shall be funded  
 288 | by \$1 mandatory court cost for all civil actions, suits, or  
 289 | proceedings filed in the circuit court of the county. The clerk  
 290 | shall maintain such funds separate and apart, and the proceeds  
 291 | from this court cost shall not be diverted to any other fund or  
 292 | for any purpose other than that established in this section. The  
 293 | clerk of the court shall dispense the fund to the designated  
 294 | publicly accessible website publisher or record newspaper in the  
 295 | county on a quarterly basis.

296 | (2) If a judicial circuit publishes legal notices in a  
 297 | newspaper, a newspaper qualified under the terms of s. 50.011  
 298 | shall be designated as the record newspaper for such publication  
 299 | by an order of the majority of the judges in the judicial  
 300 | circuit in which such county is located, and such order shall be

301 filed and recorded with the clerk of the circuit court for such  
302 county. The designated record newspaper may be changed at the  
303 end of any fiscal year of the county by a majority vote of the  
304 judges of the judicial circuit of the county ordering such  
305 change 30 days prior to the end of the fiscal year, notice of  
306 which order shall be given to the previously designated record  
307 newspaper.

308 (3) The publicly accessible website publisher or  
309 publishers of any designated record newspapers receiving payment  
310 from this court docket fund shall publish, without additional  
311 charge, the fact of the filing of any civil case, suit, or  
312 action filed in such county in the circuit. Such publication  
313 shall be in accordance with a schedule agreed upon between the  
314 website publisher or record newspaper and the clerk of the court  
315 in such county.

316 (4) The publicly accessible website publisher or  
317 publishers of any designated record newspapers receiving  
318 revenues from the court docket fund established in subsection  
319 (1) shall, without charge, accept legal advertisements for the  
320 purpose of service of process by publication under s. 49.011(4),  
321 (10), and (11) when such publication is required of persons  
322 authorized to proceed as indigent persons under s. 57.081.

323 Section 9. Subsection (4) of section 83.806, Florida  
324 Statutes, is amended to read:

325 83.806 Enforcement of lien.—An owner's lien as provided in

326 s. 83.805 may be satisfied as follows:

327 (4) After the expiration of the time given in the notice,  
328 an advertisement of the sale or other disposition shall be  
329 published once a week for 2 consecutive weeks in a newspaper of  
330 general circulation in the area where the self-service storage  
331 facility or self-contained storage unit is located or published  
332 continuously for 14 consecutive days on a public website that  
333 customarily conducts personal property auctions.

334 (a) A lien sale may be conducted on a public website that  
335 customarily conducts personal property auctions. The facility or  
336 unit owner is not required to hold a license to post property  
337 for online sale. Inasmuch as any sale may involve property of  
338 more than one tenant, a single advertisement may be used to  
339 dispose of property at any one sale.

340 (b) The advertisement shall include:

341 1. A brief and general description of what is believed to  
342 constitute the personal property contained in the storage unit,  
343 as provided in paragraph (2) (b).

344 2. The address of the self-service storage facility or the  
345 address where the self-contained storage unit is located and the  
346 name of the tenant.

347 3. The time, place, and manner of the sale or other  
348 disposition. The sale or other disposition shall take place at  
349 least 15 days after the first publication.

350 (c) If there is no newspaper of general circulation in the

351 area where the self-service storage facility or self-contained  
352 storage unit is located, the advertisement shall be posted at  
353 least 10 days before the date of the sale or other disposition  
354 in at least three conspicuous places in the neighborhood where  
355 the self-service storage facility or self-contained storage unit  
356 is located or published continuously for 14 consecutive days on  
357 a public website that customarily conducts personal property  
358 auctions.

359 Section 10. Section 11.02, Florida Statutes, is amended to  
360 read:

361 11.02 Notice of special or local legislation or certain  
362 relief acts.—The notice required to obtain special or local  
363 legislation or any relief act specified in s. 11.065 shall be by  
364 publishing the identical notice ~~in each county involved in some~~  
365 ~~newspaper~~ as provided ~~defined~~ in chapter 50 ~~published in or~~  
366 circulated throughout the county or counties where the matter or  
367 thing to be affected by such legislation shall be situated one  
368 time at least 30 days before introduction of the proposed law  
369 into the Legislature or, if the notice is not posted on a  
370 publicly accessible website as provided in chapter 50 and there  
371 being no newspaper circulated throughout or published in the  
372 county, by posting for at least 30 days at not less than three  
373 public places in the county or each of the counties, one of  
374 which places shall be at the courthouse in the county or  
375 counties where the matter or thing to be affected by such



376 legislation shall be situated. Notice of special or local  
377 legislation shall state the substance of the contemplated law,  
378 as required by s. 10, Art. III of the State Constitution. Notice  
379 of any relief act specified in s. 11.065 shall state the name of  
380 the claimant, the nature of the injury or loss for which the  
381 claim is made, and the amount of the claim against the affected  
382 municipality's revenue-sharing trust fund.

383 Section 11. Subsection (2) of section 45.031, Florida  
384 Statutes, is amended to read:

385 45.031 Judicial sales procedure.—In any sale of real or  
386 personal property under an order or judgment, the procedures  
387 provided in this section and ss. 45.0315-45.035 may be followed  
388 as an alternative to any other sale procedure if so ordered by  
389 the court.

390 (2) PUBLICATION OF SALE.—Notice of sale shall be published  
391 on a publicly accessible website for at least 2 consecutive  
392 weeks before the sale or once a week for 2 consecutive weeks in  
393 a newspaper of general circulation, as provided ~~defined~~ in  
394 chapter 50, published in the county where the sale is to be  
395 held. The second publication by newspaper shall be at least 5  
396 days before the sale. The notice shall contain:

- 397 (a) A description of the property to be sold.  
398 (b) The time and place of sale.  
399 (c) A statement that the sale will be made pursuant to the  
400 order or final judgment.

- 401 (d) The caption of the action.
- 402 (e) The name of the clerk making the sale.
- 403 (f) A statement that any person claiming an interest in  
 404 the surplus from the sale, if any, other than the property owner  
 405 as of the date of the lis pendens must file a claim before the  
 406 clerk reports the surplus as unclaimed.

407

408 The court, in its discretion, may enlarge the time of the sale.  
 409 Notice of the changed time of sale shall be published as  
 410 provided herein.

411 Section 12. Subsection (2) of section 121.0511, Florida  
 412 Statutes, is amended to read:

413 121.0511 Revocation of election and alternative plan.—The  
 414 governing body of any municipality or independent special  
 415 district that has elected to participate in the Florida  
 416 Retirement System may revoke its election in accordance with the  
 417 following procedure:

418 (2) At least 7 days, but not more than 15 days, before the  
 419 hearing, notice of intent to revoke, specifying the time and  
 420 place of the hearing, must be published as provided in chapter  
 421 50 in a newspaper of general circulation in the area affected,  
 422 ~~as provided by ss. 50.011-50.031.~~ Proof of publication of the  
 423 notice must be submitted to the Department of Management  
 424 Services.

425 Section 13. Paragraphs (b) and (h) of subsection (1) of

426 section 121.055, Florida Statutes, are amended to read:

427       121.055 Senior Management Service Class.—There is hereby  
428 established a separate class of membership within the Florida  
429 Retirement System to be known as the "Senior Management Service  
430 Class," which shall become effective February 1, 1987.

431       (1)

432       (b)1. Except as provided in subparagraph 2., effective  
433 January 1, 1990, participation in the Senior Management Service  
434 Class is compulsory for the president of each community college,  
435 the manager of each participating municipality or county, and  
436 all appointed district school superintendents. Effective January  
437 1, 1994, additional positions may be designated for inclusion in  
438 the Senior Management Service Class if:

439       a. Positions to be included in the class are designated by  
440 the local agency employer. Notice of intent to designate  
441 positions for inclusion in the class must be published for at  
442 least 2 consecutive weeks if published on a publicly accessible  
443 website or once a week for 2 consecutive weeks in a newspaper of  
444 general circulation published in the county or counties  
445 affected~~7~~ as provided in chapter 50.

446       b. Up to 10 nonelective full-time positions may be  
447 designated for each local agency employer reporting to the  
448 department; for local agencies with 100 or more regularly  
449 established positions, additional nonelective full-time  
450 positions may be designated, not to exceed 1 percent of the

451 regularly established positions within the agency.

452 c. Each position added to the class must be a managerial  
453 or policymaking position filled by an employee who is not  
454 subject to continuing contract and serves at the pleasure of the  
455 local agency employer without civil service protection, and who:

456 (I) Heads an organizational unit; or

457 (II) Has responsibility to effect or recommend personnel,  
458 budget, expenditure, or policy decisions in his or her areas of  
459 responsibility.

460 2. In lieu of participation in the Senior Management  
461 Service Class, members of the Senior Management Service Class,  
462 pursuant to subparagraph 1., may withdraw from the Florida  
463 Retirement System altogether. The decision to withdraw from the  
464 system is irrevocable as long as the employee holds the  
465 position. Any service creditable under the Senior Management  
466 Service Class shall be retained after the member withdraws from  
467 the system; however, additional service credit in the Senior  
468 Management Service Class may not be earned after such  
469 withdrawal. Such members are not eligible to participate in the  
470 Senior Management Service Optional Annuity Program.

471 3. Effective January 1, 2006, through June 30, 2006, an  
472 employee who has withdrawn from the Florida Retirement System  
473 under subparagraph 2. has one opportunity to elect to  
474 participate in the pension plan or the investment plan.

475 a. If the employee elects to participate in the investment

476 plan, membership shall be prospective, and the applicable  
477 provisions of s. 121.4501(4) govern the election.

478 b. If the employee elects to participate in the pension  
479 plan, the employee shall, upon payment to the system trust fund  
480 of the amount calculated under sub-sub-subparagraph (I), receive  
481 service credit for prior service based upon the time during  
482 which the employee had withdrawn from the system.

483 (I) The cost for such credit shall be an amount  
484 representing the actuarial accrued liability for the affected  
485 period of service. The cost shall be calculated using the  
486 discount rate and other relevant actuarial assumptions that were  
487 used to value the pension plan liabilities in the most recent  
488 actuarial valuation. The calculation must include any service  
489 already maintained under the pension plan in addition to the  
490 period of withdrawal. The actuarial accrued liability  
491 attributable to any service already maintained under the pension  
492 plan shall be applied as a credit to the total cost resulting  
493 from the calculation. The division must ensure that the transfer  
494 sum is prepared using a formula and methodology certified by an  
495 actuary.

496 (II) The employee must transfer a sum representing the net  
497 cost owed for the actuarial accrued liability in sub-sub-  
498 subparagraph (I) immediately following the time of such  
499 movement, determined assuming that attained service equals the  
500 sum of service in the pension plan and the period of withdrawal.

501 (h)1. Except as provided in subparagraph 3., effective  
502 January 1, 1994, participation in the Senior Management Service  
503 Class shall be compulsory for the State Courts Administrator and  
504 the Deputy State Courts Administrators, the Clerk of the Supreme  
505 Court, the Marshal of the Supreme Court, the Executive Director  
506 of the Justice Administrative Commission, the capital collateral  
507 regional counsel, the clerks of the district courts of appeals,  
508 the marshals of the district courts of appeals, and the trial  
509 court administrator and the Chief Deputy Court Administrator in  
510 each judicial circuit. Effective January 1, 1994, additional  
511 positions in the offices of the state attorney and public  
512 defender in each judicial circuit may be designated for  
513 inclusion in the Senior Management Service Class of the Florida  
514 Retirement System, provided that:

515 a. Positions to be included in the class shall be  
516 designated by the state attorney or public defender, as  
517 appropriate. Notice of intent to designate positions for  
518 inclusion in the class shall be published for at least 2  
519 consecutive weeks if published on a publicly accessible website  
520 or once a week for 2 consecutive weeks in a newspaper of general  
521 circulation published in the county or counties affected, as  
522 provided in chapter 50.

523 b. One nonelective full-time position may be designated  
524 for each state attorney and public defender reporting to the  
525 Department of Management Services; for agencies with 200 or more

526 regularly established positions under the state attorney or  
527 public defender, additional nonelective full-time positions may  
528 be designated, not to exceed 0.5 percent of the regularly  
529 established positions within the agency.

530 c. Each position added to the class must be a managerial  
531 or policymaking position filled by an employee who serves at the  
532 pleasure of the state attorney or public defender without civil  
533 service protection, and who:

534 (I) Heads an organizational unit; or

535 (II) Has responsibility to effect or recommend personnel,  
536 budget, expenditure, or policy decisions in his or her areas of  
537 responsibility.

538 2. Participation in this class shall be compulsory, except  
539 as provided in subparagraph 3., for any judicial employee who  
540 holds a position designated for coverage in the Senior  
541 Management Service Class, and such participation shall continue  
542 until the employee terminates employment in a covered position.  
543 Effective January 1, 2001, participation in this class is  
544 compulsory for assistant state attorneys, assistant statewide  
545 prosecutors, assistant public defenders, and assistant capital  
546 collateral regional counsel. Effective January 1, 2002,  
547 participation in this class is compulsory for assistant  
548 attorneys general.

549 3. In lieu of participation in the Senior Management  
550 Service Class, such members, excluding assistant state

551 attorneys, assistant public defenders, assistant statewide  
552 prosecutors, assistant attorneys general, and assistant capital  
553 collateral regional counsel, may participate in the Senior  
554 Management Service Optional Annuity Program as established in  
555 subsection (6).

556 Section 14. Paragraph (a) of subsection (2) and paragraph  
557 (b) of subsection (4) of section 125.66, Florida Statutes, are  
558 amended to read:

559 125.66 Ordinances; enactment procedure; emergency  
560 ordinances; rezoning or change of land use ordinances or  
561 resolutions.—

562 (2) (a) The regular enactment procedure shall be as  
563 follows: The board of county commissioners at any regular or  
564 special meeting may enact or amend any ordinance, except as  
565 provided in subsection (4), if notice of intent to consider such  
566 ordinance is given at least 10 days prior to said meeting by  
567 publication as provided in chapter 50 ~~in a newspaper of general~~  
568 ~~circulation in the county~~. A copy of such notice shall be kept  
569 available for public inspection during the regular business  
570 hours of the office of the clerk of the board of county  
571 commissioners. The notice of proposed enactment shall state the  
572 date, time, and place of the meeting; the title or titles of  
573 proposed ordinances; and the place or places within the county  
574 where such proposed ordinances may be inspected by the public.  
575 The notice shall also advise that interested parties may appear



576 at the meeting and be heard with respect to the proposed  
577 ordinance.

578 (4) Ordinances or resolutions, initiated by other than the  
579 county, that change the actual zoning map designation of a  
580 parcel or parcels of land shall be enacted pursuant to  
581 subsection (2). Ordinances or resolutions that change the actual  
582 list of permitted, conditional, or prohibited uses within a  
583 zoning category, or ordinances or resolutions initiated by the  
584 county that change the actual zoning map designation of a parcel  
585 or parcels of land shall be enacted pursuant to the following  
586 procedure:

587 (b) In cases in which the proposed ordinance or resolution  
588 changes the actual list of permitted, conditional, or prohibited  
589 uses within a zoning category, or changes the actual zoning map  
590 designation of a parcel or parcels of land involving 10  
591 contiguous acres or more, the board of county commissioners  
592 shall provide for public notice and hearings as follows:

593 1. The board of county commissioners shall hold two  
594 advertised public hearings on the proposed ordinance or  
595 resolution. At least one hearing shall be held after 5 p.m. on a  
596 weekday, unless the board of county commissioners, by a majority  
597 plus one vote, elects to conduct that hearing at another time of  
598 day. The first public hearing shall be held at least 7 days  
599 after the day that the first advertisement is published. The  
600 second hearing shall be held at least 10 days after the first

601 hearing and shall be advertised at least 5 days prior to the  
 602 public hearing.

603 2. If published in a newspaper, the required  
 604 advertisements shall be no less than 2 columns wide by 10 inches  
 605 long in a standard size or a tabloid size newspaper, and the  
 606 headline in the advertisement shall be in a type no smaller than  
 607 18 point. The advertisement shall not be placed in that portion  
 608 of the newspaper where legal notices and classified  
 609 advertisements appear. The advertisement shall be placed in a  
 610 newspaper ~~of general paid circulation~~ in the county and of  
 611 general interest and readership in the community pursuant to  
 612 chapter 50, not one of limited subject matter. It is the  
 613 legislative intent that, whenever possible, the advertisement  
 614 shall appear in a newspaper that is published at least weekly 5  
 615 ~~days a week~~ unless the only newspaper in the community is  
 616 published less than weekly 5 ~~days a week~~. The advertisement  
 617 shall be in substantially the following form:

618 NOTICE OF (TYPE OF) CHANGE

619 The ...(name of local governmental unit)... proposes to  
 620 adopt the following by ordinance or resolution:...(title of  
 621 ordinance or resolution)....

622 A public hearing on the ordinance or resolution will be  
 623 held on ...(date and time)... at ...(meeting place)....

624 Except for amendments which change the actual list of permitted,  
 625 conditional, or prohibited uses within a zoning category, the

626 advertisement shall contain a geographic location map which  
627 clearly indicates the area within the local government covered  
628 by the proposed ordinance or resolution. The map shall include  
629 major street names as a means of identification of the general  
630 area. In addition to being published on a publicly accessible  
631 website or in the newspaper, the map must be part of the online  
632 notice required pursuant to s. 50.0211 or s. 50.0311.

633 3. In lieu of publishing the advertisements set out in  
634 this paragraph, the board of county commissioners may mail a  
635 notice to each person owning real property within the area  
636 covered by the ordinance or resolution. Such notice shall  
637 clearly explain the proposed ordinance or resolution and shall  
638 notify the person of the time, place, and location of both  
639 public hearings on the proposed ordinance or resolution.

640 Section 15. Paragraph (a) of subsection (2) of section  
641 162.12, Florida Statutes, is amended to read:

642 162.12 Notices.—

643 (2) In addition to providing notice as set forth in  
644 subsection (1), at the option of the code enforcement board or  
645 the local government, notice may be served by publication or  
646 posting, as follows:

647 (a)1. Such notice shall be published for 4 consecutive  
648 weeks on a publicly accessible website as provided in chapter 50  
649 or once during each week for 4 consecutive weeks (four  
650 publications being sufficient) in a newspaper of general

651 circulation in the county where the code enforcement board is  
652 located. The newspaper shall meet such requirements as are  
653 prescribed under chapter 50 for legal and official  
654 advertisements.

655 2. Proof of publication shall be made as provided in ss.  
656 50.041 and 50.051.

657 Section 16. Paragraph (c) of subsection (3) of section  
658 166.041, Florida Statutes, is amended to read:

659 166.041 Procedures for adoption of ordinances and  
660 resolutions.—

661 (3)

662 (c) Ordinances initiated by other than the municipality  
663 that change the actual zoning map designation of a parcel or  
664 parcels of land shall be enacted pursuant to paragraph (a).  
665 Ordinances that change the actual list of permitted,  
666 conditional, or prohibited uses within a zoning category, or  
667 ordinances initiated by the municipality that change the actual  
668 zoning map designation of a parcel or parcels of land shall be  
669 enacted pursuant to the following procedure:

670 1. In cases in which the proposed ordinance changes the  
671 actual zoning map designation for a parcel or parcels of land  
672 involving less than 10 contiguous acres, the governing body  
673 shall direct the clerk of the governing body to notify by mail  
674 each real property owner whose land the municipality will  
675 redesignate by enactment of the ordinance and whose address is

676 known by reference to the latest ad valorem tax records. The  
677 notice shall state the substance of the proposed ordinance as it  
678 affects that property owner and shall set a time and place for  
679 one or more public hearings on such ordinance. Such notice shall  
680 be given at least 30 days prior to the date set for the public  
681 hearing, and a copy of the notice shall be kept available for  
682 public inspection during the regular business hours of the  
683 office of the clerk of the governing body. The governing body  
684 shall hold a public hearing on the proposed ordinance and may,  
685 upon the conclusion of the hearing, immediately adopt the  
686 ordinance.

687 2. In cases in which the proposed ordinance changes the  
688 actual list of permitted, conditional, or prohibited uses within  
689 a zoning category, or changes the actual zoning map designation  
690 of a parcel or parcels of land involving 10 contiguous acres or  
691 more, the governing body shall provide for public notice and  
692 hearings as follows:

693 a. The local governing body shall hold two advertised  
694 public hearings on the proposed ordinance. At least one hearing  
695 shall be held after 5 p.m. on a weekday, unless the local  
696 governing body, by a majority plus one vote, elects to conduct  
697 that hearing at another time of day. The first public hearing  
698 shall be held at least 7 days after the day that the first  
699 advertisement is published. The second hearing shall be held at  
700 least 10 days after the first hearing and shall be advertised at

701 least 5 days prior to the public hearing.

702 b. If published in a newspaper, the required  
703 advertisements shall be no less than 2 columns wide by 10 inches  
704 long in a standard size or a tabloid size newspaper, and the  
705 headline in the advertisement shall be in a type no smaller than  
706 18 point. The advertisement shall not be placed in that portion  
707 of the newspaper where legal notices and classified  
708 advertisements appear. The advertisement shall be placed in a  
709 newspaper ~~of general paid circulation~~ in the municipality and of  
710 general interest and readership in the municipality, not one of  
711 limited subject matter, pursuant to chapter 50. It is the  
712 legislative intent that, whenever possible, the advertisement  
713 appear in a newspaper that is published at least weekly ~~5 days a~~  
714 ~~week~~ unless the only newspaper in the municipality is published  
715 less than weekly ~~5 days a~~ week. The advertisement shall be in  
716 substantially the following form:

717 NOTICE OF (TYPE OF) CHANGE

718 The ...(name of local governmental unit)... proposes to  
719 adopt the following ordinance:...(title of the ordinance)....

720 A public hearing on the ordinance will be held on ...(date  
721 and time)... at ...(meeting place)....

722 Except for amendments which change the actual list of permitted,  
723 conditional, or prohibited uses within a zoning category, the  
724 advertisement shall contain a geographic location map which  
725 clearly indicates the area covered by the proposed ordinance.

726 The map shall include major street names as a means of  
727 identification of the general area. If ~~In addition to being~~  
728 published in the newspaper, the map must also be part of the  
729 online notice required pursuant to s. 50.0211 or s. 50.0311.

730 c. In lieu of publishing the advertisement set out in this  
731 paragraph, the municipality may mail a notice to each person  
732 owning real property within the area covered by the ordinance.  
733 Such notice shall clearly explain the proposed ordinance and  
734 shall notify the person of the time, place, and location of any  
735 public hearing on the proposed ordinance.

736 Section 17. Subsection (1) of section 189.015, Florida  
737 Statutes, is amended to read:

738 189.015 Meetings; notice; required reports.—

739 (1) The governing body of each special district shall file  
740 quarterly, semiannually, or annually a schedule of its regular  
741 meetings with the local governing authority or authorities. The  
742 schedule shall include the date, time, and location of each  
743 scheduled meeting. The schedule shall be published quarterly,  
744 semiannually, or annually ~~in a newspaper of general paid~~  
745 ~~circulation~~ in the manner required in this subsection. The  
746 governing body of an independent special district shall  
747 advertise the day, time, place, and purpose of any meeting other  
748 than a regular meeting or any recessed and reconvened meeting of  
749 the governing body, at least 7 days before such meeting as  
750 provided in chapter 50, ~~in a newspaper of general paid~~

751 ~~circulation in the county or counties in which the special~~  
752 ~~district is located,~~ unless a bona fide emergency situation  
753 exists, in which case a meeting to deal with the emergency may  
754 be held as necessary, with reasonable notice, so long as it is  
755 subsequently ratified by the governing body. No approval of the  
756 annual budget shall be granted at an emergency meeting. The  
757 notice shall be posted as provided in ~~advertisement shall be~~  
758 ~~placed in that portion of the newspaper where legal notices and~~  
759 ~~classified advertisements appear. The advertisement shall appear~~  
760 ~~in a newspaper that is published at least 5 days a week, unless~~  
761 ~~the only newspaper in the county is published fewer than 5 days~~  
762 ~~a week. The newspaper selected must be one of general interest~~  
763 ~~and readership in the community and not one of limited subject~~  
764 ~~matter, pursuant to chapter 50. Any other provision of law to~~  
765 the contrary notwithstanding, and except in the case of  
766 emergency meetings, water management districts may provide  
767 reasonable notice of public meetings held to evaluate responses  
768 to solicitations issued by the water management district, by  
769 publication as provided in chapter 50 on a publicly accessible  
770 website or in a newspaper ~~of general paid circulation~~ in the  
771 county where the principal office of the water management  
772 district is located, or in the county or counties where the  
773 public work will be performed, no less than 7 days before such  
774 meeting.

775 Section 18. Paragraph (d) of subsection (1) of section



776 190.005, Florida Statutes, is amended to read:

777 190.005 Establishment of district.—

778 (1) The exclusive and uniform method for the establishment  
779 of a community development district with a size of 2,500 acres  
780 or more shall be pursuant to a rule, adopted under chapter 120  
781 by the Florida Land and Water Adjudicatory Commission, granting  
782 a petition for the establishment of a community development  
783 district.

784 (d) A local public hearing on the petition shall be  
785 conducted by a hearing officer in conformance with the  
786 applicable requirements and procedures of the Administrative  
787 Procedure Act. The hearing shall include oral and written  
788 comments on the petition pertinent to the factors specified in  
789 paragraph (e). The hearing shall be held at an accessible  
790 location in the county in which the community development  
791 district is to be located. The petitioner shall cause a notice  
792 of the hearing to be published for 4 successive weeks on a  
793 publicly accessible website or in a newspaper at least once a  
794 week for the 4 successive weeks immediately prior to the hearing  
795 as provided in chapter 50. Such notice shall give the time and  
796 place for the hearing, a description of the area to be included  
797 in the district, which description shall include a map showing  
798 clearly the area to be covered by the district, and any other  
799 relevant information which the establishing governing bodies may  
800 require. If published in a newspaper, the advertisement shall

801 not be placed in that portion of the newspaper where legal  
802 notices and classified advertisements appear. The advertisement  
803 shall be published in a newspaper ~~of general paid circulation~~ in  
804 the county and of general interest and readership in the  
805 community, not one of limited subject matter, pursuant to  
806 chapter 50. Whenever possible, the advertisement shall appear in  
807 a newspaper that is published at least weekly ~~5 days a week~~,  
808 unless the only newspaper in the community is published less  
809 than weekly ~~fewer than 5 days a week~~. ~~If In addition to being~~  
810 published in the newspaper, the map referenced above must also  
811 be part of the online advertisement required pursuant to s.  
812 50.0211 or s. 50.0311. All affected units of general-purpose  
813 local government and the general public shall be given an  
814 opportunity to appear at the hearing and present oral or written  
815 comments on the petition.

816 Section 19. Paragraph (h) of subsection (1) of section  
817 190.046, Florida Statutes, is amended to read:

818 190.046 Termination, contraction, or expansion of  
819 district.—

820 (1) A landowner or the board may petition to contract or  
821 expand the boundaries of a community development district in the  
822 following manner:

823 (h) For a petition to establish a new community  
824 development district of less than 2,500 acres on land located  
825 solely in one county or one municipality, sufficiently

826 contiguous lands located within the county or municipality which  
827 the petitioner anticipates adding to the boundaries of the  
828 district within 10 years after the effective date of the  
829 ordinance establishing the district may also be identified. If  
830 such sufficiently contiguous land is identified, the petition  
831 must include a legal description of each additional parcel  
832 within the sufficiently contiguous land, the current owner of  
833 the parcel, the acreage of the parcel, and the current land use  
834 designation of the parcel. At least 14 days before the hearing  
835 required under s. 190.005(2)(b), the petitioner must give the  
836 current owner of each such parcel notice of filing the petition  
837 to establish the district, the date and time of the public  
838 hearing on the petition, and the name and address of the  
839 petitioner. A parcel may not be included in the district without  
840 the written consent of the owner of the parcel.

841 1. After establishment of the district, a person may  
842 petition the county or municipality to amend the boundaries of  
843 the district to include a previously identified parcel that was  
844 a proposed addition to the district before its establishment. A  
845 filing fee may not be charged for this petition. Each such  
846 petition must include:

847 a. A legal description by metes and bounds of the parcel  
848 to be added;

849 b. A new legal description by metes and bounds of the  
850 district;

851 c. Written consent of all owners of the parcel to be  
852 added;

853 d. A map of the district including the parcel to be added;

854 e. A description of the development proposed on the  
855 additional parcel; and

856 f. A copy of the original petition identifying the parcel  
857 to be added.

858 2. Before filing with the county or municipality, the  
859 person must provide the petition to the district and to the  
860 owner of the proposed additional parcel, if the owner is not the  
861 petitioner.

862 3. Once the petition is determined sufficient and  
863 complete, the county or municipality must process the addition  
864 of the parcel to the district as an amendment to the ordinance  
865 that establishes the district. The county or municipality may  
866 process all petitions to amend the ordinance for parcels  
867 identified in the original petition, even if, by adding such  
868 parcels, the district exceeds 2,500 acres.

869 4. The petitioner shall cause to be published in a  
870 newspaper of general circulation in the proposed district a  
871 notice of the intent to amend the ordinance that establishes the  
872 district. The notice must be in addition to any notice required  
873 for adoption of the ordinance amendment. Such notice must be  
874 published as provided in chapter 50 at least 10 days before the  
875 scheduled hearing on the ordinance amendment ~~and may be~~

876 | ~~published in the section of the newspaper reserved for legal~~  
 877 | ~~notices.~~ The notice must include a general description of the  
 878 | land to be added to the district and the date and time of the  
 879 | scheduled hearing to amend the ordinance. The petitioner shall  
 880 | deliver, including by mail or hand delivery, the notice of the  
 881 | hearing on the ordinance amendment to the owner of the parcel  
 882 | and to the district at least 14 days before the scheduled  
 883 | hearing.

884 |         5. The amendment of a district by the addition of a parcel  
 885 | pursuant to this paragraph does not alter the transition from  
 886 | landowner voting to qualified elector voting pursuant to s.  
 887 | 190.006, even if the total size of the district after the  
 888 | addition of the parcel exceeds 5,000 acres. Upon adoption of the  
 889 | ordinance expanding the district, the petitioner must cause to  
 890 | be recorded a notice of boundary amendment which reflects the  
 891 | new boundaries of the district.

892 |         6. This paragraph is intended to facilitate the orderly  
 893 | addition of lands to a district under certain circumstances and  
 894 | does not preclude the addition of lands to any district using  
 895 | the procedures in the other provisions of this section.

896 |         Section 20. Subsection (1) of section 194.037, Florida  
 897 | Statutes, is amended to read:

898 |             194.037 Disclosure of tax impact.—

899 |             (1) After hearing all petitions, complaints, appeals, and  
 900 | disputes, the clerk shall make public notice of the findings and

901 results of the board as provided in chapter 50. If published in  
902 a newspaper, the notice must be in at least a quarter-page size  
903 advertisement of a standard size or tabloid size newspaper, and  
904 the headline shall be in a type no smaller than 18 point. The  
905 advertisement shall not be placed in that portion of the  
906 newspaper where legal notices and classified advertisements  
907 appear. The advertisement shall be published in a newspaper ~~of~~  
908 ~~general paid circulation~~ in the county. The newspaper selected  
909 shall be one of general interest and readership in the  
910 community, and not one of limited subject matter, pursuant to  
911 chapter 50. For all advertisements published pursuant to this  
912 section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT  
913 BOARD. The public notice shall list the members of the value  
914 adjustment board and the taxing authorities to which they are  
915 elected. The form shall show, in columnar form, for each of the  
916 property classes listed under subsection (2), the following  
917 information, with appropriate column totals:

918 (a) In the first column, the number of parcels for which  
919 the board granted exemptions that had been denied or that had  
920 not been acted upon by the property appraiser.

921 (b) In the second column, the number of parcels for which  
922 petitions were filed concerning a property tax exemption.

923 (c) In the third column, the number of parcels for which  
924 the board considered the petition and reduced the assessment  
925 from that made by the property appraiser on the initial

926 assessment roll.

927 (d) In the fourth column, the number of parcels for which  
928 petitions were filed but not considered by the board because  
929 such petitions were withdrawn or settled prior to the board's  
930 consideration.

931 (e) In the fifth column, the number of parcels for which  
932 petitions were filed requesting a change in assessed value,  
933 including requested changes in assessment classification.

934 (f) In the sixth column, the net change in taxable value  
935 from the assessor's initial roll which results from board  
936 decisions.

937 (g) In the seventh column, the net shift in taxes to  
938 parcels not granted relief by the board. The shift shall be  
939 computed as the amount shown in column 6 multiplied by the  
940 applicable millage rates adopted by the taxing authorities in  
941 hearings held pursuant to s. 200.065(2)(d) or adopted by vote of  
942 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
943 Constitution, but without adjustment as authorized pursuant to  
944 s. 200.065(6). If for any taxing authority the hearing has not  
945 been completed at the time the notice required herein is  
946 prepared, the millage rate used shall be that adopted in the  
947 hearing held pursuant to s. 200.065(2)(c).

948 Section 21. Subsection (1) of section 197.402, Florida  
949 Statutes, is amended to read:

950 197.402 Advertisement of real or personal property with

951 delinquent taxes.-

952 (1) If advertisements are required, the board of county  
 953 commissioners shall make such notice ~~select the newspaper~~ as  
 954 provided in chapter 50. The tax collector shall pay all  
 955 ~~newspaper~~ charges, and the proportionate cost of the  
 956 advertisements shall be added to the delinquent taxes collected.

957 Section 22. Subsection (3) of section 200.065, Florida  
 958 Statutes, is amended to read:

959 200.065 Method of fixing millage.-

960 (3) The advertisement shall be published as provided in  
 961 chapter 50. If the advertisement is published by newspaper, the  
 962 advertisement must be no less than one-quarter page in size of a  
 963 standard size or a tabloid size newspaper, and the headline in  
 964 the advertisement shall be in a type no smaller than 18 point.  
 965 The advertisement shall not be placed in that portion of the  
 966 newspaper where legal notices and classified advertisements  
 967 appear. The advertisement shall be published in a newspaper ~~of~~  
 968 ~~general paid circulation~~ in the county or in a geographically  
 969 limited insert of such newspaper. The geographic boundaries in  
 970 which such insert is circulated shall include the geographic  
 971 boundaries of the taxing authority. It is the legislative intent  
 972 that, whenever possible, the advertisement appear in a newspaper  
 973 that is published at least weekly ~~5 days a week~~ unless the only  
 974 newspaper in the county is published less than weekly ~~5 days a~~  
 975 ~~week~~, or that the advertisement appear in a geographically



976 | limited insert of such newspaper which insert is published  
 977 | throughout the taxing authority's jurisdiction at least twice  
 978 | each week. It is further the legislative intent that the  
 979 | newspaper selected be one of general interest and readership in  
 980 | the community and not one of limited subject matter, pursuant to  
 981 | chapter 50.

982 | (a) For taxing authorities other than school districts  
 983 | which have tentatively adopted a millage rate in excess of 100  
 984 | percent of the rolled-back rate computed pursuant to subsection  
 985 | (1), the advertisement shall be in the following form:

986 | NOTICE OF PROPOSED TAX INCREASE

987 | The ...(name of the taxing authority)... has tentatively  
 988 | adopted a measure to increase its property tax levy.

989 | Last year's property tax levy:

990 | A. Initially proposed tax levy.....\$XX,XXX,XXX

991 | B. Less tax reductions due to Value Adjustment Board and  
 992 | other assessment changes.....(\$XX,XXX,XXX)

993 | C. Actual property tax levy.....\$XX,XXX,XXX

994 | This year's proposed tax levy.....\$XX,XXX,XXX

995 | All concerned citizens are invited to attend a public  
 996 | hearing on the tax increase to be held on ...(date and time)...  
 997 | at ...(meeting place)....

998 | A FINAL DECISION on the proposed tax increase and the  
 999 | budget will be made at this hearing.

1000 | (b) In all instances in which the provisions of paragraph

1001 (a) are inapplicable for taxing authorities other than school  
 1002 districts, the advertisement shall be in the following form:

1003 NOTICE OF BUDGET HEARING

1004 The ...(name of taxing authority)... has tentatively  
 1005 adopted a budget for ...(fiscal year).... A public hearing to  
 1006 make a FINAL DECISION on the budget AND TAXES will be held on  
 1007 ...(date and time)... at ...(meeting place)....

1008 (c) For school districts which have proposed a millage  
 1009 rate in excess of 100 percent of the rolled-back rate computed  
 1010 pursuant to subsection (1) and which propose to levy nonvoted  
 1011 millage in excess of the minimum amount required pursuant to s.  
 1012 1011.60(6), the advertisement shall be in the following form:

1013 NOTICE OF PROPOSED TAX INCREASE

1014 The ...(name of school district)... will soon consider a  
 1015 measure to increase its property tax levy.

1016 Last year's property tax levy:

1017 A. Initially proposed tax levy.....\$XX,XXX,XXX

1018 B. Less tax reductions due to Value Adjustment Board and  
 1019 other assessment changes..... (\$XX,XXX,XXX)

1020 C. Actual property tax levy.....\$XX,XXX,XXX

1021 This year's proposed tax levy.....\$XX,XXX,XXX

1022 A portion of the tax levy is required under state law in  
 1023 order for the school board to receive \$...(amount A)... in state  
 1024 education grants. The required portion has ...(increased or  
 1025 decreased)... by ...(amount B)... percent and represents

1026 | approximately ...(amount C)... of the total proposed taxes.

1027 |         The remainder of the taxes is proposed solely at the  
1028 | discretion of the school board.

1029 |         All concerned citizens are invited to a public hearing on  
1030 | the tax increase to be held on ...(date and time)... at  
1031 | ...(meeting place)....

1032 |         A DECISION on the proposed tax increase and the budget will  
1033 | be made at this hearing.

1034 |         1. AMOUNT A shall be an estimate, provided by the  
1035 | Department of Education, of the amount to be received in the  
1036 | current fiscal year by the district from state appropriations  
1037 | for the Florida Education Finance Program.

1038 |         2. AMOUNT B shall be the percent increase over the rolled-  
1039 | back rate necessary to levy only the required local effort in  
1040 | the current fiscal year, computed as though in the preceding  
1041 | fiscal year only the required local effort was levied.

1042 |         3. AMOUNT C shall be the quotient of required local-effort  
1043 | millage divided by the total proposed nonvoted millage, rounded  
1044 | to the nearest tenth and stated in words; however, the stated  
1045 | amount shall not exceed nine-tenths.

1046 |         (d) For school districts which have proposed a millage  
1047 | rate in excess of 100 percent of the rolled-back rate computed  
1048 | pursuant to subsection (1) and which propose to levy as nonvoted  
1049 | millage only the minimum amount required pursuant to s.

1050 | 1011.60(6), the advertisement shall be the same as provided in

1051 paragraph (c), except that the second and third paragraphs shall  
 1052 be replaced with the following paragraph:

1053 This increase is required under state law in order for the  
 1054 school board to receive \$...(amount A)... in state education  
 1055 grants.

1056 (e) In all instances in which the provisions of paragraphs  
 1057 (c) and (d) are inapplicable for school districts, the  
 1058 advertisement shall be in the following form:

1059 NOTICE OF BUDGET HEARING

1060 The ...(name of school district)... will soon consider a  
 1061 budget for ...(fiscal year).... A public hearing to make a  
 1062 DECISION on the budget AND TAXES will be held on ...(date and  
 1063 time)... at ...(meeting place)....

1064 (f) In lieu of publishing the notice set out in this  
 1065 subsection, the taxing authority may mail a copy of the notice  
 1066 to each elector residing within the jurisdiction of the taxing  
 1067 authority.

1068 (g) In the event that the mailing of the notice of  
 1069 proposed property taxes is delayed beyond September 3 in a  
 1070 county, any multicounty taxing authority which levies ad valorem  
 1071 taxes within that county shall advertise its intention to adopt  
 1072 a tentative budget and millage rate in a newspaper of paid  
 1073 general circulation within that county, as provided in this  
 1074 subsection, and shall hold the hearing required pursuant to  
 1075 paragraph (2) (c) not less than 2 days or more than 5 days

1076 thereafter, and not later than September 18. The advertisement  
 1077 shall be in the following form, unless the proposed millage rate  
 1078 is less than or equal to the rolled-back rate, computed pursuant  
 1079 to subsection (1), in which case the advertisement shall be as  
 1080 provided in paragraph (e):

1081 NOTICE OF TAX INCREASE

1082 The ...(name of the taxing authority)... proposes to  
 1083 increase its property tax levy by ...(percentage of increase  
 1084 over rolled-back rate)... percent.

1085 All concerned citizens are invited to attend a public  
 1086 hearing on the proposed tax increase to be held on ...(date and  
 1087 time)... at ...(meeting place)....

1088 (h) In no event shall any taxing authority add to or  
 1089 delete from the language of the advertisements as specified  
 1090 herein unless expressly authorized by law, except that, if an  
 1091 increase in ad valorem tax rates will affect only a portion of  
 1092 the jurisdiction of a taxing authority, advertisements may  
 1093 include a map or geographical description of the area to be  
 1094 affected and the proposed use of the tax revenues under  
 1095 consideration. In addition, if published in the newspaper, the  
 1096 map must be part of the online advertisement required by s.  
 1097 50.0211 or s. 50.0311. The advertisements required herein shall  
 1098 not be accompanied, preceded, or followed by other advertising  
 1099 or notices which conflict with or modify the substantive content  
 1100 prescribed herein.

1101 (i) The advertisements required pursuant to paragraphs (b)  
 1102 and (e) need not be one-quarter page in size or have a headline  
 1103 in type no smaller than 18 point.

1104 (j) The amounts to be published as percentages of increase  
 1105 over the rolled-back rate pursuant to this subsection shall be  
 1106 based on aggregate millage rates and shall exclude voted millage  
 1107 levies unless expressly provided otherwise in this subsection.

1108 (k) Any taxing authority which will levy an ad valorem tax  
 1109 for an upcoming budget year but does not levy an ad valorem tax  
 1110 currently shall, in the advertisement specified in paragraph  
 1111 (a), paragraph (c), paragraph (d), or paragraph (g), replace the  
 1112 phrase "increase its property tax levy by ... (percentage of  
 1113 increase over rolled-back rate)... percent" with the phrase  
 1114 "impose a new property tax levy of \$... (amount)... per \$1,000  
 1115 value."

1116 (l) Any advertisement required pursuant to this section  
 1117 shall be accompanied by an adjacent notice meeting the budget  
 1118 summary requirements of s. 129.03(3)(b). Except for those taxing  
 1119 authorities proposing to levy ad valorem taxes for the first  
 1120 time, the following statement shall appear in the budget summary  
 1121 in boldfaced type immediately following the heading, if the  
 1122 applicable percentage is greater than zero:

1123 THE PROPOSED OPERATING BUDGET EXPENDITURES OF ... (name of  
 1124 taxing authority)... ARE ... (percent rounded to one decimal  
 1125 place)... MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

1126 For purposes of this paragraph, "proposed operating budget  
 1127 expenditures" or "operating expenditures" means all moneys of  
 1128 the local government, including dependent special districts,  
 1129 that:

1130 1. Were or could be expended during the applicable fiscal  
 1131 year, or

1132 2. Were or could be retained as a balance for future  
 1133 spending in the fiscal year.

1134

1135 Provided, however, those moneys held in or used in trust,  
 1136 agency, or internal service funds, and expenditures of bond  
 1137 proceeds for capital outlay or for advanced refunded debt  
 1138 principal, shall be excluded.

1139 Section 23. Paragraph (c) of subsection (1) of section  
 1140 338.223, Florida Statutes, is amended to read:

1141 338.223 Proposed turnpike projects.—

1142 (1)

1143 (c) Prior to requesting legislative approval of a proposed  
 1144 turnpike project, the environmental feasibility of the proposed  
 1145 project shall be reviewed by the Department of Environmental  
 1146 Protection. The department shall submit its Project Development  
 1147 and Environmental Report to the Department of Environmental  
 1148 Protection, along with a draft copy of a public notice. Within  
 1149 14 days of receipt of the draft public notice, the Department of  
 1150 Environmental Protection shall return the draft public notice to

1151 the Department of Transportation with an approval of the  
 1152 language or modifications to the language. Upon receipt of the  
 1153 approved or modified draft, or if no comments are provided  
 1154 within 14 days, the Department of Transportation shall publish  
 1155 the notice as provided in chapter 50 ~~in a newspaper~~ to provide a  
 1156 30-day public comment period. If published in a newspaper, the  
 1157 headline of the required notice shall be in a type no smaller  
 1158 than 18 point, ~~The notice~~ shall be placed in that portion of  
 1159 the newspaper where legal notices appear, and ~~The notice~~ shall  
 1160 be published in a newspaper of general circulation in the county  
 1161 or counties of general interest and readership in the community  
 1162 as provided in s. 50.031, not one of limited subject matter.  
 1163 Whenever possible, the notice shall appear in a newspaper that  
 1164 is published at least weekly ~~5 days a week~~. All The notices  
 1165 ~~notice~~ published pursuant to this section shall include, at a  
 1166 minimum ~~but is not limited to~~, the following information:

1167 1. The purpose of the notice is to provide for a 30-day  
 1168 period for written public comments on the environmental impacts  
 1169 of a proposed turnpike project.

1170 2. The name and description of the project, along with a  
 1171 geographic location map clearly indicating the area where the  
 1172 proposed project will be located.

1173 3. The address where such comments must be sent and the  
 1174 date such comments are due.

1175



1176 After a review of the department's report and any public  
1177 comments, the Department of Environmental Protection shall  
1178 submit a statement of environmental feasibility to the  
1179 department within 30 days after the date on which public  
1180 comments are due. The notice and the statement of environmental  
1181 feasibility shall not give rise to any rights to a hearing or  
1182 other rights or remedies provided pursuant to chapter 120 or  
1183 chapter 403, and shall not bind the Department of Environmental  
1184 Protection in any subsequent environmental permit review.

1185 Section 24. Subsection (3) of section 348.0308, Florida  
1186 Statutes, is amended to read:

1187 348.0308 Public-private partnership.—The Legislature  
1188 declares that there is a public need for the rapid construction  
1189 of safe and efficient transportation facilities for traveling  
1190 within the state and that it is in the public's interest to  
1191 provide for public-private partnership agreements to effectuate  
1192 the construction of additional safe, convenient, and economical  
1193 transportation facilities.

1194 (3) The agency may request proposals for public-private  
1195 transportation projects or, if it receives an unsolicited  
1196 proposal, it must publish a notice in the Florida Administrative  
1197 Register and as provided in chapter 50 ~~a newspaper of general~~  
1198 ~~circulation~~ in each ~~the~~ county in which the project ~~it~~ is  
1199 located at least once a week for 2 weeks stating that it has  
1200 received the proposal and will accept, for 60 days after the

1201 initial date of publication, other proposals for the same  
1202 project purpose. A copy of the notice must be mailed to each  
1203 local government in the affected areas. After the public  
1204 notification period has expired, the agency shall rank the  
1205 proposals in order of preference. In ranking the proposals, the  
1206 agency shall consider professional qualifications, general  
1207 business terms, innovative engineering or cost-reduction terms,  
1208 finance plans, and the need for state funds to deliver the  
1209 proposal. If the agency is not satisfied with the results of the  
1210 negotiations, it may, at its sole discretion, terminate  
1211 negotiations with the proposer. If these negotiations are  
1212 unsuccessful, the agency may go to the second and lower-ranked  
1213 firms, in order, using the same procedure. If only one proposal  
1214 is received, the agency may negotiate in good faith, and if it  
1215 is not satisfied with the results, it may, at its sole  
1216 discretion, terminate negotiations with the proposer. The agency  
1217 may, at its discretion, reject all proposals at any point in the  
1218 process up to completion of a contract with the proposer.

1219 Section 25. Subsection (3) of section 348.635, Florida  
1220 Statutes, is amended to read:

1221 348.635 Public-private partnership.—The Legislature  
1222 declares that there is a public need for the rapid construction  
1223 of safe and efficient transportation facilities for traveling  
1224 within the state and that it is in the public's interest to  
1225 provide for public-private partnership agreements to effectuate

1226 the construction of additional safe, convenient, and economical  
1227 transportation facilities.

1228 (3) The authority may request proposals for public-private  
1229 transportation projects or, if it receives an unsolicited  
1230 proposal, it must publish a notice in the Florida Administrative  
1231 Register as provided in chapter 50 ~~and a newspaper of general~~  
1232 ~~circulation~~ in each the county in which the project ~~it~~ is  
1233 located at least once a week for 2 weeks stating that it has  
1234 received the proposal and will accept, for 60 days after the  
1235 initial date of publication, other proposals for the same  
1236 project purpose. A copy of the notice must be mailed to each  
1237 local government in the affected areas. After the public  
1238 notification period has expired, the authority shall rank the  
1239 proposals in order of preference. In ranking the proposals, the  
1240 authority shall consider professional qualifications, general  
1241 business terms, innovative engineering or cost-reduction terms,  
1242 finance plans, and the need for state funds to deliver the  
1243 proposal. If the authority is not satisfied with the results of  
1244 the negotiations, it may, at its sole discretion, terminate  
1245 negotiations with the proposer. If these negotiations are  
1246 unsuccessful, the authority may go to the second and lower-  
1247 ranked firms, in order, using the same procedure. If only one  
1248 proposal is received, the authority may negotiate in good faith,  
1249 and if it is not satisfied with the results, it may, at its sole  
1250 discretion, terminate negotiations with the proposer. The

1251 authority may, at its discretion, reject all proposals at any  
1252 point in the process up to completion of a contract with the  
1253 proposer.

1254 Section 26. Subsection (3) of section 348.7605, Florida  
1255 Statutes, is amended to read:

1256 348.7605 Public-private partnership.—The Legislature  
1257 declares that there is a public need for the rapid construction  
1258 of safe and efficient transportation facilities for traveling  
1259 within the state and that it is in the public's interest to  
1260 provide for public-private partnership agreements to effectuate  
1261 the construction of additional safe, convenient, and economical  
1262 transportation facilities.

1263 (3) The authority may request proposals for public-private  
1264 transportation projects or, if it receives an unsolicited  
1265 proposal, it must publish a notice in the Florida Administrative  
1266 Register and as provided in chapter 50 ~~a newspaper of general~~  
1267 ~~circulation~~ in each the county in which the project ~~it~~ is  
1268 located at least once a week for 2 weeks stating that it has  
1269 received the proposal and will accept, for 60 days after the  
1270 initial date of publication, other proposals for the same  
1271 project purpose. A copy of the notice must be mailed to each  
1272 local government in the affected areas. After the public  
1273 notification period has expired, the authority shall rank the  
1274 proposals in order of preference. In ranking the proposals, the  
1275 authority shall consider professional qualifications, general

1276 business terms, innovative engineering or cost-reduction terms,  
1277 finance plans, and the need for state funds to deliver the  
1278 proposal. If the authority is not satisfied with the results of  
1279 the negotiations, it may, at its sole discretion, terminate  
1280 negotiations with the proposer. If these negotiations are  
1281 unsuccessful, the authority may go to the second and lower-  
1282 ranked firms, in order, using the same procedure. If only one  
1283 proposal is received, the authority may negotiate in good faith,  
1284 and if it is not satisfied with the results, it may, at its sole  
1285 discretion, terminate negotiations with the proposer. The  
1286 authority may, at its discretion, reject all proposals at any  
1287 point in the process up to completion of a contract with the  
1288 proposer.

1289 Section 27. Section 373.0397, Florida Statutes, is amended  
1290 to read:

1291 373.0397 Floridan and Biscayne aquifers; designation of  
1292 prime groundwater recharge areas.—Upon preparation of an  
1293 inventory of prime groundwater recharge areas for the Floridan  
1294 or Biscayne aquifers, but prior to adoption by the governing  
1295 board, the water management district shall publish a legal  
1296 notice of public hearing on the designated areas for the  
1297 Floridan and Biscayne aquifers, with a map delineating the  
1298 boundaries of the areas, as provided ~~in newspapers defined in~~  
1299 chapter 50 in each county ~~as having general circulation~~ within  
1300 the area to be affected. The notice shall be at least one-fourth

1301 page and shall read as follows:

1302 NOTICE OF PRIME RECHARGE

1303 AREA DESIGNATION

1304 The ...(name of taxing authority)... proposes to designate  
 1305 specific land areas as areas of prime recharge to the ...(name  
 1306 of aquifer)... Aquifer.

1307 All concerned citizens are invited to attend a public  
 1308 hearing on the proposed designation to be held on ...(date and  
 1309 time)... at ...(meeting place)....

1310 A map of the affected areas follows.

1311 The governing board of the water management district shall adopt  
 1312 a designation of prime groundwater recharge areas to the  
 1313 Floridan and Biscayne aquifers by rule within 120 days after the  
 1314 public hearing, subject to the provisions of chapter 120.

1315 Section 28. Section 373.146, Florida Statutes, is amended  
 1316 to read:

1317 373.146 Publication of notices, process, and papers.—

1318 (1) Whenever in this chapter the publication of any  
 1319 notice, process, or paper is required or provided for, unless  
 1320 otherwise provided by law, the publication thereof ~~in some~~  
 1321 ~~newspaper or newspapers~~ as provided ~~defined~~ in chapter 50 in  
 1322 each county ~~having general circulation~~ within the area to be  
 1323 affected shall be taken and considered as being sufficient.

1324 (2) Notwithstanding any other provision of law to the  
 1325 contrary, and except in the case of emergency meetings, water

1326 management districts may provide reasonable notice of public  
 1327 meetings held to evaluate responses to solicitations issued by  
 1328 the water management district, by publication as provided in  
 1329 chapter 50 ~~in a newspaper of general paid circulation~~ in the  
 1330 county where the principal office of the water management  
 1331 district is located, or in the county or counties where the  
 1332 public work will be performed, no less than 7 days before such  
 1333 meeting.

1334 Section 29. Subsection (12) of section 403.722, Florida  
 1335 Statutes, is amended to read:

1336 403.722 Permits; hazardous waste disposal, storage, and  
 1337 treatment facilities.—

1338 (12) On the same day of filing with the department of an  
 1339 application for a permit for the construction modification, or  
 1340 operation of a hazardous waste facility, the applicant shall  
 1341 notify each city and county within 1 mile of the facility of the  
 1342 filing of the application and shall publish notice of the filing  
 1343 of the application. The applicant shall publish a second notice  
 1344 of the filing within 14 days after the date of filing. Each  
 1345 notice shall be published ~~in a newspaper of general circulation~~  
 1346 in the county in which the facility is located or is proposed to  
 1347 be located as provided in chapter 50. ~~Notwithstanding the~~  
 1348 ~~provisions of chapter 50, for purposes of this section, a~~  
 1349 ~~"newspaper of general circulation"~~ shall be the newspaper within  
 1350 ~~the county in which the installation or facility is proposed~~

1351 ~~which has the largest daily circulation in that county and has~~  
1352 ~~its principal office in that county. If the newspaper with the~~  
1353 ~~largest daily circulation has its principal office outside the~~  
1354 ~~county, the notice shall appear in both the newspaper with the~~  
1355 ~~largest daily circulation in that county, and a newspaper~~  
1356 ~~authorized to publish legal notices in that county.~~ The notice  
1357 shall contain:

1358 (a) The name of the applicant and a brief description of  
1359 the project and its location.

1360 (b) The location of the application file and when it is  
1361 available for public inspection.

1362

1363 The notice shall be prepared by the applicant and shall comply  
1364 with the following format:

1365

Notice of Application

1366 The Department of Environmental Protection announces receipt of  
1367 an application for a permit from ...(name of applicant)... to  
1368 ...(brief description of project).... This proposed project will  
1369 be located at ...(location)... in ...(county)... ...(city)....

1370 This application is being processed and is available for public  
1371 inspection during normal business hours, 8:00 a.m. to 5:00 p.m.,  
1372 Monday through Friday, except legal holidays, at ...(name and  
1373 address of office)....

1374 Section 30. Paragraph (b) of subsection (3) of section  
1375 712.06, Florida Statutes, is amended to read:



1376           712.06 Contents of notice; recording and indexing.—  
 1377           (3) The person providing the notice referred to in s.  
 1378 712.05, other than a notice for preservation of a community  
 1379 covenant or restriction, shall:  
 1380           (b) Publish the notice referred to in s. 712.05 for 2  
 1381 consecutive weeks on a publicly accessible website as provided  
 1382 in chapter 50 or once a week, for 2 consecutive weeks in a  
 1383 newspaper as defined in chapter 50, ~~the notice referred to in s.~~  
 1384 ~~712.05,~~ with the official record book and page number in which  
 1385 such notice was recorded, ~~in a newspaper as defined in chapter~~  
 1386 ~~50~~ in the county in which the property is located.  
 1387           Section 31. Subsection (5) of section 849.38, Florida  
 1388 Statutes, is amended to read:  
 1389           849.38 Proceedings for forfeiture; notice of seizure and  
 1390 order to show cause.—  
 1391           (5) If the value of the property seized is shown by the  
 1392 sheriff's return to have an appraised value of \$1,000 or less,  
 1393 the above citation shall be served by posting at three public  
 1394 places in the county, one of which shall be the front door of  
 1395 the courthouse; if the value of the property is shown by the  
 1396 sheriff's return to have an approximate value of more than  
 1397 \$1,000, the citation shall be published for at least 2  
 1398 consecutive weeks on a publicly accessible website as provided  
 1399 in chapter 50 or at least once each week for 2 consecutive weeks  
 1400 in some newspaper of general publication published in the

1401 county, if there be such a newspaper published in the county and  
 1402 if not, then said notice of such publication shall be made by  
 1403 certificate of the clerk if publication is made by posting, and  
 1404 by affidavit as provided in chapter 50, if made by publication  
 1405 as provided in chapter 50 ~~in a newspaper~~, which affidavit or  
 1406 certificate shall be filed and become a part of the record in  
 1407 the cause. Failure of the record to show proof of such  
 1408 publication shall not affect any judgment made in the cause  
 1409 unless it shall affirmatively appear that no such publication  
 1410 was made.

1411 Section 32. Paragraph (a) of subsection (3) of section  
 1412 865.09, Florida Statutes, is amended to read:

1413 865.09 Fictitious name registration.—

1414 (3) REGISTRATION.—

1415 (a) A person may not engage in business under a fictitious  
 1416 name unless the person first registers the name with the  
 1417 division by filing a registration listing:

- 1418 1. The name to be registered.
- 1419 2. The mailing address of the business.
- 1420 3. The name and address of each registrant.
- 1421 4. If the registrant is a business entity that was  
 1422 required to file incorporation or similar documents with its  
 1423 state of organization when it was organized, such entity must be  
 1424 registered with the division and in active status with the  
 1425 division; provide its Florida document registration number; and

1426 provide its federal employer identification number if the entity  
1427 has such a number.

1428 5. Certification by at least one registrant that the  
1429 intention to register such fictitious name has been advertised  
1430 as provided ~~at least once in a newspaper as defined in chapter~~  
1431 50 in the county in which the principal place of business of the  
1432 registrant is or will be located.

1433 6. Any other information the division may reasonably deem  
1434 necessary to adequately inform other governmental agencies and  
1435 the public as to the registrant so conducting business.

1436 Section 33. Paragraph (a) of subsection (6) of section  
1437 932.704, Florida Statutes, is amended to read:

1438 932.704 Forfeiture proceedings.—

1439 (6) (a) If the property is required by law to be titled or  
1440 registered, or if the owner of the property is known in fact to  
1441 the seizing agency, or if the seized property is subject to a  
1442 perfected security interest in accordance with the Uniform  
1443 Commercial Code, chapter 679, the attorney for the seizing  
1444 agency shall serve the forfeiture complaint as an original  
1445 service of process under the Florida Rules of Civil Procedure  
1446 and other applicable law to each person having an ownership or  
1447 security interest in the property. The seizing agency shall also  
1448 publish, in accordance with chapter 50, notice of the forfeiture  
1449 complaint for 2 consecutive weeks on a publicly accessible  
1450 website or once each week for 2 consecutive weeks in a newspaper

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1451 | of general circulation, ~~as defined in s. 165.031,~~ in the county  
1452 | where the seizure occurred.

1453 |       Section 34. This act shall take effect July 1, 2021.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 423 Town of Ocean Breeze, Martin County

**SPONSOR(S):** Local Administration Subcommittee, Overdorf

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N, As CS	Moehrle	Miller
2) State Affairs Committee		Moehrle	Williamson

### SUMMARY ANALYSIS

Generally, a local government must hold its public meetings within the jurisdictional boundaries of the local government, unless specifically authorized to hold such meetings elsewhere. When a municipality with a population under 500 people does not have the proper facilities available within its boundary to serve as a location where the local government may hold public meetings, an exception to general law allows such a municipality to hold its public meetings outside its jurisdictional boundary. Public meetings under this exception must be held within five miles of the exterior municipal boundaries. As of April 1, 2019, there were 45 municipalities with populations under 500.

The Town of Ocean Breeze in Martin County was incorporated in 1960. The Town does not own any meeting facilities within its jurisdictional limits. As of April 1, 2019, Ocean Breeze had an estimated population of 303 people. Residential development in the Town has increased in recent years and the population is projected to exceed 500 people within the next six months.

The bill provides the Town of Ocean Breeze an exemption from general law, authorizing the Town to hold public meetings within 2.5 miles of its exterior jurisdictional boundary as long as its population does not exceed 1,500 people.

The bill does not appear to have a fiscal impact on the state, but according to the Economic Impact Statement, it will cost the Town of Ocean Breeze \$2,000 annually to rent meeting space.

**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) appears to apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### Public Meetings

Article I, s. 24(b) of the Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.<sup>1</sup> The board or commission must provide reasonable notice of all public meetings.<sup>2</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.<sup>3</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>4</sup>

###### Extra-Territorial Public Meetings of Small Municipalities

In 2008, the Legislature authorized the City of Belleair Beach governing board to hold its meetings outside the municipality's boundaries at such time and place as prescribed by ordinance, resolution, or interlocal agreement.<sup>5</sup> The city council was encouraged to hold its meetings in close proximity to the people it serves.<sup>6</sup> Due to the number of situations in which small municipalities did not have the proper facilities available to hold public meetings, the Legislature, in 2011, authorized municipalities with populations under 500 people to hold public meetings within five miles of their exterior jurisdictional boundaries.<sup>7</sup> Prior to the passage of this statute, several Attorney General Opinions<sup>8</sup> indicated that municipalities lacked statutory authorization to hold public meetings outside of their jurisdiction and, without statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction were void.<sup>9</sup>

As of April 1, 2019, there were 45 municipalities with populations under 500 people.<sup>10</sup>

###### Town of Ocean Breeze

The Town of Ocean Breeze (formally known as Ocean Breeze Park) in Martin County was established in 1960 after 162 property owners voted to incorporate.<sup>11</sup> At the time of its incorporation as a

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<sup>1</sup> S. 286.011(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> S. 286.011(6), F.S.

<sup>4</sup> S. 286.011(2), F.S.

<sup>5</sup> Ch. 2008-286, Laws of Fla.

<sup>6</sup> *Id.*

<sup>7</sup> Ch. 2011-147, Laws of Fla., codified as s. 166.0213, F.S.

<sup>8</sup> 08-01 Op. Att'y Gen. 1 (2008); 03-03 Op. Att'y Gen. 1 (2003); 75-139 Op. Att'y Gen. 1 (1975).

<sup>9</sup> 08-01 Op. Att'y Gen. Fla. 1 (2008).

<sup>10</sup> Bureau of Economic and Business Research, *Estimates of Population by County and City in Florida: April 1, 2019*, <http://www.bebr.ufl.edu/population> (last visited Jan. 24, 2020).

<sup>11</sup> Town of Ocean Breeze, *History of Ocean Breeze*, <https://townofoceanbreeze.com/history/> (last visited Jan. 24, 2020).

municipality, the 65-acre trailer park was the largest privately owned trailer park in the United States.<sup>12</sup> The Town consists of the Ocean Breeze Resort, the Seawalk single-family subdivision, and a commercial development named Ocean Breeze Plaza. The mobile home park was owned and operated by the Hoke family until 2007, when they decided to sell the 45-acre park to 134 residents for \$26 million in an owner-financed transaction.<sup>13</sup> In August 2012, the Ocean Breeze Park Homeowners' Association filed for Chapter 11 bankruptcy protection. In 2013, an Arizona-based company, Carefree Communities Inc., purchased the mobile home park for \$16.5 million.<sup>14</sup> As of 2019, the Town has an estimated population of 303 people.<sup>15</sup> The mobile home park, Ocean Breeze Resort, is a community for persons 55 years of age or older.<sup>16</sup>

The Town has seen increased residential development in recent years following the purchase of the Ocean Breeze Resort in 2016 by Michigan-based Sun Communities, Inc.<sup>17</sup> and the development of a new 143-unit single-family subdivision, called Seawalk.<sup>18</sup> Construction in both the Resort and Seawalk is expected to be completed by either late 2023 or early 2024, with a combined total of 500 modular and single-family homes estimated to be built within the two developments.<sup>19</sup> From 2010 to 2018, the Town experienced a population decline from 355 to 163.<sup>20</sup> As of April 1, 2019, the estimated population increased to 303<sup>21</sup> and is expected to continue increasing, possibly doubling by 2021.<sup>22</sup>

The Town currently holds its public meetings at a facility owned by the Ocean Breeze Resort within the municipal boundaries and plans to continue this arrangement for the next two years.<sup>23</sup> The Town does not own any meeting facilities within its jurisdictional limits. Although the Town currently conducts its meetings within the boundaries of the Town, the Town may not be able to find a suitable location for such meetings long-term. When the population exceeds 500, the Town will not be able to meet outside the jurisdictional boundaries of the Town under the small municipality exception.

### Effect of Proposed Changes

The bill provides the Town of Ocean Breeze an exemption from s. 166.0213(1), F.S., authorizing the Town to conduct public meetings within 2.5 miles of its exterior jurisdictional boundary provided the resident population does not exceed 1,500 people. According to the town clerk, Ocean Breeze plans to

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<sup>12</sup> *Id.*

<sup>13</sup> Eve Samples, *What will become of Ocean Breeze Park after bankruptcy*, Stuart News (Sept. 20, 2012), [archive.tcpalm.com/news/columnists/eve-samples-what-will-become-of-ocean-breeze-park-after-bankruptcy-ep-381969088-342990372.html/](https://archive.tcpalm.com/news/columnists/eve-samples-what-will-become-of-ocean-breeze-park-after-bankruptcy-ep-381969088-342990372.html/) (last visited Jan. 24, 2020).

<sup>14</sup> Gil Smart, *Ocean Breeze residents fear they're being priced out*, Stuart News (May 13, 2016), [archive.tcpalm.com/opinion/columnists/gil-smart-ocean-breeze-residents-fear-theyre-being-priced-out-327fe5e9-3760-5766-e053-0100007f58fe-379420081.html](https://archive.tcpalm.com/opinion/columnists/gil-smart-ocean-breeze-residents-fear-theyre-being-priced-out-327fe5e9-3760-5766-e053-0100007f58fe-379420081.html) (last visited Jan. 24, 2020).

<sup>15</sup> Bureau of Economic and Business Research, *Population Studies Program City Estimates*, <https://www.bibr.ufl.edu/population> (last visited Jan. 24, 2020).

<sup>16</sup> Sun Communities, *Ocean Breeze Resort*, <https://www.suncommunities.com/community/ocean-breeze-rv-resort/> (last visited Jan. 27, 2020).

<sup>17</sup> Lidia Dinkova, *Ocean Breeze Town Council gets new faces after Tuesday's election*, Stuart News (Dec. 20, 2016), <https://www.tcpalm.com/story/news/politics/election/elections/2016/12/20/ocean-breeze-town-council-gets-new-faces-after-tuesday-election/95610670/> (last visited Jan. 24, 2020). (There are 489 modular home units and 45 RV sites).

<sup>18</sup> Melissa E. Holsman, *Most Martin County Property values are up, but increases fall short of last year's*, Stuart News (June 5, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/06/05/martin-county-property-values-up-but-fall-short-last-years/1345558001/> (last visited Jan. 24, 2020).

<sup>19</sup> Joshua Solomon, *Ocean Breeze to vote on three Town Council seats in Martin County's only 2019 election*, Stuart News (Aug. 23, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/08/23/ocean-breeze-town-council-election-set-lone-race-martin-county/2095475001/> (last visited Jan. 24, 2020).

<sup>20</sup> Bureau of Economic and Business Research, *Florida Estimates of Population 2018*, <https://www.bibr.ufl.edu/population/data> (last visited Jan. 24, 2020).

<sup>21</sup> Bureau of Economic and Business Research, *Florida Estimates of Population 2019* (Table 1 only), <https://www.bibr.ufl.edu/population/data> (last visited Jan. 30, 2020).

<sup>22</sup> Joshua Solomon, *Ocean Breeze, marked by future growth, could see changes on horizon*, Stuart News (Nov. 6, 2019), <https://www.tcpalm.com/story/news/local/shaping-our-future/growth/2019/11/06/ocean-breeze-elections> (last visited Jan. 24, 2020);

<sup>23</sup> Questions Regarding Town of Ocean Breeze's Proposed Local Law Regarding Town Meeting Locations, on file with the Local Administration Subcommittee.



hold its public meetings at either the Jensen Beach Community Center (owned by Martin County), the Jensen Beach Baptist Church, or the Jensen Beach Chamber of Commerce.<sup>24</sup>

**B. SECTION DIRECTORY:**

Section 1: Provides legislative intent and an exemption to general law for the Town of Ocean Breeze to hold public meetings no further than 2.5 miles outside of its jurisdictional boundary.

Section 2: Provides the act is effective upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 21, 2019

WHERE? The *Stuart News*, a daily newspaper of general circulation published in Martin 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 requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions to General Law

The bill provides the Town of Ocean Breeze an exemption from s. 166.0213(1), F.S., authorizing the Town to conduct public meetings within 2.5 miles of its exterior jurisdictional boundary provided the resident population does not exceed 1,500 people.

Pursuant 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) appear to apply to this bill.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2020, the Local Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute corrects a scrivener's error.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

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<sup>24</sup> *Id.*

1                   A bill to be entitled  
2           An act relating to the Town of Ocean Breeze, Martin  
3           County; providing legislative intent; providing an  
4           exception to general law; authorizing the Town of  
5           Ocean Breeze in Martin County to hold public meetings  
6           within specified mileage of its jurisdictional  
7           boundary under certain circumstances; providing an  
8           effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12           Section 1. (1) The Legislature finds that the  
13 municipality of Ocean Breeze in Martin County currently owns no  
14 public meeting facilities within its jurisdiction and has no  
15 reasonable prospects for doing so in the future.

16           (2) Notwithstanding s. 166.0213(1), Florida Statutes, the  
17 Town of Ocean Breeze in Martin County may hold its public  
18 meetings within 2.5 miles of its exterior jurisdictional  
19 boundary as long as its resident population does not exceed  
20 1,500 persons.

21           Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 597 Tri-Par Estates Park and Recreation District, Sarasota County

**SPONSOR(S):** Local Administration Subcommittee, Newton

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N, As CS	Rivera	Miller
2) State Affairs Committee		Rivera	Williamson

### SUMMARY ANALYSIS

Each municipality and county in the state may create one or more recreation districts, which operate and maintain recreational facilities within the district. Use of facilities may be limited to authorized persons where a valid, paramount public purpose is served. Districts may only be created subject to a referendum unless a petition to create the district is signed by a majority of the electors within the proposed district.

Tri-Par Estates Park and Recreation District (district) is an independent special district created by special act (enabling act) that operates similarly to a recreation district. Use of district facilities is limited to property owners, their family and guests, and other persons authorized by the district. The district is governed by a board of trustees with the authority to levy a district tax and promulgate rules and regulations. The district is not authorized to enforce those rules and regulations and is not authorized to impose penalties for violations.

The bill authorizes the board of trustees for the district to adopt and enforce reasonable rules and regulations and prescribe and enforce penalties. The bill authorizes the board to suspend access to certain common areas or facilities for a specified period. The bill also requires that the board provide notice to the accused violator along with an opportunity for a hearing before levying any penalties. The bill authorizes the board to adopt rules, regulations, and penalties that are not inconsistent with its enabling act and applicable laws as necessary and convenient to carry out the terms of the enabling act.

The bill does not appear to have a fiscal impact on the state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Independent 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. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>1</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>2</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>3</sup> An “independent special district” is any district that is not a dependent special district.<sup>4</sup>

##### *Formation and Charter of an Independent Special District*

With the exception of community development districts,<sup>5</sup> the charter for any new independent special district must include certain minimum elements enumerated in s. 189.031(3), F.S.<sup>6</sup> The charter of a newly-created district must state whether it is dependent or independent.<sup>7</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>8</sup>

The Legislature is prohibited from enacting a special law or general law of local application that:

- Creates a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;<sup>9</sup>
- Exempts district elections from the requirements of s. 189.04, F.S.;<sup>10</sup>
- Exempts a district from the requirements for bond referenda in s. 189.042, F.S.;<sup>11</sup>
- Exempts a district from certain requirements relating to issuing bonds if no referendum is required, requiring special district reports on public facilities, notice and reports of special district public meetings, or required reports, budgets, and audits;<sup>12</sup> or

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<sup>1</sup> See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>2</sup> 2018 – 2020 Local Gov’t Formation Manual, p. 62, available at <https://myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual Final.pdf> (last visited January 9, 2020).

<sup>3</sup> S. 189.012(2), F.S.

<sup>4</sup> S. 189.012(3), F.S.

<sup>5</sup> S. 189.0311, F.S. See s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

<sup>6</sup> S. 189.031(1), F.S.

<sup>7</sup> S. 189.031(5), F.S.

<sup>8</sup> S. 189.031(3), F.S. (setting forth the minimum charter requirements).

<sup>9</sup> S. 189.031(2)(a), F.S.

<sup>10</sup> S. 189.031(2)(b), F.S.

<sup>11</sup> S. 189.031(2)(c), F.S.

<sup>12</sup> See ss. 189.031(2)(d), 189.051, 189.08, 189.015, and 189.016, F.S.

- Creates a district without submitting a statement documenting specific required matters to the Legislature.<sup>13</sup>

These prohibitions were passed by a three-fifth majority in the House of Representatives and Senate when ch. 189, F.S., originally was adopted.<sup>14</sup> They may be amended or repealed only “by like vote.”<sup>15</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>16</sup>

### Recreation Districts

Chapter 418, F.S., authorizes each municipality and county in the state to create one or more recreation districts.<sup>17</sup> A recreation district may contain all or part of the land within a municipality, if created by a municipality. Districts created by counties may only contain unincorporated areas. Recreation districts may be created by municipal or county ordinance, subject to a referendum conducted in accordance with the municipal incorporation and merger requirements.<sup>18</sup> Alternatively, residents in a proposed district may petition the governing body of a municipality or county for the creation of a recreation district. No referendum is required to create the district if a majority of electors signs the petition.<sup>19</sup> The ordinance, and any amendments, act as the district charter.<sup>20</sup> The district charter must specify the composition of the governing body of the district as either:

- A five-member or larger board of supervisors elected from among the residents of the district; or
- The governing body of the municipality or county that created the district.<sup>21</sup>

If the governing body is a board of supervisors, the charter must specify the date of the election and must provide that each property owner or resident in the district has the right to vote in the election. Board members may not receive compensation.<sup>22</sup> The charter may also stagger the terms of the board members and establish electoral sub-units represented by one or more members elected by majority vote within the sub-unit.<sup>23</sup>

The district charter may contain findings by the governing body of the municipality or county, such as a finding that the creation of the district is the best alternative available for delivering recreational service, or if the district is created for the exclusive use of a condominium or cooperative, that a valid and paramount public purpose will be served by the exclusive nature of the district.<sup>24</sup>

The charter of a recreation district may grant the district the following powers and any additional powers deemed necessary or useful in the exercise of those powers:

- To sue and be sued and have a corporate seal;
- To enter contracts;

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<sup>13</sup> S. 189.031(2)(e), F.S. (providing that each required statement filed with the Legislature must include the purpose of the proposed district, the authority of the district, an explanation of why the district is the best alternative, and a resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district).

<sup>14</sup> S. 67, ch. 89-169, Laws of Fla.

<sup>15</sup> Art. III, s. 11(a)(21), Fla. Const.

<sup>16</sup> Art. VII, s. 9(a), Fla. Const.

<sup>17</sup> S. 418.20, F.S.

<sup>18</sup> See s. 165.041, F.S.

<sup>19</sup> S. 418.20, F.S.

<sup>20</sup> The governing body of said municipality or county may from time to time amend such ordinance. Such amendments must be approved by a vote of the electors in the district. S. 418.20, F.S.

<sup>21</sup> S. 418.21(1), F.S.

<sup>22</sup> S. 418.21(2)(b), F.S.

<sup>23</sup> S. 418.21(2), F.S.

<sup>24</sup> Each finding may be reviewed by a court only as part of any review of the ordinance making such finding. S. 418.24, F.S.

- To acquire, purchase, construct, improve, and equip recreational facilities, including real and personal property, within the boundaries of the district;
- To issue bonds, if approved at a referendum held in such district;
- To operate and maintain recreational facilities or contract for such services;
- To establish, charge, and collect fees for admission to or use of recreational facilities and use fees for operation, maintenance, improvement, and acquisition of recreational facilities or the payment of district bonds;
- To adopt and enforce rules for the use of the recreational facilities owned or operated by the district; and
- To employ necessary personnel.<sup>25</sup>

These powers may be restricted or limited by the governing body of the municipality or county, which created the district, but may not impair the district's existing contractual duties.<sup>26</sup>

The county or municipal assessment records serve as the official assessment records for the recreation district. The official charged with keeping said assessment records must provide an assessment roll for the district upon request. Unless otherwise provided by the district charter, the official who collects taxes in the municipality or county must be the tax collector of the district. District taxes are payable at the same time as municipal or county taxes, and must be secured by a lien on taxable property in the same manner as other local government taxes. Enforcement of a district tax lien must follow the enforcement process as liens for municipal or county taxes.<sup>27</sup>

#### *Mobile Home Park Recreation Districts*

Municipalities and counties may create one or more mobile home park recreation districts limited to the boundaries of the mobile home park. These districts may be established by local ordinance subject to a referendum of the electors residing within the mobile home park. The residents within the proposed mobile home park recreational district may petition for the creation of the district, and no referendum is required if the petition is signed by a majority of the electors.<sup>28</sup>

The governing body of a mobile home park recreation district must be a nine-member board of trustees elected by the electors within the district. A person seeking to serve on the board must be a qualified elector within the district and must present a petition with 25 signatures from other district electors to the county supervisor of elections no less than 60 days before an election. After the initial election, trustees serve staggered two-year terms with elections held annually. Trustees are not compensated and must select officers after each election. The remaining trustees make interim appointments to fill any vacancies to serve the remainder of any unexpired term.<sup>29</sup>

Mobile home park recreational districts possess the same powers as recreation districts, including the powers to enter into contracts, adopt rules and regulations not inconsistent with existing deed restrictions, and use district funds in the administration and enforcement of those rules, regulations, and deed restrictions. Mobile home park recreational districts also have the power to levy and assess a special assessment called a "recreation district tax."<sup>30</sup>

A mobile home park recreation district may be abolished by a majority vote of the qualified electors of the district at an election called by the trustees for that purpose. The election must be held and noticed under the same requirements as the creation of the district. However, the district may not be abolished while it has outstanding indebtedness, unless adequate provision is made for the liquidation of such outstanding indebtedness.<sup>31</sup>

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<sup>25</sup> S. 418.22, F.S.

<sup>26</sup> S. 418.23, F.S.

<sup>27</sup> S. 418.26, F.S.

<sup>28</sup> S. 418.30, F.S.

<sup>29</sup> S. 418.302, F.S.

<sup>30</sup> S. 418.304, F.S.

<sup>31</sup> S. 418.309, F.S.

## Tri-Par Estates Park and Recreation District

Tri-Par Estates Park and Recreation District (district) is an independent special district covering all the residential land in Tri-Par Estates subdivisions in Sarasota County.<sup>32</sup> The district was created by special act in 1978 and the charter was recodified in 2001 (enabling act).<sup>33</sup> The enabling act is severable and controls over conflicting laws,<sup>34</sup> and the provisions must be construed liberally to effectuate the purpose of the act and the public interest.<sup>35</sup> The district may impose a tax of up to 0.2 mills on the taxable property within the district.<sup>36</sup>

A board of nine elected trustees serving three-year terms governs the district.<sup>37</sup> Trustees are not compensated for their service but are reimbursed for expenses they incur on behalf of the district. Any trustee authorized to sign checks on behalf of the district must execute a bond of at least \$10,000. All bond premiums are paid by the district.<sup>38</sup> Trustees can be removed for malfeasance and misfeasance if they fail to discharge their duties within the district. Vacancies are filled for the unexpired term by the remaining trustees.<sup>39</sup>

The district has the power to acquire property, sue and be sued, enter contracts,<sup>40</sup> and carry out any function necessary for the operation of the district. The board must approve all district debt before it is incurred.<sup>41</sup> The board is authorized to levy a tax on the improved residential parcels of land within the district that becomes a lien on the property until paid and is considered part of the Sarasota County tax.<sup>42</sup>

Trustees supervise all real and personal district property and use of district facilities is limited to property owners within the district, their family and guests, and any person authorized by the board of trustees. Trustees are also authorized to issue bonds, promulgate reasonable rules and regulations governing the use of district facilities, and use district funds to administer and enforce deed restrictions that have been recorded in the Sarasota County public records. The board may adopt such rules and regulations, not inconsistent with its enabling act, as it deems necessary or convenient in carrying out the provisions of the act.<sup>43</sup>

The district may be abolished by a majority of the registered voters within the district voting at an election called by the board of trustees. The district cannot be abolished while it has outstanding debt unless it first makes adequate provision for the liquidation of that debt.<sup>44</sup>

### *Crary v. Tri-Par Estates Park and Recreation District*

In March 2019, the district filed a declaratory judgment action against a mobile home park lot owner. The district sought relief to enforce its rules and regulations despite lack of explicit language in its enabling act to enforce such rules and regulations. The lower court granted summary judgment in favor

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<sup>32</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>33</sup> Ch. 2001-343, Laws of Fla.

<sup>34</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>35</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>36</sup> Ss. 1 and 7, ch. 2001-343, Laws of Fla.

<sup>37</sup> Ss. 3 and 5, ch. 2001-343, Laws of Fla.

<sup>38</sup> S. 3, ch. 2001-343, Laws of Fla. The supervisor of elections conducts district elections and is compensated for its services by the district. See s. 3, ch. 2001-343, Laws of Fla.

<sup>39</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>40</sup> Trustees cannot enter into any future contracts involving the purchase, lease, conveyance, or other manner of acquisition of real or tangible personal property when the cost, price, or consideration exceeds \$20,000 unless it relates to the repair or replacement of existing assets or the board follows special procedures, which include two-thirds approval of the board. S. 3, ch. 2001-343, Laws of Fla.

<sup>41</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>42</sup> S. 3, ch. 2001-343, Laws of Fla. District taxes are subject to the same penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the State of Florida for the collection of such taxes. S. 3, ch. 2001-343, Laws of Fla.

<sup>43</sup> S. 3, ch. 2001-343, Laws of Fla.

<sup>44</sup> S. 3, ch. 2001-343, Laws of Fla.



of the district, and the defendant appealed. The Second District Court of Appeal reversed, holding that while the enabling act authorized the district to promulgate rules and regulations, the act did not permit enforcement of those rules and regulations.<sup>45</sup> The court held that the act creating the district failed to contain an expressed grant of power for the enforcement of the district's rules and regulations although the act did expressly allow the enforcement of the district's deed restrictions.<sup>46</sup>

### **Effect of the Bill**

The bill authorizes the board of trustees for the district to adopt and enforce, rather than just promulgate, reasonable rules and regulations as provided under ch. 418, F.S. The board is also authorized to prescribe and enforce penalties. The board may impose a penalty for a single violation of up to \$100 and for a continuing violation of up to \$1000. The bill specifies that such fines may not become a lien on the property. The board also may suspend access of a property owner, or authorized licensee or invitee of the property owner, to certain common areas or facilities for no more than 10 days. The suspension may not prohibit access to the property, the right to park a vehicle, or use of common areas providing access or utility service to the property. Penalties may not be levied until the accused violator receives notice and has an opportunity for a hearing before the board. The bill authorizes the board to adopt rules, regulations, and penalties not inconsistent with the act and applicable law as necessary and convenient to carry out the terms of the act.

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

Section 1. Amends ch. 2001-343, Laws of Florida, to authorize the board of trustees for the district to adopt and enforce certain rules and regulations governing district facility use and prescribe penalties within specified limits for violations of such rules and regulations.

Section 2. Provides the bill takes effect upon becoming a law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 17, 2019

WHERE? *Sarasota Herald-Tribune*, 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

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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<sup>45</sup> See *Crary v. Tri-Par Estates Park and Recreation District*, 267 So. 3d 530 (Fla. 2d DCA 2019).

<sup>46</sup> *Id.* at 533.

The bill provides the district authority to adopt and enforce reasonable rules and regulations governing the use of district recreational facilities and to prescribe penalties for violation of those rules and regulations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2020, the Local Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified the grant of authority delegated to the district by setting specific limits on the penalties that may be imposed.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.



26 | owner, or any authorized licensee or invitee of the property  
27 | owner, for the failure of the property owner or its occupant,  
28 | licensee, or invitee to comply with any provision of the rules  
29 | and regulations of the district.

30 | b. A fine may be levied by the board for each day of a  
31 | continuing violation, with a single notice and opportunity for  
32 | hearing, not to exceed a cumulative total maximum of \$1,000.

33 | c. A fine may not become a lien against the property.

34 | 2.a. Penalties for the failure of the property owner or  
35 | its occupant, licensee, or invitee to comply with any provision  
36 | of the rules and regulations of the district may include  
37 | suspension, for a reasonable period of time, of the right of a  
38 | property owner, or any authorized licensee or invitee of the  
39 | property owner, to use common areas and facilities. A suspension  
40 | may not exceed 10 days per violation.

41 | b. A suspension may not prohibit an owner or occupant of a  
42 | property from having vehicular and pedestrian ingress to and  
43 | egress from the property, including, but not limited to, the  
44 | right to park a vehicle.

45 | c. This subparagraph does not apply to that portion of  
46 | common areas used to provide access or utility services to the  
47 | property.

48 | 3.a. A fine or suspension levied by the board of trustees  
49 | may not be imposed unless the board first provides at least 14  
50 | days' notice to the property owner and, if applicable, to any

51 occupant, licensee, or invitee of the property owner sought to  
52 be fined or suspended and an opportunity for a hearing before a  
53 committee of at least three property owners appointed by the  
54 board who are not officers, trustees, or employees of the  
55 district, or the spouse, parent, child, brother, or sister of an  
56 officer, trustee, or employee.

57 b. The role of the committee is limited to determining  
58 whether to confirm or reject the fine or suspension levied by  
59 the board.

60 c. If the proposed fine or suspension levied by the board  
61 is approved by the committee, the fine payment is due 5 days  
62 after notice of the approved fine is provided to the property  
63 owner and, if applicable, to any occupant, licensee, or invitee  
64 of the property owner. If the committee, by majority vote, does  
65 not approve a proposed fine or suspension, the proposed fine or  
66 suspension may not be imposed.

67 d. If a property owner and, if applicable, any occupant,  
68 licensee, or invitee of the property owner is more than 90 days  
69 delinquent in paying the fine, the district may suspend the  
70 rights of the property owner, or the occupant, licensee, or  
71 invitee of the property owner, to use common areas and  
72 facilities until the fine is paid in full. This sub-subparagraph  
73 does not apply to that portion of common areas used to provide  
74 access or utility services to the property. A suspension may not  
75 prohibit an owner or occupant of a property from having

76 | vehicular and pedestrian ingress to and egress from the  
77 | property, including, but not limited to, the right to park a  
78 | vehicle. The notice and hearing requirements under this  
79 | paragraph do not apply to a suspension imposed under this sub-  
80 | subparagraph.

81 | (h) To use district funds in the administration and  
82 | enforcement of the deed restrictions as filed in the Sarasota  
83 | County public records for properties within the district, and to  
84 | prescribe such penalties or exercise such enforcement remedies  
85 | as may be provided for in the deed restrictions.

86 | Section 17. A record shall be kept of all meetings of the  
87 | board of trustees and in such meetings a concurrence of a  
88 | majority of said trustees shall be necessary to any affirmative  
89 | action taken by the board. Said trustees may adopt such rules,  
90 | ~~and~~ regulations, and penalties, not inconsistent with any  
91 | portion of this act and applicable law, as it may deem necessary  
92 | or convenient in and about the transaction of its business and  
93 | in carrying out ~~the provisions of~~ this act.

94 | Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 617 Holiday Park Park and Recreation District, Sarasota County

**SPONSOR(S):** Local Administration Subcommittee, Buchanan

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N, As CS	Rivera	Miller
2) State Affairs Committee		Rivera	Williamson

### SUMMARY ANALYSIS

Each municipality and county in the state may create one or more recreation districts, which operate and maintain recreational facilities within the district. Use of facilities may be limited to authorized persons where a valid, paramount public purpose is served. Districts may only be created subject to a referendum unless a petition to create the district is signed by a majority of the electors within the proposed district.

Holiday Park Park and Recreation District (district) is an independent special district created by special act (enabling act) that operates similarly to a recreation district. Use of district facilities is limited to property owners, their family and guests, and other persons authorized by the district. The district is governed by a board of trustees with the authority to levy a district tax and promulgate rules and regulations. The district is not authorized to enforce those rules and regulations and is not authorized to impose penalties for violations.

The bill authorizes the board of trustees for the district to adopt and enforce reasonable rules and regulations and prescribe and enforce penalties. The bill authorizes the board to suspend access to certain common areas or facilities for a specified period. The bill also requires that the board provide notice to the accused violator along with an opportunity for a hearing before levying any penalties. The bill authorizes the board to adopt rules, regulations, and penalties that are not inconsistent with its enabling act and applicable laws as necessary and convenient to carry out the terms of the enabling act.

The bill does not appear to have a fiscal impact on the state or local governments.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Independent 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. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>1</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>2</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>3</sup> An “independent special district” is any district that is not a dependent special district.<sup>4</sup>

##### *Formation and Charter of an Independent Special District*

With the exception of community development districts,<sup>5</sup> the charter for any new independent special district must include certain minimum elements enumerated in s. 189.031(3), F.S.<sup>6</sup> The charter of a newly-created district must state whether it is dependent or independent.<sup>7</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>8</sup>

The Legislature is prohibited from enacting a special law or general law of local application that:

- Creates a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;<sup>9</sup>
- Exempts district elections from the requirements of s. 189.04, F.S.;<sup>10</sup>
- Exempts a district from the requirements for bond referenda in s. 189.042, F.S.;<sup>11</sup>
- Exempts a district from certain requirements relating to issuing bonds if no referendum is required, requiring special district reports on public facilities, notice and reports of special district public meetings, or required reports, budgets, and audits;<sup>12</sup> or

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<sup>1</sup> See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>2</sup> *2018 – 2020 Local Gov’t Formation Manual*, p. 62, available at <https://myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual Final.pdf> (last visited January 9, 2020).

<sup>3</sup> S. 189.012(2), F.S.

<sup>4</sup> S. 189.012(3), F.S.

<sup>5</sup> S. 189.0311, F.S. See s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

<sup>6</sup> S. 189.031(1), F.S.

<sup>7</sup> S. 189.031(5), F.S.

<sup>8</sup> S. 189.031(3), F.S. (setting forth the minimum charter requirements).

<sup>9</sup> S. 189.031(2)(a), F.S.

<sup>10</sup> S. 189.031(2)(b), F.S.

<sup>11</sup> S. 189.031(2)(c), F.S.

<sup>12</sup> See ss. 189.031(2)(d), 189.051, 189.08, 189.015, and 189.016, F.S.

- Creates a district without submitting a statement documenting specific required matters to the Legislature.<sup>13</sup>

These prohibitions were passed by a three-fifth majority in the House of Representatives and Senate when ch. 189, F.S., originally was adopted.<sup>14</sup> They may be amended or repealed only “by like vote.”<sup>15</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>16</sup>

### Recreation Districts

Chapter 418, F.S., authorizes each municipality and county in the state to create one or more recreation districts.<sup>17</sup> A recreation district may contain all or part of the land within a municipality, if created by a municipality. Districts created by counties may only contain unincorporated areas. Recreation districts may be created by municipal or county ordinance, subject to a referendum conducted in accordance with the municipal incorporation and merger requirements.<sup>18</sup> Alternatively, residents in a proposed district may petition the governing body of a municipality or county for the creation of a recreation district. No referendum is required to create the district if a majority of electors signs the petition.<sup>19</sup> The ordinance, and any amendments, act as the district charter.<sup>20</sup> The district charter must specify the composition of the governing body of the district, as either:

- A five-member or larger board of supervisors elected from among the residents of the district; or
- The governing body of the municipality or county that created the district.<sup>21</sup>

If the governing body is a board of supervisors, the charter must specify the date of the election and must provide that each property owner or resident in the district has the right to vote in the election. Board members may not receive compensation.<sup>22</sup> The charter may also stagger the terms of the board members and establish electoral sub-units represented by one or more members elected by majority vote within the sub-unit.<sup>23</sup>

The district charter may contain findings by the governing body of the municipality or county, such as a finding that the creation of the district is the best alternative available for delivering recreational service, or if the district is created for the exclusive use of a condominium or cooperative, that a valid and paramount public purpose will be served by the exclusive nature of the district.<sup>24</sup>

The charter of a recreation district may grant the district the following powers and any additional powers deemed necessary or useful in the exercise of those powers:

- To sue and be sued and have a corporate seal;
- To enter contracts;
- To acquire, purchase, construct, improve, and equip recreational facilities, including real and personal property, within the boundaries of the district;
- To issue bonds, if approved at a referendum held in such district;

<sup>13</sup> S. 189.031(2)(e), F.S. (providing that each required statement filed with the Legislature must include the purpose of the proposed district, the authority of the district, an explanation of why the district is the best alternative, and a resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district).

<sup>14</sup> S. 67, ch. 89-169, Laws of Fla.

<sup>15</sup> Art. III, s. 11(a)(21), Fla. Const.

<sup>16</sup> Art. VII, s. 9(a), Fla. Const.

<sup>17</sup> S. 418.20, F.S.

<sup>18</sup> See s. 165.041, F.S.

<sup>19</sup> S. 418.20, F.S.

<sup>20</sup> The governing body of said municipality or county may from time to time amend such ordinance. Such amendments must be approved by a vote of the electors in the district. S. 418.20, F.S.

<sup>21</sup> S. 418.21(1), F.S.

<sup>22</sup> S. 418.21(2)(b), F.S.

<sup>23</sup> S. 418.21(2), F.S.

<sup>24</sup> Each finding may be reviewed by a court only as part of any review of the ordinance making such finding. S. 418.24, F.S.

- To operate and maintain recreational facilities or contract for such services;
- To establish, charge, and collect fees for admission to or use of recreational facilities and use fees for operation, maintenance, improvement, and acquisition of recreational facilities or the payment of district bonds;
- To adopt and enforce rules for the use of the recreational facilities owned or operated by the district; and
- To employ necessary personnel.<sup>25</sup>

These powers may be restricted or limited by the governing body of the municipality or county, which created the district, but may not impair the district's existing contractual duties.<sup>26</sup>

The county or municipal assessment records serve as the official assessment records for the recreation district. The official charged with keeping said assessment records must provide an assessment roll for the district upon request. Unless otherwise provided by the district charter, the official who collects taxes in the municipality or county must be the tax collector of the district. District taxes are payable at the same time as municipal or county taxes, and must be secured by a lien on taxable property in the same manner as other local government taxes. Enforcement of a district tax lien must follow the enforcement process as liens for municipal or county taxes.<sup>27</sup>

### *Mobile Home Park Recreation Districts*

Municipalities and counties may create one or more mobile home park recreation districts limited to the boundaries of the mobile home park. These districts may be established by local ordinance subject to a referendum of the electors residing within the mobile home park. The residents within the proposed mobile home park recreational district may petition for the creation of the district, and no referendum is required if the petition is signed by a majority of the electors.<sup>28</sup>

The governing body of a mobile home park recreation district must be a nine-member board of trustees elected by the electors within the district. A person seeking to serve on the board must be a qualified elector within the district and must present a petition with 25 signatures from other district electors to the county supervisor of elections no less than 60 days before an election. After the initial election, trustees serve staggered two-year terms with elections held annually. Trustees are not compensated and must select officers after each election. The remaining trustees make interim appointments to fill any vacancies to serve the remainder of any unexpired term.<sup>29</sup>

Mobile home park recreational districts possess the same powers as recreation districts, including the powers to enter into contracts, adopt rules and regulations not inconsistent with existing deed restrictions, and use district funds in the administration and enforcement of those rules, regulations, and deed restrictions. Mobile home park recreational districts also have the power to levy and assess a special assessment called a "recreation district tax."<sup>30</sup>

A mobile home park recreation district may be abolished by a majority vote of the qualified electors of the district at an election called by the trustees for that purpose. The election must be held and noticed under the same requirements as the creation of the district. However, the district may not be abolished while it has outstanding indebtedness unless adequate provision is made for the liquidation of such outstanding indebtedness.<sup>31</sup>

### *Crary v. Tri-Par Estates Park and Recreation District*

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<sup>25</sup> S. 418.22, F.S.

<sup>26</sup> S. 418.23, F.S.

<sup>27</sup> S. 418.26, F.S.

<sup>28</sup> S. 418.30, F.S.

<sup>29</sup> S. 418.302, F.S.

<sup>30</sup> S. 418.304, F.S.

<sup>31</sup> S. 418.309, F.S.

In March 2019, Tri-Par Estates Park and Recreation District, a special district created by special act, which operates in a similar manner to mobile home recreation districts created under ch. 418, F.S., filed a declaratory judgment action against a mobile home park lot owner. The district sought relief to enforce its rules and regulations despite lack of explicit language in its enabling act to enforce such rules and regulations. The lower court granted summary judgment in favor of the district, and the defendant appealed. The Second District Court of Appeal reversed, holding that while the enabling act authorized the district to promulgate rules and regulations, the act did not permit enforcement of those rules and regulations.<sup>32</sup> The court held that the act creating the district failed to contain an expressed grant of power for the enforcement of the district's rules and regulations although the act did expressly allow the enforcement of the district's deed restrictions.<sup>33</sup>

### Holiday Park Park and Recreation District

Holiday Park Park and Recreation District (district) is an independent special district covering all the residential land in Holiday Park subdivisions within the city of North Port in Sarasota County.<sup>34</sup> The district was created by special act of the Legislature in 1981 and the charter was recodified in 2001 (enabling act).<sup>35</sup> The enabling act is severable and controls over conflicting laws,<sup>36</sup> and the provisions must be construed liberally to effectuate the purpose of the act and the public interest.<sup>37</sup> The district may impose a tax of up to 0.2 mills on the taxable property within the district.<sup>38</sup>

A board of nine elected trustees serving two-year terms governs the district.<sup>39</sup> Trustees are not compensated for service but are reimbursed for expenses they incur on behalf of the district. Any trustee authorized to sign checks on behalf of the district must execute a bond of at least \$10,000. All bond premiums are paid by the district.<sup>40</sup> Trustees can be removed for malfeasance and misfeasance if they fail to discharge their duties within the district. Vacancies are filled for the unexpired term by the remaining trustees.<sup>41</sup>

The district has the power to acquire property, sue and be sued, enter contracts,<sup>42</sup> and carry out any function necessary for the operation of the district. The board must approve all district debt before it is incurred.<sup>43</sup> The board is authorized to levy a tax on the improved residential parcels of land within the district that becomes a lien on the property until paid and is considered part of the Sarasota County tax.<sup>44</sup>

Trustees supervise all real and personal district property and use of district facilities is limited to property owners within the district, their family and guests, and any person authorized by the board of trustees. Trustees are also authorized to issue bonds, promulgate reasonable rules and regulations governing the use of district facilities, and use district funds to administer and enforce deed restrictions that have been recorded in the Sarasota County public records. The board may adopt such rules and

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<sup>32</sup> See *Crary v. Tri-Par Estates Park and Recreation District*, 267 So. 3d 530 (Fla. 2d DCA 2019).

<sup>33</sup> *Id.* at 533.

<sup>34</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>35</sup> S. 3, ch. 2001-342, Laws of Fla. and s. 189.019, F.S.

<sup>36</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>37</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>38</sup> Ss. 1 and 7, ch. 2001-342, Laws of Fla.

<sup>39</sup> Ss. 3 and 5, ch. 2001-342, Laws of Fla.

<sup>40</sup> S. 3, ch. 2001-342, Laws of Fla. The supervisor of elections conducts district elections and is compensated for its services by the district. See s. 3, ch. 2001-342, Laws of Fla.

<sup>41</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>42</sup> Trustees cannot enter into any future contracts involving the purchase, lease, conveyance, or other manner of acquisition of real or tangible personal property when the cost, price, or consideration exceeds \$40,000 unless it relates to the repair or replacement of existing assets or the board follows special procedures, which include two-thirds approval of the board. S. 3, ch. 2001-342, Laws of Fla.

<sup>43</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>44</sup> S. 3, ch. 2001-342, Laws of Fla. District taxes are subject to the same penalties, charges, fees, and remedies for enforcement and collection as provided by the laws of the State of Florida for the collection of such taxes. S. 3, ch. 2001-342, Laws of Fla.

regulations, not inconsistent with its enabling act, as it deems necessary or convenient in carrying out the provisions of the act.<sup>45</sup>

The district may be abolished by a majority of the registered voters within the district voting at an election called by the board of trustees. The district cannot be abolished while it has outstanding debt unless it first makes adequate provision for the liquidation of that debt.<sup>46</sup>

### **Effect of the Bill**

The bill authorizes the board of trustees for the district to adopt and enforce, rather than just promulgate, reasonable rules and regulations as provided under ch. 418, F.S. The board is also authorized to prescribe and enforce penalties. The board may impose a penalty for a single violation of up to \$100 and for a continuing violation of up to \$1000. The bill specifies that such fines may not become a lien on the property. The board also may suspend access of a property owner, or authorized licensee or invitee of the property owner, to certain common areas or facilities for no more than 10 days. The suspension may not prohibit access to the property, the right to park a vehicle, or use of common areas providing access or utility service to the property. Penalties may not be levied until the accused violator receives notice and has an opportunity for a hearing before the board. The bill authorizes the board to adopt rules, regulations, and penalties not inconsistent with the act and applicable law as necessary and convenient to carry out the terms of the act.

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

Section 1. Amends ch. 2001-342, Laws of Florida, to authorize the board of trustees for the district to adopt and enforce certain rules and regulations governing district facility use and prescribe penalties within specified limits for violations of such rules and regulations.

Section 2. Provides the bill takes effect upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 17, 2019

WHERE? *Sarasota Herald-Tribune, 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

## **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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<sup>45</sup> S. 3, ch. 2001-342, Laws of Fla.

<sup>46</sup> S. 3, ch. 2001-342, Laws of Fla.

The bill provides the district authority to adopt and enforce reasonable rules and regulations governing the use of district recreational facilities and to prescribe penalties for the violation of those rules and regulations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2020, the Local Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified the grant of authority delegated to the district by setting specific limits on the penalties that may be imposed.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to the Holiday Park Park and  
 3           Recreation District, Sarasota County; amending ch.  
 4           2001-342, Laws of Florida; authorizing the Board of  
 5           Trustees to adopt and enforce certain rules and  
 6           regulations governing the use of district facilities  
 7           and prescribe penalties for violations of such rules  
 8           and regulations; providing requirements for such  
 9           penalties; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Paragraphs (g) and (h) of section 15 and  
 14           section 17 of section 3 of chapter 2001-342, Laws of Florida,  
 15           are amended to read:

16           Section 15. The trustees shall supervise all real and  
 17           personal property owned by the district, and shall have the  
 18           following powers in addition to those already herein enumerated:

19           (g) To adopt and enforce ~~promulgate~~ reasonable rules and  
 20           regulations governing the use of the facilities of the district  
 21           as provided in chapter 418, Florida Statutes, and to prescribe  
 22           penalties for violations of such rules and regulations.

23           1.a. The rate of such penalties shall be fixed by a  
 24           resolution of the board of trustees, as hereinafter provided,  
 25           but may not exceed \$100 per violation against any property

26 owner, or any authorized licensee or invitee of the property  
27 owner, for the failure of the property owner or its occupant,  
28 licensee, or invitee to comply with any provision of the rules  
29 and regulations of the district.

30 b. A fine may be levied by the board for each day of a  
31 continuing violation, with a single notice and opportunity for  
32 hearing, not to exceed a cumulative total maximum of \$1,000.

33 c. A fine may not become a lien against the property.

34 2.a. Penalties for the failure of the property owner or  
35 its occupant, licensee, or invitee to comply with any provision  
36 of the rules and regulations of the district may include  
37 suspension, for a reasonable period of time, of the right of the  
38 property owner, or any authorized licensee or invitee of the  
39 property owner, to use common areas and facilities. A suspension  
40 may not exceed 10 days per violation.

41 b. A suspension may not prohibit an owner or occupant of a  
42 property from having vehicular and pedestrian ingress to and  
43 egress from the property, including, but not limited to, the  
44 right to park a vehicle.

45 c. This subparagraph does not apply to that portion of  
46 common areas used to provide access or utility services to the  
47 property.

48 3.a. A fine or suspension levied by the board of trustees  
49 may not be imposed unless the board first provides at least 14  
50 days' notice to the property owner and, if applicable, to any



51 occupant, licensee, or invitee of the property owner sought to  
52 be fined or suspended and an opportunity for a hearing before a  
53 committee of at least three property owners appointed by the  
54 board who are not officers, trustees, or employees of the  
55 district, or the spouse, parent, child, brother, or sister of an  
56 officer, trustee, or employee.

57 b. The role of the committee is limited to determining  
58 whether to confirm or reject the fine or suspension levied by  
59 the board.

60 c. If the proposed fine or suspension levied by the board  
61 is approved by the committee, the fine payment is due 5 days  
62 after notice of the approved fine is provided to the property  
63 owner and, if applicable, to any occupant, licensee, or invitee  
64 of the property owner. If the committee, by majority vote, does  
65 not approve a proposed fine or suspension, the proposed fine or  
66 suspension may not be imposed.

67 d. If a property owner and, if applicable, any occupant,  
68 licensee, or invitee of the property owner is more than 90 days  
69 delinquent in paying the fine, the district may suspend the  
70 rights of the property owner, or the occupant, licensee, or  
71 invitee of the property owner, to use common areas and  
72 facilities until the fine is paid in full. This sub-subparagraph  
73 does not apply to that portion of common areas used to provide  
74 access or utility services to the property. A suspension may not  
75 prohibit an owner or occupant of a property from having

76 | vehicular and pedestrian ingress to and egress from the  
77 | property, including, but not limited to, the right to park a  
78 | vehicle. The notice and hearing requirements in this paragraph  
79 | do not apply to a suspension imposed under this sub-  
80 | subparagraph.

81 | (h) To use district funds in the administration and  
82 | enforcement of the deed restrictions as filed in the Sarasota  
83 | County public records for properties within the district, and to  
84 | prescribe such penalties or exercise such enforcement remedies  
85 | as may be provided for in the deed restrictions.

86 | Section 17. A record shall be kept of all meetings of the  
87 | Board of Trustees and in such meetings a concurrence of a  
88 | majority of said trustees shall be necessary to any affirmative  
89 | action taken by the board. Said Board of Trustees may adopt such  
90 | rules, ~~and~~ regulations, and penalties, not inconsistent with any  
91 | portion of this act and applicable law, as it may deem necessary  
92 | or convenient in and about the transaction of its business and  
93 | in carrying out ~~the provisions of~~ this act.

94 | Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 855 Special Districts  
**SPONSOR(S):** Payne and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	11 Y, 0 N	Rivera	Miller
2) Oversight, Transparency & Public Management Subcommittee	13 Y, 0 N	Toliver	Smith
3) State Affairs Committee		Rivera	Williamson

### SUMMARY ANALYSIS

Special districts are units of local government created to provide a variety of local services. Independent districts typically are created by special act and operationally are independent of any local general-purpose government. Dependent districts generally are created by local ordinance and are subject to the control of a local general-purpose government. Special districts are required to maintain an official website and post certain information online, including an annual budget and any recent audit reports.

State and local government websites are subject to Title II of the Americans with Disabilities Act (ADA), which prohibits state and local governments from discriminating against a qualified disabled person because of a disability unless a modification is unreasonable, alters the nature of the service, or causes the government an undue financial or administrative burden. The United States Department of Justice (DOJ) administers Title II. While the DOJ has not provided any regulations on how state and local government websites can comply with the ADA, it has issued an ADA Best Practices Tool Kit for state and local governments, which provides suggestions and checklists. Under Title II of the ADA, state and local governments may be sued and many have recently faced increased litigation relating to state and local government website access.

The bill reduces the information that a special district must post online. Specifically, the bill allows a special district to satisfy the statutory requirement to post the most recent financial audit online by providing a link to the report maintained on the Auditor General's website. The bill also removes the requirement for special districts to post facility reports and meeting materials online.

The bill may have a positive fiscal impact on local governments and does not appear to have a fiscal impact on the state. See Fiscal Comments.

# 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. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>1</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>2</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>3</sup> An “independent special district” is any district that is not a dependent special district.<sup>4</sup>

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts, the state currently has 1,757 special districts. There are 1,124 independent districts and 633 dependent districts.<sup>5</sup>

Special districts are governed generally by the Uniform Special District Accountability Act (Act).<sup>6</sup> The Act, initially passed in 1989,<sup>7</sup> created ch. 189, F.S., to centralize provisions governing special districts. The Act applies to the formation,<sup>8</sup> governance,<sup>9</sup> administration,<sup>10</sup> supervision,<sup>11</sup> merger,<sup>12</sup> and dissolution<sup>13</sup> of special districts, unless otherwise expressly provided in law.<sup>14</sup> The Act also provides a statement of legislative intent providing that the Legislature sought to improve the accountability of special districts to state and local governments as well as promote more effective communication and coordination in the monitoring of required reporting.<sup>15</sup>

##### Reporting Requirements and Oversight

Special districts are subject to oversight and review by state and local governments to better determine the need for the continued existence of a district, the appropriate future role and focus of a district,

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<sup>1</sup> See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>2</sup> 2018 – 2020 Local Gov’t Formation Manual, p. 62, available at

[https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual Final.pdf](https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf) (last visited January 9, 2020).

<sup>3</sup> S. 189.012(2), F.S.

<sup>4</sup> S. 189.012(3), F.S.

<sup>5</sup> See Department of Economic Opportunity, *Official List of Special Districts Online, Special District Statewide Totals as of January 31, 2020*, available at <http://specialdistrictreports.floridajobs.org/webreports/StateTotals.aspx> (last visited January 31, 2020).

<sup>6</sup> S. 189.01, F.S., but see ch. 190, F.S. (community development districts), and ch. 191, F.S. (independent special fire control districts).

<sup>7</sup> Ch. 89-169, Laws of Fla.

<sup>8</sup> See ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

<sup>9</sup> See s. 189.0311, F.S. (charter requirements for independent special districts).

<sup>10</sup> See s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>11</sup> See s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

<sup>12</sup> Ss. 189.071 and 189.074, F.S.

<sup>13</sup> Ss. 189.071 and 189.072, F.S.

<sup>14</sup> See, e.g., s. 190.004, F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

<sup>15</sup> S. 189.06, F.S.

improvements to the function or service by a district, and the need for any transition, adjustment, or special implementation periods or provisions.<sup>16</sup>

Special districts created by special act are subject to review by the Legislative Auditing Committee at a public meeting for not complying with reporting requirements under the Act, as well as oversight matters in general.<sup>17</sup> Special districts created by local ordinance or resolution are subject to review by the chair, or the equivalent, of the local governing body.<sup>18</sup> Special districts created or established by rule of the Governor and Cabinet may be reviewed as directed by the Governor and Cabinet.<sup>19</sup> Special districts not subject to other oversight may be reviewed as directed by the President of the Senate and the Speaker of the House of Representatives.<sup>20</sup>

State agencies administering funding programs to eligible special districts are responsible to oversee the use of such funds by the special district, including reporting the existence of the program to the Special District Accountability Program within DEO.<sup>21</sup>

### *Maintaining Official Websites*

Special districts are required to maintain an official website and list certain information on the website.<sup>22</sup> An independent special district is required to maintain a website separate from the local governing body's official website.<sup>23</sup> A dependent special district may maintain a separate website but is only required to be prominently displayed on the homepage of the local general purpose government's website with a hyperlink to the pages that provide the information required by statute.<sup>24</sup>

Every special district is required to post, at a minimum, the following information on its official website:

- The full legal name, mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
- The public purpose of the special district.
- The primary contact information for the special district for purposes of communication from DEO.
- The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
- The fiscal year of the special district.
- The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established.
- A description of the boundaries or service area of, and the services provided by, the special district.
- A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge.
- A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.
- The budget of the special district and any amendments thereto.
- The final, complete audit report for the most recently completed fiscal year and audit reports required by law or authorized by the governing body of the special district.

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<sup>16</sup> S. 189.068(1), F.S. Any final recommendations from the oversight review process, which are adopted and implemented by the appropriate level of government, may not be implemented in a manner that would impair the obligation of contracts.

<sup>17</sup> S. 189.0651(2), F.S.

<sup>18</sup> S. 189.0652(2), F.S. Dependent special districts not created by special act may be reviewed by the local general-purpose government upon which it is dependent. *See* s. 189.068(2)(c), F.S.

<sup>19</sup> S. 189.068(2)(d), F.S.

<sup>20</sup> S. 189.068(2)(e), F.S.

<sup>21</sup> S. 189.065(1) and (2), F.S. The list of participating special districts must indicate if a district is not in compliance with state funding program requirements.

<sup>22</sup> S. 189.069(1), F.S.

<sup>23</sup> S. 189.069(1)(a), F.S.

<sup>24</sup> S. 189.069(1)(b), F.S.

- A listing of its regularly scheduled public meetings.
- The public facilities report, if applicable.
- The link to the Department of Financial Services' website.
- At least seven days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least one year after the event.<sup>25</sup>

## Federal and State Laws Regulating Access to Records by Disabled Individuals

### *The Americans with Disabilities Act of 1990*

The Americans with Disabilities Act of 1990 (ADA) was enacted to place persons with disabilities on an equal, not advantageous, footing to those without disabilities.<sup>26</sup> The ADA has three parts: Title I applies to employers, Title II applies to public entities, and Title III applies to private entities.

The ADA does not restrict the imposition of greater protection for individuals by other federal, state, or local laws,<sup>27</sup> and does not require covered entities to accommodate or modify their processes for individuals who are not actually disabled.<sup>28</sup>

### *Public Entities*

Title II of the ADA prohibits public entities from excluding the participation in or denying the benefits of their services, programs, or activities to qualified individuals with a disability,<sup>29</sup> or otherwise discriminating against such individuals, because of the disability.<sup>30</sup> For purposes of the ADA, the term “public entities” includes the state and local governments, state and local agencies, and special districts.<sup>31</sup> To meet the definition of a qualified individual with a disability, the person must be eligible for receipt of the public benefit with or without a reasonable modification.<sup>32</sup>

If the need is obvious or upon request,<sup>33</sup> a public entity must:

- Make reasonable modifications to its rules, policies, or practices;
- Remove architectural, communication, or transportation barriers; or
- Provide auxiliary aids and services when necessary to accommodate an individual with a disability.<sup>34</sup>

A public entity must provide auxiliary aids and services in a timely manner and in an accessible format, and must protect the privacy and independence of the individual.<sup>35</sup> An accommodation or modification that fundamentally alters the nature of the activity, service, or program, or that causes the public entity an undue financial or administrative burden is not reasonable or necessary.<sup>36</sup>

### *Federal Regulations*

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<sup>25</sup> S. 189.069(2)(a), F.S.

<sup>26</sup> *Kornblau v. Dade Cnty.*, 86 F.3d 193 (11th Cir. 1996) (holding disabled individual was not entitled to parking space in private employee parking lot closest to county government services building).

<sup>27</sup> 42 U.S.C. s. 12201(b).

<sup>28</sup> 42 U.S.C. s. 12201(h).

<sup>29</sup> A person is a ‘qualified’ individual with a disability with respect to licensing if he or she, with or without reasonable modifications, ‘meets the essential requirements’ for the receipt of services or the participation in programs or activities provided by a public entity. 42 U.S.C. s. 12131(2). *See also Fla. Bar v. Clement*, 662 So. 2d 690, 700 (Fla. 1995), as amended (November 28, 1995).

<sup>30</sup> 42 U.S.C. s. 12132.

<sup>31</sup> 42 U.S.C. s. 12131(1).

<sup>32</sup> 42 U.S.C. s. 12131(2).

<sup>33</sup> *See McCullum v. Orlando Reg’l Healthcare*, No. 6:11-cv-1387-Orl-31GJK, 2013 WL 1212860, at \*4 (M.D.Fla.2013); *see also Smith v. Rainey*, 747 F. Supp. 2d 1327, 1338 (M.D.Fla.2010).

<sup>34</sup> *See* 42 U.S.C. s. 12131(2).

<sup>35</sup> 28 C.F.R. s. 35.160(b).

<sup>36</sup> *See Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 603 (1999).

The Department of Justice (DOJ) is responsible for administering Title II.<sup>37</sup> In 2010, DOJ took the position that internet website access fell within the scope of the ADA, even in the absence of explicit language. Therefore, public entities communicating through web-based applications or otherwise providing internet services must ensure that individuals with disabilities have equal access to such services or information unless it would alter the nature of the product or cause the entity an undue burden. To date, DOJ has not promulgated any regulations on this issue.<sup>38</sup>

The Civil Rights Division of DOJ released a Best Practices Tool Kit for state and local governments.<sup>39</sup> In the toolkit, DOJ provides suggestions for how governments may design their websites and recommends referencing the Worldwide Web Consortium's (W3C) Web Content Accessibility Guidelines 2.0 (WCAG 2.0), an internationally accepted resource for conformance standards. For documents posted online, DOJ suggests governments posting documents online in Portable Document Format (PDF), or other image-based format, also post a version in Rich Text Format (RTF), or other text-based format, to allow compatibility with assistive technologies. The toolkit includes a checklist to help local governments assess the accessibility of their websites. Although the toolkit is available as a resource, state and local governments are not required to use the toolkit.

### *Section 508 of the Rehabilitation Act of 1973*

Federal agency website accessibility is not regulated under the ADA but primarily under section 508 of the Rehabilitation Act of 1973 (Section 508).<sup>40</sup> Public entities are not required to follow these guidelines. However, Florida requires its state agencies, which includes the executive, legislative, and judicial branches, to follow Section 508 when providing public and employee access to electronic information and data.<sup>41</sup> Under Section 508, when federal agencies develop, procure, maintain, or use electronic and information technology, they must give employees and members of the public with disabilities access to that information that is comparable to the access available to those without disabilities.

### *State Law*

Part II of ch. 282, F.S., regulates the accessibility of electronic information among state agencies. Executive, legislative, and judicial branches of state government must ensure that state employees with disabilities have access to and are provided with electronic information and data comparable to the access and use by state employees who do not have disabilities, unless an undue burden would be imposed on the agency.<sup>42</sup> Similarly, individuals with disabilities who are members of the public must be provided with access to and use of electronic information and data comparable to that provided to nondisabled members of the public, unless an undue burden would be imposed on the agency.<sup>43</sup>

Each state agency must develop, procure, maintain, and use accessible electronic information and information technology in conformance with federal law,<sup>44</sup> absent an undue burden. If an agency claims compliance will impose an undue burden, it must provide proof an alternative method allows the

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<sup>37</sup> See 28 CFR parts 35 (Title II) and 36 (Title III).

<sup>38</sup> DOJ stated in its 2010 comments, "The Department expects to engage in rulemaking relating to website accessibility under the ADA in the near future." Department of Justice, *2010 Guidance and Section-by-Section Analysis (Attorney General's Comments)*, available at [https://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_regulations.htm#a35102](https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35102) (last visited December 17, 2019).

<sup>39</sup> DOJ, *ADA Best Practices Tool Kit for State and Local Governments*, Chapter 5, available at <https://www.ada.gov/pcatoolkit/chap5toolkit.htm> (last visited December 17, 2019). The Tool Kit contains a notice that some chapters may not fully reflect the current ADA.

<sup>40</sup> See 29 U.S.C. s. 794d, s. 508 of the Rehabilitation Act; 47 U.S.C. s. 255, and s. 255 of the Telecommunications Act. There is proposed legislation currently in the U.S. Congress that would research the best guidance for state and local governments providing website access. See H.R. 4099 (2019).

<sup>41</sup> See ss. 282.601-282.606, F.S.

<sup>42</sup> S. 282.601(1), F.S.

<sup>43</sup> S. 282.601(2), F.S.

<sup>44</sup> Including Section 508 and 36 C.F.R. part 1194.



individual to use the information and data.<sup>45</sup> These accessibility provisions do not apply to local governments.<sup>46</sup>

### *Case Law Involving Access to Electronic Information*

Section 508 does not authorize a private, non-administrative right of action.<sup>47</sup> Individuals seeking to enforce Section 508 must file an administrative complaint with the offending federal agency.<sup>48</sup> To establish a claim under Title II, a plaintiff must establish he or she had a disability, was denied a public benefit or other discrimination, and the denial of benefits or discrimination was by reason of the plaintiff's disability.<sup>49</sup> A plaintiff has standing where there is an injury-in-fact, a causal connection between the asserted injury-in-fact and challenged action of the defendant, and the injury will be redressed by a favorable decision. Standing to seek injunctive relief also requires an allegation of facts giving rise to an inference that the plaintiff will suffer future discrimination by the defendant.<sup>50</sup>

While currently there appears to be no Florida appellate court decision resolving a challenge to state agency website accessibility, there have been a number of federal cases in recent years. In *Nat'l Assn. of Deaf v. State*, hearing impaired individuals sued the Florida Senate and House of Representatives claiming the failure to put closed captions on live and archived videos of Florida legislative sessions violated the ADA.<sup>51</sup> The case survived a motion to dismiss because the court found the right to participate in the democratic process is a fundamental right that properly abrogates the state's Eleventh Amendment immunity.<sup>52</sup> The litigation appears to be ongoing.<sup>53</sup>

Local governments are facing continued federal litigation in the absence of official rules on ADA compliance for government website and electronic document access. The case law is new and unsettled, but there are two emerging legal theories currently being used to determine if a case is viable. Some courts have relied on the standing analysis in Title III (governs ADA issues concerning private companies) website access cases to resolve Title II cases.<sup>54</sup> Other courts have adopted a new Title II rubric based, in part, on the connection the plaintiff has with the defendant-government.<sup>55</sup>

The Title III standing analysis requires impeded access to a physical public accommodation in order to find a plaintiff has standing to bring suit.<sup>56</sup> The new three-factor standing analysis for Title II website access cases considers, in addition to totality of the relevant facts:

- The plaintiff's connection with the defendant governmental entity;
- The type of information that is inaccessible; and
- The relation between the inaccessibility and the plaintiff's alleged future harm.<sup>57</sup>

Some governments argued that these cases are not ripe for adjudication because DOJ has not yet promulgated regulations. Courts have generally dismissed this argument, with one court emphasizing that DOJ has had eight years to comment further or promulgate rules on website accessibility compliance but failed to do so.<sup>58</sup>

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<sup>45</sup> S. 282, 603, F.S.

<sup>46</sup> See ch. 282, F.S.

<sup>47</sup> See 29 U.S.C. s. 794(d) and *Latham v. Brownlee*, 2005 WL 578149, at \*9 (W.D. Tex.2005).

<sup>48</sup> 29 U.S.C. s. 794(d).

<sup>49</sup> *Kornblau v. Dade Cnty.*, 86 F.3d 193 (11th Cir. 1996).

<sup>50</sup> *Shotz v. Cates*, 256 F.3d 1077 (11th Cir. 2001).

<sup>51</sup> *Nat'l Ass'n of Deaf v. State*, 318 F. Supp. 3d 1338, Case no. 18-cv-21232-UU (S.D. Fla. 2018)(case is pending).

<sup>52</sup> "Order of Motion to Dismiss Based on Sovereign Immunity," *Id.* (June 18, 2018).

<sup>53</sup> See *Nat'l Ass'n of Deaf v. State*, 945 F.3d 1339 (11th Cir. 2020)(affirming the lower court's denial of defendant's motion to dismiss).

<sup>54</sup> See *Gil v. Broward Cnty.*, No. 18-60282-CIV, 2018 WL 4941108 (S.D. Fla. 2018).

<sup>55</sup> See *Price v. City of Ocala*, 375 F. Supp. 3d 1264 (M.D. Fla. 2019)(reasoning Title III analysis is the wrong standard to apply to Title II website access cases because Title III requires a nexus between a physical place and the alleged violation), and *Gil v. City of Pensacola, Fla.*, 392 F. Supp. 3d 1493 (N.D. Fla. 2019).

<sup>56</sup> See *Gil v. Broward Cnty., Fla.*, 2018 WL 4941108 (S.D. Fla. 2018).

<sup>57</sup> See *Price v. City of Ocala, Fla.*, 375 F. Supp. 3d 1264 (M.D. Fla. 2019).

<sup>58</sup> See *Open Access for All, Inc. v. Town of Juno Beach, Fla.*, "Order Denying Defendant's Motion to Dismiss," Case no. 9:19-CV-80518-ROSENBERG/REINHART, 2019 WL 3425090 (S.D. Fla. July 29, 2019)(case dismissed on other grounds August 15, 2019).

## Effect of the Bill

The bill reduces the information that a special district must post online. If the special district has submitted its most recent final, complete audit report to the Auditor General, the bill allows the district to post a link to the audit report on the Auditor General's website rather than posting the audit report on its website. The bill also removes the requirement for districts to post facility reports and meeting materials online. Although the facility reports and meeting materials will not be posted online, the records will continue to be available for inspection and copying upon request.

### B. SECTION DIRECTORY:

Section 1. Amends s. 189.069, F.S., revising certain website reporting requirements for special districts.

Section 2. Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that private companies are maintaining special district websites, there may be a negative fiscal impact on such companies due to local governments no longer needing to place as many documents online and to ensure ADA compliance of such documents.

### D. FISCAL COMMENTS:

There may be a positive financial impact on special districts that are no longer required to post and maintain certain meeting materials and documents online.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides rulemaking authority nor requires rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to special districts; amending s.  
 3           189.069, F.S.; revising the method by which a special  
 4           district may post its final audit report on its  
 5           website; deleting a requirement that each special  
 6           district's public facilities report be posted on the  
 7           special district's website; deleting a requirement  
 8           that certain meeting materials be posted on website;  
 9           providing an effective date.

10  
 11   Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Paragraph (a) of subsection (2) of section  
 14   189.069, Florida Statutes, is amended to read:

15           189.069 Special districts; required reporting of  
 16   information; web-based public access.—

17           (2)(a) A special district shall post the following  
 18   information, at a minimum, on the district's official website:

- 19           1. The full legal name of the special district.
- 20           2. The public purpose of the special district.
- 21           3. The name, official address, official e-mail address,  
 22   and, if applicable, term and appointing authority for each  
 23   member of the governing body of the special district.
- 24           4. The fiscal year of the special district.
- 25           5. The full text of the special district's charter, the

26 | date of establishment, the establishing entity, and the statute  
27 | or statutes under which the special district operates, if  
28 | different from the statute or statutes under which the special  
29 | district was established. Community development districts may  
30 | reference chapter 190 as the uniform charter but must include  
31 | information relating to any grant of special powers.

32 |         6. The mailing address, e-mail address, telephone number,  
33 | and website uniform resource locator of the special district.

34 |         7. A description of the boundaries or service area of, and  
35 | the services provided by, the special district.

36 |         8. A listing of all taxes, fees, assessments, or charges  
37 | imposed and collected by the special district, including the  
38 | rates or amounts for the fiscal year and the statutory authority  
39 | for the levy of the tax, fee, assessment, or charge. For  
40 | purposes of this subparagraph, charges do not include patient  
41 | charges by a hospital or other health care provider.

42 |         9. The primary contact information for the special  
43 | district for purposes of communication from the department.

44 |         10. A code of ethics adopted by the special district, if  
45 | applicable, and a hyperlink to generally applicable ethics  
46 | provisions.

47 |         11. The budget of the special district and any amendments  
48 | thereto in accordance with s. 189.016.

49 |         12. The final, complete audit report for the most recent  
50 | completed fiscal year and audit reports required by law or

51 authorized by the governing body of the special district. If the  
52 special district has submitted its most recent final, complete  
53 audit report to the Auditor General, the governing body may  
54 satisfy this requirement by providing a link to the audit report  
55 on the Auditor General's website.

56 13. A listing of its regularly scheduled public meetings  
57 as required by s. 189.015(1).

58 ~~14. The public facilities report, if applicable.~~

59 ~~14.15.~~ The link to the Department of Financial Services'  
60 website as set forth in s. 218.32(1)(g).

61 ~~15.16.~~ At least 7 days before each meeting or workshop,  
62 the agenda of the event, ~~along with any meeting materials~~  
63 ~~available in an electronic format, excluding confidential and~~  
64 ~~exempt information.~~ The information must remain on the website  
65 for at least 1 year after the event.

66 Section 2. This act shall take effect July 1, 2020.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 925 Manatee County  
**SPONSOR(S):** Local Administration Subcommittee, Gregory  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	12 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee	15 Y, 0 N	Aldridge	Langston
3) State Affairs Committee		Darden	Williamson

### SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. 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.

The bill creates the North River Ranch Improvement Stewardship District (District) in Manatee County. The District's purpose is to install, operate, and maintain community infrastructure.

The Economic Impact Statement projects expenditures of \$100,000 in Fiscal Year (FY) 2020-21 and \$150,000 in FY 2021-22 associated with startup costs for district administration and planning. The District is authorized to levy special assessments, fees, and non-ad valorem assessments. The District also is authorized to levy ad valorem taxes upon approval at referendum after the entire board is elected by qualified electors of the District. The amount of revenues that would be generated by these assessments, fees, and taxes is indeterminate. The District is authorized to perform numerous functions and undertake a wide range of projects within the District; therefore, expenditures are expected but the amount of expenditures is indeterminate.

The bill takes effect upon becoming a law, except that provisions authorizing the levy of ad valorem taxes take effect only upon approval by a majority vote of qualified electors in a referendum to be held after such time when all members of the board are elected by and are qualified electors of the District.

**Pursuant 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) appear to 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. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or rule of the Governor and Cabinet.<sup>4</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>5</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>6</sup> An “independent special district” is any district that is not a dependent special district.<sup>7</sup>

##### *Formation and Charter of an Independent Special District*

With the exception of community development districts (CDDs),<sup>8</sup> the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.<sup>9</sup> Any special laws or general laws of local application relating to any special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;<sup>10</sup>
- Exempt district elections from the requirements of s. 189.04, F.S.;<sup>11</sup>
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;<sup>12</sup>
- Exempt a district from certain requirements relating to<sup>13</sup> issuing bonds if no referendum is required,<sup>14</sup> requiring special district reports on public facilities,<sup>15</sup> notice and reports of special district public meetings,<sup>16</sup> or required reports, budgets, and audits,<sup>17</sup> or
- Create a district for which a statement documenting specific required matters is not submitted to the Legislature. The statement must include:
  - The purpose of the proposed district;

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<sup>1</sup> S. 189.031(3), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> S. 189.02(1), F.S.

<sup>4</sup> S. 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

<sup>5</sup> 2018 – 2020 *Local Gov’t Formation Manual* at p. 64, available at

<https://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3074> (last visited Jan. 2, 2020).

<sup>6</sup> S. 189.012(2), F.S.

<sup>7</sup> S. 189.012(3), F.S.

<sup>8</sup> S. 189.0311, F.S. *See* s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent CDDs).

<sup>9</sup> S. 189.031(1) and (3), F.S.

<sup>10</sup> S. 189.031(2)(a), F.S.

<sup>11</sup> S. 189.031(2)(b), F.S.

<sup>12</sup> S. 189.031(2)(c), F.S.

<sup>13</sup> S. 189.031(2)(d), F.S.

<sup>14</sup> S. 189.051, F.S.

<sup>15</sup> S. 189.08, F.S.

<sup>16</sup> S. 189.015, F.S.

<sup>17</sup> S. 189.016, F.S.

- The authority of the proposed district;
- An explanation of why the district is the best alternative; and
- A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.<sup>18</sup>

These prohibitions were passed by a three-fifths majority in the House and Senate when ch. 189, F.S., originally was adopted.<sup>19</sup> They may be amended or repealed only “by like vote.”<sup>20</sup>

The charter of a newly created district must state whether it is dependent or independent.<sup>21</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>22</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>23</sup>

### *Election of Special District Boards*

Members of a special district board are generally elected by the qualified electors of the district.<sup>24</sup> Some district boards, however, are elected according to a one-acre/one-vote methodology.<sup>25</sup>

Section 189.041, F.S., provides a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.<sup>26</sup> A petition signed by 10 percent of the qualified electors must be filed with the governing body of the district requesting a referendum.<sup>27</sup> Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.<sup>28</sup>

If the qualified electors approve the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization of the district urban area map.<sup>29</sup> If the qualified electors do not approve the transition, a new referendum may not be held for at least two years.<sup>30</sup>

Within 30 days after the transition referendum, the governing body of the district must direct the district’s staff to prepare and present maps describing all urban areas contained in the district.<sup>31</sup> For the

<sup>18</sup> S. 189.031(2)(e), F.S.

<sup>19</sup> Ch. 89-169, s. 67, Laws of Fla.

<sup>20</sup> Art. III, s. 11(a)(21), Fla. Const. (“SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: ... (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.”).

<sup>21</sup> S. 189.031(5), F.S.

<sup>22</sup> S. 189.031(3), F.S.

<sup>23</sup> Art. VII, s. 9(a), Fla. Const.

<sup>24</sup> See e.g. ch. 2015-202, s. 4(4)(2)(a), Laws of Fla. (election provisions for Lehigh Acres Municipal Services Improvement District).

<sup>25</sup> See s. 189.04(4), F.S. (providing an exception for special district governing board elected on a one-acre/one-vote basis); also see e.g. ch. 2007-306, s. 5, Laws of Fla. (election provisions for the Babcock Ranch Community Independent Special District).

<sup>26</sup> S. 189.041(2)(a)1.a., F.S.

<sup>27</sup> S. 189.041(2)(a)1.b., F.S.

<sup>28</sup> S. 189.041(2)(a)2., F.S.

<sup>29</sup> S. 189.041(2)(a)3., F.S.

<sup>30</sup> S. 189.041(2)(a)4., F.S.

<sup>31</sup> S. 189.041(2)(b)1. F.S.

purposes of this determination, an “urban area” is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

- 1.5 persons per acre, as defined by the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or
- 1 single-family home per 5 acres within a recorded plat subdivision.<sup>32</sup>

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.<sup>33</sup> The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.<sup>34</sup> If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.<sup>35</sup> After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.<sup>36</sup> A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.<sup>37</sup>

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board.<sup>38</sup> The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.<sup>39</sup>

The composition of the board is determined by the percentage of the district that is an urban area, as follows:<sup>40</sup>

<b>Urban Area as Percentage of District</b>	<b>Number of Board Members Elected by Landowners</b>	<b>Number of Board Members Elected by Qualified Electors</b>
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

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<sup>32</sup> S. 189.041(1)(b), F.S.  
<sup>33</sup> S. 189.041(2)(b)2., F.S.  
<sup>34</sup> S. 189.041(1)(b) and (2)(b)3., F.S.  
<sup>35</sup> S. 189.041(2)(b)3., F.S.  
<sup>36</sup> S. 189.041(2)(b)4., F.S.  
<sup>37</sup> S. 189.041(2)(b)5., F.S.  
<sup>38</sup> S. 189.041(2)(b)6., F.S.  
<sup>39</sup> S. 189.041(2)(b)8., F.S.  
<sup>40</sup> S. 189.041(3)(a), F.S.

Governing board members elected by qualified electors serve four-year terms, except for those elected at the first election and the first landowners meeting following the referendum, who serve the following terms:<sup>41</sup>

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1-, 2-, 3-, and 4-year term	1 member serving a 4-year term
26%-50%	1 member serving each a 1-, 2-, and 3-year term	2 member serving a 4-year term
51%-70%	1 member serving each a 1- and 2-year term	2 members serving a 4-year term, 1 member serving a 2-year term
70%-90%	1 member serving a 1-year term	2 members serving a 4-year term, 2 members serving a 2-year term
More than 91%	n/a	3 members serving a 4-year term, 2 members serving a 2-year term

Annual landowners meetings continue as long as at least one member of the board is elected on a one-acre/one-vote basis.<sup>42</sup> There is no requirement for a majority of the acreage of the district to be represented by either an owner or an owner’s proxy at the landowners meeting.<sup>43</sup> Landowner meetings must be held in the month preceding the month of the election of governing body members by electors.<sup>44</sup>

### Community Development Districts

Chapter 190, F.S., the “Uniform Community Development District Act of 1980,”<sup>45</sup> sets forth the exclusive and uniform procedures for establishing and operating a CDD.<sup>46</sup> This type of independent special district is an alternative method to manage and finance basic services for community development.<sup>47</sup> There are currently 622 active CDDs in Florida.<sup>48</sup>

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.<sup>49</sup> CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act,<sup>50</sup> maintain an office, lease property, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.<sup>51</sup>

CDDs may also exercise additional special powers to provide, construct, and maintain public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.<sup>52</sup> With the consent of the

<sup>41</sup> S. 189.041(3)(b), F.S.

<sup>42</sup> S. 189.041(3)(c)1., F.S.

<sup>43</sup> S. 189.041(3)(c)2., F.S.

<sup>44</sup> S. 189.041(3)(c)3., F.S.

<sup>45</sup> S. 190.001, F.S.

<sup>46</sup> Ss. 190.004 and 190.005, F.S.

<sup>47</sup> S. 190.003(6), F.S.

<sup>48</sup> Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx/> (last visited Jan. 2, 2020).

<sup>49</sup> S. 190.004(3), F.S.

<sup>50</sup> Ch. 120, F.S.

<sup>51</sup> S. 190.011, F.S.

<sup>52</sup> S. 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. S. 190.005(1)(f) and (2)(d), F.S.

applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and recreational areas, fire prevention and control, school buildings and related structures, security, control and elimination of mosquitoes and other arthropods of public health importance, and waste collection and disposal.<sup>53</sup>

The method for establishing a CDD depends upon its size. CDDs of more than 2,500 acres are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)<sup>54</sup> to adopt an administrative rule creating the district, while CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located.<sup>55</sup>

### **Effect of Proposed Changes**

The bill creates the North River Ranch Improvement Stewardship District (District), an independent special district in Manatee County, and provides a charter for the District. The District's purpose is to install, operate, and maintain community infrastructure in Manatee County. Section 1 of the bill creates the charter for the District.

#### Legislative Findings, Legislative Intent and Policy (Charter Section 2)

The bill provides legislative findings and intent, providing that the District will facilitate a comprehensive community development approach that integrates regional transportation, land use, and urban design elements to provide for a mix of housing, employment, and economic development opportunities.

The bill states that a CDD created under ch. 190, F.S., would not serve the public interest due to the size of the proposed District, that the creation of multiple CDDs would result in inefficient and duplicative layers of local special-purpose government, and a separate independent special district is better able to integrate the management of state resources and allow for coordinated stewardship of natural resources.

The bill states that the District does not have the power to engage in comprehensive planning, zoning, or development permitting and that the creation of the District is consistent with the Manatee County Comprehensive Plan. The intent and purpose of the District is that no debt or obligation be placed on Manatee County without the county's consent.

The bill requires the District to receive approval by resolution or official statement from the Manatee County Board of County Commissioners before requesting any amendment to its charter, in a similar manner as is required for the creation of a special district pursuant to s. 189.031(2)(e)4., F.S.

#### Charter Requirements, Creation, Establishment, Jurisdiction, and Charter (Charter Section 3)

The bill provides a list of sections of the bill that fulfill the requirements for the creation of a special district under s. 189.031(3), F.S.

The bill states the District is a "public body corporate and politic," an independent special district, and any additional power granted to a CDD under ch. 190, F.S., after January 1, 2020, also constitutes a power of the District to the extent such changes are not inconsistent with the provisions of the bill. The bill provides that the District may exercise its power within the boundaries of the District, or extraterritorially with the consent of Manatee County, as evidenced by an interlocal agreement or a development order.

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<sup>53</sup> S. 190.012(2), F.S.

<sup>54</sup> Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.

<sup>55</sup> S. 190.005(1) and (2), F.S.

District Boundaries (Charter Section 4)

The bill provides the legal description of the boundaries of the District.

Membership, Powers, and Duties of the Board of Supervisors (Charter Section 5)

The bill provides for a five-member board (Board), with each member serving a four-year term. Members of the Board must be both Florida residents and United States citizens.

A meeting of the landowners of the District must be held within 90 days after the effective date of the act. Notice of the meeting must be provided once a week for two consecutive weeks in a newspaper of general circulation in the area of the District. The landowners present at the meeting must elect a chair from among attendees to conduct the meeting. The chair may nominate candidates and make motions if that person is a landowner or holds the proxy of a landowner. The landowners present constitute a quorum, even if they represent less than 50 percent of the total acreage of the District, and such landowners may elect members of the governing board. The three candidates for the Board receiving the first, second, and third highest number of votes are elected to terms expiring November 17, 2024, while the two candidates receiving the fourth and fifth highest number of votes are elected to terms expiring November 20, 2022.

Each landowner is entitled to one vote for each acre owned. Any fractional acre is treated as one acre for the purposes of the landowner vote. Landowners who are unable to attend may cast their votes by proxy. Subsequent landowners' elections must be announced at a public meeting at least 90 days before the landowners meeting and noticed in the same manner as the initial landowners meeting. Subsequent elections to the Board occur on the first Tuesday after the first Monday of November every two years.

The bill provides for a transition of the Board from being elected by landowners to the qualified electors residing in the District on the following schedule:

<b>Number of Qualified Electors</b>	<b>Number of Board Members Elected by Landowners</b>	<b>Number of Board Members Elected by Qualified Electors</b>
0-3,462	5	0
3,463-6,925	4	1
6,926-10,388	3	2
10,389-13,851	2	3
13,852-14,999	1	4
15,000 or more	0	5

The transition to a Board seat elected by the qualified electors of the District does not require an election to occur prior to the expiration of the existing Board member's term.

On or before June 1 of each election year, the Board must determine the number of qualified electors in the District as of April 15 of that year. The Board must consult the records of the Manatee County Supervisor of Elections, Property Appraiser, and Tax Collector when making this determination.

Members of the Board elected by qualified electors are selected at-large in non-partisan elections and must be qualified electors of the District. In addition, Board members must abide by the Florida Election Code.

The bill provides that the Governor may remove a Board member for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by the act. In the event of a vacancy, the remaining members of the Board may appointment someone to serve the remainder of the unexpired term, unless the vacancy was created by the Governor removing the Board member, in which case the Governor makes an appointment to fill the vacancy.

The Board is required to elect a chair and a secretary, as well as other officers the Board deems necessary. The secretary does not have to be a member of the Board.

The Board must keep a record of its proceedings containing all meeting, resolutions, bonds, and any corporate acts. The record book and other District records must be open to inspection by the public as required by ch. 119, F.S.

Board members may receive compensation up to the amount authorized for the supervisors of a CDD and are entitled to travel and per diem expenses as provided in s. 112.061, F.S.<sup>56</sup> In addition, Board members must meet ethics and conflict of interest provisions under general law for local public officials.<sup>57</sup>

The bill prohibits the District from levying ad valorem taxes until all members of the Board are elected by and are qualified electors of the District.<sup>58</sup>

### General Duties of the Board (Charter Section 6)

#### *District Manager and Treasurer*

The Board is required to employ a district manager to oversee any improvements or facilities constructed by the District. The bill specifies that employing a Board member, district manager, or other employee of a landowner as the district manager for the District does not constitute a conflict of interest under ch. 112, F.S. The district manager is permitted to hire additional employees as necessary and authorized by the Board.

The Board is also required to hire a treasurer, who must be a resident of the state. The treasurer manages the finances of the District and may be granted other powers as the Board finds appropriate. The Board sets the compensation of the treasurer and may require the treasurer to post a surety bond. The bill requires the financial records of the Board be audited by an independent certified public accountant in accordance with general law requirements.<sup>59</sup> The Board, in conjunction with the treasurer, must select a qualified public depository for the funds of the District.

#### *Budget and Reporting*

The district manager is required to prepare a proposed budget on or before July 15 of each year for consideration by the Board. The budget must contain all expenditures of the District and estimates of projected revenues. The Board may make amendments to the proposed budget before approval. The Board is required to provide adequate notice of the budget hearing. The Board must adopt a final budget before October 1, the beginning of its fiscal year, and the Board must submit a copy of its budget to the Manatee County Board of County Commissioners for informational purposes at least 60 days prior to its adoption.

The Board must provide the Manatee County Board of County Commissioners with a copy of the District's public facilities report as required by s. 189.08, F.S.

The District must provide full disclosure of its public financing and maintenance of improvements to real property to all existing and prospective residents of the District. The District must provide each developer of a residential development within the District with sufficient copies of the information to

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<sup>56</sup> S. 190.006(8), F.S., provides that supervisors of a CDD may receive compensation of no greater than \$200 per meeting and no more than \$4,800 per year, unless a higher amount is approved by electors in a referendum.

<sup>57</sup> See Ch. 112, Part III, F.S. (code of ethics for public officers and employees).

<sup>58</sup> The Board must receive voter approval before levying ad valorem taxes. See art. VII, s. 9, Fla. Const. (special districts may levy ad valorem taxes at a "millage authorized by law approved by vote of the electors.")

<sup>59</sup> As an independent special district, the District must maintain a public website on which it must post its annual budget and any amendments, all required financial reports and audits of the District's finances, and a link to the Department of Financial Services' website. Ss 189.016 and 189.069, F.S. The District must file a separate annual financial statement with the Department of Financial Services, under s. 218.32, F.S., and periodic audited financial statements with the Florida Auditor General, under s. 218.39, F.S.

provide to each prospective purchaser. The District must also file the disclosure documents in the property records of the county.

The bill provides that the District must maintain an official website by the end of its first full fiscal year, as required by s. 189.069, F.S.

### *General Powers*

The bill grants the District the following general powers to:

- Conduct business on behalf of the District, including suing or being sued, adopting a seal, and acquiring and disposing of property;
- Apply for Florida Retirement System coverage for its employees;
- Contract for professional services;
- Conduct financial transactions for District purposes;
- Adopt and enforce rules;
- Maintain an office;
- Hold, control, purchase, or dispose of public easements;
- Lease as lessor or lessee any type of project the District is authorized to undertake;
- Borrow money and issue bonds as authorized in the act and to levy taxes and assessments;
- Charge user fees as necessary to conduct District activities;
- Exercise eminent domain;<sup>60</sup>
- Cooperate with other government entities;
- Assess and impose ad valorem taxes, as provided in the act;
- Levy and impose maintenance taxes, if authorized by general law;
- Levy and impose special assessments;
- Exercise special powers; and
- Exercise powers necessary and proper for fulfilling the special and limited purpose of the District as authorized by this act.

### *Special Powers*

The bill also grants the District special powers to implement its lawful and special purpose and to provide the following systems and infrastructure for those special and limited purposes:

- Water management and control, including irrigation systems and facilities, for the lands within the District and to connect some or any of such facilities with roads and bridges;
- Water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse;
- Bridges, culverts, wildlife corridors, or road crossings that may be needed across any drain, ditch, canal, floodway, holding basin, or other body of water;
- District roads equal to or exceeding specifications of the county in which the roads are located, and street lighting;
- Buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage;
- Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District;
- Observation, mitigation, wetland creation, and wildlife habitat areas;
- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- School buildings and related structures, which may be leased, sold, or donated to the school district;

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<sup>60</sup> The Board may exercise eminent domain within the boundaries of the District without additional approval. The Board may only exercise eminent domain outside the boundaries of the District with approval from a general purpose local government (the municipality, for lands in an incorporated area; the county, for lands in unincorporated areas).



- Security;<sup>61</sup>
- Control and elimination of mosquitoes and other arthropods of public health importance;
- Enter into impact fee, mobility fee, or other similar credit agreements with Manatee County, other governmental bodies, or a landowner developer and to see or assign such credits on terms the District deems appropriate;
- Buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or other authorized projects;
- Governmental departments of the Board, which must be established and created at noticed meetings;
- Sustainable or green infrastructure improvements, facilities, and services;<sup>62</sup>
- Any facilities or improvements that may otherwise be provided by a county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees;
- Waste collection and disposal,;
- Construction and operation of communications systems and related infrastructure;<sup>63</sup>
- Health care facilities, including the ability to enter public-private partnerships and agreements as necessary to accomplish this task; and
- Any other project within or without the boundaries of the District when the project is subject to an agreement between the District and the Manatee County Board of County Commissioners or with any other applicable public or private entity, and is not inconsistent with effective local comprehensive plans or the general or special powers contained in the bill.

The bill also grants the District the power to enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education.

#### *Financing and Bonds*

The Board has the power to issue bond anticipation notes that will bear interest not to exceed the maximum rate allowed by law and that will mature no later than five years from issuance. The Board may also obtain loans and issue negotiable notes, warrants, or other evidence of debt, payable at such times and bearing such interest as the Board determines, but not to exceed the maximum rate allowed by general law and to be sold or discounted at such price or prices not less than 95 percent of par value. Bonds may be sold in blocks or installment at different times, at public or private sale after advertisement, at not less than 90 percent of the par value, together with accrued interest. The Board also has the authority to issue refunding bonds, revenue bonds, and general obligation bonds.<sup>64</sup>

The bill authorizes the Board to levy ad valorem taxes on all taxable property in the District, but only after the Board is elected by and consists of qualified electors of the District and the levy has been approved at a referendum as required by Art. VII, s. 9 of the Florida Constitution. This levy may not exceed 3.0 mills.

The Board annually must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments are collected annually in the same manner as county taxes. The Board may determine a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment of all future annual installments of the benefit special assessment.

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<sup>61</sup> The District may contract with the appropriate local general purpose government agencies for an increased level of services within the District boundaries.

<sup>62</sup> The bill provides that this provision does not authorize the District to provide electric services or otherwise impair electric utility franchise agreements.

<sup>63</sup> The bill provides that this provision does not authorize the District to provide communication services to retail customers or otherwise impair existing service provider franchise agreement.

<sup>64</sup> The charter specifies that a default on a bond or obligation of the District does not constitute a debt or obligation on behalf of the state or any general-purpose local government.

The Board is authorized to levy a non-ad valorem maintenance tax, if such tax is ever authorized by general law, to maintain and preserve physical facilities and services in the District and to defray current expenses. Upon the completion of the facilities and services, the District would be able to levy annually a non-ad valorem and non-millage tax upon each tract or parcel of land within the District, based on the net assessment of benefits accruing from the original construction of the improvements. This tax would be paid and enforceable in the same manner as county ad valorem taxes.

The Board may levy a maintenance special assessment to preserve the facilities and projects of the District. The amount of the assessment is determined by the Board upon a report of the District's engineer and assessed by the Board upon the land within the District benefited by the maintenance, or apportioned between the benefited lands in proportion to the benefits received by each tract of land. The assessment is a lien on the assessed property until paid and enforceable in the same manner as county taxes. However, this does not prohibit the District from using the method prescribed in ss. 197.363, 197.3631, or 197.3632, F.S., for enforcing and collecting these assessments.

The District may establish and collect rates, fees, rentals, or other charges, referred to as "revenues," for the system and facilities furnished by the District such as recreational facilities; water management and control facilities; and water, sewer, and reuse systems. The District must hold a public hearing concerning the proposed rates, fees, rentals, or other charges, which may not apply to District leases, prior to adoption under the administrative rulemaking authority of the District.

Any rates, fees, rentals, charges, or delinquent penalties not paid within 60 days, will be in default and the unpaid balance together with reasonable attorney fees and costs may be recovered by the District in a civil action. In the event fees, rentals, or other charges for water and sewer, or either of them, are not paid when due, the District may, under rules and regulations of the Board, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and restoration of service are fully paid.

#### *Enforcement of Taxes and Assessments*

The collection and enforcement of all taxes levied by the District operates in the same manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes pertain to the collection of such taxes. Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632, F.S. Maintenance taxes are non-ad valorem taxes and not special assessments.

Any property of a governmental entity subject to a ground lease as described in s. 190.003(13), F.S., is not subject to lien or encumbrance on the underlying fee interest for a levy of ad valorem taxes or non-ad valorem assessments under this bill.

#### *Competitive Bidding and Public Notice Regarding District Purchases*

Any contract for goods, supplies, or materials that exceeds \$195,000<sup>65</sup> is subject to competitive bidding through a notice of bids published once in a newspaper of general circulation in Manatee County. In addition, if the Board seeks to construct or improve a public building, structure, or other public works, it must comply with the bidding procedures in s. 255.20, F.S., and any other applicable general law. The Board must accept the bid of the lowest responsive and responsible bidder unless all bids have been rejected. The provisions of the Consultants Competitive Negotiation Act,<sup>66</sup> apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services.

Contracts for maintenance services that exceed \$195,000<sup>67</sup> are subject to competitive bidding. Any contracts for other services are not subject to competitive bidding unless the District adopts a rule, policy, or procedure to apply competitive bidding procedures to those contracts. The Board may require bidders to supply a bond.

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<sup>65</sup> See s. 287.017(1)(d), F.S. (creating purchasing categories for procurement of personal property and services).

<sup>66</sup> S. 287.055, F.S.

<sup>67</sup> *Id.*

### *Waiver of Sovereign Immunity*

Any suits against the District for damages arising out of tort are subject to the limitations provided in s. 768.28, F.S.

### *Termination, Contraction, or Expansion of the District*

The bill requires the Board to obtain a resolution or official statement of support from the Manatee County Board of County Commissioners before asking the Legislature to expand or contract the District. The bill states the District exists until dissolved by the Legislature or declared inactive by the Department of Economic Opportunity.<sup>68</sup>

### *Notice to Purchasers of Property*

After creation of the District, each contract for initial sale of a residential unit within the District must include a disclosure statement informing the purchaser of the existence of the District and that the purchaser will be liable for taxes, assessments, and fees imposed by the District.

### *Public Access*

Any facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax exempt bonding issued by the District, is public. The District may establish rules regulating the use of the property and imposing reasonable charges or fees for such use.

### *Merger with Community Development Districts*

The bill provides that the District may merge with one or more CDDs situated wholly within its boundaries. Any CDD within the boundaries of the District may initiate the merger process by filing a written request for merger with the District and Manatee County.

The District, with Board approval, may enter into a merger agreement with the CDD to provide for the allocation and retirement of debt, transition of the CDD board, and the transfer of all financial obligations and operating and maintenance responsibilities to the District. The bill provides that execution of the merger agreement between the District and the CDD constitutes consent by the landowners within each district.

The District and each CDD requesting merger is required to hold a public hearing within their respective boundaries to provide information and take public comment. The hearing must be held within 45 days after the execution of the merger agreement and must be noticed in a newspaper of general circulation in Manatee County at least 14 days before the hearing. At the conclusion of the hearing, the respective districts are required to adopt a resolution approving or disapproving the merger. If the merger is approved, the resolutions and merger agreement must be filed with Manatee County. Upon receipt of the resolutions and merger agreement, Manatee County must adopt an ordinance dissolving each CDD pursuant to s. 190.046(10), F.S.

### *Economic Impact*

The Economic Impact Statement projects expenditures of \$100,000 in Fiscal Year (FY) 2020-21 and \$150,000 in FY 2021-22 associated with startup costs for district administration and planning.

## **B. SECTION DIRECTORY:**

Section 1: Provides a charter for the North River Ranch Improvement Stewardship District.

Section 2: Provides for severability of the act.

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<sup>68</sup> S. 189.062, F.S.

Section 3: Provides that the bill is effective upon becoming a law, except that the provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of qualified voters in a referendum held after such time when all members of the Board are qualified electors of the District.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 11, 2019.

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

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? A referendum must be held when all members of the Board are qualified electors, elected by qualified electors, if the Board seeks to levy ad valorem taxes.

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 requires rules and orders adopted by the District pertaining to the powers, duties, and functions of the officers of the District; the conduct of the business of the District; the maintenance of records; the form of certificates evidencing tax liens and all other documents and records of the District; and the operation of guardhouses by the District or any other unit of local government to serve security purposes, be adopted and enforced pursuant to ch. 120, F.S., the Administrative Procedure Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### Exceptions to General Law

Sections 5(2) and 5(3) of the charter for the District created by Section 1 of the bill provides for the composition of the Board, including the process for transitioning from a Board elected on a one-acre/one-vote basis to an election by the qualified electors of the District. The transition process provided by the bill is in lieu of the process provided in s. 189.041, F.S.

Pursuant 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) appear to apply to this bill.

### Powers of Community Development Districts

Although the District is created pursuant to ch. 189, F.S., the bill proposes to give the District future powers that may be included in ch. 190, F.S., relating to CDDs, as follows:

Any amendments to chapter 190, Florida Statutes, after January 1, 2020, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter contained in ss. 190.006-

190.041, Florida Statutes, which are not inconsistent with this act, shall constitute a general power, special power, authority, or function of the North River Ranch Improvement Stewardship District.

Therefore, if the Legislature amends ch. 190, F.S., to grant CDDs additional authority at any time in the future, the bill provides that such additional authority will be granted to the District without further Legislative review or enactment.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 16, 2020, the Local Administration Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed provisions which provided an unnecessary exception to general law and which would have allowed the District to construct stadiums. The PCS also clarified the effective date of the bill is upon becoming a law, except for the provisions which authorize the levy of ad valorem taxation.

The analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

1                                   A bill to be entitled  
2           An act relating to Manatee County; creating the North  
3           River Ranch Improvement Stewardship District;  
4           providing a short title, legislative findings and  
5           intent, and definitions; establishing compliance with  
6           minimum requirements in s. 189.031(3), F.S., for  
7           creation of an independent special district; providing  
8           for creation and establishment of the district;  
9           establishing the legal boundaries of the district;  
10          providing for the jurisdiction and charter of the  
11          district; providing for a governing board; providing  
12          for membership, election, and terms of office;  
13          providing for meetings; providing administrative  
14          duties of the board; providing a method for transition  
15          of the board from landowner control to control by the  
16          resident electors of the district; providing for a  
17          district manager and district personnel; providing for  
18          a district treasurer, selection of a public  
19          depository, and district budgets and financial  
20          reports; providing for the general powers of the  
21          district; providing for the special powers of the  
22          district to plan, finance, and provide community  
23          infrastructure and services within the district;  
24          providing for bonds; providing for borrowing;  
25          providing for future ad valorem taxation; providing

26 | for special assessments; providing for issuance of  
 27 | certificates of indebtedness; providing for tax liens;  
 28 | providing for competitive procurement; providing for  
 29 | fees and charges; providing for amending the charter;  
 30 | providing for required notices to purchasers of  
 31 | residential units within the district; defining the  
 32 | term "district public property"; providing for merger;  
 33 | providing for construction; providing severability;  
 34 | providing for a referendum; providing effective dates.  
 35 |

36 | Be It Enacted by the Legislature of the State of Florida:  
 37 |

38 | Section 1. The charter for the North River Ranch  
 39 | Improvement Stewardship District is created to read:

40 | Section 1. This act may be cited as the "North River Ranch  
 41 | Improvement Stewardship District Act."

42 | Section 2. Legislative findings and intent; definitions;  
 43 | policy.-

44 | (1) LEGISLATIVE INTENT; PURPOSE OF THE DISTRICT.-

45 | (a) The lands located wholly within Manatee County covered  
 46 | by this act contain many opportunities for thoughtful,  
 47 | comprehensive, responsible, and consistent development over a  
 48 | long period.

49 | (b) There is a need to use a single special and limited  
 50 | purpose independent special district unit of local government

51 for the North River Ranch Improvement Stewardship District lands  
52 located within Manatee County to provide for a more  
53 comprehensive community development approach, which will  
54 facilitate an integral relationship among regional  
55 transportation, land use, and urban design to provide for a  
56 diverse mix of housing and regional employment and economic  
57 development opportunities, rather than fragmented development  
58 with underutilized infrastructure which is generally associated  
59 with urban sprawl.

60 (c) There is a considerably long period of time during  
61 which there is a significant burden to provide various systems,  
62 facilities, and services to the initial landowners of the North  
63 River Ranch Improvement Stewardship District lands, such that  
64 there is a need for flexible management, sequencing, timing, and  
65 financing of the various systems, facilities, and services to be  
66 provided to these lands, taking into consideration absorption  
67 rates, commercial viability, and related factors. Therefore,  
68 extended control by the initial landowner with regard to the  
69 provision of systems, facilities, and services for the North  
70 River Ranch Improvement Stewardship District lands, coupled with  
71 the special and single purpose of such district, is in the  
72 public interest.

73 (d) While chapter 190, Florida Statutes, provides an  
74 opportunity for previous community development services and  
75 facilities to be provided by the continued use of community



76 | development districts in a manner that furthers the public  
77 | interest, given the size of the North River Ranch Improvement  
78 | Stewardship District lands and the duration of development  
79 | continuing to utilize multiple community development districts  
80 | over these lands which would result in an inefficient,  
81 | duplicative, and needless proliferation of local special purpose  
82 | governments, contrary to the public interest and the  
83 | Legislature's findings in chapter 190, Florida Statutes, it is  
84 | in the public interest that the long-range provision for, and  
85 | management, financing, and long-term maintenance, upkeep, and  
86 | operation of, services and facilities to be provided for  
87 | ultimate development and conservation of the lands covered by  
88 | this act be under one coordinated entity. The creation of an  
89 | independent special district will assist in integrating the  
90 | management of state resources and allow for greater and more  
91 | coordinated stewardship of natural resources.

92 | (e) The existence and use of a special and limited purpose  
93 | local government for the North River Ranch Improvement  
94 | Stewardship District lands, subject to the Manatee County  
95 | comprehensive plan, will provide for a comprehensive and  
96 | complete community development approach to promote a sustainable  
97 | and efficient land use pattern for the North River Ranch  
98 | Improvement Stewardship District lands with long-term planning  
99 | for conservation and development; provide opportunities for the  
100 | mitigation of impacts and development of infrastructure in an

101 orderly and timely manner; prevent the overburdening of the  
102 local general purpose government and the taxpayers; and provide  
103 an enhanced tax base and regional employment and economic  
104 development opportunities.

105 (f) The creation and establishment of the special district  
106 will encourage local government financial self-sufficiency in  
107 providing public facilities and in identifying and implementing  
108 fiscally sound, innovative, and cost-effective techniques to  
109 provide and finance public facilities while encouraging  
110 coordinated development of capital improvement plans by all  
111 levels of government, in accordance with the goals of chapter  
112 187, Florida Statutes.

113 (g) The creation and establishment of a special and single  
114 purpose independent district is a legitimate supplemental and  
115 alternative method available to manage, own, operate, construct,  
116 and finance capital infrastructure systems, facilities, and  
117 services.

118 (h) In order to be responsive to the critical timing  
119 required through the exercise of its special management  
120 functions, an independent special district requires financing of  
121 those functions, including bondable lienable and nonlienable  
122 revenue, with full and continuing public disclosure and  
123 accountability, funded by landowners, both present and future,  
124 and funded also by users of the systems, facilities, and  
125 services provided to the land area by the special district,

126 without unduly burdening the taxpayers, citizens, and ratepayers  
127 of the state or Manatee County.

128 (i) The special district created and established by this  
129 act shall not have or exercise any comprehensive planning,  
130 zoning, or development permitting power; the establishment of  
131 the special district is not considered a development order  
132 within the meaning of part I of chapter 380, Florida Statutes;  
133 and all applicable planning and permitting laws, rules,  
134 regulations, and policies of Manatee County control the  
135 development of the land to be serviced by the special district.

136 (j) The creation by this act of the North River Ranch  
137 Improvement Stewardship District is not inconsistent with the  
138 Manatee County comprehensive plan.

139 (k) It is the legislative intent and purpose that no debt  
140 or obligation of the special district constitute a burden on  
141 Manatee County.

142 (2) DEFINITIONS.—As used in this act:

143 (a) "Ad valorem bonds" means bonds that are payable from  
144 the proceeds of ad valorem taxes levied on real and tangible  
145 personal property and that are generally referred to as general  
146 obligation bonds.

147 (b) "Assessable improvements" means, without limitation,  
148 any and all public improvements and community facilities that  
149 the district is empowered to provide in accordance with this act  
150 that provide a special benefit to property within the district.

151 (c) "Assessment bonds" means special obligations of the  
152 district which are payable solely from proceeds of the special  
153 assessments or benefit special assessments levied for assessable  
154 improvements, provided that, in lieu of issuing assessment bonds  
155 to fund the costs of assessable improvements, the district may  
156 issue revenue bonds for such purposes payable from assessments.

157 (d) "Assessments" means nonmillage district assessments  
158 including special assessments, benefit special assessments, and  
159 maintenance special assessments, and a nonmillage, non-ad  
160 valorem maintenance tax if authorized by general law.

161 (e) "Benefit special assessments" are district assessments  
162 imposed, levied, and collected pursuant to section 6.

163 (f) "Board of supervisors" or "board" means the governing  
164 body of the district or, if such board has been abolished, the  
165 board, body, or commission assuming the principal functions  
166 thereof or to whom the powers given to the board by this act  
167 have been given by general law.

168 (g) "Bond" includes "certificate," and the provisions that  
169 are applicable to bonds are equally applicable to certificates.  
170 The term also includes any general obligation bond, assessment  
171 bond, refunding bond, revenue bond, bond anticipation note, and  
172 other such obligation in the nature of a bond as is provided for  
173 in this act.

174 (h) "Cost" or "costs," when used in reference to any  
175 project, includes, but is not limited to:

- 176        1. The expenses of determining the feasibility or
- 177        practicability of acquisition, construction, or reconstruction.
- 178        2. The cost of surveys, estimates, plans, and
- 179        specifications.
- 180        3. The cost of improvements.
- 181        4. Engineering, architectural, fiscal, and legal expenses
- 182        and charges.
- 183        5. The cost of all labor, materials, machinery, and
- 184        equipment.
- 185        6. The cost of all lands, properties, rights, easements,
- 186        and franchises acquired.
- 187        7. Financing charges.
- 188        8. The creation of initial reserve and debt service funds.
- 189        9. Working capital.
- 190        10. Interest charges incurred or estimated to be incurred
- 191        on money borrowed before and during construction and acquisition
- 192        and for such reasonable period of time after completion of
- 193        construction or acquisition as the board may determine.
- 194        11. The cost of issuance of bonds pursuant to this act,
- 195        including advertisements and printing.
- 196        12. The cost of any bond or tax referendum held pursuant
- 197        to this act and all other expenses of the issuance of bonds.
- 198        13. The discount, if any, on the sale or exchange of
- 199        bonds.
- 200        14. Administrative expenses.

201       15. Such other expenses as may be necessary or incidental  
202 to the acquisition, construction, or reconstruction of any  
203 project, or to the financing thereof, or to the development of  
204 any lands within the district.

205       16. Payments, contributions, dedications, and any other  
206 exactions required as a condition of receiving any governmental  
207 approval or permit necessary to accomplish any district purpose.

208       17. Any other expense or payment permitted by this act or  
209 allowable by general law.

210       (i) "District" means the North River Ranch Improvement  
211 Stewardship District.

212       (j) "District manager" means the manager of the district.

213       (k) "District roads" means highways, streets, roads,  
214 alleys, intersection improvements, sidewalks, crossings,  
215 landscaping, irrigation, signage, signalization, storm drains,  
216 bridges, multi-use trails, lighting, and thoroughfares of all  
217 kinds.

218       (l) "General obligation bonds" means bonds which are  
219 secured by, or provide for their payment by, the pledge of the  
220 full faith and credit and taxing power of the district.

221       (m) "General-purpose local government" means a county,  
222 municipality, or consolidated city-county government.

223       (n) "Governing board member" means any member of the board  
224 of supervisors.

225       (o) "Land development regulations" means those regulations

226 of the general purpose local government, adopted under the  
227 Community Planning Act, codified as part II of chapter 163,  
228 Florida Statutes, to which the district is subject and as to  
229 which the district may not do anything that is inconsistent  
230 therewith. Land development regulations are not considered  
231 specific management, engineering, operations, or capital  
232 improvement planning, needed in the daily management,  
233 implementation, and supplying by the district of systems,  
234 facilities, services, works, improvements, projects, or  
235 infrastructure, so long as they remain subject to and are not  
236 inconsistent with the applicable county codes.

237 (p) "Landowner" means the owner of a freehold estate as it  
238 appears on the deed record, including a trustee, a private  
239 corporation, and an owner of a condominium unit. "Landowner"  
240 does not include a reversioner, remainderman, mortgagee, or any  
241 governmental entity which is not counted and does not need to be  
242 notified of proceedings under this act. "Landowner" also means  
243 the owner of a ground lease from a governmental entity, which  
244 leasehold interest has a remaining term, excluding all renewal  
245 options, in excess of 50 years.

246 (q) "Maintenance special assessments" are assessments  
247 imposed, levied, and collected pursuant to section 6.

248 (r) "Non-ad valorem assessment" means only those  
249 assessments which are not based upon millage and which can  
250 become a lien against a homestead as permitted in s. 4, Art. X

251 of the State Constitution.

252 (s) "North River Ranch Improvement Stewardship District"  
253 means the special and single-purpose independent special  
254 district unit of local government and political subdivision  
255 created and chartered by this act, and limited to the  
256 performance of those general and special powers authorized by  
257 its charter under this act, the boundaries of which are set  
258 forth by the act, the governing board of which is created and  
259 authorized to operate with legal existence by this act, and the  
260 purpose of which is as set forth in this act.

261 (t) "Powers" means powers used and exercised by the board  
262 of supervisors to accomplish the special and limited purpose of  
263 the district, including:

264 1. "General powers," which means those organizational and  
265 administrative powers of the district as provided in its charter  
266 in order to carry out its special and limited purposes as a  
267 local government public corporate body politic.

268 2. "Special powers," which means those powers provided by  
269 the district charter to implement its specialized systems,  
270 facilities, services, projects, improvements, and infrastructure  
271 and related functions in order to carry out its special and  
272 limited purposes.

273 3. Any other powers, authority, or functions set forth in  
274 this act.

275 (u) "Project" means any development, improvement,



276 property, power, utility, facility, enterprise, service, system,  
277 works, or infrastructure now existing or hereafter undertaken or  
278 established under this act.

279 (v) "Qualified elector" means any person at least 18 years  
280 of age who is a citizen of the United States and a legal  
281 resident of the state and of the district and who registers to  
282 vote with the Supervisor of Elections in Manatee County and  
283 resides in Manatee County.

284 (w) "Reclaimed water" means water, including from wells or  
285 stormwater management facilities, that has received at least  
286 secondary treatment and basic disinfection and is reused after  
287 flowing out of a domestic wastewater treatment facility or  
288 otherwise reused as an approved use of surface water or  
289 groundwater by the water management district.

290 (x) "Reclaimed water system" means any plant, well,  
291 system, facility, or property, and any addition, extension, or  
292 improvement thereto at any future time constructed or acquired  
293 as part thereof, useful, necessary, or having the present  
294 capacity for future use in connection with the development of  
295 sources, treatment, purification, or distribution of reclaimed  
296 water. The term includes franchises of any nature relating to  
297 any such system and necessary or convenient for the operation  
298 thereof including for the district's own use or resale.

299 (y) "Refunding bonds" means bonds issued to refinance  
300 outstanding bonds of any type and the interest and redemption

301 premium thereon. Refunding bonds may be issuable and payable in  
302 the same manner as refinanced bonds, except that no approval by  
303 the electorate shall be required unless required by the State  
304 Constitution.

305 (z) "Revenue bonds" means obligations of the district that  
306 are payable from revenues, including, but not limited to,  
307 special assessments and benefit special assessments, derived  
308 from sources other than ad valorem taxes on real or tangible  
309 personal property and that do not pledge the property, credit,  
310 or general tax revenue of the district.

311 (aa) "Sewer system" means any plant, system, facility, or  
312 property, and additions, extensions, and improvements thereto at  
313 any future time constructed or acquired as part thereof, useful  
314 or necessary or having the present capacity for future use in  
315 connection with the collection, treatment, purification, or  
316 disposal of sewage, including, but not limited to, industrial  
317 wastes resulting from any process of industry, manufacture,  
318 trade, or business or from the development of any natural  
319 resource. The term also includes treatment plants, pumping  
320 stations, lift stations, valves, force mains, intercepting  
321 sewers, laterals, pressure lines, mains, and all necessary  
322 appurtenances and equipment; all sewer mains, laterals, and  
323 other devices for the reception and collection of sewage from  
324 premises connected therewith; and all real and personal property  
325 and any interest therein, and rights, easements, and franchises

326 of any nature relating to any such system and necessary or  
 327 convenient for operation thereof.

328 (bb) "Special assessments" means assessments as imposed,  
 329 levied, and collected by the district for the costs of  
 330 assessable improvements pursuant to this act, chapter 170,  
 331 Florida Statutes, and the additional authority under s.  
 332 197.3631, Florida Statutes, or any other provision of general  
 333 law, now or hereinafter enacted, which provide or authorize a  
 334 supplemental means to impose, levy, or collect special  
 335 assessments.

336 (cc) "Taxes" or "tax" means those levies and impositions  
 337 of the board of supervisors that support and pay for government  
 338 and the administration of general law and that may be:

339 1. Ad valorem or property taxes based upon both the  
 340 appraised value of property and millage, at a rate uniform  
 341 within the jurisdiction; or

342 2. If and when authorized by general law, non-ad valorem  
 343 maintenance taxes not based on millage that are used to maintain  
 344 district systems, facilities, and services.

345 (dd) "Water system" means any plant, system, facility, or  
 346 property, and any addition, extension, or improvement thereto at  
 347 any future time constructed or acquired as a part thereof,  
 348 useful, necessary, or having the present capacity for future use  
 349 in connection with the development of sources, treatment,  
 350 purification, or distribution of water. The term also includes

351 dams, reservoirs, storage tanks, mains, lines, valves, pumping  
352 stations, laterals, and pipes for the purpose of carrying water  
353 to the premises connected with such system, and all rights,  
354 easements, and franchises of any nature relating to any such  
355 system and necessary or convenient for the operation thereof.

356 (3) POLICY.—Based upon its findings, ascertainments,  
357 determinations, intent, purpose, and definitions, the  
358 Legislature states its policy expressly:

359 (a) The district and the district charter, with its  
360 general and special powers, as created in this act, are  
361 essential and the best alternative for the residential,  
362 commercial, office, hotel, health care, and other similar  
363 community uses, projects, or functions in the included portion  
364 of Manatee County consistent with the effective comprehensive  
365 plan, and designed to serve a lawful public purpose.

366 (b) The district, which is a local government and a  
367 political subdivision, is limited to its special purpose as  
368 expressed in this act, with the power to provide, plan,  
369 implement, construct, maintain, and finance as a local  
370 government management entity systems, facilities, services,  
371 improvements, infrastructure, and projects, and possessing  
372 financing powers to fund its management power over the long term  
373 and with sustained levels of high quality.

374 (c) The creation of the North River Ranch Improvement  
375 Stewardship District by and pursuant to this act, and its

376 exercise of its management and related financing powers to  
377 implement its limited, single, and special purpose, is not a  
378 development order and does not trigger or invoke any provision  
379 within the meaning of chapter 380, Florida Statutes, and all  
380 applicable governmental planning, environmental, and land  
381 development laws, regulations, rules, policies, and ordinances  
382 apply to all development of the land within the jurisdiction of  
383 the district as created by this act.

384 (d) The district shall operate and function subject to,  
385 and not inconsistent with, the applicable comprehensive plan of  
386 Manatee County and any applicable development orders (e.g.  
387 detailed site plan development orders), zoning regulations, and  
388 other land development regulations.

389 (e) The special and single purpose North River Ranch  
390 Improvement Stewardship District does not have the power of a  
391 general-purpose local government to adopt a comprehensive plan  
392 or related land development regulation as those terms are  
393 defined in the Community Planning Act.

394 (f) This act may be amended, in whole or in part, only by  
395 special act of the Legislature. The board of supervisors of the  
396 district may not ask the Legislature to amend this act without  
397 first obtaining a resolution or official statement from the  
398 district and Manatee County as provided in s. 189.031(2)(e)4.,  
399 Florida Statutes, for the creation of an independent special  
400 district.

401 Section 3. Minimum charter requirements; creation and  
402 establishment; jurisdiction; construction; charter.—

403 (1) Pursuant to s. 189.031(3), Florida Statutes, the  
404 Legislature sets forth that the minimum requirements in  
405 paragraphs (a) through (o) have been met in the identified  
406 provisions of this act as follows:

407 (a) The purpose of the district is provided in subsection  
408 (4) and this section.

409 (b) The powers, functions, and duties of the district  
410 regarding ad valorem taxation, bond issuance, other revenue-  
411 raising capabilities, budget preparation and approval, liens and  
412 foreclosure of liens, use of tax deeds and tax certificates as  
413 appropriate for non-ad valorem assessments, and contractual  
414 agreements are provided in section 6.

415 (c) The methods for establishing the district are provided  
416 in this section.

417 (d) The methods for amending the charter of the district  
418 are provided in this section.

419 (e) The membership and organization of the governing body  
420 and the establishment of a quorum are provided in section 5.

421 (f) The maximum compensation of board members is provided  
422 in section 6.

423 (g) The administrative duties of the governing body are  
424 provided in section 6.

425 (h) The requirements for financial disclosure, noticing,

426 and reporting are provided in section 6.

427 (i) The procedures and requirements for issuing bonds are  
428 provided in section 6.

429 (j) The requirements for elections or referendums and  
430 qualifications of an elector of the district are provided in  
431 this section and section 6.

432 (k) The methods for financing the district are provided in  
433 section 6.

434 (l) Other than taxes levied for the payment of bonds and  
435 taxes levied for periods of up to 2 years when authorized by a  
436 vote of the electors of the district, the authority to levy ad  
437 valorem tax and the authorized millage rate are provided in  
438 section 6.

439 (m) The methods for collecting non-ad valorem assessments,  
440 fees, or service charges are provided in section 6.

441 (n) The requirements for planning are provided in this  
442 section and section 6.

443 (o) The geographic boundary limitations of the district  
444 are provided in sections 5 and 6.

445 (2) The North River Ranch Improvement Stewardship District  
446 is created and incorporated as a public body corporate and  
447 politic, an independent special and limited purpose local  
448 government, an independent special district, under s. 189.031,  
449 Florida Statutes, and as defined in this act and in s.  
450 189.012(3), Florida Statutes, in and for portions of Manatee

451 County. Any amendments to chapter 190, Florida Statutes, after  
452 January 1, 2020, granting additional general powers, special  
453 powers, authorities, or projects to a community development  
454 district by amendment to its uniform charter contained in ss.  
455 190.006-190.041, Florida Statutes, which are not inconsistent  
456 with this act, shall constitute a general power, special power,  
457 authority, or function of the North River Ranch Improvement  
458 Stewardship District. All notices for the enactment by the  
459 Legislature of this special act have been provided pursuant to  
460 the State Constitution, the Laws of Florida, and the rules of  
461 the House of Representatives and of the Senate. A referendum  
462 subsequent to the effective date of this act is not required as  
463 a condition of establishing the district. Therefore, the  
464 district, as created by this act, is established on the property  
465 described in this act.

466 (3) The territorial boundary of the district shall embrace  
467 and include all of that certain real property described in  
468 section 6.

469 (4) The jurisdiction of the district, in the exercise of  
470 its general and special powers, and in the carrying out of its  
471 special and limited purposes, is both within the external  
472 boundaries of the legal description of this district and  
473 extraterritorially when limited to, and as authorized expressly  
474 elsewhere in, the charter of the district as created in this act  
475 or applicable general law. This special and limited purpose



476 district is created as a public body corporate and politic, and  
477 local government authority and power is limited by its charter,  
478 this act, and subject to other general laws, including chapter  
479 189, Florida Statutes, except that an inconsistent provision in  
480 this act shall control and the district has jurisdiction to  
481 perform such acts and exercise such authorities, functions, and  
482 powers as shall be necessary, convenient, incidental, proper, or  
483 reasonable for the implementation of its special and limited  
484 purpose regarding the sound planning, provision, acquisition,  
485 development, operation, maintenance, and related financing of  
486 those public systems, facilities, services, improvements,  
487 projects, and infrastructure works as authorized herein,  
488 including those necessary and incidental thereto. The district  
489 shall only exercise any of its powers extraterritorially within  
490 Manatee County after execution of an interlocal agreement  
491 between the district and Manatee County consenting to the  
492 district's exercise of any of such powers within Manatee County  
493 or an applicable development order or as part of other land  
494 development regulations issued by Manatee County.

495 (5) The exclusive charter of the North River Ranch  
496 Improvement Stewardship District is this act and, except as  
497 otherwise provided in subsection (2), may be amended only by  
498 special act of the Legislature.

499 Section 4. Formation; boundaries.—The North River Ranch  
500 Improvement Stewardship District, an independent special

501 district, is created and incorporated in Manatee County and  
 502 shall embrace and include the territory described as:

503  
 504 MORGAN'S GLEN PARCEL:  
 505 BEGIN AT THE COMMON CORNER OF SECTIONS 19, 20, 29 AND 30,  
 506 TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA;  
 507 THENCE, ALONG THE EAST LINE OF SAID SECTION 30,  
 508 S.00°06'50"W., FOR 540.98 FEET TO A LINE BEING 50 FEET  
 509 NORTH OF AND PARALLEL TO THE CENTERLINE OF A SCL RAILROAD  
 510 RIGHT OF WAY, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 1,  
 511 BLOCK 1, MANATEE RIVER FARMS AS RECORDED IN PLAT BOOK 6,  
 512 PAGE 45 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA;  
 513 THENCE, ALONG SAID LINE, S.73°37'59"W., 670.12 FEET; THENCE  
 514 N.00°06'17"E., FOR 412.91 FEET; THENCE N.01°49'12"W., FOR  
 515 315.39 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE,  
 516 LEAVING SAID SOUTH LINE, N.00°34'28"W., FOR 441.76 FEET;  
 517 THENCE N.01°53'22"E., FOR 220.56 FEET; THENCE  
 518 S.89°53'31"W., FOR 858.88 FEET; THENCE S.84°33'13"W., FOR  
 519 104.29 FEET; THENCE S.76°54'28"W., FOR 377.88 FEET; THENCE  
 520 N.00°07'22"W., FOR 1,708.90 FEET TO THE SOUTH RIGHT OF WAY  
 521 LINE OF MOCCASIN WALLOW ROAD; THENCE, ALONG SAID SOUTH  
 522 RIGHT OF WAY LINE, S.89°15'16"E., FOR 1,980.23 FEET TO THE  
 523 EAST LINE OF SAID SECTION 19, SAID LINE ALSO BEING THE WEST  
 524 LINE OF SAID SECTION 20; THENCE, CONTINUE ALONG SAID SOUTH  
 525 RIGHT OF WAY LINE, S.88°55'05"E., 666.19 FEET; THENCE,

526 LEAVING SAID SOUTH RIGHT OF WAY LINE, S00°06'09"E., FOR  
 527 397.02 FEET; THENCE S.89°16'25"E., FOR 135.94 FEET; THENCE  
 528 S.88°59'12"E., FOR 121.89 FEET; THENCE S.81°46'46"E., FOR  
 529 200.24 FEET; THENCE S.89°10'18"E., FOR 210.00 FEET TO THE  
 530 EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID  
 531 SECTION 20; THENCE, ALONG SAID EAST LINE, S.00°04'54"E.,  
 532 FOR 673.99 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4 OF  
 533 THE SOUTHWEST 1/4, SAID LINE ALSO BEING THE NORTH LINE OF  
 534 THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 20;  
 535 THENCE, ALONG SAID LINE, N.89°31'56"W., FOR 665.68 FEET;  
 536 THENCE, LEAVING SAID LINE, S.00°06'09"E., FOR 467.45 FEET;  
 537 THENCE N.89°51'11"E., FOR 59.49 FEET; THENCE S.00°06'09"E.,  
 538 FOR 663.67 FEET TO THE SOUTH LINE OF SECTION 20, TOWNSHIP  
 539 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE,  
 540 ALONG SAID SOUTH LINE, S.89°51'11"W., FOR 724.73 FEET TO  
 541 THE POINT OF BEGINNING.

542  
 543 LESS AND EXCEPT THAT CERTAIN RIGHT-OF-WAY BEING MORE  
 544 PARTICULARLY DESCRIBED AS FOLLOWS:

545  
 546 A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK  
 547 2066, PAGE 3027, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA,  
 548 LYING IN SECTIONS 19 AND 30, TOWNSHIP 33 SOUTH, RANGE 19  
 549 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY  
 550 DESCRIBED AS FOLLOWS:

551  
 552 COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 19;  
 553 THENCE SOUTH 86°58'46" WEST, ALONG THE SOUTH LINE OF THE  
 554 SOUTHEAST 1/4 OF SAID SECTION 19, A DISTANCE OF 537.04 FEET  
 555 TO THE POINT OF BEGINNING; THENCE SOUTH 00°13'25" WEST, A  
 556 DISTANCE OF 2.00 FEET TO A POINT ON A CURVE TO THE RIGHT;  
 557 THENCE SOUTHERLY 171.21 FEET ALONG THE ARC OF SAID CURVE,  
 558 HAVING A RADIUS OF 860.00 FEET, A CENTRAL ANGLE OF  
 559 11°24'23", AND A CHORD BEARING AND DISTANCE OF SOUTH  
 560 05°55'36" WEST 170.93 FEET TO A POINT OF REVERSE CURVE TO  
 561 THE LEFT; THENCE SOUTHERLY 148.63 FEET ALONG THE ARC OF  
 562 SAID CURVE, HAVING A RADIUS OF 740.00 FEET, A CENTRAL ANGLE  
 563 OF 11°30'27", AND A CHORD BEARING AND DISTANCE OF SOUTH  
 564 05°52'34" WEST 148.38 FEET; THENCE SOUTH 00°07'20" WEST, A  
 565 DISTANCE OF 359.62 FEET TO THE NORTH RIGHT OF WAY LINE OF  
 566 FP & L RAILROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE,  
 567 SOUTH 73°37'35" WEST, A DISTANCE OF 77.06 FEET; THENCE  
 568 NORTH 01°01'42" WEST, A DISTANCE OF 694.96 FEET; THENCE  
 569 NORTH 00°13'25" EAST, A DISTANCE OF 724.64 FEET TO A POINT  
 570 ON A CURVE TO THE LEFT; THENCE NORTHERLY 205.25 FEET ALONG  
 571 THE ARC OF SAID CURVE, HAVING A RADIUS OF 560.00 FEET, A  
 572 CENTRAL ANGLE OF 21°00'00", AND A CHORD BEARING AND  
 573 DISTANCE OF NORTH 10°16'36" WEST 204.10 FEET; THENCE NORTH  
 574 20°46'36" WEST, A DISTANCE OF 207.01 FEET TO A POINT ON A  
 575 CURVE TO THE LEFT; THENCE NORTHWESTERLY 211.09 FEET ALONG

576 THE ARC OF SAID CURVE, HAVING A RADIUS OF 940.00 FEET, A  
 577 CENTRAL ANGLE OF 12°52'00", AND A CHORD BEARING AND  
 578 DISTANCE OF NORTH 27°12'36" WEST 210.65 FEET TO A POINT OF  
 579 REVERSE CURVE TO THE RIGHT; THENCE NORTHERLY 622.42 FEET  
 580 ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,060.00  
 581 FEET, A CENTRAL ANGLE OF 33°38'35", AND A CHORD BEARING AND  
 582 DISTANCE OF NORTH 16°49'18" WEST 613.51 FEET; THENCE NORTH  
 583 00°00'00" WEST, A DISTANCE OF 296.18 FEET; THENCE NORTH  
 584 44°34'29" WEST, A DISTANCE OF 70.18 FEET; THENCE NORTH  
 585 00°48'08" EAST, A DISTANCE OF 46.61 FEET TO THE SOUTH  
 586 MAINTAINED RIGHT OF WAY LINE OF MOCCASIN WALLOW ROAD;  
 587 THENCE ALONG SAID SOUTH MAINTAINED RIGHT OF WAY LINE, SOUTH  
 588 89°11'52" EAST, A DISTANCE OF 230.02 FEET; THENCE, LEAVING  
 589 SAID SOUTH MAINTAINED RIGHT OF WAY LINE, SOUTH 00°48'08"  
 590 WEST, A DISTANCE OF 46.66 FEET; THENCE SOUTH 45°25'31"  
 591 WEST, A DISTANCE OF 71.23 FEET; THENCE SOUTH 00°00'00"  
 592 EAST, A DISTANCE OF 236.20 FEET; THENCE SOUTH 04°08'24"  
 593 WEST, A DISTANCE OF 114.31 FEET TO A POINT ON A NON-TANGENT  
 594 CURVE TO THE LEFT; THENCE SOUTHERLY 494.62 FEET ALONG THE  
 595 ARC OF SAID CURVE, HAVING A RADIUS OF 940.00 FEET, A  
 596 CENTRAL ANGLE OF 30°08'55", AND A CHORD BEARING AND  
 597 DISTANCE OF SOUTH 18°34'08" EAST 488.93 FEET TO A POINT OF  
 598 REVERSE CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 238.04  
 599 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF  
 600 1,060.00 FEET, A CENTRAL ANGLE OF 12°52'00", AND A CHORD

601 BEARING AND DISTANCE OF SOUTH 27°12'36" EAST 237.54 FEET;  
 602 THENCE SOUTH 20°46'36" EAST, A DISTANCE OF 207.01 FEET TO A  
 603 POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 249.23 FEET  
 604 ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 680.00  
 605 FEET, A CENTRAL ANGLE OF 21°00'00", AND A CHORD BEARING AND  
 606 DISTANCE OF SOUTH 10°16'36" EAST 247.84 FEET; THENCE SOUTH  
 607 00°13'25" WEST, A DISTANCE OF 718.08 FEET TO THE POINT OF  
 608 BEGINNING.  
 609 CONTAINING 129.475 ACRES, MORE OR LESS.  
 610 TOGETHER WITH NORTH RIVER RANCH - HAVAL FARMS:  
 611 A TRACT OF LAND, BEING A PORTION OF MANATEE RIVER FARMS,  
 612 UNIT 1, RECORDED IN PLAT BOOK 6, PAGE 45 OF THE PUBLIC  
 613 RECORDS OF MANATEE COUNTY, FLORIDA, LYING IN SECTIONS 7, 8,  
 614 9, 16, 17, 18, 19 AND 20, TOWNSHIP 33 SOUTH, RANGE 19 EAST,  
 615 MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED  
 616 AS FOLLOWS:  
 617  
 618 BEGIN AT THE SOUTHWEST CORNER OF THE ABOVE-MENTIONED  
 619 SECTION 7; THENCE N.00°13'29"E., ALONG THE WEST LINE OF  
 620 SECTION 7, A DISTANCE OF 1,809.08 FEET; THENCE  
 621 N.90°00'00"E., A DISTANCE OF 272.18 FEET TO THE POINT OF  
 622 CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS 1,000.00  
 623 FEET AND A CENTRAL ANGLE OF 48°54'32"; THENCE NORTHEASTERLY  
 624 ALONG THE ARC OF SAID CURVE, A DISTANCE OF 853.62 FEET TO  
 625 THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT

626 HAVING A RADIUS OF 1,962.46 FEET AND A CENTRAL ANGLE OF  
627 97°43'17"; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A  
628 DISTANCE OF 3,347.09 FEET TO THE POINT OF REVERSE CURVATURE  
629 OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,500.00 FEET AND  
630 A CENTRAL ANGLE OF 48°48'45"; THENCE SOUTHEASTERLY ALONG  
631 THE ARC OF SAID CURVE, A DISTANCE OF 1,277.91 FEET TO THE  
632 POINT OF TANGENCY OF SAID CURVE; THENCE N.90°00'00"E., A  
633 DISTANCE OF 1,220.57 FEET TO THE POINT OF CURVATURE OF A  
634 CURVE TO THE LEFT HAVING A RADIUS OF 1,100.00 FEET AND A  
635 CENTRAL ANGLE OF 49°18'03"; THENCE NORTHEASTERLY ALONG THE  
636 ARC OF SAID CURVE, A DISTANCE OF 946.51 FEET TO THE POINT  
637 OF REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A  
638 RADIUS OF 1,990.00 FEET AND A CENTRAL ANGLE OF 108°30'13";  
639 THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF  
640 3,768.56 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE  
641 TO THE LEFT HAVING A RADIUS OF 1,400.00 FEET AND A CENTRAL  
642 ANGLE OF 67°34'16"; THENCE SOUTHEASTERLY ALONG THE ARC OF  
643 SAID CURVE, A DISTANCE OF 1,651.07 FEET TO THE POINT OF  
644 REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS  
645 OF 1,000.00 FEET AND A CENTRAL ANGLE OF 44°28'10"; THENCE  
646 EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 776.14  
647 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE  
648 S.53°53'56"E., A DISTANCE OF 509.73 FEET TO A POINT ON THE  
649 WESTERLY RIGHT-OF-WAY LINE OF U.S. 301; THENCE  
650 S.36°06'04"W., A DISTANCE OF 1,512.28 FEET; THENCE

651 N.89°59'54"W., A DISTANCE OF 4,022.59 FEET; THENCE  
 652 S.27°47'24"W., A DISTANCE OF 1,049.93 FEET; THENCE  
 653 N.68°30'43"W., A DISTANCE OF 1,332.96 FEET; THENCE  
 654 N.00°11'16"E., A DISTANCE OF 383.27 FEET; THENCE  
 655 N.89°43'15"W., A DISTANCE OF 719.63 FEET; THENCE  
 656 S.00°35'38" W., A DISTANCE OF 2,551.98 FEET TO THE POINT OF  
 657 CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS 795.00  
 658 FEET AND A CENTRAL ANGLE OF 48°08'26"; THENCE SOUTHWESTERLY  
 659 ALONG THE ARC OF SAID CURVE, A DISTANCE OF 667.97 FEET TO  
 660 THE POINT OF TANGENCY OF SAID CURVE; THENCE S.48°44'04" W.,  
 661 A DISTANCE OF 213.94 FEET TO THE POINT OF CURVATURE OF A  
 662 CURVE TO THE LEFT HAVING A RADIUS 1,355.00 FEET AND A  
 663 CENTRAL ANGLE OF 33°22'52"; THENCE SOUTHWESTERLY ALONG THE  
 664 ARC OF SAID CURVE, A DISTANCE OF 789.44 FEET; THE FOLLOWING  
 665 FIVE (5) CALLS ARE ALONG THE NORTHERLY LINE OF A SPECIFIC  
 666 PURPOSE SURVEY FOR TRACT 300FL-MA-010.000, PREPARED BY  
 667 WILLBROS ENGINEERS, INC., AND DATED OCTOBER 12, 2015: 1)  
 668 S.89°39'18"E., A DISTANCE OF 85.64 FEET; 2) S.89°10'25"E.,  
 669 A DISTANCE OF 187.79 FEET; 3) S.89°53'48"E., A DISTANCE OF  
 670 1,364.36 FEET; 4) S.89°38'04"E., A DISTANCE OF 1,529.39  
 671 FEET; 5) THENCE N.89°48'54"E., A DISTANCE OF 969.28 FEET TO  
 672 A POINT ON THE WEST LINE OF PARCEL DEEDED TO PEOPLES GAS  
 673 SYSTEM; THENCE S.00°02'24"W., ALONG THE WESTERLY LINE OF  
 674 SAID PARCEL, A DISTANCE OF 35.27 FEET TO THE SOUTH WEST  
 675 CORNER OF SAID PARCEL; THENCE S.89°57'36"E., ALONG THE



676 SOUTHERLY LINE OF SAID PARCEL, A DISTANCE OF 60.00 FEET TO  
 677 A POINT ON A PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK  
 678 2207, PAGE 6256, SAID PUBLIC RECORDS; THENCE ALONG SAID  
 679 PARCEL FOR THE FOLLOWING TWO (2) CALLS; 1) S.00°02'21"W., A  
 680 DISTANCE OF 24.79 FEET; 2) THENCE N.89°52'24"E., A DISTANCE  
 681 OF 178.91 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF  
 682 U.S. 301; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY LINE THE  
 683 FOLLOWING THREE (3) COURSES: 1) S.36°06'04"W., A DISTANCE  
 684 OF 472.43 FEET; 2) S.36°04'53"W., A DISTANCE OF 916.03 FEET  
 685 TO THE P.C. OF A CURVE TO THE LEFT WHOSE RADIUS POINT LIES  
 686 SOUTH 53°53'38"EAST, A DISTANCE OF 1977.86 FEET; 3)  
 687 SOUTHERLY ALONG THE ARC OF SAID CURVE ALSO BEING SAID RIGHT  
 688 OF WAY LINE, A DISTANCE OF 971.94 FEET THROUGH A CENTRAL  
 689 ANGLE OF 28°09'21"; THENCE N.89°26'34"W., A DISTANCE OF  
 690 1,282.99 FEET; THENCE S.00°06'08"E., A DISTANCE OF 1,300.10  
 691 FEET; TO THE NORTHERLY RIGHT OF WAY LINE OF MOCCASIN WALLOW  
 692 RD; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE  
 693 THE FOLLOWING FIVE (5) COURSES: 1) N.88°54'18"W., A  
 694 DISTANCE OF 1,334.91 FEET; 2) N.89°08'58"W., A DISTANCE OF  
 695 2,271.84 FEET; 3) N.89°07'49"W., A DISTANCE OF 328.34 FEET;  
 696 4) N.89°07'50"W., A DISTANCE OF 2,693.55 FEET; 5)  
 697 N.88°01'42"W., A DISTANCE OF 16.92 FEET TO THE WEST LINE OF  
 698 ABOVE-MENTIONED SECTION 19; THENCE N.00°08'36"E. ALONG SAID  
 699 WEST LINE, A DISTANCE OF 2,578.91 FEET; THENCE  
 700 N.00°08'15"E. THE WEST LINE OF ABOVE-MENTIONED SECTION 18.,

701 A DISTANCE OF 1,944.35 FEET; THENCE N.00°07'17"E. CONTINUE  
702 ALONG SAID WEST LINE, A DISTANCE OF 3,366.32 FEET TO THE  
703 POINT OF BEGINNING.

704 CONTAINING 1,883.092 ACRES, MORE OR LESS.

705 CONTAINING A TOTAL AREA OF 2,012.567 ACRES, MORE OR LESS.

706 Being subject to any rights-of-way, restrictions, and  
707 easements of record.

708  
709 Section 5. Board of supervisors; members and meetings;  
710 organization; powers; duties; terms of office; related election  
711 requirements.—

712 (1) The board of the district shall exercise the powers  
713 granted to the district pursuant to this act. The board shall  
714 consist of five members, each of whom shall hold office for a  
715 term of 4 years, as provided in this section, except as  
716 otherwise provided herein for initial board members, and until a  
717 successor is chosen and qualified. The members of the board must  
718 be residents of the state and citizens of the United States.

719 (2) (a) Within 90 days after the effective date of this  
720 act, there shall be held a meeting of the landowners of the  
721 district for the purpose of electing five supervisors for the  
722 district. Notice of the landowners' meeting shall be published  
723 in a newspaper of general circulation in the general area of the  
724 district once a week for 2 consecutive weeks, the last day of  
725 such publication to be not fewer than 14 days nor more than 28

726 days before the date of the election. The landowners, when  
727 assembled at such meeting, shall organize by electing a chair,  
728 who shall conduct the meeting. The chair may be any person  
729 present at the meeting. If the chair is a landowner or proxy  
730 holder of a landowner, he or she may nominate candidates and  
731 make and second motions. The landowners present at the meeting,  
732 in person or by proxy, shall constitute a quorum. At any  
733 landowners' meeting, 50 percent of the district acreage is not  
734 required to constitute a quorum, and each governing board member  
735 elected by landowners shall be elected by a majority of the  
736 acreage represented either by owner or proxy present and voting  
737 at said meeting.

738 (b) At such meeting, each landowner shall be entitled to  
739 cast one vote per acre of land owned by him or her and located  
740 within the district for each person to be elected. A landowner  
741 may vote in person or by proxy in writing. Each proxy must be  
742 signed by one of the legal owners of the property for which the  
743 vote is cast and must contain the typed or printed name of the  
744 individual who signed the proxy; the street address, legal  
745 description of the property, or tax parcel identification  
746 number; and the number of authorized votes. If the proxy  
747 authorizes more than one vote, each property must be listed and  
748 the number of acres of each property must be included. The  
749 signature on a proxy need not be notarized. A fraction of an  
750 acre shall be treated as 1 acre, entitling the landowner to one

751 vote with respect thereto. The three candidates receiving the  
752 highest number of votes shall each be elected for terms expiring  
753 November 17, 2024, and the two candidates receiving the next  
754 largest number of votes shall each be elected for terms expiring  
755 November 20, 2022, with the term of office for each successful  
756 candidate commencing upon election. The members of the first  
757 board elected by landowners shall serve their respective terms;  
758 however, the next election of board members shall be held on the  
759 first Tuesday after the first Monday in November 2022.

760 Thereafter, there shall be an election by landowners for the  
761 district every 2 years on the first Tuesday after the first  
762 Monday in November, which shall be noticed pursuant to paragraph  
763 (a). The second and subsequent landowners' election shall be  
764 announced at a public meeting of the board at least 90 days  
765 before the date of the landowners' meeting and shall also be  
766 noticed pursuant to paragraph (a). Instructions on how all  
767 landowners may participate in the election, along with sample  
768 proxies, shall be provided during the board meeting that  
769 announces the landowners' meeting. Each supervisor elected in or  
770 after November 2020 shall serve a 4-year term.

771 (3) (a) 1. The board may not exercise the ad valorem taxing  
772 power authorized by this act until such time as all members of  
773 the board are qualified electors who are elected by qualified  
774 electors of the district.

775 2.a. Regardless of whether the district has proposed to

776 levy ad valorem taxes, board members shall be elected by  
777 qualified electors of the district as the district becomes  
778 populated with qualified electors. The transition shall occur  
779 such that the composition of the board, after the first general  
780 election following a trigger of the qualified elector population  
781 thresholds set forth below, shall be as follows:

782 (I) Once 3,463 qualified electors reside within the  
783 district, one governing board member shall be a person who is a  
784 qualified elector of the district and who was elected by the  
785 qualified electors, and four governing board members shall be  
786 persons who were elected by the landowners.

787 (II) Once 6,926 qualified electors reside within the  
788 district, two governing board members shall be persons who are  
789 qualified electors of the district and who were elected by the  
790 qualified electors, and three governing board members shall be  
791 persons elected by the landowners.

792 (III) Once 10,389 qualified electors reside within the  
793 district, three governing board members shall be persons who are  
794 qualified electors of the district and who were elected by the  
795 qualified electors and two governing board members shall be  
796 persons who were elected by the landowners.

797 (IV) Once 13,852 qualified electors reside within the  
798 district, four governing board members shall be persons who are  
799 qualified electors of the district and who were elected by the  
800 qualified electors and one governing board member shall be a

801 person who was elected by the landowners.

802 (V) Once 15,000 qualified electors reside within the  
803 district, all five governing board members shall be persons who  
804 are qualified electors of the district and who were elected by  
805 the qualified electors.

806  
807 Nothing in this sub-subparagraph is intended to require an  
808 election before the expiration of an existing board member's  
809 term.

810 b. On or before June 1 of each election year, the board  
811 shall determine the number of qualified electors in the district  
812 as of the immediately preceding April 15. The board shall use  
813 and rely upon the official records maintained by the supervisor  
814 of elections and property appraiser or tax collector in Manatee  
815 County in making this determination. Such determination shall be  
816 made at a properly noticed meeting of the board and shall become  
817 a part of the official minutes of the district.

818 c. All governing board members elected by qualified  
819 electors shall be elected at large at an election occurring as  
820 provided in subsection (2) and this subsection.

821 d. All governing board members elected by qualified  
822 electors shall reside in the district.

823 e. Once the district qualifies to have any of its board  
824 members elected by the qualified electors of the district, the  
825 initial and all subsequent elections by the qualified electors

826 of the district shall be held at the general election in  
827 November. The board shall adopt a resolution, if necessary, to  
828 implement this requirement. The transition process described  
829 herein is intended to be in lieu of the process set forth in s.  
830 189.041, Florida Statutes.

831 (b) Elections of board members by qualified electors held  
832 pursuant to this subsection shall be nonpartisan and shall be  
833 conducted in the manner prescribed by general law for holding  
834 general elections. Board members shall assume the office on the  
835 second Tuesday following their election.

836 (c) Candidates seeking election to office by qualified  
837 electors under this subsection shall conduct their campaigns in  
838 accordance with chapter 106, Florida Statutes, and shall file  
839 qualifying papers and qualify for individual seats in accordance  
840 with s. 99.061, Florida Statutes.

841 (d) The supervisor of elections shall appoint the  
842 inspectors and clerks of elections, prepare and furnish the  
843 ballots, designate polling places, and canvass the returns of  
844 the election of board members by qualified electors. The county  
845 canvassing board shall declare and certify the results of the  
846 election.

847 (4) Members of the board, regardless of how elected, shall  
848 be public officers, shall be known as supervisors, and, upon  
849 entering into office, shall take and subscribe to the oath of  
850 office as prescribed by s. 876.05, Florida Statutes. Members of

851 the board shall be subject to ethics and conflict of interest  
852 laws of the state that apply to all local public officers. They  
853 shall hold office for the terms for which they were elected or  
854 appointed and until their successors are chosen and qualified.  
855 If, during the term of office, a vacancy occurs, the remaining  
856 members of the board shall fill each vacancy by an appointment  
857 for the remainder of the unexpired term.

858 (5) Any elected member of the board of supervisors may be  
859 removed by the Governor for malfeasance, misfeasance,  
860 dishonesty, incompetency, or failure to perform the duties  
861 imposed upon him or her by this act, and any vacancies that may  
862 occur in such office for such reasons shall be filled by the  
863 Governor as soon as practicable.

864 (6) A majority of the members of the board constitutes a  
865 quorum for the purposes of conducting its business and  
866 exercising its powers and for all other purposes. Action taken  
867 by the district shall be upon a vote of a majority of the  
868 members present unless general law or a rule of the district  
869 requires a greater number.

870 (7) As soon as practicable after each election or  
871 appointment, the board shall organize by electing one of its  
872 members as chair and by electing a secretary, who need not be a  
873 member of the board, and such other officers as the board may  
874 deem necessary.

875 (8) The board shall keep a permanent record book entitled



876 "Record of Proceedings of North River Ranch Improvement  
 877 Stewardship District," in which shall be recorded minutes of all  
 878 meetings, resolutions, proceedings, certificates, bonds given by  
 879 all employees, and any and all corporate acts. The record book  
 880 and all other district records shall at reasonable times be  
 881 opened to inspection in the same manner as state, county, and  
 882 municipal records pursuant to chapter 119, Florida Statutes. The  
 883 record book shall be kept at the office or other regular place  
 884 of business maintained by the board in a designated location in  
 885 Manatee County.

886 (9) Each supervisor may not be entitled to receive  
 887 compensation for his or her services in excess of the limits  
 888 established in s. 190.006(8), Florida Statutes, or any other  
 889 provision of general law; however, each supervisor shall receive  
 890 travel and per diem expenses as set forth in s. 112.061, Florida  
 891 Statutes.

892 (10) All meetings of the board shall be open to the public  
 893 and governed by chapter 286, Florida Statutes.

894 Section 6. Board of supervisors; general duties.-

895 (1) DISTRICT MANAGER AND EMPLOYEES.-The board shall employ  
 896 and fix the compensation of a district manager, who shall have  
 897 charge and supervision of the works of the district and shall be  
 898 responsible for preserving and maintaining any improvement or  
 899 facility constructed or erected pursuant to this act, for  
 900 maintaining and operating the equipment owned by the district,

901 and for performing such other duties as may be prescribed by the  
902 board. It is not a conflict of interest or an abuse of public  
903 position under chapter 112, Florida Statutes, for a board  
904 member, the district manager, or another employee of the  
905 district to be a stockholder, officer, or employee of a  
906 landowner. The district manager may hire or otherwise employ and  
907 terminate the employment of such other persons, including,  
908 without limitation, professional, supervisory, and clerical  
909 employees, as may be necessary and authorized by the board. The  
910 compensation and other conditions of employment of the officers  
911 and employees of the district shall be as provided by the board.

912 (2) TREASURER.—The board shall designate a person who is a  
913 resident of the state as treasurer of the district, who shall  
914 have charge of the funds of the district. Such funds shall be  
915 disbursed only upon the order of or pursuant to a resolution of  
916 the board by warrant or check countersigned by the treasurer and  
917 by such other person as may be authorized by the board. The  
918 board may give the treasurer such other or additional powers and  
919 duties as the board may deem appropriate and may fix his or her  
920 compensation. The board may require the treasurer to give a bond  
921 in such amount, on such terms, and with such sureties as may be  
922 deemed satisfactory to the board to secure the performance by  
923 the treasurer of his or her powers and duties. The financial  
924 records of the board shall be audited by an independent  
925 certified public accountant in accordance with the requirements

926 of general law.

927 (3) PUBLIC DEPOSITORY.—The board is authorized to select  
928 as a depository for its funds any qualified public depository as  
929 defined in s. 280.02, Florida Statutes, which meets all the  
930 requirements of chapter 280, Florida Statutes, and has been  
931 designated by the treasurer as a qualified public depository  
932 upon such terms and conditions as to the payment of interest by  
933 such depository upon the funds so deposited as the board may  
934 deem just and reasonable.

935 (4) BUDGET; REPORTS AND REVIEWS.—

936 (a) The district shall provide financial reports in such  
937 form and such manner as prescribed pursuant to this act and  
938 chapter 218, Florida Statutes.

939 (b) On or before July 15 of each year, the district  
940 manager shall prepare a proposed budget for the ensuing fiscal  
941 year to be submitted to the board for board approval. The  
942 proposed budget shall include at the direction of the board an  
943 estimate of all necessary expenditures of the district for the  
944 ensuing fiscal year and an estimate of income to the district  
945 from the taxes and assessments provided in this act. The board  
946 shall consider the proposed budget item by item and may either  
947 approve the budget as proposed by the district manager or modify  
948 the same in part or in whole. The board shall indicate its  
949 approval of the budget by resolution, which resolution shall  
950 provide for a hearing on the budget as approved. Notice of the

951 hearing on the budget shall be published in a newspaper of  
952 general circulation in the general area of the district once a  
953 week for 2 consecutive weeks, except that the first publication  
954 shall be no fewer than 15 days before the date of the hearing.  
955 The notice shall further contain a designation of the day, time,  
956 and place of the public hearing. At the day, time, and place  
957 designated in the notice, the board shall hear all objections to  
958 the budget as proposed and may make such changes as the board  
959 deems necessary. At the conclusion of the budget hearing, the  
960 board shall, by resolution, adopt the budget as finally approved  
961 by the board. The budget shall be adopted before October 1 of  
962 each year.

963 (c) At least 60 days before adoption, the board of  
964 supervisors of the district shall submit to the Board of County  
965 Commissioners of Manatee County, for purposes of disclosure and  
966 information only, the proposed annual budget for the ensuing  
967 fiscal year, and the board of county commissioners may submit  
968 written comments to the board of supervisors solely for the  
969 assistance and information of the board of supervisors in  
970 adopting its annual district budget.

971 (d) The board of supervisors shall submit annually a  
972 public facilities report to the Board of County Commissioners of  
973 Manatee County pursuant to s. 189.08, Florida Statutes. The  
974 board of county commissioners may use and rely on the district's  
975 public facilities report in the preparation or revision of the

976 | Manatee County comprehensive plan.

977 |       (5) DISCLOSURE OF PUBLIC INFORMATION; WEB-BASED PUBLIC  
 978 | ACCESS.—The district shall take affirmative steps to provide for  
 979 | the full disclosure of information relating to the public  
 980 | financing and maintenance of improvements to real property  
 981 | undertaken by the district. Such information shall be made  
 982 | available to all existing and prospective residents of the  
 983 | district. The district shall furnish each developer of a  
 984 | residential development within the district with sufficient  
 985 | copies of that information to provide each prospective initial  
 986 | purchaser of property in that development with a copy; and any  
 987 | developer of a residential development within the district, when  
 988 | required by general law to provide a public offering statement,  
 989 | shall include a copy of such information relating to the public  
 990 | financing and maintenance of improvements in the public offering  
 991 | statement. The district shall file the disclosure documents  
 992 | required by this subsection and any amendments thereto in the  
 993 | property records of each county in which the district is  
 994 | located. By the end of the first full fiscal year of the  
 995 | district's creation, the district shall maintain an official  
 996 | Internet website in accordance with s. 189.069, Florida  
 997 | Statutes.

998 |       (6) GENERAL POWERS.—The district shall have, and the board  
 999 | may exercise, the following general powers:

1000 |       (a) To sue and be sued in the name of the district; to

1001 adopt and use a seal and authorize the use of a facsimile  
1002 thereof; to acquire, by purchase, gift, devise, or otherwise,  
1003 and to dispose of, real and personal property, or any estate  
1004 therein; and to make and execute contracts and other instruments  
1005 necessary or convenient to the exercise of its powers.

1006 (b) To apply for coverage of its employees under the  
1007 Florida Retirement System in the same manner as if such  
1008 employees were state employees.

1009 (c) To contract for the services of consultants to perform  
1010 planning, engineering, legal, or other appropriate services of a  
1011 professional nature. Such contracts shall be subject to public  
1012 bidding or competitive negotiation requirements as set forth in  
1013 general law applicable to independent special districts.

1014 (d) To borrow money and accept gifts; to apply for and use  
1015 grants or loans of money or other property from the United  
1016 States, the state, a unit of local government, or any person for  
1017 any district purposes and enter into agreements required in  
1018 connection therewith; and to hold, use, and dispose of such  
1019 moneys or property for any district purposes in accordance with  
1020 the terms of the gift, grant, loan, or agreement relating  
1021 thereto.

1022 (e) To adopt and enforce rules and orders pursuant to  
1023 chapter 120, Florida Statutes, prescribing the powers, duties,  
1024 and functions of the officers of the district; the conduct of  
1025 the business of the district; the maintenance of the records of

1026 the district; and the form of certificates evidencing tax liens  
1027 of the district and all other documents and records of the  
1028 district. The board may also adopt and enforce administrative  
1029 rules with respect to any of the projects of the district and  
1030 define the area to be included therein. The board may also adopt  
1031 resolutions which may be necessary for the conduct of district  
1032 business.

1033 (f) To maintain an office at such place or places as the  
1034 board of supervisors designates in Manatee County and within the  
1035 district when facilities are available.

1036 (g) To hold, control, and acquire by donation, purchase,  
1037 or condemnation, or dispose of, any public easements,  
1038 dedications to public use, platted reservations for public  
1039 purposes, or any reservations for those purposes authorized by  
1040 this act and to make use of such easements, dedications, or  
1041 reservations for the purposes authorized by this act.

1042 (h) To lease as lessor or lessee to or from any person,  
1043 firm, corporation, association, or body, public or private, any  
1044 projects of the type that the district is authorized to  
1045 undertake and facilities or property of any nature for the use  
1046 of the district to carry out the purposes authorized by this  
1047 act.

1048 (i) To borrow money and issue bonds, certificates,  
1049 warrants, notes, or other evidence of indebtedness as provided  
1050 herein; to levy such taxes and assessments as may be authorized;

1051 and to charge, collect, and enforce fees and other user charges.

1052 (j) To raise, by user charges or fees authorized by  
1053 resolution of the board, amounts of money which are necessary  
1054 for the conduct of district activities and services and to  
1055 enforce their receipt and collection in the manner prescribed by  
1056 resolution not inconsistent with general law.

1057 (k) To exercise all powers of eminent domain now or  
1058 hereafter conferred on counties in this state; provided,  
1059 however, that such power of eminent domain may not be exercised  
1060 outside the territorial limits of the district unless the  
1061 district receives prior approval by vote of a resolution of the  
1062 governing body of the county if the taking will occur in an  
1063 unincorporated area in that county, or the governing body of the  
1064 city if the taking will occur in an incorporated area. The  
1065 district does not have the power to exercise eminent domain over  
1066 municipal, county, state, or federal property. The powers  
1067 hereinabove granted to the district shall be so construed to  
1068 enable the district to fulfill the objects and purposes of the  
1069 district as set forth in this act.

1070 (l) To cooperate with, or contract with, other  
1071 governmental agencies as may be necessary, convenient,  
1072 incidental, or proper in connection with any of the powers,  
1073 duties, or purposes authorized by this act.

1074 (m) To assess and to impose upon lands in the district ad  
1075 valorem taxes as provided by this act.



1076        (n) If and when authorized by general law, to determine,  
 1077 order, levy, impose, collect, and enforce maintenance taxes.  
 1078        (o) To determine, order, levy, impose, collect, and  
 1079 enforce assessments pursuant to this act and chapter 170,  
 1080 Florida Statutes, pursuant to authority granted in s. 197.3631,  
 1081 Florida Statutes, or pursuant to other provisions of general law  
 1082 now or hereinafter enacted which provide or authorize a  
 1083 supplemental means to order, levy, impose, or collect special  
 1084 assessments. Such special assessments, at the discretion of the  
 1085 district, may be collected and enforced pursuant to ss. 197.3632  
 1086 and 197.3635, Florida Statutes, and chapters 170 and 173,  
 1087 Florida Statutes, as they may be amended from time to time, or  
 1088 as provided by this act, or by other means authorized by general  
 1089 law now or hereinafter enacted. The district may levy such  
 1090 special assessments for the purposes provided in this act and to  
 1091 pay special assessments imposed by Manatee County on lands  
 1092 within the district.  
 1093        (p) To exercise such special powers and other express  
 1094 powers as may be authorized and granted by this act in the  
 1095 charter of the district, including powers as provided in any  
 1096 interlocal agreement entered into pursuant to chapter 163,  
 1097 Florida Statutes, or which shall be required or permitted to be  
 1098 undertaken by the district pursuant to any development order,  
 1099 including any detailed specific area plan development order, or  
 1100 any interlocal service agreement with Manatee County for fair-

1101 share capital construction funding for any certain capital  
1102 facilities or systems required of a developer pursuant to any  
1103 applicable development order or agreement.

1104 (g) To exercise all of the powers necessary, convenient,  
1105 incidental, or proper in connection with any other powers or  
1106 duties or the special and limited purpose of the district  
1107 authorized by this act.

1108  
1109 This subsection shall be construed liberally in order to  
1110 effectively carry out the special and limited purpose of this  
1111 act.

1112 (7) SPECIAL POWERS.—The district shall have, and the board  
1113 may exercise, the following special powers to implement its  
1114 lawful and special purpose and to provide, pursuant to that  
1115 purpose, systems, facilities, services, improvements, projects,  
1116 works, and infrastructure, each of which constitutes a lawful  
1117 public purpose when exercised pursuant to this charter, subject  
1118 to, and not inconsistent with, general law regarding utility  
1119 providers' territorial and service agreements; the regulatory  
1120 jurisdiction and permitting authority of all other applicable  
1121 governmental bodies, agencies, and any special districts having  
1122 authority with respect to any area included therein; and to  
1123 plan, establish, acquire, construct or reconstruct, enlarge or  
1124 extend, equip, operate, finance, fund, and maintain  
1125 improvements, systems, facilities, services, works, projects,

1126 and infrastructure. Any or all of the following special powers  
1127 are granted by this act in order to implement the special and  
1128 limited purpose of the district but do not constitute  
1129 obligations to undertake such improvements, systems, facilities,  
1130 services, works, projects, or infrastructure:

1131 (a) To provide water management and control for the lands  
1132 within the district, including irrigation systems and  
1133 facilities, and to connect some or any of such facilities with  
1134 roads and bridges. In the event that the board assumes the  
1135 responsibility for providing water management and control for  
1136 the district which is to be financed by benefit special  
1137 assessments, the board shall adopt plans and assessments  
1138 pursuant to general law or may proceed to adopt water management  
1139 and control plans, assess for benefits, and apportion and levy  
1140 special assessments as follows:

1141 1. The board shall cause to be made by the district's  
1142 engineer, or such other engineer or engineers as the board may  
1143 employ for that purpose, complete and comprehensive water  
1144 management and control plans for the lands located within the  
1145 district that will be improved in any part or in whole by any  
1146 system of facilities that may be outlined and adopted, and the  
1147 engineer shall make a report in writing to the board with maps  
1148 and profiles of said surveys and an estimate of the cost of  
1149 carrying out and completing the plans.

1150 2. Upon the completion of such plans, the board shall hold

1151 a hearing thereon to hear objections thereto, shall give notice  
1152 of the time and place fixed for such hearing by publication in a  
1153 newspaper of general circulation in the general area of the  
1154 district once a week for 2 consecutive weeks, and shall permit  
1155 the inspection of the plan at the office of the district by all  
1156 persons interested. All objections to the plan shall be filed at  
1157 or before the time fixed in the notice for the hearing and shall  
1158 be in writing.

1159 3. After the hearing, the board shall consider the  
1160 proposed plan and any objections thereto and may modify, reject,  
1161 or adopt the plan or continue the hearing until a day certain  
1162 for further consideration of the proposed plan or modifications  
1163 thereof.

1164 4. When the board approves a plan, a resolution shall be  
1165 adopted and a certified copy thereof shall be filed in the  
1166 office of the secretary and incorporated by him or her into the  
1167 records of the district.

1168 5. The water management and control plan may be altered in  
1169 detail from time to time until the engineer's report pursuant to  
1170 s. 298.301, Florida Statutes, is filed, but not in such manner  
1171 as to materially affect the conditions of its adoption. After  
1172 the engineer's report has been filed, the plan may not be  
1173 altered except as provided by this act.

1174 6. Within 20 days after the final adoption of the plan by  
1175 the board, the board shall proceed pursuant to s. 298.301,

1176 Florida Statutes.

1177 (b) To provide water supply, sewer, wastewater, and  
1178 reclaimed water management, reclamation, and reuse, or any  
1179 combination thereof, and any irrigation systems, facilities, and  
1180 services and to construct and operate water systems, sewer  
1181 systems, irrigation systems, and reclaimed water systems such as  
1182 connecting intercepting or outlet sewers and sewer mains and  
1183 pipes and water mains, conduits, or pipelines in, along, and  
1184 under any street, alley, highway, or other public place or way,  
1185 and to dispose of any water, effluent, residue, or other  
1186 byproduct of such water system, sewer system, irrigation system  
1187 or reclaimed water system and to enter into interlocal  
1188 agreements and other agreements with public or private entities  
1189 for the same.

1190 (c) To provide any necessary bridges, culverts, wildlife  
1191 corridors, or road crossings across any drain, ditch, canal,  
1192 floodway, holding basin, excavation, public highway, tract,  
1193 grade, fill, or cut and roadways over levees and embankments,  
1194 and to construct any and all of such works and improvements  
1195 across, through, or over any public right-of way, highway,  
1196 grade, fill, or cut.

1197 (d) To provide district or other roads equal to or  
1198 exceeding the specifications of the county in which such  
1199 district or other roads are located, and to provide street  
1200 lighting. This special power includes, but is not limited to,

1201 roads, parkways, intersections, bridges, landscaping,  
1202 hardscaping, irrigation, bicycle lanes, sidewalks, jogging  
1203 paths, multiuse pathways and trails, street lighting, traffic  
1204 signals, regulatory or informational signage, road striping,  
1205 underground conduit, underground cable or fiber or wire  
1206 installed pursuant to an agreement with or tariff of a retail  
1207 provider of services, and all other customary elements of a  
1208 functioning modern road system in general or as tied to the  
1209 conditions of development approval for the area within and  
1210 without the district, and parking facilities that are  
1211 freestanding or that may be related to any innovative strategic  
1212 intermodal system of transportation pursuant to applicable  
1213 federal, state, and local laws and ordinances.

1214 (e) To provide buses, trolleys, rail access, mass transit  
1215 facilities, transit shelters, ridesharing facilities and  
1216 services, parking improvements, and related signage.

1217 (f) To provide investigation and remediation costs  
1218 associated with the cleanup of actual or perceived environmental  
1219 contamination within the district under the supervision or  
1220 direction of a competent governmental authority unless the  
1221 covered costs benefit any person who is a landowner within the  
1222 district and who caused or contributed to the contamination.

1223 (g) To provide observation, mitigation, wetland creation,  
1224 and wildlife habitat areas, including the maintenance of any  
1225 plant or animal species, and any related interest in real or

1226 personal property.

1227 (h) Using its general and special powers as set forth in  
1228 this act, to provide any other project within or without the  
1229 boundaries of the district when the project is the subject of an  
1230 agreement between the district and the Board of County  
1231 Commissioners of Manatee County or with any other applicable  
1232 public or private entity and is not inconsistent with the  
1233 effective local comprehensive plans.

1234 (i) To provide parks and facilities for indoor and outdoor  
1235 recreational, cultural, and educational uses.

1236 (j) To provide school buildings and related structures,  
1237 which may be leased, sold, or donated to the school district,  
1238 for use in the educational system when authorized by the  
1239 district school board.

1240 (k) To provide security, including electronic intrusion-  
1241 detection systems and patrol cars, when authorized by proper  
1242 governmental agencies, and to contract with the appropriate  
1243 local general-purpose government agencies for an increased level  
1244 of such services within the district boundaries.

1245 (l) To provide control and elimination of mosquitoes and  
1246 other arthropods of public health importance.

1247 (m) To enter into impact fee, mobility fee, or other  
1248 similar credit agreements with Manatee County or other  
1249 governmental bodies or a landowner developer and to sell or  
1250 assign such credits on such terms as the district deems

1251 appropriate.

1252 (n) To provide buildings and structures for district  
1253 offices, maintenance facilities, meeting facilities, town  
1254 centers, or any other projects authorized or granted by this  
1255 act.

1256 (o) To establish and create, at noticed meetings, such  
1257 departments of the board of supervisors of the district, as well  
1258 as committees, task forces, boards, or commissions, or other  
1259 agencies under the supervision and control of the district, as  
1260 from time to time the members of the board may deem necessary or  
1261 desirable in the performance of the acts or other things  
1262 necessary to exercise the board's general or special powers to  
1263 implement an innovative project to carry out the special and  
1264 limited purpose of the district as provided in this act and to  
1265 delegate the exercise of its powers to such departments, boards,  
1266 task forces, committees, or other agencies, and such  
1267 administrative duties and other powers as the board may deem  
1268 necessary or desirable, but only if there is a set of expressed  
1269 limitations for accountability, notice, and periodic written  
1270 reporting to the board that shall retain the powers of the  
1271 board.

1272 (p) To provide electrical, sustainable, or green  
1273 infrastructure improvements, facilities, and services,  
1274 including, but not limited to, recycling of natural resources,  
1275 reduction of energy demands, development and generation of



1276 alternative or renewable energy sources and technologies,  
 1277 mitigation of urban heat islands, sequestration, capping or  
 1278 trading of carbon emissions or carbon emissions credits, LEED or  
 1279 Florida Green Building Coalition certification, and development  
 1280 of facilities and improvements for low-impact development; to  
 1281 enter into joint ventures, public-private partnerships, and  
 1282 other agreements; and to grant such easements as may be  
 1283 necessary to accomplish the foregoing. Nothing herein shall  
 1284 authorize the district to provide electric service to retail  
 1285 customers or otherwise act to impair electric utility franchise  
 1286 agreements.

1287 (q) To provide for any facilities or improvements that may  
 1288 otherwise be provided for by any county or municipality,  
 1289 including, but not limited to, libraries, annexes, substations,  
 1290 and other buildings to house public officials, staff, and  
 1291 employees.

1292 (r) To provide waste collection and disposal.

1293 (s) To provide for the construction and operation of  
 1294 communications systems and related infrastructure for the  
 1295 carriage and distribution of communications services; to enter  
 1296 into joint ventures, public-private partnerships, and other  
 1297 agreements; and to grant such easements as may be necessary to  
 1298 accomplish the foregoing. For purposes of this paragraph,  
 1299 communications systems means all facilities, buildings,  
 1300 equipment, items, and methods necessary or desirable in order to

1301 provide communications services, including, without limitation,  
1302 wires, cables, conduits, wireless cell sites, computers, modems,  
1303 satellite antennae sites, transmission facilities, network  
1304 facilities, and appurtenant devices necessary and appropriate to  
1305 support the provision of communications services. Communications  
1306 services includes, without limitation, Internet, voice  
1307 telephone, or similar services provided by voice over Internet  
1308 protocol, cable television, data transmission services,  
1309 electronic security monitoring services, and multi-channel video  
1310 programming distribution services. Nothing herein shall  
1311 authorize the district to provide communications services to  
1312 retail customers or otherwise act to impair existing service  
1313 provider franchise agreements. However, the district may  
1314 contract with such providers for resale purposes.

1315 (t) To provide health care facilities and to enter into  
1316 public-private partnerships and agreements as may be necessary  
1317 to accomplish the foregoing.

1318 (u) To coordinate, work with, and, as the board deems  
1319 appropriate, enter into interlocal agreements with any public or  
1320 private entity for the provision of an institution or  
1321 institutions of higher education.

1322 (v) To coordinate, work with, and, as the board deems  
1323 appropriate, enter into public-private partnerships and  
1324 agreements as may be necessary or useful to effectuate the  
1325 purposes of this act.

1326  
1327 The special powers provided in this act may not be deemed  
1328 exclusive or restrictive but shall be deemed to incorporate all  
1329 powers express or implied necessary or incident to carrying out  
1330 such special powers, including the general powers provided by  
1331 this act to the district to implement its purposes. This  
1332 subsection shall be construed liberally in order to effectively  
1333 carry out the special and limited purpose of the district under  
1334 this act.

1335 (8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to  
1336 the other powers provided for in this act, and not in limitation  
1337 thereof, the district shall have the power, at any time and from  
1338 time to time after the issuance of any bonds of the district are  
1339 authorized, to borrow money for the purposes for which such  
1340 bonds are to be issued in anticipation of the receipt of the  
1341 proceeds of the sale of such bonds and to issue bond  
1342 anticipation notes in a principal sum not in excess of the  
1343 authorized maximum amount of such bond issue. Such notes shall  
1344 be in such denomination or denominations, bear interest at such  
1345 rate as the board may determine, not to exceed the maximum rate  
1346 allowed by general law, mature at such time or times not later  
1347 than 5 years after the date of issuance, and be in such form and  
1348 executed in such manner as the board shall prescribe. Such notes  
1349 may be sold at either public or private sale or, if such notes  
1350 shall be renewal notes, may be exchanged for notes then

1351 outstanding on such terms as the board shall determine. Such  
 1352 notes shall be paid from the proceeds of such bonds when issued.  
 1353 The board may, in its discretion, in lieu of retiring the notes  
 1354 by means of bonds, retire them by means of current revenues or  
 1355 from any taxes or assessments levied for the payment of such  
 1356 bonds, but, in such event, a like amount of the bonds authorized  
 1357 may not be issued.

1358 (9) BORROWING.—The district at any time may obtain loans,  
 1359 in such amount and on such terms and conditions as the board may  
 1360 approve, for the purpose of paying any of the expenses of the  
 1361 district or any costs incurred or that may be incurred in  
 1362 connection with any of the projects of the district, which loans  
 1363 shall bear such interest as the board determines, not to exceed  
 1364 the maximum rate allowed by general law, and may be payable from  
 1365 and secured by a pledge of such funds, revenues, taxes, and  
 1366 assessments as the board may determine; provided, however, that  
 1367 the provisions contained in any proceeding under which bonds  
 1368 were theretofore issued and are then outstanding. For the  
 1369 purpose of defraying such costs and expenses, the district may  
 1370 issue negotiable notes, warrants, or other evidences of debt to  
 1371 be payable at such times and to bear such interest as the board  
 1372 may determine, not to exceed the maximum rate allowed by general  
 1373 law, and to be sold or discounted at such price or prices not  
 1374 less than 95 percent of par value and on such terms as the board  
 1375 may deem advisable. The board shall have the right to provide

1376 for the payment thereof by pledging the whole or any part of the  
1377 funds, revenues, taxes, and assessments of the district or by  
1378 covenanting to budget and appropriate from such funds. The  
1379 approval of the electors residing in the district is only  
1380 necessary when required by the State Constitution.

1381 (10) BONDS.—

1382 (a) Sale of bonds.—Bonds may be sold in blocks or  
1383 installments at different times, or an entire issue or series  
1384 may be sold at one time. Bonds may be sold at public or private  
1385 sale after such advertisement, if any, as the board may deem  
1386 advisable, but not in any event at less than 90 percent of the  
1387 par value thereof, together with accrued interest thereon. Bonds  
1388 may be sold or exchanged for refunding bonds. Special assessment  
1389 and revenue bonds may be delivered by the district as payment of  
1390 the purchase price of any project or part thereof, or a  
1391 combination of projects or parts thereof, or as the purchase  
1392 price or exchange for any property, real, personal, or mixed,  
1393 including franchises or services rendered by any contractor,  
1394 engineer, or other person, all at one time or in blocks from  
1395 time to time, in such manner and upon such terms as the board at  
1396 its discretion shall determine. The price or prices for any  
1397 bonds sold, exchanged, or delivered may be:

1398 1. The money paid for the bonds.

1399 2. The principal amount, plus accrued interest to the date  
1400 of redemption or exchange, or outstanding obligations exchanged

1401 for refunding bonds.

1402 3. In the case of special assessment or revenue bonds, the  
1403 amount of any indebtedness to contractors or other persons paid  
1404 with such bonds, or the fair value of any properties exchanged  
1405 for the bonds, as determined by the board.

1406 (b) Authorization and form of bonds.—Any general  
1407 obligation bonds, special assessment bonds, or revenue bonds may  
1408 be authorized by resolution or resolutions of the board which  
1409 shall be adopted by a majority of all the members thereof then  
1410 in office. Such resolution or resolutions may be adopted at the  
1411 same meeting at which they are introduced and need not be  
1412 published or posted. The board may, by resolution, authorize the  
1413 issuance of bonds and fix the aggregate amount of bonds to be  
1414 issued; the purpose or purposes for which the moneys derived  
1415 therefrom shall be expended, including, but not limited to,  
1416 payment of costs as defined in section 3; the rate or rates of  
1417 interest, not to exceed the maximum rate allowed by general law;  
1418 the denomination of the bonds; whether the bonds are to be  
1419 issued in one or multiple series; the date or dates of maturity,  
1420 which may not exceed 40 years after their respective dates of  
1421 issuance; the medium of payment; the place or places within or  
1422 without the state at which payment shall be made; registration  
1423 privileges; redemption terms and privileges, whether with or  
1424 without premium; the manner of execution; the form of the bonds,  
1425 including any interest coupons to be attached thereto; the

1426 manner of execution of bonds and coupons; and any and all other  
1427 terms, covenants, and conditions thereof and the establishment  
1428 of revenue or other funds. Such authorizing resolution or  
1429 resolutions may further provide for the contracts authorized by  
1430 s. 159.825(1)(f) and (g), Florida Statutes, regardless of the  
1431 tax treatment of such bonds being authorized, subject to the  
1432 finding by the board of a net saving to the district resulting  
1433 by reason thereof. Such authorizing resolution may further  
1434 provide that such bonds may be executed in accordance with the  
1435 Registered Public Obligations Act, except that bonds not issued  
1436 in registered form shall be valid if manually countersigned by  
1437 an officer designated by appropriate resolution of the board.  
1438 The seal of the district may be affixed, lithographed, engraved,  
1439 or otherwise reproduced in facsimile on such bonds. In case any  
1440 officer whose signature shall appear on any bonds or coupons  
1441 shall cease to be such officer before the delivery of such  
1442 bonds, such signature or facsimile shall nevertheless be valid  
1443 and sufficient for all purposes as if he or she had remained in  
1444 office until such delivery.

1445 (c) Interim certificates; replacement certificates.-  
1446 Pending the preparation of definitive bonds, the board may issue  
1447 interim certificates or receipts or temporary bonds, in such  
1448 form and with such provisions as the board may determine,  
1449 exchangeable for definitive bonds when such bonds have been  
1450 executed and are available for delivery. The board may also

1451 provide for the replacement of any bonds which become mutilated,  
1452 lost, or destroyed.

1453 (d) Negotiability of bonds.—Any bond issued under this act  
1454 or any temporary bond, in the absence of an express recital on  
1455 the face thereof that it is nonnegotiable, shall be fully  
1456 negotiable and shall be and constitute a negotiable instrument  
1457 within the meaning and for all purposes of the law merchant and  
1458 general law.

1459 (e) Defeasance.—The board may make such provision with  
1460 respect to the defeasance of the right, title, and interest of  
1461 the holders of any of the bonds and obligations of the district  
1462 in any revenues, funds, or other properties by which such bonds  
1463 are secured as the board deems appropriate and, without  
1464 limitation on the foregoing, may provide that when such bonds or  
1465 obligations become due and payable or shall have been called for  
1466 redemption and the whole amount of the principal and interest  
1467 and premium, if any, due and payable upon the bonds or  
1468 obligations then outstanding shall be held in trust for such  
1469 purpose, and provision shall also be made for paying all other  
1470 sums payable in connection with such bonds or other obligations,  
1471 and in such event the right, title, and interest of the holders  
1472 of the bonds in any revenues, funds, or other properties by  
1473 which such bonds are secured shall thereupon cease, terminate,  
1474 and become void; and the board may apply any surplus in any  
1475 sinking fund established in connection with such bonds or



1476 obligations and all balances remaining in all other funds or  
1477 accounts other than moneys held for the redemption or payment of  
1478 the bonds or other obligations to any lawful purpose of the  
1479 district as the board shall determine.

1480 (f) Issuance of additional bonds.—If the proceeds of any  
1481 bonds are less than the cost of completing the project in  
1482 connection with which such bonds were issued, the board may  
1483 authorize the issuance of additional bonds, upon such terms and  
1484 conditions as the board may provide in the resolution  
1485 authorizing the issuance thereof, but only in compliance with  
1486 the resolution or other proceedings authorizing the issuance of  
1487 the original bonds.

1488 (g) Refunding bonds.—The district is authorized to issue  
1489 bonds to provide for the retirement or refunding of any bonds or  
1490 obligations of the district that at the time of such issuance  
1491 are or subsequent thereto become due and payable, or that at the  
1492 time of issuance have been called or are, or will be, subject to  
1493 call for redemption within 10 years thereafter, or the surrender  
1494 of which can be procured from the holders thereof at prices  
1495 satisfactory to the board. Refunding bonds may be issued at any  
1496 time that in the judgment of the board such issuance will be  
1497 advantageous to the district. Approval of the qualified electors  
1498 residing in the district is not required for the issuance of  
1499 refunding bonds except in cases in which such approval is  
1500 required by the State Constitution. The board may by resolution

1501 confer upon the holders of such refunding bonds all rights,  
1502 powers, and remedies to which the holders would be entitled if  
1503 they continued to be the owners and had possession of the bonds  
1504 for the refinancing of which such refunding bonds are issued,  
1505 including, but not limited to, the preservation of the lien of  
1506 such bonds on the revenues of any project or on pledged funds,  
1507 without extinguishment, impairment, or diminution thereof. The  
1508 provisions of this act relating to bonds of the district shall,  
1509 unless the context otherwise requires, govern the issuance of  
1510 refunding bonds, the form and other details thereof, the rights  
1511 of the holders thereof, and the duties of the board with respect  
1512 to such bonds.

1513 (h) Revenue bonds.—

1514 1. The district shall have the power to issue revenue  
1515 bonds from time to time without limitation as to amount. Such  
1516 revenue bonds may be secured by, or payable from, the gross or  
1517 net pledge of the revenues to be derived from any project or  
1518 combination of projects; from the rates, fees, or other charges  
1519 to be collected from the users of any project or projects; from  
1520 any revenue-producing undertaking or activity of the district;  
1521 from special assessments; from benefit special assessments; or  
1522 from any other source or pledged security. Such bonds do not  
1523 constitute an indebtedness of the district and the approval of  
1524 the qualified electors is not required unless such bonds are  
1525 additionally secured by the full faith and credit and taxing

1526 | power of the district.

1527 |       2. Any two or more projects may be combined and  
 1528 | consolidated into a single project and may hereafter be operated  
 1529 | and maintained as a single project. The revenue bonds authorized  
 1530 | herein may be issued to finance any one or more of such  
 1531 | projects, regardless of whether such projects have been combined  
 1532 | and consolidated into a single project. If the board deems it  
 1533 | advisable, the proceedings authorizing such revenue bonds may  
 1534 | provide that the district may thereafter combine the projects  
 1535 | then being financed or theretofore financed with other projects  
 1536 | to be subsequently financed by the district and that revenue  
 1537 | bonds to be thereafter issued by the district shall be on parity  
 1538 | with the revenue bonds then being issued, all on such terms,  
 1539 | conditions, and limitations as shall have been provided in the  
 1540 | proceeding which authorized the original bonds.

1541 |       (i) General obligation bonds.—

1542 |       1. Subject to the limitations of this charter, the  
 1543 | district shall have the power to issue general obligation bonds  
 1544 | to finance or refinance capital projects or to refund  
 1545 | outstanding bonds in an aggregate principal amount of bonds  
 1546 | outstanding at any one time not in excess of 35 percent of the  
 1547 | assessed value of the taxable property within the district as  
 1548 | shown on the pertinent tax records at the time of the  
 1549 | authorization of the general obligation bonds for which the full  
 1550 | faith and credit of the district is pledged. Except for

1551 refunding bonds, general obligation bonds may not be issued  
1552 unless the bonds are issued to finance or refinance a capital  
1553 project and the issuance has been approved at an election held  
1554 in accordance with the requirements for such election as  
1555 prescribed by the State Constitution. Such elections shall be  
1556 called to be held in the district by the Board of County  
1557 Commissioners of Manatee County upon the request of the board of  
1558 the district. The expenses of calling and holding an election  
1559 shall be at the expense of the district and the district shall  
1560 reimburse the county for any expenses incurred in calling or  
1561 holding such election.

1562 2. The district may pledge its full faith and credit for  
1563 the payment of the principal and interest on such general  
1564 obligation bonds and for any reserve funds provided therefor and  
1565 may unconditionally and irrevocably pledge itself to levy ad  
1566 valorem taxes on all taxable property in the district, to the  
1567 extent necessary for the payment thereof, without limitation as  
1568 to rate or amount.

1569 3. If the board determines to issue general obligation  
1570 bonds for more than one capital project, the approval of the  
1571 issuance of the bonds for each and all such projects may be  
1572 submitted to the electors on one ballot. The failure of the  
1573 electors to approve the issuance of bonds for any one or more  
1574 capital projects does not defeat the approval of bonds for any  
1575 capital project which has been approved by the electors.

1576 4. In arriving at the amount of general obligation bonds  
 1577 permitted to be outstanding at any one time pursuant to  
 1578 subparagraph 1., there may not be included any general  
 1579 obligation bonds that are additionally secured by the pledge of:

1580 a. Any assessments levied in an amount sufficient to pay  
 1581 the principal and interest on the general obligation bonds so  
 1582 additionally secured, which assessments have been equalized and  
 1583 confirmed by resolution of the board pursuant to this act or s.  
 1584 170.08, Florida Statutes.

1585 b. Water revenues, sewer revenues, or water and sewer  
 1586 revenues of the district to be derived from user fees in an  
 1587 amount sufficient to pay the principal and interest on the  
 1588 general obligation bonds so additionally secured.

1589 c. Any combination of assessments and revenues described  
 1590 in sub-subparagraphs a. and b.

1591 (j) Bonds as legal investment or security.—

1592 1. Notwithstanding any other provision of law to the  
 1593 contrary, all bonds issued under this act shall constitute legal  
 1594 investments for savings banks, banks, trust companies, insurance  
 1595 companies, executors, administrators, trustees, guardians, and  
 1596 other fiduciaries and for any board, body, agency,  
 1597 instrumentality, county, municipality, or other political  
 1598 subdivision of the state and shall be and constitute security  
 1599 which may be deposited by banks or trust companies as security  
 1600 for deposits of state, county, municipal, or other public funds

1601 or by insurance companies as required or voluntary statutory  
1602 deposits.

1603 2. Any bonds issued by the district shall be incontestable  
1604 in the hands of bona fide purchasers or holders for value and  
1605 are not invalid because of any irregularity or defect in the  
1606 proceedings for the issue and sale thereof.

1607 (k) Covenants.—Any resolution authorizing the issuance of  
1608 bonds may contain such covenants as the board may deem  
1609 advisable, and all such covenants shall constitute valid and  
1610 legally binding and enforceable contracts between the district  
1611 and the bondholders, regardless of the time of issuance thereof.  
1612 Such covenants may include, without limitation, covenants  
1613 concerning the disposition of the bond proceeds; the use and  
1614 disposition of project revenues; the pledging of revenues,  
1615 taxes, and assessments; the obligations of the district with  
1616 respect to the operation of the project and the maintenance of  
1617 adequate project revenues; the issuance of additional bonds; the  
1618 appointment, powers, and duties of trustees and receivers; the  
1619 acquisition of outstanding bonds and obligations; restrictions  
1620 on the establishment of competing projects or facilities;  
1621 restrictions on the sale or disposal of the assets and property  
1622 of the district; the priority of assessment liens; the priority  
1623 of claims by bondholders on the taxing power of the district;  
1624 the maintenance of deposits to ensure the payment of revenues by  
1625 users of district facilities and services; the discontinuance of

1626 district services by reason of delinquent payments; acceleration  
1627 upon default; the execution of necessary instruments; the  
1628 procedure for amending or abrogating covenants with the  
1629 bondholders; and such other covenants as may be deemed necessary  
1630 or desirable for the security of the bondholders.

1631 (l) Validation proceedings.—The power of the district to  
1632 issue bonds under this act may be determined, and any of the  
1633 bonds of the district maturing over a period of more than 5  
1634 years shall be validated and confirmed, by court decree, under  
1635 chapter 75, Florida Statutes, and laws amendatory thereof or  
1636 supplementary thereto.

1637 (m) Tax exemption.—To the extent allowed by general law,  
1638 all bonds issued hereunder and interest paid thereon and all  
1639 fees, charges, and other revenues derived by the district from  
1640 the projects provided by this act are exempt from all taxes by  
1641 the state or by any political subdivision, agency, or  
1642 instrumentality thereof; however, any interest, income, or  
1643 profits on debt obligations issued hereunder are not exempt from  
1644 the tax imposed by chapter 220, Florida Statutes. Further, the  
1645 district is not exempt from chapter 212, Florida Statutes.

1646 (n) Application of s. 189.051, Florida Statutes.—Bonds  
1647 issued by the district shall meet the criteria set forth in s.  
1648 189.051, Florida Statutes.

1649 (o) Act furnishes full authority for issuance of bonds.—  
1650 This act constitutes full and complete authority for the

1651 issuance of bonds and the exercise of the powers of the district  
1652 provided herein. Procedures or proceedings, publications,  
1653 notices, consents, approvals, orders, acts, or things by the  
1654 board, or by any board, officer, commission, department, agency,  
1655 or instrumentality of the district, other than those required by  
1656 this act, are not required to perform anything under this act,  
1657 except that the issuance or sale of bonds pursuant to this act  
1658 shall comply with the general law requirements applicable to the  
1659 issuance or sale of bonds by the district. This act does not  
1660 authorize the district to utilize bond proceeds to fund the  
1661 ongoing operations of the district.

1662 (p) Pledge by the state to the bondholders of the  
1663 district.—The state pledges to the holders of any bonds issued  
1664 under this act that it will not limit or alter the rights of the  
1665 district to own, acquire, construct, reconstruct, improve,  
1666 maintain, operate, or furnish the projects or to levy and  
1667 collect the taxes, assessments, rentals, rates, fees, and other  
1668 charges provided for herein and to fulfill the terms of any  
1669 agreement made with the holders of such bonds or other  
1670 obligations and that it will not in any way impair the rights or  
1671 remedies of such holders.

1672 (q) Default.—A default on the bonds or obligations of the  
1673 district does not constitute a debt or obligation of the state  
1674 or any general-purpose local government of the state. In the  
1675 event of a default or dissolution of the district, a general-



1676 purpose local government is not required to assume the property  
1677 of the district, the debts of the district, or the district's  
1678 obligations to complete any infrastructure improvements or  
1679 provide any services to the district. Section 189.076(2),  
1680 Florida Statutes, does not apply to the district.

1681 (11) TRUST AGREEMENTS.—Any issue of bonds shall be secured  
1682 by a trust agreement or resolution by and between the district  
1683 and a corporate trustee or trustees, which may be any trust  
1684 company or bank having the powers of a trust company within or  
1685 without the state. The resolution authorizing the issuance of  
1686 the bonds or such trust agreement may pledge the revenues to be  
1687 received from any projects of the district and may contain such  
1688 provisions for protecting and enforcing the rights and remedies  
1689 of the bondholders as the board may approve, including, without  
1690 limitation, covenants setting forth the duties of the district  
1691 in relation to the acquisition, construction, reconstruction,  
1692 improvement, maintenance, repair, operation, and insurance of  
1693 any projects; the fixing and revising of the rates, fees, and  
1694 charges; and the custody, safeguarding, and application of all  
1695 moneys and for the employment of consulting engineers in  
1696 connection with such acquisition, construction, reconstruction,  
1697 improvement, maintenance, repair, operation, or insurance. It  
1698 shall be lawful for any bank or trust company within or without  
1699 the state which may act as a depository of the proceeds of bonds  
1700 or of revenues to furnish such indemnifying bonds or to pledge

1701 such securities as may be required by the district. Such  
1702 resolution or trust agreement may set forth the rights and  
1703 remedies of the bondholders and of the trustee, if any, and may  
1704 restrict the individual right of action by bondholders. The  
1705 board may provide for the payment of proceeds of the sale of the  
1706 bonds and the revenues of any project to such officer, board, or  
1707 depository as it may designate for the custody thereof and may  
1708 provide for the method of disbursement thereof with such  
1709 safeguards and restrictions as it may determine. All expenses  
1710 incurred in carrying out such resolution or trust agreement may  
1711 be treated as part of the cost of operation of the project to  
1712 which such trust agreement pertains.

1713 (12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL  
1714 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL  
1715 ASSESSMENTS; MAINTENANCE TAXES.—

1716 (a) Ad valorem taxes.—At such time as all members of the  
1717 board are qualified electors who are elected by qualified  
1718 electors of the district, the board shall have the power to levy  
1719 and assess an ad valorem tax on all the taxable property in the  
1720 district to construct, operate, and maintain assessable  
1721 improvements; to pay the principal of, and interest on, any  
1722 general obligation bonds of the district; and to provide for any  
1723 sinking or other funds established in connection with any such  
1724 bonds. An ad valorem tax levied by the board for operating  
1725 purposes, exclusive of debt service on bonds, may not exceed 3

1726 mills. The ad valorem tax provided for herein shall be in  
1727 addition to county and all other ad valorem taxes provided for  
1728 by general law. Such tax shall be assessed, levied, and  
1729 collected in the same manner and at the same time as county  
1730 taxes. The levy of ad valorem taxes must be approved by  
1731 referendum as required by Section 9, Article VII of the State  
1732 Constitution.

1733 (b) Benefit special assessments.—The board annually shall  
1734 determine, order, and levy the annual installment of the total  
1735 benefit special assessments for bonds issued and related  
1736 expenses to finance assessable improvements. These assessments  
1737 may be due and collected during each year county taxes are due  
1738 and collected, in which case such annual installment and levy  
1739 shall be evidenced to and certified to the property appraiser by  
1740 the board not later than August 31 of each year. Such assessment  
1741 shall be entered by the property appraiser on the county tax  
1742 rolls and shall be collected and enforced by the tax collector  
1743 in the same manner and at the same time as county taxes, and the  
1744 proceeds thereof shall be paid to the district. However, this  
1745 subsection does not prohibit the district in its discretion from  
1746 using the method provided in s. 197.3632, Florida Statutes, or  
1747 chapter 173, Florida Statutes, as each may be amended from time  
1748 to time, for collecting and enforcing these assessments. Each  
1749 annual installment of benefit special assessments shall be a  
1750 lien on the property against which assessed until paid and shall

1751 be enforceable in like manner as county taxes. The amount of the  
1752 assessment for the exercise of the district's powers under  
1753 subsections (6) and (7) shall be determined by the board based  
1754 upon a report of the district's engineer and assessed by the  
1755 board upon such lands, which may be part or all of the lands  
1756 within the district benefited by the improvement, apportioned  
1757 between benefited lands in proportion to the benefits received  
1758 by each tract of land. The board may, if it determines it is in  
1759 the best interests of the district, set forth in the proceedings  
1760 initially levying such benefit special assessments or in  
1761 subsequent proceedings a formula for the determination of an  
1762 amount which, when paid by a taxpayer with respect to any tax  
1763 parcel, shall constitute a prepayment of all future annual  
1764 installments of such benefit special assessments. The payment of  
1765 which amount with respect to such tax parcel shall relieve and  
1766 discharge such tax parcel of the lien of such benefit special  
1767 assessments and any subsequent annual installment thereof. The  
1768 board may provide further that upon delinquency in the payment  
1769 of any annual installment of benefit special assessments, such  
1770 prepayment amount of all future annual installments of benefit  
1771 special assessments shall be and become immediately due and  
1772 payable together with such delinquent annual installment.

1773 (c) Non-ad valorem maintenance taxes.—If and when  
1774 authorized by general law, to maintain and to preserve the  
1775 physical facilities and services constituting the works,

1776 improvements, or infrastructure owned by the district pursuant  
1777 to this act, to repair and restore any one or more of them, when  
1778 needed, and to defray the current expenses of the district,  
1779 including any sum which may be required to pay state and county  
1780 ad valorem taxes on any lands which may have been purchased and  
1781 which are held by the district under this act, the board of  
1782 supervisors may, upon the completion of said systems,  
1783 facilities, services, works, improvements, or infrastructure, in  
1784 whole or in part, as may be certified to the board by the  
1785 engineer of the board, levy annually a non-ad valorem and  
1786 nonmillage tax upon each tract or parcel of land within the  
1787 district, to be known as a "maintenance tax." A maintenance tax  
1788 shall be apportioned upon the basis of the net assessments of  
1789 benefits assessed as accruing from the original construction and  
1790 shall be evidenced to and certified by the board of supervisors  
1791 of the district not later than June 1 of each year to the  
1792 Manatee County tax collector and shall be extended on the tax  
1793 rolls and collected by the tax collector on the merged  
1794 collection roll of the tax collector in the same manner and at  
1795 the same time as county ad valorem taxes, and the proceeds  
1796 therefrom shall be paid to the district. The maintenance tax  
1797 shall be a lien until paid on the property against which  
1798 assessed and enforceable in like manner and of the same dignity  
1799 as county ad valorem taxes.

1800 (d) Maintenance special assessments.—To maintain and

1801 preserve the facilities and projects of the district, the board  
1802 may levy a maintenance special assessment. This assessment may  
1803 be evidenced to and certified to the tax collector by the board  
1804 of supervisors not later than August 31 of each year and shall  
1805 be entered by the property appraiser on the county tax rolls and  
1806 shall be collected and enforced by the tax collector in the same  
1807 manner and at the same time as county taxes, and the proceeds  
1808 therefrom shall be paid to the district. However, this  
1809 subsection does not prohibit the district in its discretion from  
1810 using the method prescribed in s. 197.363, s. 197.3631, or s.  
1811 197.3632, Florida Statutes, for collecting and enforcing these  
1812 assessments. These maintenance special assessments shall be a  
1813 lien on the property against which assessed until paid and shall  
1814 be enforceable in like manner as county taxes. The amount of the  
1815 maintenance special assessment for the exercise of the  
1816 district's powers under this section shall be determined by the  
1817 board based upon a report of the district's engineer and  
1818 assessed by the board upon such lands, which may be all of the  
1819 lands within the district benefited by the maintenance thereof,  
1820 apportioned between the benefited lands in proportion to the  
1821 benefits received by each tract of land.

1822 (e) Special assessments.—The board may levy and impose any  
1823 special assessments pursuant to this subsection.

1824 (f) Enforcement of taxes.—The collection and enforcement  
1825 of all taxes levied by the district shall be at the same time

1826 and in like manner as county taxes and the provisions of general  
 1827 law relating to the sale of lands for unpaid and delinquent  
 1828 county taxes; the issuance, sale, and delivery of tax  
 1829 certificates for such unpaid and delinquent county taxes; the  
 1830 redemption thereof; the issuance to individuals of tax deeds  
 1831 based thereon; and all other procedures in connection therewith  
 1832 shall be applicable to the district to the same extent as if  
 1833 such statutory provisions were expressly set forth in this act.  
 1834 All taxes shall be subject to the same discounts as county  
 1835 taxes.

1836 (g) When unpaid tax is delinquent; penalty.—All taxes  
 1837 provided for in this act shall become delinquent and bear  
 1838 penalties on the amount of such taxes in the same manner as  
 1839 county taxes.

1840 (h) Status of assessments.—Benefit special assessments,  
 1841 maintenance special assessments, and special assessments are  
 1842 hereby found and determined to be non-ad valorem assessments as  
 1843 defined in s. 197.3632(1), Florida Statutes. Maintenance taxes  
 1844 are non-ad valorem taxes and are not special assessments.

1845 (i) Assessments constitute liens; collection.—Any and all  
 1846 assessments, including special assessments, benefit special  
 1847 assessments, and maintenance special assessments authorized and  
 1848 granted by this subsection and maintenance taxes if authorized  
 1849 by general law, shall constitute a lien on the property against  
 1850 which assessed from the date of levy and imposition thereof

1851 until paid, coequal with the lien of state, county, municipal,  
1852 and school board taxes. These assessments may be collected, at  
1853 the district's discretion, under authority of s. 197.3631,  
1854 Florida Statutes, as amended from time to time, by the tax  
1855 collector pursuant to ss. 197.3632 and 197.3635, Florida  
1856 Statutes, as amended from time to time, or in accordance with  
1857 other collection measures provided by general law. In addition  
1858 to, and not in limitation of, any powers otherwise set forth  
1859 herein or in general law, these assessments may also be enforced  
1860 pursuant to chapter 173, Florida Statutes, as amended from time  
1861 to time.

1862 (j) Land owned by governmental entity.—Except as otherwise  
1863 provided by general law, a levy of ad valorem taxes or non-ad  
1864 valorem assessments under this act or chapter 170 or chapter  
1865 197, Florida Statutes, or otherwise by the board of the district  
1866 on property of a governmental entity that is subject to a ground  
1867 lease as described in s. 190.003(14), Florida Statutes, does not  
1868 constitute a lien or encumbrance on the underlying fee interest  
1869 of such governmental entity.

1870 (13) SPECIAL ASSESSMENTS.—

1871 (a) As an alternative method to the levy and imposition of  
1872 special assessments pursuant to chapter 170, Florida Statutes,  
1873 pursuant to the authority under s. 197.3631, Florida Statutes,  
1874 or pursuant to other provisions of general law, now or hereafter  
1875 enacted, which provide a supplemental means or authority to



1876 impose, levy, and collect special assessments as otherwise  
1877 authorized under this act, the board may levy and impose special  
1878 assessments to finance the exercise of any of its powers  
1879 permitted under this act using the following uniform procedures:

1880 1. At a noticed meeting, the board of supervisors of the  
1881 district may consider and review an engineer's report on the  
1882 costs of the systems, facilities, and services to be provided, a  
1883 preliminary special assessment methodology, and a preliminary  
1884 roll based on acreage or platted lands, depending upon whether  
1885 platting has occurred.

1886 a. The special assessment methodology shall address and  
1887 discuss and the board shall consider whether the systems,  
1888 facilities, and services being contemplated will result in  
1889 special benefits peculiar to the property, different in kind and  
1890 degree than general benefits, as a logical connection between  
1891 the systems, facilities, and services themselves and the  
1892 property, and whether the duty to pay the special assessments by  
1893 the property owners is apportioned in a manner that is fair and  
1894 equitable and not in excess of the special benefit received. It  
1895 shall be fair and equitable to designate a fixed proportion of  
1896 the annual debt service, together with interest thereon, on the  
1897 aggregate principal amount of bonds issued to finance such  
1898 systems, facilities, and services which give rise to unique,  
1899 special, and peculiar benefits to property of the same or  
1900 similar characteristics under the special assessment methodology

1901 so long as such fixed proportion does not exceed the unique,  
1902 special, and peculiar benefits enjoyed by such property from  
1903 such systems, facilities, and services.

1904 b. The engineer's cost report shall identify the nature of  
1905 the proposed systems, facilities, and services, their location,  
1906 a cost breakdown plus a total estimated cost, including cost of  
1907 construction or reconstruction, labor, and materials, lands,  
1908 property, rights, easements, franchises, or systems, facilities,  
1909 and services to be acquired; cost of plans and specifications  
1910 and surveys of estimates of costs and revenues; costs of  
1911 engineering, legal, and other professional consultation  
1912 services; and other expenses or costs necessary or incident to  
1913 determining the feasibility or practicability of such  
1914 construction, reconstruction, or acquisition, administrative  
1915 expenses, relationship to the authority and power of the  
1916 district in its charter, and such other expenses or costs as may  
1917 be necessary or incident to the financing to be authorized by  
1918 the board of supervisors.

1919 c. The preliminary special assessment roll shall be in  
1920 accordance with the assessment methodology as may be adopted by  
1921 the board of supervisors; the special assessment roll shall be  
1922 completed as promptly as possible and shall show the acreage,  
1923 lots, lands, or plats assessed and the amount of the fairly and  
1924 reasonably apportioned assessment based on special and peculiar  
1925 benefit to the property, lot, parcel, or acreage of land; and,

1926 if the special assessment against such lot, parcel, acreage, or  
1927 portion of land is to be paid in installments, the number of  
1928 annual installments in which the special assessment is divided  
1929 shall be entered into and shown upon the special assessment  
1930 roll.

1931 2. The board of supervisors of the district may determine  
1932 and declare by an initial special assessment resolution to levy  
1933 and assess the special assessments with respect to assessable  
1934 improvements stating the nature of the systems, facilities, and  
1935 services, improvements, projects, or infrastructure constituting  
1936 such assessable improvements, the information in the engineer's  
1937 cost report, the information in the special assessment  
1938 methodology as determined by the board at the noticed meeting  
1939 and referencing and incorporating as part of the resolution the  
1940 engineer's cost report, the preliminary special assessment  
1941 methodology, and the preliminary special assessment roll as  
1942 referenced exhibits to the resolution by reference. If the board  
1943 determines to declare and levy the special assessments by the  
1944 initial special assessment resolution, the board shall also  
1945 adopt and declare a notice resolution which shall provide and  
1946 cause the initial special assessment resolution to be published  
1947 in a newspaper of general circulation in Manatee County once a  
1948 week for 2 consecutive weeks and said board shall by the same  
1949 resolution fix a time and place at which the owner or owners of  
1950 the property to be assessed or any other persons interested

1951 therein may appear before said board and be heard as to the  
1952 propriety and advisability of making such improvements, as to  
1953 the costs thereof, as to the manner of payment therefor, and as  
1954 to the amount thereof to be assessed against each property so  
1955 improved. Thirty days' notice in writing of such time and place  
1956 shall be given to such property owners. The notice shall include  
1957 the amount of the special assessment and shall be served by  
1958 mailing a copy to each assessed property owner at his or her  
1959 last known address, the names and addresses of such property  
1960 owners to be obtained from the record of the property appraiser  
1961 of the county political subdivision in which the land is located  
1962 or from such other sources as the district manager or engineer  
1963 deems reliable. Proof of such mailing shall be made by the  
1964 affidavit of the manager of the district or by the engineer,  
1965 said proof to be filed with the district manager. Failure to  
1966 mail said notice or notices does not invalidate any of the  
1967 proceedings hereunder. It is provided further that the last  
1968 publication shall be at least 1 week before the date of the  
1969 hearing on the final special assessment resolution. Said notice  
1970 shall describe the general areas to be improved and advise all  
1971 persons interested that the description of each property to be  
1972 assessed and the amount to be assessed to each piece, parcel,  
1973 lot, or acre of property may be ascertained at the office of the  
1974 manager of the district. Such service by publication shall be  
1975 verified by the affidavit of the publisher and filed with the

1976 | manager of the district. Moreover, the initial special  
1977 | assessment resolution with its attached, referenced, and  
1978 | incorporated engineer's cost report, preliminary special  
1979 | assessment methodology, and preliminary special assessment roll,  
1980 | along with the notice resolution, shall be available for public  
1981 | inspection at the office of the manager and the office of the  
1982 | engineer or any other office designated by the board of  
1983 | supervisors in the notice resolution. Notwithstanding the  
1984 | foregoing, the landowners of all of the property which is  
1985 | proposed to be assessed may give the district written notice of  
1986 | waiver of any notice and publication provided for in this  
1987 | subparagraph. However, such notice and publication is not  
1988 | required, provided that any meeting of the board of supervisors  
1989 | to consider such resolution is a publicly noticed meeting.

1990 | 3. At the time and place named in the noticed resolution  
1991 | as provided for in subparagraph 2., the board of supervisors of  
1992 | the district shall meet and hear testimony from affected  
1993 | property owners as to the propriety and advisability of making  
1994 | the systems, facilities, services, projects, works,  
1995 | improvements, or infrastructure and funding them with  
1996 | assessments referenced in the initial special assessment  
1997 | resolution on the property. Following the testimony and  
1998 | questions from the members of the board or any professional  
1999 | advisors to the district of the preparers of the engineer's cost  
2000 | report, the special assessment methodology, and the special

2001 assessment roll, the board of supervisors shall make a final  
 2002 decision on whether to levy and assess the particular special  
 2003 assessments. Thereafter, the board of supervisors shall meet as  
 2004 an equalizing board to hear and to consider any and all  
 2005 complaints as to the particular special assessments and shall  
 2006 adjust and equalize the special assessments to ensure proper  
 2007 assessment based on the benefit conferred on the property.  
 2008 4. When so equalized and approved by resolution or  
 2009 ordinance by the board of supervisors, to be called the final  
 2010 special assessment resolution, a final special assessment roll  
 2011 shall be filed with the clerk of the board and such special  
 2012 assessment shall stand confirmed and remain legal, valid, and  
 2013 binding first liens on the property against which such special  
 2014 assessments are made until paid, equal in dignity to the first  
 2015 liens of ad valorem taxation of county and municipal governments  
 2016 and school boards. However, upon completion of the systems,  
 2017 facilities, services, projects, improvements, works, or  
 2018 infrastructure, the district shall credit to each of the  
 2019 assessments the difference in the special assessment as  
 2020 originally made, approved, levied, assessed, and confirmed and  
 2021 the proportionate part of the actual cost of the improvement to  
 2022 be paid by the particular special assessments as finally  
 2023 determined upon the completion of the improvement; but in no  
 2024 event shall the final special assessment exceed the amount of  
 2025 the special and peculiar benefits as apportioned fairly and

2026 reasonably to the property from the system, facility, or service  
2027 being provided as originally assessed. Promptly after such  
2028 confirmation, the special assessment shall be recorded by the  
2029 clerk of the district in the minutes of the proceedings of the  
2030 district, and the record of the lien in this set of minutes  
2031 shall constitute prima facie evidence of its validity. The board  
2032 of supervisors, in its sole discretion, may, by resolution,  
2033 grant a discount equal to all or a part of the payee's  
2034 proportionate share of the cost of the project consisting of  
2035 bond financing cost, such as capitalized interest, funded  
2036 reserves, and bond discounts included in the estimated cost of  
2037 the project, upon payment in full of any special assessments  
2038 during such period before the time such financing costs are  
2039 incurred as may be specified by the board of supervisors in such  
2040 resolution.

2041 5. District special assessments may be made payable in  
2042 installments over no more than 40 years after the date of the  
2043 payment of the first installment thereof and may bear interest  
2044 at fixed or variable rates.

2045 (b) Notwithstanding any provision of this act or chapter  
2046 170, Florida Statutes, that portion of s. 170.09, Florida  
2047 Statutes, which provides that special assessments may be paid  
2048 without interest at any time within 30 days after the  
2049 improvement is completed and a resolution accepting the same has  
2050 been adopted by the governing authority is not applicable to any

2051 district special assessments, whether imposed, levied, and  
2052 collected pursuant to this act or any other provision of general  
2053 law, including, but not limited to, chapter 170, Florida  
2054 Statutes.

2055 (c) In addition, the district is authorized expressly in  
2056 the exercise of its rulemaking power to adopt rules that provide  
2057 for notice, levy, imposition, equalization, and collection of  
2058 assessments.

2059 (14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON  
2060 ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.—

2061 (a) The board may, after any special assessments or  
2062 benefit special assessments for assessable improvements are  
2063 made, determined, and confirmed as provided in this act, issue  
2064 certificates of indebtedness for the amount so assessed against  
2065 the abutting property or property otherwise benefited, as the  
2066 case may be, and separate certificates shall be issued against  
2067 each part or parcel of land or property assessed, which  
2068 certificates shall state the general nature of the improvement  
2069 for which the assessment is made. The certificates shall be  
2070 payable in annual installments in accordance with the  
2071 installments of the special assessment for which they are  
2072 issued. The board may determine the interest to be borne by such  
2073 certificates, not to exceed the maximum rate allowed by general  
2074 law, and may sell such certificates at either private or public  
2075 sale and determine the form, manner of execution, and other



2076 details of such certificates. The certificates shall recite that  
2077 they are payable only from the special assessments levied and  
2078 collected from the part or parcel of land or property against  
2079 which they are issued. The proceeds of such certificates may be  
2080 pledged for the payment of principal of and interest on any  
2081 revenue bonds or general obligation bonds issued to finance in  
2082 whole or in part such assessable improvement or, if not so  
2083 pledged, may be used to pay the cost or part of the cost of such  
2084 assessable improvements.

2085 (b) The district may also issue assessment bonds, revenue  
2086 bonds, or other obligations payable from a special fund into  
2087 which such certificates of indebtedness referred to in paragraph  
2088 (a) may be deposited or, if such certificates of indebtedness  
2089 have not been issued, may assign to such special fund for the  
2090 benefit of the holders of such assessment bonds or other  
2091 obligations, or to a trustee for such bondholders, the  
2092 assessment liens provided for in this act unless such  
2093 certificates of indebtedness or assessment liens have been  
2094 theretofore pledged for any bonds or other obligations  
2095 authorized hereunder. In the event of the creation of such  
2096 special fund and the issuance of such assessment bonds or other  
2097 obligations, the proceeds of such certificates of indebtedness  
2098 or assessment liens deposited therein shall be used only for the  
2099 payment of the assessment bonds or other obligations issued as  
2100 provided in this section. The district is authorized to covenant

2101 with the holders of such assessment bonds, revenue bonds, or  
2102 other obligations that it will diligently and faithfully enforce  
2103 and collect all the special assessments, and interest and  
2104 penalties thereon, for which such certificates of indebtedness  
2105 or assessment liens have been deposited in or assigned to such  
2106 fund; to foreclose such assessment liens so assigned to such  
2107 special fund or represented by the certificates of indebtedness  
2108 deposited in the special fund, after such assessment liens have  
2109 become delinquent, and deposit the proceeds derived from such  
2110 foreclosure, including interest and penalties, in such special  
2111 fund; and to make any other covenants deemed necessary or  
2112 advisable in order to properly secure the holders of such  
2113 assessment bonds or other obligations.

2114 (c) The assessment bonds, revenue bonds, or other  
2115 obligations issued pursuant to this subsection shall have such  
2116 dates of issuance and maturity as deemed advisable by the board;  
2117 however, the maturities of such assessment bonds or other  
2118 obligations may not be more than 2 years after the due date of  
2119 the last installment that will be payable on any of the special  
2120 assessments for which such assessment liens, or the certificates  
2121 of indebtedness representing such assessment liens, are assigned  
2122 to or deposited in such special fund.

2123 (d) Such assessment bonds, revenue bonds, or other  
2124 obligations issued under this subsection shall bear such  
2125 interest as the board may determine, not to exceed the maximum

2126 rate allowed by general law, and shall be executed, shall have  
2127 such provisions for redemption before maturity, shall be sold in  
2128 such manner, and shall be subject to all of the applicable  
2129 provisions contained in this act for revenue bonds, except as  
2130 the same may be inconsistent with this subsection.

2131 (e) All assessment bonds, revenue bonds, or other  
2132 obligations issued under this subsection shall be, shall  
2133 constitute, and shall have all the qualities and incidents of  
2134 negotiable instruments under the law merchant and general laws.

2135 (15) TAX LIENS.—All taxes of the district provided for in  
2136 this act, together with all penalties for default in the payment  
2137 of the same and all costs in collecting the same, including a  
2138 reasonable attorney fee fixed by the court and taxed as a cost  
2139 in the action brought to enforce payment, shall, from January 1  
2140 of each year the property is liable to assessment and until  
2141 paid, constitute a lien of equal dignity with the liens for  
2142 state and county taxes and other taxes of equal dignity with  
2143 state and county taxes upon all the lands against which such  
2144 taxes shall be levied. A sale of any of the real property within  
2145 the district for state and county or other taxes may not operate  
2146 to relieve or release the property so sold from the lien for  
2147 subsequent district taxes or installments of district taxes,  
2148 which lien may be enforced against such property as though no  
2149 such sale thereof had been made. In addition, for purposes of s.  
2150 197.552, Florida Statutes, the lien of all special assessments

2151 levied by the district shall constitute a lien of record held by  
2152 a municipal or county governmental unit. Sections 194.171,  
2153 197.122, 197.333, and 197.432, Florida Statutes, are applicable  
2154 to district taxes with the same force and effect as if such  
2155 sections were expressly provided in this act.

2156 (16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE  
2157 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.—

2158 (a) The district shall have the power and right to:

2159 1. Pay any delinquent state, county, district, municipal,  
2160 or other tax or assessment upon lands located wholly or  
2161 partially within the boundaries of the district.

2162 2. Redeem or purchase any tax sales certificates issued or  
2163 sold on account of any state, county, district, municipal, or  
2164 other taxes or assessments upon lands located wholly or  
2165 partially within the boundaries of the district.

2166 (b) Delinquent taxes paid, or tax sales certificates  
2167 redeemed or purchased, by the district, together with all  
2168 penalties for the default in payment of the same and all costs  
2169 in collecting the same and a reasonable attorney fee, shall  
2170 constitute a lien in favor of the district of equal dignity with  
2171 the liens of state and county taxes and other taxes of equal  
2172 dignity with state and county taxes upon all the real property  
2173 against which the taxes were levied. The lien of the district  
2174 may be foreclosed in the manner provided in this act.

2175 (c) In any sale of land pursuant to s. 197.542, Florida

2176 Statutes, as may be amended from time to time, the district may  
2177 certify to the clerk of the circuit court of the county holding  
2178 such sale the amount of taxes due to the district upon the lands  
2179 sought to be sold, and the district shall share in the  
2180 disbursement of the sales proceeds in accordance with this act  
2181 and under general law.

2182 (17) FORECLOSURE OF LIENS.—Any lien in favor of the  
2183 district arising under this act may be foreclosed by the  
2184 district by foreclosure proceedings in the name of the district  
2185 in a court of competent jurisdiction as provided by general law  
2186 in like manner as is provided in chapter 170 or chapter 173,  
2187 Florida Statutes, and any amendments thereto, and those chapters  
2188 shall be applicable to such proceedings with the same force and  
2189 effect as if those chapters were expressly provided in this act.  
2190 Any act required or authorized to be done by or on behalf of a  
2191 municipality in foreclosure proceedings under chapter 170 or  
2192 chapter 173, Florida Statutes, may be performed by such officer  
2193 or agent of the district as the board of supervisors may  
2194 designate. Such foreclosure proceedings may be brought at any  
2195 time after the expiration of 1 year from the date any tax, or  
2196 installment thereof, becomes delinquent; however, no lien shall  
2197 be foreclosed against any political subdivision or agency of the  
2198 state. Other legal remedies shall remain available.

2199 (18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,  
2200 FACILITIES, AND SERVICES.—To the full extent permitted by

2201 general law, the district shall require all lands, buildings,  
2202 premises, persons, firms, and corporations within the district  
2203 to use the facilities of the district.

2204 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED  
2205 PROVISIONS REQUIRED.—

2206 (a) A contract may not be let by the board for any goods,  
2207 supplies, or materials to be purchased when the amount thereof  
2208 to be paid by the district shall exceed the amount provided in  
2209 s. 287.017, Florida Statutes, for category four, unless notice  
2210 of bids shall be published in a newspaper of general circulation  
2211 in Manatee County at least once. Any board seeking to construct  
2212 or improve a public building, structure, or other public works  
2213 shall comply with the bidding procedures of s. 255.20, Florida  
2214 Statutes, as amended from time to time, and other applicable  
2215 general law. In each case, the bid of the lowest responsive and  
2216 responsible bidder shall be accepted unless all bids are  
2217 rejected because the bids are too high or the board determines  
2218 it is in the best interests of the district to reject all bids.  
2219 The board may require the bidders to furnish bond with a  
2220 responsible surety to be approved by the board. Nothing in this  
2221 subsection shall prevent the board from undertaking and  
2222 performing the construction, operation, and maintenance of any  
2223 project or facility authorized by this act by the employment of  
2224 labor, material, and machinery.

2225 (b) The Consultants' Competitive Negotiation Act, s.

2226 287.055, Florida Statutes, applies to contracts for engineering,  
 2227 architecture, landscape architecture, or registered surveying  
 2228 and mapping services let by the board.

2229 (c) Contracts for maintenance services for any district  
 2230 facility or project shall be subject to competitive bidding  
 2231 requirements when the amount thereof to be paid by the district  
 2232 exceeds the amount provided in s. 287.017, Florida Statutes, as  
 2233 amended from time to time, for category four. The district shall  
 2234 adopt rules, policies, or procedures establishing competitive  
 2235 bidding procedures for maintenance services. Contracts for other  
 2236 services may not be subject to competitive bidding unless the  
 2237 district adopts a rule, policy, or procedure applying  
 2238 competitive bidding procedures to said contracts. Nothing herein  
 2239 shall preclude the use of requests for proposal instead of  
 2240 invitations to bid as determined by the district to be in its  
 2241 best interest.

2242 (20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION  
 2243 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.-

2244 (a) The district is authorized to prescribe, fix,  
 2245 establish, and collect rates, fees, rentals, or other charges,  
 2246 hereinafter sometimes referred to as "revenues," and to revise  
 2247 the same from time to time, for the systems, facilities, and  
 2248 services furnished by the district, within the limits of the  
 2249 district, including, but not limited to, recreational  
 2250 facilities, water management and control facilities, and water

2251 and sewer systems; to recover the costs of making connection  
2252 with any district service, facility, or system; and to provide  
2253 for reasonable penalties against any user or property for any  
2254 such rates, fees, rentals, or other charges that are delinquent.

2255 (b) No such rates, fees, rentals, or other charges for any  
2256 of the facilities or services of the district shall be fixed  
2257 until after a public hearing at which all the users of the  
2258 proposed facility or services or owners, tenants, or occupants  
2259 served or to be served thereby and all other interested persons  
2260 shall have an opportunity to be heard concerning the proposed  
2261 rates, fees, rentals, or other charges. Rates, fees, rentals,  
2262 and other charges shall be adopted under the administrative  
2263 rulemaking authority of the district, but do not apply to  
2264 district leases. Notice of such public hearing setting forth the  
2265 proposed schedule or schedules of rates, fees, rentals, and  
2266 other charges shall have been published in a newspaper of  
2267 general circulation in Manatee County at least once and at least  
2268 10 days before such public hearing. The rulemaking hearing may  
2269 be adjourned from time to time. After such hearing, such  
2270 schedule or schedules, either as initially proposed or as  
2271 modified or amended, may be finally adopted. A copy of the  
2272 schedule or schedules of such rates, fees, rentals, or charges  
2273 as finally adopted shall be kept on file in an office designated  
2274 by the board and shall be open at all reasonable times to public  
2275 inspection. The rates, fees, rentals, or charges so fixed for



2276 any class of users or property served shall be extended to cover  
2277 any additional users or properties thereafter served which shall  
2278 fall in the same class, without the necessity of any notice or  
2279 hearing.

2280 (c) Such rates, fees, rentals, and charges shall be just  
2281 and equitable and uniform for users of the same class, and when  
2282 appropriate may be based or computed either upon the amount of  
2283 service furnished, upon the average number of persons residing  
2284 or working in or otherwise occupying the premises served, or  
2285 upon any other factor affecting the use of the facilities  
2286 furnished, or upon any combination of the foregoing factors, as  
2287 may be determined by the board on an equitable basis.

2288 (d) The rates, fees, rentals, or other charges prescribed  
2289 shall be such as will produce revenues, together with any other  
2290 assessments, taxes, revenues, or funds available or pledged for  
2291 such purpose, at least sufficient to provide for the following  
2292 items, but not necessarily in the order stated:

2293 1. To provide for all expenses of operation and  
2294 maintenance of such facility or service.

2295 2. To pay when due all bonds and interest thereon for the  
2296 payment of which such revenues are, or shall have been, pledged  
2297 or encumbered, including reserves for such purpose.

2298 3. To provide for any other funds which may be required  
2299 under the resolution or resolutions authorizing the issuance of  
2300 bonds pursuant to this act.

2301        (e) The board shall have the power to enter into contracts  
2302 for the use of the projects of the district and with respect to  
2303 the services, systems, and facilities furnished or to be  
2304 furnished by the district.

2305        (21) RECOVERY OF DELINQUENT CHARGES.—In the event that any  
2306 rates, fees, rentals, charges, or delinquent penalties are not  
2307 paid as and when due and are in default for 60 days or more, the  
2308 unpaid balance thereof and all interest accrued thereon,  
2309 together with reasonable attorney fees and costs, may be  
2310 recovered by the district in a civil action.

2311        (22) DISCONTINUANCE OF SERVICES OR FACILITIES.—In the  
2312 event the fees, rentals, or other charges for district services  
2313 or facilities are not paid when due, the board shall have the  
2314 power, under such reasonable rules and regulations as the board  
2315 may adopt, to discontinue and shut off such services or  
2316 facilities until such fees, rentals, or other charges, including  
2317 interest, penalties, and charges for the shutting off and  
2318 discontinuance and the restoration of such services or  
2319 facilities, are fully paid; and, for such purposes, the board  
2320 may enter on any lands, waters, or premises of any person, firm,  
2321 corporation, or body, public or private, within the district  
2322 limits. Such delinquent fees, rentals, or other charges,  
2323 together with interest, penalties, and charges for the shutting  
2324 off and discontinuance and the restoration of such services or  
2325 facilities and reasonable attorney fees and other expenses, may

2326 be recovered by the district, which may also enforce payment of  
2327 such delinquent fees, rentals, or other charges by any other  
2328 lawful method of enforcement.

2329 (23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved  
2330 person may have recourse to such remedies in general law and at  
2331 equity as may be necessary to ensure compliance with this act,  
2332 including injunctive relief to enjoin or restrain any person  
2333 violating this act or any bylaws, resolutions, regulations,  
2334 rules, codes, or orders adopted under this act. In case any  
2335 building or structure is erected, constructed, reconstructed,  
2336 altered, repaired, converted, or maintained, or any building,  
2337 structure, land, or water is used, in violation of this act or  
2338 of any code, order, resolution, or other regulation made under  
2339 authority conferred by this act or under general law, the board  
2340 or any citizen residing in the district may institute any  
2341 appropriate action or proceeding to prevent such unlawful  
2342 erection, construction, reconstruction, alteration, repair,  
2343 conversion, maintenance, or use; to restrain, correct, or avoid  
2344 such violation; to prevent the occupancy of such building,  
2345 structure, land, or water; and to prevent any illegal act,  
2346 conduct, business, or use in or about such premises, land, or  
2347 water.

2348 (24) SUITS AGAINST THE DISTRICT.—Any suit or action  
2349 brought or maintained against the district for damages arising  
2350 out of tort, including, without limitation, any claim arising

2351 upon account of an act causing an injury or loss of property,  
2352 personal injury, or death, shall be subject to the limitations  
2353 provided in s. 768.28, Florida Statutes.

2354 (25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.—All  
2355 district property shall be exempt from levy and sale by virtue  
2356 of an execution, and no execution or other judicial process  
2357 shall issue against such property, nor shall any judgment  
2358 against the district be a charge or lien on its property or  
2359 revenues; however, nothing contained herein shall apply to or  
2360 limit the rights of bondholders to pursue any remedy for the  
2361 enforcement of any lien or pledge given by the district in  
2362 connection with any of the bonds or obligations of the district.

2363 (26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.—

2364 (a) The board of supervisors of the district may not ask  
2365 the Legislature to repeal or amend this act to expand or to  
2366 contract the boundaries of the district or otherwise cause the  
2367 merger or termination of the district without first obtaining a  
2368 resolution or official statement from Manatee County as required  
2369 by s. 189.031(2)(e)4., Florida Statutes, for creation of an  
2370 independent special district. The district's consent may be  
2371 evidenced by a resolution or other official written statement of  
2372 the district.

2373 (b) The district shall remain in existence until:

2374 1. The district is terminated and dissolved pursuant to  
2375 amendment to this act by the Legislature.

2376        2. The district has become inactive pursuant to s.  
 2377        189.062, Florida Statutes.

2378        (27) MERGER WITH COMMUNITY DEVELOPMENT DISTRICTS.—The  
 2379        district may merge with one or more community development  
 2380        districts situated wholly within its boundaries. The district  
 2381        shall be the surviving entity of the merger. Any mergers shall  
 2382        commence upon each such community development district filing a  
 2383        written request for merger with the district. A copy of the  
 2384        written request shall also be filed with Manatee County. The  
 2385        district, subject to the direction of its board of supervisors,  
 2386        shall enter into a merger agreement which shall provide for the  
 2387        proper allocation of debt, the manner in which such debt shall  
 2388        be retired, the transition of the community development district  
 2389        board, and the transfer of all financial obligations and  
 2390        operating and maintenance responsibilities to the district. The  
 2391        execution of the merger agreement by the district and each  
 2392        community development district constitutes consent of the  
 2393        landowners within each district. The district and each community  
 2394        development district requesting merger shall hold a public  
 2395        hearing within its boundaries to provide information about and  
 2396        take public comment on the proposed merger in the merger  
 2397        agreement. The public hearing shall be held within 45 days after  
 2398        the execution of the merger agreement by all parties thereto.  
 2399        Notice of the public hearing shall be published in a newspaper  
 2400        of general circulation in Manatee County at least 14 days before

2401 the hearing. At the conclusion of the public hearing, each  
2402 district shall consider a resolution approving or disapproving  
2403 the proposed merger. If the district and each community  
2404 development district which is a party to the merger agreement  
2405 adopt a resolution approving the proposed merger, the  
2406 resolutions and the merger agreement shall be filed with Manatee  
2407 County. Upon receipt of the resolutions approving the merger and  
2408 the merger agreement, Manatee County shall adopt a nonemergency  
2409 ordinance dissolving each community development district  
2410 pursuant to s. 190.046(10), Florida Statutes.

2411 (28) INCLUSION OF TERRITORY.—The inclusion of any or all  
2412 territory of the district within a municipality does not change,  
2413 alter, or affect the boundary, territory, existence, or  
2414 jurisdiction of the district.

2415 (29) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED  
2416 DISCLOSURE TO PURCHASER.—Subsequent to the creation of this  
2417 district under this act, each contract for the initial sale of a  
2418 parcel of real property and each contract for the initial sale  
2419 of a residential unit within the district shall include,  
2420 immediately before the space reserved in the contract for the  
2421 signature of the purchaser, the following disclosure statement  
2422 in boldfaced and conspicuous type which is larger than the type  
2423 in the remaining text of the contract: "THE NORTH RIVER RANCH  
2424 IMPROVEMENT STEWARDSHIP DISTRICT MAY IMPOSE AND LEVY TAXES OR  
2425 ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.

2426 THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION,  
2427 AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND  
2428 SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING  
2429 BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN  
2430 ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND  
2431 ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY  
2432 GENERAL LAW."

2433 (30) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days  
2434 after the election of the first board of supervisors creating  
2435 the district, the district shall cause to be recorded in the  
2436 grantor-grantee index of the property records in Manatee County  
2437 a "Notice of Creation and Establishment of the North River Ranch  
2438 Improvement Stewardship District." The notice shall, at a  
2439 minimum, include the legal description of the territory  
2440 described in this act.

2441 (31) DISTRICT PROPERTY PUBLIC; FEES.—Any system, facility,  
2442 service, works, improvement, project, or other infrastructure  
2443 owned by the district, or funded by federal tax exempt bonding  
2444 issued by the district, is public; and the district by rule may  
2445 regulate, and may impose reasonable charges or fees for, the use  
2446 thereof, but not to the extent that such regulation or  
2447 imposition of such charges or fees constitutes denial of  
2448 reasonable access.

2449 Section 2. If any provision of this act or its application  
2450 to any person or circumstance is held invalid, the invalidity

2451 does not affect the remaining provisions or applications of the  
2452 act which can be given effect without the invalid provision or  
2453 application, and to this end the provisions of this act are  
2454 severable.

2455       Section 3. This act shall take effect upon becoming a law,  
2456 except that the provisions of this act which authorize the levy  
2457 of ad valorem taxation shall take effect only upon express  
2458 approval by a majority vote of those qualified electors of the  
2459 North River Ranch Improvement Stewardship District, as required  
2460 by Section 9, Article VII of the State Constitution, voting in a  
2461 referendum election held at such time as all members of the  
2462 board are qualified electors who are elected by qualified  
2463 electors of the district as provided in this act.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 925 (2020)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Gregory offered the following:

3  
4 **Amendment**

5 Remove line 1314 and insert:

6 contract with such providers for resale purposes, provided the  
7 district complies with s. 350.81, Florida Statutes, when  
8 contracting for resale purposes.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1009 Special Neighborhood Improvement Districts

**SPONSOR(S):** Newton

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 456

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Rivera	Miller
2) Ways & Means Committee	15 Y, 0 N	Curry	Langston
3) State Affairs Committee		Rivera	Williamson

### SUMMARY ANALYSIS

Neighborhood improvement districts (NIDs) are authorized under the Safe Neighborhoods Act of 1987 to address deteriorating business and residential neighborhoods and help revitalize them. By definition, a NID must use more than 75 percent of the land within its boundaries for either residential purposes or commercial, office, business, or industrial purposes, excluding land used for public facilities. Local governments may create four types of NIDs by ordinance: local government NIDs, property owners' association NIDs, community redevelopment NIDs, and special NIDs.

The ordinance creating a special NID must provide for specific features including a referendum before the NID can be implemented, authorization for the NID to levy an ad valorem tax up to two mills annually, and the appointment of a three-member board of directors. Board members serve three-year staggered terms and must be residents of the district who are subject to ad valorem taxation in the district. After 10 fiscal years, a special NID ceases to exist unless reapproved in another referendum.

The bill increases the number of members that can serve on special NID boards from three members to three, five, or seven members and increases board member terms from three-year staggered terms to four-year staggered terms. The bill requires members to be landowners, rather than residents, in the proposed area who are subject to ad valorem taxation. The bill requires counties or municipalities to specify the number of board members in the ordinance creating the special NID.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Neighborhood Improvement Districts

The Safe Neighborhoods Act of 1987<sup>1</sup> (Act) was enacted to address deteriorating business and residential neighborhoods caused by the proliferation of crime, poor traffic flow planning, and other undesirable issues.<sup>2</sup> The Act authorizes the creation of neighborhood improvement districts (NIDs) to develop, redevelop, preserve, and revitalize neighborhoods.<sup>3</sup> NIDs are subject to the laws governing special districts under ch. 189, F.S., which takes precedent in the event of a conflict with the Act.<sup>4</sup>

NIDs are districts where more than 75 percent of the land within the boundaries of the district must be used for either residential purposes or commercial, office, business, or industrial purposes. This percentage excludes any land used for public facilities.<sup>5</sup> The governing body of a county or municipality may create a NID by adopting a local planning ordinance authorizing the creation of the district.<sup>6</sup> Counties or municipalities with a designated enterprise zone or community redevelopment authority (CRA) must consider creating a NID within the zone or CRA.<sup>7</sup>

After adopting the local planning ordinance, a local government may enact a separate ordinance creating one of the following types of NIDs:<sup>8</sup>

- Local government;<sup>9</sup>
- Property owners' association;<sup>10</sup>
- Special;<sup>11</sup> or
- Community redevelopment.<sup>12</sup>

An ordinance creating a NID must specify the district's name, size, and boundaries.<sup>13</sup> In addition, each NID must register with the Department of Economic Opportunity (DEO) and the Department of Legal Affairs (DLA) within 30 days of authorization by providing the departments with the NID's name, location, size, and type, and such other information as the departments may require.<sup>14</sup> Before taxes and fees can be levied or expended, NIDs must adopt a safe neighborhood improvement plan<sup>15</sup> that contains a number of required elements, including a statement of the district's goals and objectives, crime activity data and analysis, and cost estimates together with methods of financing and evaluation guidelines.<sup>16</sup>

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<sup>1</sup> Ch. 87-243, Laws of Fla.

<sup>2</sup> S. 163.502(1), F.S.

<sup>3</sup> S. 163.502(4), F.S.

<sup>4</sup> S. 163.5035, F.S. See chs. 163 and 189, F.S.

<sup>5</sup> S. 163.503(1), F.S.

<sup>6</sup> S. 163.504(1), F.S. No district may overlap the jurisdictional boundaries of a county or municipality without an interlocal agreement between the jurisdictions.

<sup>7</sup> S. 163.522, F.S.

<sup>8</sup> S. 163.504(1), F.S. Each NID must be created by separate ordinance.

<sup>9</sup> S. 163.506, F.S.

<sup>10</sup> S. 163.508, F.S.

<sup>11</sup> S. 163.511, F.S.

<sup>12</sup> S. 163.512, F.S.

<sup>13</sup> See ss. 163.506(1)(a), 163.508(1)(b), 163.511(1)(d), and 163.512(1)(a), F.S.

<sup>14</sup> S. 163.5055, F.S. All ordinances establishing a district must require the district to notify DEO and DLA within 30 days. See ss. 163.506(1)(h), 163.508(1)(g), 163.511(1)(i), and 163.512(1)(i), F.S.

<sup>15</sup> S. 163.516(9), F.S. The plan may be proposed by the county, the municipality, the district, or any other person or agency. S. 163.516(4), F.S.

<sup>16</sup> S. 163.516(1)-(3), F.S.

NIDs have general powers as authorized in s. 163.514, F.S., unless prohibited by local ordinance, including the power to improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.<sup>17</sup> NIDs may make and collect special assessments to pay for improvements and the reasonable expenses of operating the district, subject to referendum approval by a majority of the registered voters residing in the district. Any special assessment instituted by the NID must be used to pay for improvements to the district or reasonable expenses to operate the district.<sup>18</sup>

Local governments are authorized to cooperate with community organizations such as churches, urban leagues, and other not-for-profit organizations to create a NID. A NID may contract with a community organization to undertake any authorized NID activities except the preparation of a safe neighborhood improvement plan. The NID may compensate or receive compensation from a community organization with certain restrictions.<sup>19</sup>

The method for dissolving a NID depends on the type of NID created. Local government and CRA NIDs may be dissolved by the governing body that established them.<sup>20</sup> Property owners' association NIDs may continue in perpetuity as long as the property owners' association exists.<sup>21</sup> Special NIDs are dissolved at the end of the tenth fiscal year of operation unless another 10 years is approved in a referendum.<sup>22</sup>

Currently, there are 24 local government NIDs that are controlled by the local governing body<sup>23</sup> creating the district. There is one property owners' association NID that is controlled by the officers of the incorporated property owners' association<sup>24</sup> that petitioned for the district. There are also two special NIDs that are controlled by an appointed board of directors.<sup>25</sup>

### Special Neighborhood Improvement Districts

A special NID operates like other neighborhood improvement districts except that its governing board is not identical to the governing body of the general purpose local government or a property owners' association. Special NIDs do not operate within a CRA. An ordinance creating a special NID must:

- Declare a need for the district;
- Condition the implementation of the ordinance on the approval of a referendum;<sup>26</sup>
- Authorize the district to levy an ad valorem tax on real and personal property of up to two mills annually;<sup>27</sup>
- Authorize the use of special assessments to support planning and implementation of district improvements pursuant to s. 163.514(16), F.S., including community policing innovations;
- Authorize the district to receive a planning grant from DLA;
- Provide for the appointment of a three-member board of directors (board) for the district;

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<sup>17</sup> S. 163.514, F.S. See also ss. 163.506(1)(g), 163.508(1)(f), 163.511(1)(h), 163.512(1)(f), and 163.514, F.S.

<sup>18</sup> S. 163.514(16), F.S. The county property appraiser may agree to collect the special assessment in the same manner as ad valorem taxes if so requested by the local governing body of the county or municipality. S. 163.5151(4), F.S.

<sup>19</sup> S. 163.523, F.S. The compensation cannot exceed 1 percent of the district's total annual budget or 2 percent of the district's total budget for any project for which maintenance services are rendered. S. 163.523, F.S. Service agreements between the district and community organizations cannot have a renewable term longer than three years.

<sup>20</sup> Ss. 163.506(4) and 163.512(3), F.S.

<sup>21</sup> S. 163.508(4), F.S.

<sup>22</sup> S. 163.511(13), F.S.

<sup>23</sup> S. 163.506(1)(e), F.S.

<sup>24</sup> S. 163.508(1)(e), F.S.

<sup>25</sup> DEO, *Official List of Special Districts Online, Active Special Districts Function Totals as of January 9, 2020*, <http://specialdistrictreports.floridajobs.org/webreports/functiontotals.aspx> (last visited January 9, 2020).

<sup>26</sup> The referendum must be held within 120 days of either a county declaring a need for the district or a petition signed by at least 40 percent of the electors or 20 percent of the property owners within a proposed district. Residential special NIDs must be approved by a majority of the electors in the proposed district voting in the referendum. Business special NIDs must be approved by freeholders representing more than 50 percent of the assessed value of the property within the district.

<sup>27</sup> Special NIDs are required to submit a tentative budget and proposed millage rate to the local governing body of the county or municipality for approval before any budget and rate can be adopted. S. 163.5151, F.S.

- Authorize the district to exercise eminent domain powers pursuant to chapters 73 and 74, F.S.;<sup>28</sup> and
- Authorize the district to develop and implement community policing innovations in consultation with the local law enforcement agency having jurisdiction within the district boundaries.<sup>29</sup>

A special NID board is comprised of three members. The local governing body of the county or municipality must appoint the three board members by a majority vote within 30 days of the referendum approving the creation of the NID.<sup>30</sup> Eligible members must be residents of the proposed area who are subject to ad valorem taxation in the district.<sup>31</sup> Board members serve three-year staggered terms,<sup>32</sup> are not permitted to receive compensation, and may not be employed by the district.<sup>33</sup> Board members may be removed for inefficiency, neglect of duty, or official misconduct but only after a hearing.<sup>34</sup>

Upon dissolution, special NID property becomes the property of the county or municipality in which the district is located<sup>35</sup> and the property owners in the district must make arrangements, acceptable to the debtholders and local governments, to pay any outstanding debt.<sup>36</sup>

### **Effect of Proposed Changes**

The bill increases the number of members that can serve on special NID boards from three members to either three, five, or seven members. The bill also increases member terms from three-year staggered terms to four-year staggered terms and requires such members to be landowners, rather than residents, in the proposed area who are subject to ad valorem taxation. The bill requires the number of board members to be specified in the county or municipal ordinance creating the special NID.

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

Section 1. Amends s. 163.511, F.S., allowing three, five, or seven members to serve on special NID boards, requiring four-year staggered terms, requiring members to be landowners, and removing term lengths.

Section 2. Provides an effective date of July 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

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<sup>28</sup> S. 163.511(1)(g), F.S. Any property identified for eminent domain by the district is subject to the approval of the local governing body before eminent domain procedures are exercised. S. 163.511(1)(j), F.S.

<sup>29</sup> S. 163.511(1)(j), F.S.

<sup>30</sup> S. 163.511(8), F.S.

<sup>31</sup> S. 163.511(7), F.S.

<sup>32</sup> S. 163.511(8), F.S. Members are subject to the code of ethics for public officers and employees, and the requirements of the public records law and public meetings law in chapters 119 and 286, F.S., respectively. See s. 163.511(12), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> S. 163.511(10), F.S.

<sup>35</sup> S. 163.511(13), F.S.

<sup>36</sup> S. 163.511(14), F.S.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide rulemaking authority or require executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to special neighborhood improvement  
 3           districts; amending s. 163.511, F.S.; revising the  
 4           number of directors allowed on the boards of special  
 5           neighborhood improvement districts; requiring local  
 6           planning ordinances to specify the number of directors  
 7           and provide for 4-year staggered terms; requiring that  
 8           directors be landowners in the proposed area and be  
 9           subject to certain taxation; removing obsolete  
 10          language; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Paragraph (f) of subsection (1) and subsections  
 15           (7) and (8) of section 163.511, Florida Statutes, are amended to  
 16           read:

17           163.511 Special neighborhood improvement districts;  
 18           creation; referendum; board of directors; duration; extension.-

19           (1) After a local planning ordinance has been adopted  
 20           authorizing the creation of special neighborhood improvement  
 21           districts, the governing body of a municipality or county may  
 22           declare the need for and create special residential or business  
 23           neighborhood improvement districts by the enactment of a  
 24           separate ordinance for each district, which ordinance:

25           (f) Provides for the appointment of a three-member board



26 | of directors, a five-member board of directors, or a seven-  
27 | member ~~3-member~~ board of directors for the district, the members  
28 | of which must be elected to staggered terms of 4 years. The  
29 | number of appointed directors must be specified in the  
30 | ordinance.

31 | (7) The business and affairs of a special neighborhood  
32 | improvement district shall be conducted and administered by a  
33 | board of three, five, or seven directors who must ~~shall~~ be  
34 | landowners in residents of the proposed area and who are subject  
35 | to ad valorem taxation in the district. Upon their appointment  
36 | and qualification and in January of each year, the directors  
37 | shall organize by electing from their number a chair and a  
38 | secretary, and may also employ staff and legal representatives  
39 | as deemed appropriate, who shall serve at the pleasure of the  
40 | board and may receive such compensation as ~~shall be~~ fixed by the  
41 | board. The secretary shall keep a record of the proceedings of  
42 | the district and is the ~~shall be~~ custodian of all books and  
43 | records of the district. The directors may ~~shall~~ not receive any  
44 | compensation for their services or, ~~nor may they~~ be employed by  
45 | the district.

46 | (8) Within 30 days after ~~of the~~ approval of the creation  
47 | of a special neighborhood improvement district, if the district  
48 | is in a municipality, a majority of the governing body of the  
49 | municipality, or, if the district is in the unincorporated area  
50 | of the county, a majority of the county commission, shall

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51 | appoint the ~~three~~ directors provided for under this section  
52 | ~~herein for staggered terms of 3 years. The initial appointments~~  
53 | ~~shall be as follows: one for a 1-year term, one for a 2-year~~  
54 | ~~term, and one for a 3-year term.~~ Each director shall hold office  
55 | until his or her successor is appointed and qualified unless the  
56 | director ceases to be qualified to act as a director or is  
57 | removed from office. Vacancies on the board shall be filled for  
58 | the unexpired portion of a term in the same manner as the  
59 | initial appointments were made.

60 |       Section 2. This act shall take effect July 1, 2020.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1041 Florida Keys Mosquito Control District, Monroe County

**SPONSOR(S):** Raschein

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N	Moehrle	Miller
2) Ways & Means Committee	15 Y, 0 N	Aldridge	Langston
3) State Affairs Committee		Moehrle	Williamson

### SUMMARY ANALYSIS

Florida law authorizes Mosquito Control Districts (MCDs) to take whatever steps necessary to control all species of mosquito within the confines of applicable state and federal law. The Florida Keys MCD (District) is an independent special district created in 1949 and tasked with controlling and eliminating mosquitoes and other arthropods of public health importance in Monroe County. The District is governed by a board of commissioners (board), composed of five members elected in a general election to serve terms of four years.

The board is required to prepare a detailed work plan budget covering its proposed operations and requirements for arthropod control measures before July 15 of each year. The board must adopt a budget by resolution each fiscal year and the total amount available from taxation and other sources must equal the total appropriations for expenditures and reserves. The adopted budget regulates the District's expenditures and the board may expend funds or contract for expenditures in any fiscal year only for budgeted appropriations. Independent special districts generally are authorized to borrow money absent any prohibitions in their charters if the loan terms do not exceed the maximum interest rate set in statute.

The District's charter has included borrowing limits since its creation in 1949. Since 2003, the charter has limited District borrowing to no more than \$1 million for a period of five years.

The bill revises the requirements for the District to borrow money by removing the limitation that it may not borrow more than \$1 million for a period of five years. The bill provides that the District may borrow money in accordance with the Florida Constitution and applicable state laws.

The bill does not appear to have a fiscal impact on the state or local government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Special Districts

The Legislature adopted ch. 189, F.S., to provide uniform statutes for the definition, creation, and operation of special districts.<sup>1</sup> A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>2</sup> A special district may be created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>3</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.<sup>4</sup> Each special district existing prior to the enactment of ch. 189, F.S., was required to submit a draft codified charter to the Legislature incorporating all of the special acts pertaining to its operation into a single act.<sup>5</sup>

A “dependent special district” is a district for which the membership of its governing body is identical to the governing body of a single county or municipality, all members of its 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>6</sup> An “independent special district” is any district that is not a dependent special district or includes more than one county unless the district lies wholly within a single municipality.<sup>7</sup>

A special district is required to have a governing body.<sup>8</sup> The members of the governing body serve terms of no more than four years.<sup>9</sup>

##### Mosquito Control Districts

Mosquitos must be controlled to protect health and safety, improve quality of life, promote economic development, and to allow for the enjoyment of natural attractions of the state.<sup>10</sup> To that end, the Florida Anti-Mosquito Association, now known as the Florida Mosquito Control Association, was established in 1922.<sup>11</sup> Soon after the creation of the association, special taxing districts for mosquito control were established by statute. The first mosquito control district (MCD) formed was the Indian River MCD in 1925.<sup>12</sup> By 1935, five MCDs were created<sup>13</sup> and today there are 57 MCDs in Florida.<sup>14</sup>

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<sup>1</sup> S. 189.011(1), F.S.

<sup>2</sup> S. 189.012(6), F.S.

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

<sup>4</sup> *See* ss. 189.02(4)-(5) and 189.031(3), F.S.

<sup>5</sup> S. 189.019(1), F.S.

<sup>6</sup> S. 189.012(2), F.S.

<sup>7</sup> S. 189.012(3), F.S.

<sup>8</sup> *See* ss. 189.02(4)-(5) and 189.031(3), F.S.

<sup>9</sup> S. 189.041(3)(b), F.S. The section provides two instances when the term may be less than the full four years, after the first election or the first landowners’ meeting following a referendum carried out as prescribed earlier in the statute.

<sup>10</sup> S. 388.101, F.S.

<sup>11</sup> Connelly, C.R. and D.B. Carlson (Eds.), 2009. Florida Coordinating Council on Mosquito Control. *Florida Mosquito Control: The state of the mission as defined by mosquito controllers, regulators, and environmental managers*. Vero Beach, FL: University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory at page 22.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at page 23.

<sup>14</sup> University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, *Florida mosquito control by counties in Florida*, <https://fmel.ifas.ufl.edu/florida-mosquito-control/florida-mosquito-control-table-by-county/> (last visited Jan. 10, 2020).

A MCD is a special district established by law for the express purpose of controlling certain insects within its boundaries.<sup>15</sup> Any municipality or county, in whole or part, regardless of whether the area encompasses an incorporated territory or two or more counties, may be incorporated into a single MCD.<sup>16</sup> On or after July 1, 1980, MCDs may only be created by counties.<sup>17</sup>

Florida law authorizes MCDs to take whatever steps are necessary to control all species of mosquito in compliance with applicable state and federal law.<sup>18</sup> Mosquito control is accomplished through integrated mosquito management (IMM), which uses multidisciplinary methodologies to implement pest control strategies. IMM includes source reduction, including digging ditches and ponds in marsh areas and eliminating standing water that serves as breeding ground for mosquitoes. IMM also includes the use of mosquito fish in ditches and ponds to eat mosquito larvae.<sup>19</sup> Another method of mosquito control is larviciding, or the application of insecticides to target and eliminate immature mosquitos in bodies of water harboring larvae and pupae.

MCDs use permanent strategies to control mosquitoes, including ditching and draining swampy areas that serve as mosquito breeding grounds. MCDs also use temporary control measures, such as aerosol spraying by ground and aerial equipment to kill adult and larval mosquitoes.<sup>20</sup>

MCDs are governed by a board of commissioners (board) composed of three or five members elected in a general election.<sup>21</sup> Members serve terms of four years.<sup>22</sup> The board may levy on the taxable property in the MCD an amount not to exceed 10 mills as a maintenance tax.<sup>23</sup> The taxes are assessed by the county property appraiser and collected by the tax collector.<sup>24</sup>

The board is required to prepare a detailed work plan budget covering its proposed operations and requirements for arthropod control measures before July 15 of each year.<sup>25</sup> The board must adopt an annual budget by resolution and the total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total appropriations for expenditures and reserves.<sup>26</sup> The adopted budget controls the MCD's expenditures, and the board may expend or contract for expenditures only for budgeted appropriations.<sup>27</sup>

Independent special districts such as MCDs may borrow money, absent any prohibitions stated in their charters.<sup>28</sup> However, Florida law does regulate the maximum interest rates allowable on general obligation bonds for public agencies authorized to issue bonds.<sup>29</sup> The Florida Office of the Attorney General has opined that a written obligation or evidence of indebtedness issued by a special district to

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<sup>15</sup> S. 388.011(5), F.S.

<sup>16</sup> S. 388.021(1), F.S.

<sup>17</sup> S. 388.021(2), F.S.

<sup>18</sup> See ch. 388, F.S.; ch. 487, F.S., regulates the use of pesticides in controlling mosquitoes. Ch. 5E-2, F.A.C., regulates pesticide registration in Florida. States must also comply with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.

<sup>19</sup> American Mosquito Control Association, *Control*, <http://www.mosquito.org/control> (last visited Jan. 10, 2020).

<sup>20</sup> *Id.*

<sup>21</sup> S. 388.101(1)-(2), F.S.

<sup>22</sup> S. 388.101(1), F.S.

<sup>23</sup> S. 388.221, F.S. The board is required to certify, by resolution, the tax rate to be applied by the property appraiser of the county in a timely fashion for the preparation of the tax roll. Certified copies of the resolution, executed by the board chairperson and secretary, must be delivered to the property appraiser, the board of county commissioners, and the Department of Revenue no later than September 30 of each year.

<sup>24</sup> *Id.* The tax collector collects the tax levied by the MCD in the same manner as other taxes are collected and pays the same within the time and manner prescribed by law to the treasurer of the board.

<sup>25</sup> S. 388.201(1), F.S. The tentative detailed work plan budget must set forth (classified by account number, title and program items, and by fund from which to be paid) the proposed expenditures of the District for construction, acquisition of land, and other purposes, for the operation and maintenance of the MCD's works, the conduct of the MCD generally, and any amount held as a reserve.

<sup>26</sup> S. 218.34(1), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> See ch. 388, F.S., ch. 189, F.S., and Art. VII, s. 10, Fla. Const.

<sup>29</sup> S. 215.84, F.S. See also 82-15 Fla. Op. Att'y Gen. 3 (1982).

secure the borrowing and loans provided for in a district's charter are general obligation bonds within the purview and for the purpose of Florida Statutes.<sup>30</sup>

Florida law provides that bonds may not bear interest at a rate not to exceed an average net interest cost rate, which must be computed by adding 300 basis points to the Bond Buyer "20 Bond Index" published immediately preceding the first day of the calendar month in which the bonds are sold.<sup>31</sup> Upon request of the MCD, the State Board of Administration (SBA) may authorize, for a specific issue or reissue of bonds, a rate in excess of the maximum rate prescribed in statute.<sup>32</sup> The MCD must, in its request to the SBA, include the following information:

- The official statement or prospectus, or similar information relating to the sale of bonds;
- The resolution or ordinance authorizing the issuance of the bonds;
- Financial data relating to anticipated revenue, debt service, and coverage;
- The most recent financial statement of the governmental unit; and
- Information relating to the sale of the bonds, including whether they will be sold at public or private sale, and the amount of the discount, if any.<sup>33</sup>

### Florida Keys Mosquito Control District

The Florida Keys Mosquito Control District (District) is an independent special district, created in 1949 and currently operating under a charter codified in 2002, tasked to control and eliminate mosquitoes and other arthropods of public health importance in Monroe County.<sup>34</sup> The District has the authority to use all the privileges and powers of a MCD under Florida law.<sup>35</sup>

The District has had limitations on its borrowing limits since its creation in 1949. Originally, the District could not borrow a sum in excess of 50 percent of the anticipated taxes to be received in accordance with the prescribed levy fixed.<sup>36</sup> In 1967, the maximum sum the District could borrow was changed to \$100,000 for a period not to exceed two years, and bonds in an amount not to exceed \$150,000.<sup>37</sup> In 1974, the borrowing limit was raised to \$150,000,<sup>38</sup> an amount which would stay the same until 2003, when the borrowing limit was raised to \$1,000,000 for a term not to exceed five years (up from two years).<sup>39</sup> Although the District has charter authorization to borrow money for a term not to exceed five years, any borrowing for a term in excess of 12 months payable from ad valorem taxes is controlled by Art. VII, s. 12 of the Florida Constitution.<sup>40</sup>

The District's 2019-2020 approved budget is \$16,215,442 and its total reserves ending balance is \$2,501,029.<sup>41</sup> The District does not have any outstanding loans or liabilities.<sup>42</sup> At the end of 2018, the

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<sup>30</sup> S. 215.84, F.S.; S. 215.84(2)(b)1, F.S. General obligation bonds are obligations secured by the full faith and credit of a governmental unit or payable from the proceeds of ad valorem taxes of a governmental unit.

<sup>31</sup> S. 215.84(3), F.S.

<sup>32</sup> S. 215.84(4), F.S.

<sup>33</sup> S. 215.84(4)(a)-(b), F.S.

<sup>34</sup> See generally ch. 26042, Laws of Fla. (1949), as amended, ch. 2002-346, Laws of Fla., as amended, and s.189.019, F.S. The Florida Keys MCD was created in 1949 by special act and subsequent amendments were codified into a single charter in 2002 as required pursuant to ch. 189, F.S.

<sup>35</sup> Ch. 2002-346, s.5, Laws of Fla.

<sup>36</sup> Ch. 49-26042, Laws of Fla.

<sup>37</sup> Ch. 67-1726, Laws of Fla.

<sup>38</sup> Ch. 74-537, Laws of Fla.

<sup>39</sup> Ch. 2003-387, Laws of Fla. The District must issue a negotiable promissory note and bonds, or such necessary instruments to secure the loan.

<sup>40</sup> Art. VII, s. 12, Fla. Const. Special districts with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than 12 months after issuance only: to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation or to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate.

<sup>41</sup> Florida Keys Mosquito Control District, *Final Budget Hearing FY 2019-2020* (Sept. 17, 2019), available at [keysmosquito.org/Board-Documents/2019/September/2019-09-17FinalBudgetHearingWorkbook.pdf](https://keysmosquito.org/Board-Documents/2019/September/2019-09-17FinalBudgetHearingWorkbook.pdf) (last visited Jan. 13, 2020). The gross taxable value for operating purposes not exempt from taxation in Monroe County is \$28,455,659,714.

<sup>42</sup> *Id.*

District employed 67 full-time and 17 part-time employees and operated two airplanes, four helicopters, 75 vehicles, five all-terrain vehicles (ATVs), and five boats.<sup>43</sup> According to the District's 2018 financial audit, the continuing threats of Dengue Fever and the potential introduction of other mosquito borne diseases into the Florida Keys continue to pressure the scope of the District's operations. Environmental regulations and biological pressures (growing resistance of mosquitos to particular insecticides) have caused the District to encompass a wider variety of abatement materials, which can create financial pressure due to increasing costs associated with the various mosquito abatement materials required.<sup>44</sup> The District's fleet of aging aircraft may also lead to increased maintenance costs as replacement parts become scarcer and repairs occur more frequently.<sup>45</sup>

### **Effect of Proposed Changes**

The bill revises the District charter to remove the limitations on borrowing money (\$1 million for a time not to exceed five years) and provides that the District may borrow money in accordance with the Florida Constitution and general laws of the state.

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

Section 1. Amends section 5 of chapter 2002-346, Laws of Fla., relating to the District, to remove limitations on the amount of money that may be borrowed.

Section 2. Provides that the act is effective upon becoming a law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 20, 2019, and September 22, 2019.

WHERE? The *Key West Citizen*, a daily newspaper of general circulation published in Monroe 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 requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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<sup>43</sup> Oropeza & Parks Certified Public Accountants, *Florida Keys Mosquito Control District- Independent Auditor's Report* (June 19, 2019), available at [keysmosquito.org/Admin-Documents/2018-Financial-Audit.pdf](http://keysmosquito.org/Admin-Documents/2018-Financial-Audit.pdf) (last visited Jan. 13, 2020).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* To offset potential maintenance cost increases, the District developed an aircraft replacement schedule during the strategic planning process, and planned to lease two new Airbus helicopters in the summer of 2019.



None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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1                   A bill to be entitled  
2           An act relating to Florida Keys Mosquito Control  
3           District, Monroe County; amending ch. 2002-346 Laws of  
4           Florida, as amended; revising requirements for the  
5           board of commissioners to borrow money; providing an  
6           effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Section 5 of chapter 2002-346 Laws of Florida,  
11           as amended by chapter 2003-387, Laws of Florida, is amended to  
12           read:

13           Section 5. Powers of the board of commissioners.—The board  
14           of commissioners shall have all the powers of a body corporate,  
15           including the power to sue and be sued as a corporation in said  
16           name in any court; to contract; to adopt and use a common seal  
17           and alter the same at pleasure; to purchase, hold, lease, and  
18           convey such real estate and personal property as a majority of  
19           the board may deem proper to carry out the purposes of this act;  
20           to prescribe rules and regulations for the marking of such  
21           property; to employ a director and such experts, agents, and  
22           employees as the board may require; to participate with  
23           employees in a group hospitalization insurance plan providing  
24           the entire cost of such a plan; to contract and cooperate with  
25           county, state, and other governmental agencies in regard to

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2020

26 mosquito control or suppression; and to borrow money in  
27 accordance with the Florida Constitution and the general laws of  
28 the state ~~an amount not to exceed \$1 million for a period of~~  
29 ~~time not to exceed 5 years; and to issue negotiable promissory~~  
30 ~~notes and bonds or such necessary instruments to secure said~~  
31 ~~loan to enable it to carry out the provisions of this act.~~

32 Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1215 City of Weeki Wachee, Hernando County

**SPONSOR(S):** Local Administration Subcommittee, Ingoglia

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N, As CS	Renner	Miller
2) Ways & Means Committee	15 Y, 0 N	Keller	Langston
3) State Affairs Committee		Renner	Williamson

### SUMMARY ANALYSIS

The City of Weeki Wachee was created in 1965. The City, located in Hernando County, is one of the smallest cities in the United States, encompassing one square mile with a population of nine. The City is also home to Weeki Wachee Springs, a 27-acre state park built around a natural spring that features live “mermaid” shows.

The City operates under a city commission form of government. All elections in the City must be conducted and supervised by the Supervisor of Elections of Hernando County under rules governing general elections in the county. Commissioners serve four-year terms, are paid \$120 per year, and elect one of their members to serve as the Mayor. To qualify, commissioners must:

- Have been Florida residents for one year;
- Have been City residents for three months immediately preceding the date they would begin serving in office;
- Be electors in the City; and
- Be taxpayers on real property in the City.

Over the last few decades, the City has had numerous financial issues, including failing to file required financial reports, meeting a condition for financial emergency, and having an outstanding legal bill of over \$1 million for services provided by the attorney representing the City.

The bill abolishes the City of Weeki Wachee and transfers all assets and legitimate liabilities to Hernando County.

According to the Economic Impact Statement filed for the bill, the Hernando County Board of County Commissioners would become responsible for the City’s expenses and liabilities. On December 17, 2019, the City attorney submitted an invoice to the City for \$1,014,359.89.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### City of Weeki Wachee

The City of Weeki Wachee was created in 1965.<sup>1</sup> The City, located in Hernando County, is one of the smallest cities in the United States, encompasses one square mile,<sup>2</sup> and has a population of nine.<sup>3</sup> The City is also home to Weeki Wachee Springs, a 27-acre state park built around a natural spring that features live “mermaid” shows.

The City operates under a city commission form of government. The three-member City commission has the power to:

- Purchase, lease, receive and hold property and to sell, lease or otherwise dispose of the same;
- Pass ordinances;
- Exercise the power of condemnation;
- Levy, assess and collect taxes;
- Invest surplus City funds;
- Borrow money and issue bonds;
- License professions, business and occupations;
- Impose excise taxes;
- Furnish local public services and utilities;
- Purchase, hire, construct, own and maintain local public utilities excepting public utilities for the sale, delivery or transportation of water;
- Grant public utilities franchises, except franchise pertaining to the sale, delivery or transportation of water;
- Define, prevent and abate nuisances;
- Exercise all police powers;
- Own, establish and operate hospitals, libraries, etc.;
- Construct, operate and maintain streets, etc.;
- Regulate encroachments;
- Provide police, fire, sanitary and similar protections and services;
- Drain swamp and overflow lands;
- Establish and regulate a uniform system of employment;
- Own and maintain cemeteries;
- Regulate building and density of population, and the height and use of buildings;
- Make local improvements;
- Advertise and promote the interest of the municipality; and
- Borrow money.<sup>4</sup>

Commissioners serve four-year terms, are paid \$120 per year, and elect one of their members to serve as the Mayor. To qualify, commissioners must:

- Have been Florida residents for one year;
- Have been City residents for three months immediately preceding the date they would begin serving in office;
- Be electors in the City; and

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<sup>1</sup> Ch. 65-2378, Laws of Fla., as amended.

<sup>2</sup> City of Weeki Wachee, *History of the City of Weeki Wachee*, <https://www.cityofweekiwachee.com/> (last visited Jan. 13, 2020).

<sup>3</sup> Florida Population Estimates by County and Municipality (April 1, 2019), pg. 3. at [http://edr.state.fl.us/Content/population-demographics/data/2019\\_Pop\\_Estimates.pdf](http://edr.state.fl.us/Content/population-demographics/data/2019_Pop_Estimates.pdf) (last visited Jan. 16, 2020).

<sup>4</sup> S. 3, ch. 65-2378, Laws of Fla.

- Be taxpayers on real property in the City.<sup>5</sup>

The City charter also provides for all elections in the City to be conducted and supervised by the Supervisor of Elections of Hernando County under rules governing general elections in the county.<sup>6</sup>

Residents who live in the City are mostly Weeki Wachee Springs Park employees who live in the park.<sup>7</sup> Property owners receive no municipal services from the City.

### Financial Matters

The City has a history of failing to file required financial reports.<sup>8</sup> Between the 2002-03 fiscal year and the 2008-09 fiscal year, the City annually met the threshold<sup>9</sup> requiring the preparation and filing of an audited financial statement and failed to do so. In 2014, the Joint Legislative Auditing Committee, “in an effort to assist the City in becoming compliant, agreed to accept a financial audit report for either the 2012-13 or 2013-14 fiscal year in lieu of the required audits from earlier years.”<sup>10</sup> The City, while not meeting the audit threshold for either year, agreed to proceed with an audit for the 2013-14 fiscal year.

The auditor findings included:

- The City’s revenues exceeded expenses by \$80,504.<sup>11</sup>
- The City reported an unrestricted deficit balance of \$1,102,746 at fiscal year-end.<sup>12</sup>
- The City met a condition of a financial emergency described in s. 218.503(1)(b), F.S.<sup>13</sup> The audit finding stated that:<sup>14</sup>
  - The City failed to pay uncontested claims from creditors within 90 days after the claim was presented, due to lack of funds.
  - The City accrued unpaid legal fees totaling \$1,239,360 incurred in several prior fiscal years.
  - Although the City made payments against the accrued payable, the balance at fiscal year-end was \$1,164,360 and the City did not have a formal repayment plan with the creditor.<sup>15</sup>
  - The accrual of these unpaid fees led to the deficit fund balance.
  - The auditors recommended that the City negotiate with the creditor in order to come to an agreement on a long-term payment plan.

The City is required to submit an annual financial report to the Department of Financial Services.<sup>16</sup> The following table summarizes the City’s timely filed reports from 2016-2019:

<sup>5</sup> S. 5, ch. 65-2378, Laws of Fla.

<sup>6</sup> Ch. 2004-432, Laws of Fla.

<sup>7</sup> Barbara Behrendt, *Is it time to take the ‘city’ out of Weeki Wachee’s City of Live Mermaids?*, Tampa Bay Times, November 14, 2019, <https://www.tampabay.com/news/herando/2019/11/14/is-it-time-to-disband-the-city-in-weeki-wachees-city-of-live-mermaids/> (last visited Jan. 14, 2020).

<sup>8</sup> See s. 218.32, F.S., relating to requirements for local governments to file annual financial reports.

<sup>9</sup> S. 218.39, F.S., requires municipalities with revenues or the total of expenditures and expenses in excess of \$250,000 to have an annual financial audit prepared by an independent certified public accountant. IF these amounts are between \$100,000 and \$250,000, a municipality must have a financial audit if it has not had a financial audit during the preceding two fiscal years.

<sup>10</sup> Joint Legislative Auditing Committee analysis for consideration of a request for an Auditor General operational audit of the City of Weeki Wachee, pg. 38 (Dec. 12, 2019),

<http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/121219.pdf> (last visited Jan. 14, 2019).

<sup>11</sup> The City of Weeki Wachee, Florida Independent Auditor’s Report, *Management’s Discussion and Analysis*, pg. 3 (Sept. 30, 2014), [https://flauditor.gov/pages/mun\\_efile%20rpts/2014%20weeki%20wachee.pdf](https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf) (last visited Jan. 14, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> The City of Weeki Wachee, Florida Independent Auditor’s Report, *Independent Auditor’s Management Letter*, pg. 24 (Sept. 30, 2014), [https://flauditor.gov/pages/mun\\_efile%20rpts/2014%20weeki%20wachee.pdf](https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf) (last visited Jan. 14, 2020).

<sup>14</sup> The City of Weeki Wachee, Florida Independent Auditor’s Report, *Schedule of Findings and Recommendations-Other Matters*, pg. 26 (Sept. 30, 2014), [https://flauditor.gov/pages/mun\\_efile%20rpts/2014%20weeki%20wachee.pdf](https://flauditor.gov/pages/mun_efile%20rpts/2014%20weeki%20wachee.pdf) (last visited Jan. 14, 2020).

<sup>15</sup> The creditor is an attorney who provided legal services for the city.

<sup>16</sup> S. 218.32(1)(a), F.S.

Year	Total Revenues	Total Expenditures	Total Debt <sup>17</sup>
2019	\$57,116	\$63,083	\$1,019,360
2018	\$71,472	\$61,729	\$1,039,360
2017	\$60,709	\$60,546	\$1,064,360
2016	\$54,813	\$65,809	\$1,089,360

### Constitutional Provisions Pertaining to Dissolving Municipalities

The Legislature may establish or abolish municipalities or amend their charters pursuant to general or special law.<sup>18</sup> If a municipality is abolished, the Constitution requires that provision be made for the protection of its creditors. The Constitution provides that municipalities are granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law.

By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality, or special district may be transferred to or contracted to be performed by another county, municipality, or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.<sup>19</sup>

### Statutory Provisions Pertaining to Dissolving Municipalities

The Municipal Home Rule Powers Act<sup>20</sup> acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services. The purpose of the Act is to provide municipalities with broad home rule powers, while respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws, and county charters.<sup>21</sup>

The Formation of Municipalities Act<sup>22</sup> provides for the general standards, direction, and procedures for the incorporation, merger, and dissolution of municipalities. A municipal charter may be revoked, dissolving the municipality, by the following two methods:<sup>23</sup>

- The Legislature passes a special act repealing the enabling act of the municipality and any subsequent amendatory acts.
- The governing body of the municipality seeking dissolution may pass an ordinance dissolving the municipality, subject to approval of the qualified voters in the affected area.

A municipality also may voluntarily dissolve its charter if the following three requirements are met:<sup>24</sup>

- The municipality must not be substantially surrounded by other cities;
- The county or another municipality must be able to provide the necessary municipal services to the municipal area proposed for dissolution; and
- The municipality to be dissolved must make arrangements to resolve its bonded indebtedness and the vested rights of employees.

### **Effect of the Bill**

The bill abolishes the City of Weeki Wachee and transfers all assets and legitimate liabilities to Hernando County.

<sup>17</sup> This is the amount owed to the attorney who provided legal services to the City.

<sup>18</sup> Art. VIII, s. 2, Fla. Const. Under an exception to this power, Miami-Dade County has the exclusive power to establish, modify, or abolish municipalities within the county boundaries. Art. VIII, s. 6(e), Fla. Const., incorporating by reference art. VIII, s. 11, Fla. Const. (1885).

<sup>19</sup> Art. VIII, s. 4, Fla. Const.

<sup>20</sup> Ch. 166, F.S.

<sup>21</sup> S. 166.021(4), F.S.

<sup>22</sup> Ch. 165, F.S.

<sup>23</sup> S. 165.051, F.S.

<sup>24</sup> S. 165.061(3), F.S.



According to the Economic Impact Statement filed, the Hernando County Board of County Commissioners would become responsible for the City's expenses and liabilities. On December 17, 2019, the Weeki Wachee City attorney submitted an invoice to the City for \$1,014,359.89. It is unclear whether the County would be able to require the City's lump-sum creditors with legitimate, valid claims to accept a repayment schedule.

**B. SECTION DIRECTORY:**

Section 1: Repeals chapters 65-2378, 81-500, and 2004-432, Laws of Florida, relating to the City of Weeki Wachee.

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? November 29, 2019

WHERE? *Hernando Sun*, a weekly newspaper published in Brooksville, 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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 22, 2020, the Local Administration Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that the liabilities must be legitimate because the City of Weeki Wachee can only be liable for legitimate debts.

This analysis is drafted to the committee substitute as approved by the Local Administration Subcommittee.

1                   A bill to be entitled  
2           An act relating to the City of Weeki Wachee, Hernando  
3           County; repealing chs. 65-2378, 81-500, and 2004-432,  
4           Laws of Florida; abolishing the municipality;  
5           transferring assets and legitimate liabilities of the  
6           municipality; providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Chapters 65-2378, 81-500, and 2004-432, Laws of  
11 Florida, are repealed.

12           Section 2. The City of Weeki Wachee is abolished. All  
13 assets and legitimate liabilities of the City of Weeki Wachee  
14 are transferred to Hernando County.

15           Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1375 Holmes, Jackson, and Washington Counties

**SPONSOR(S):** Drake

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N	Renner	Miller
2) State Affairs Committee		Renner	Williamson

### SUMMARY ANALYSIS

The Tri-County Airport Authority (Authority) was created in 1969. The Authority oversees the Tri-County Airport, a not-for-profit public airport located in Bonifay, Florida. The airport serves northwest Florida and southeast Alabama. The operational budget of the airport is paid for through the sale of fuel and through hanger rents. The Authority is prohibited from levying ad valorem taxes.

The Authority is comprised of a 15-member board chosen by the Board of County Commissioners of Holmes, Washington, and Jackson County. Not later than 15 days after the appointment of members, and each July thereafter, members must have an organizational meeting in order to elect a chair, vice-chair, and secretary-treasurer. The secretary-treasurer must give bond payable to the Governor in an amount and under certain conditions determined by the Authority.

The bill designates the Authority as an independent special district to be governed by a Board of Directors (board). The bill reduces the membership of the board from 15 to nine members. The respective boards of county commissioners for Holmes, Washington, and Jackson Counties each must appoint three members to serve staggered terms. The bill provides that within 60 days of the act taking effect, board members must be appointed for initial terms.

The bill changes the organizational meeting from 15 to 30 days after the initial appointment of members and changes the month for subsequent organizational meetings from July to October of each year. A majority of the members of the board constitutes a quorum, and an affirmative vote of a majority of the members present is necessary for any action taken by the board.

The bill revises officer positions by creating a separate treasurer position.

The Economic Impact Statement filed with the bill indicates that the bill does not have a fiscal impact on changing the board structure.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current 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. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>6</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>7</sup>

An “independent special district” is a special district that is not a dependent special district.<sup>8</sup> Additionally, a district that includes more than one county is an independent special district, unless that district lies wholly within a single municipality’s boundaries.<sup>9</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>10</sup>

##### Tri-County Airport Authority

The Tri-County Airport Authority (Authority) was created in 1969 as a body corporate, an agency designed to accomplish the cooperative effort to establish and operate an airport near the county boundaries of Holmes, Washington, and Jackson Counties.<sup>11</sup> The Authority oversees the Tri-County Airport, a not-for-profit public airport located in Bonifay, Florida. The airport serves northwest Florida and southeast Alabama. The operational budget of the airport is paid for through the sale of fuel and through hanger rents.<sup>12</sup> The Authority is prohibited from levying ad valorem taxes.

The Authority is comprised of a 15-member board chosen by the respective boards of county commissioners for Holmes, Washington, and Jackson Counties. Five members must be appointed by

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<sup>1</sup> S. 189.012(6), F.S.

<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> *2018-2020 Local Government Formation Manual*, p. 60,

<https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?Committeeld=3025> (last visited Jan. 14, 2020).

<sup>7</sup> S. 189.012(2), F.S.

<sup>8</sup> S. 189.012(3), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Art. VII, s. 9(a), Fla. Const.

<sup>11</sup> Ch. 69-534, Laws of Fla.

<sup>12</sup> Tri-County Airport Authority, *About the Airport*, <https://tricityairportfl.com/about.htm> (last visited Jan. 14, 2020).

each county. Members serve for three-year terms and receive no compensation but are entitled reimbursement for travel expenses.<sup>13</sup>

Not later than 15 days after the appointment to the board, and each July thereafter, members must have an organizational meeting in order to elect a chair, vice-chair, and secretary-treasurer.<sup>14</sup> The Authority may only conduct business at a regularly called meeting of the members if a quorum is present and the minutes are recorded.

### **Effect of the Bill**

The bill designates the Authority as an independent special district and authorizes a Board of Directors (board) to govern the Authority. The bill reduces the number of board members from 15 to nine. The respective boards of county commissioners for Washington, Jackson, and Holmes Counties must each appoint three members to the Authority.

Within 60 days of the effective date of the act, each county board of county commissioners must appoint members for initial terms to begin on a date certain. On that same date, all terms of the board members existing on July 1, 2020, will terminate. However, those members may continue to serve additional terms if reappointed by their respective county commissioners. Board members must serve staggered terms, with county commissioners appointing one member to serve an initial term ending on October 1, 2021, one member to serve an initial term ending on October 1, 2022, and one member to serve an initial term ending on October 1, 2023.

The bill changes the organizational meeting from 15 to 30 days after the initial appointment of members and changes the month for subsequent organizational meetings from July to October of each year. A majority of the members of the board constitutes a quorum, and an affirmative vote of a majority of the members present is necessary for any action taken by the board.

The bill revises the officers of the board by having separate secretary and treasurer positions. The treasurer must give a bond payable to the Governor in an amount and under certain conditions determined by the Authority.

The Economic Impact Statement indicates that the bill does not have a fiscal impact on changing the board structure.

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

Section 1 Amends ch. 69-534, Laws of Fla., designating the Tri-County Airport Authority as an independent special district; authorizing a Board of Directors to govern the authority and providing for terms of office; revising organizational meeting dates; providing for quorum and voting; revising certain officer positions.

Section 2 Provides for an effective date of July 1, 2020.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 4, 2019.

WHERE? *Washington County News*, a newspaper published in Chipley, Florida.

*Jackson County Floridan*, a newspaper published in Marianna, Florida.

*Holmes County Times-Advertiser*, a newspaper published in Bonifay, Florida.

<sup>13</sup> Ch. 69-534, s. 3, Laws of Fla.

<sup>14</sup> Ch. 69-534, s. 4, Laws of Fla.

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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1                                   A bill to be entitled  
 2           An act relating to Holmes, Jackson, and Washington  
 3           Counties; amending ch. 69-534, Laws of Florida;  
 4           designating the Tri-County Airport Authority as an  
 5           independent special district; authorizing a Board of  
 6           Directors to govern the authority; providing for terms  
 7           of office and appointment of members to the board;  
 8           providing and revising organizational meeting dates;  
 9           providing for quorum and voting; revising certain  
 10          officer positions of the authority; providing an  
 11          effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14

15           Section 1. Sections 1, 3, 4, and 5 of chapter 69-534, Laws  
 16 of Florida, are amended to read:

17           Section 1. There is hereby created the "Tri-County Airport  
 18 Authority," an independent special district and a body  
 19 corporate, ~~as an agency~~ designed to accomplish the cooperative  
 20 joint effort of the boards of county commissioners of Holmes  
 21 County, Jackson County, and Washington County, in the  
 22 establishment and operation of an airport in Holmes County near  
 23 the common geographic boundary point of said counties.

24           Section 3. The authority ~~hereby created~~ shall be governed  
 25 by a Board of Directors (board) consisting ~~consist~~ of nine (9)



26 ~~fifteen (15) members, of which number five (5) shall be~~  
27 ~~appointed by the board of county commissioners of each of the~~  
28 ~~three (3) participating counties of Holmes, Jackson and~~  
29 ~~Washington, initial appointments to be made not later than~~  
30 ~~thirty (30) days after July 1, 1969. Three (3) members shall be~~  
31 ~~appointed by the Holmes County Board of County Commissioners,~~  
32 ~~three (3) members shall be appointed by the Jackson County Board~~  
33 ~~of County Commissioners, and three (3) members shall be~~  
34 ~~appointed by the Washington County Board of County~~  
35 ~~Commissioners. Within sixty (60) days after the effective date~~  
36 ~~of this act, each county board of county commissioners shall~~  
37 ~~appoint members for initial terms to begin on the date that the~~  
38 ~~organizational meeting is held pursuant to section 4. On that~~  
39 ~~same date, all terms of the members of the board existing on~~  
40 ~~July 1, 2020, shall terminate; however, such members may~~  
41 ~~continue to serve additional terms if reappointed by the Holmes,~~  
42 ~~Jackson, or Washington County Board of County Commissioners. For~~  
43 ~~the purpose of providing staggered terms, each county board of~~  
44 ~~county commissioners shall appoint one (1) member to serve an~~  
45 ~~initial term ending on October 1, 2021, one (1) member to serve~~  
46 ~~an initial term ending on October 1, 2022, and one (1) member to~~  
47 ~~serve an initial term ending on October 1, 2023. ~~Members of the~~~~  
48 ~~~~original authority shall be appointed for terms as follows from~~~~  
49 ~~~~each of the three (3) participating counties: One (1) member for~~~~  
50 ~~~~a one (1) year term ending July 1, 1970; one (1) member for a~~~~

51 ~~two (2) year term ending July 1, 1971; one (1) member for a~~  
52 ~~three (3) year term ending July 1, 1972; one (1) member for a~~  
53 ~~four (4) year term ending July 1, 1973; and one (1) member for a~~  
54 ~~five (5) year term ending July 1, 1974; and Thereafter,~~ members  
55 shall be appointed to the board for three (3) year terms, except  
56 appointments to fill vacancies for unexpired terms, in which  
57 event the appointment shall be for the unexpired term only. The  
58 members of the board authority shall receive no compensation for  
59 their services but shall be entitled to reimbursement ~~be~~  
60 ~~reimbursed~~ for per diem and travel expenses incurred in the  
61 performance of their official duties ~~as members of the authority~~  
62 when authorized by the board ~~a majority of the members of the~~  
63 ~~authority at a regular meeting,~~ subject to the applicable  
64 provisions and limitations of section 112.061, Florida Statutes.

65 Section 4. Not later than thirty (30) ~~fifteen (15)~~ days  
66 after the appointment of members to initial terms pursuant to  
67 section 3 ~~the authority created hereby,~~ and annually thereafter  
68 during October ~~July~~ of each year, the members of the board shall  
69 hold an organizational meeting at which they shall elect from  
70 their own membership a chairman, a vice-chairman, ~~and a~~  
71 secretary ~~secretary-treasurer,~~ and a treasurer. Except as  
72 otherwise provided by law, no business shall be transacted by  
73 the authority except at a public ~~regular-called~~ meeting of the  
74 Board of Directors ~~members,~~ at which a quorum is present and the  
75 minutes thereof recorded. A majority of the members of the board

76 | shall constitute a quorum, and the affirmative vote of a  
77 | majority of the members present shall be necessary for any  
78 | action taken by the board. Permanent records shall be maintained  
79 | which shall reflect all official actions of the authority  
80 | including all financial transactions.

81 |       Section 5. The treasurer ~~secretary-treasurer~~ of the  
82 | authority ~~hereby created~~ shall give bond payable to the governor  
83 | of the state in such amount and under such conditions as may be  
84 | determined by the members of the authority.

85 |       Section 2. This act shall take effect July 1, 2020.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7007 PCB OTM 20-03 OGSR/E-mail Addresses/Tax Notices  
**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, LaMarca  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Villa	Smith
1) Ways & Means Committee	15 Y, 0 N	Curry	Langston
2) State Affairs Committee		Villa	Williamson

### SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Tax collectors are charged with sending tax notifications to taxpayers. In 2011, tax collectors were granted authority to send certain notices electronically. Specifically, tax collectors may send e-mail notifications to taxpayers participating in the prepayment installment plan or to taxpayers that have consented to receiving e-mail notifications.

Current law provides a public record exemption for taxpayer e-mail addresses held by tax collectors for any of the following purposes:

- Obtaining the taxpayer's consent to send a tax notice via e-mail;
- Sending the taxpayer a quarterly tax notice for prepayment of estimated taxes;
- Sending the taxpayer an additional tax notice or delinquent tax notice; or
- Sending a third party, mortgagee, or vendee a tax notice.

The bill saves from repeal the public records exemption, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>3</sup>

If and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>4</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

##### Florida County Tax Collectors

In Florida, tax collectors are constitutional officers duly elected from their counties of residence who deliver a myriad of services to include the collection of ad valorem and other taxes.<sup>5</sup> Tax collectors, after local governments adopt millage rates, send annual property tax bills that are due and payable on November 1 of each year, or as soon as the certified tax roll is received.<sup>6</sup> Within 20 working days of receipt of the certified ad valorem tax roll, the tax collector will mail each taxpayer a tax notice stating the amount due and advising the taxpayer of any discounts for early payment.<sup>7</sup> Notice of the right to prepay taxes through participation in a prepayment installment plan will also be provided.<sup>8</sup> If the taxpayer elects to participate in the prepayment installment plan, he or she will receive a discounted rate on his or her property taxes.<sup>9</sup> The tax collector will send a quarterly tax notice with the discounted rates to all plan participants.<sup>10</sup> Taxes are considered delinquent if they are not paid by April 1 following the year in which they are assessed.<sup>11</sup> By April 30, the tax collector will send an additional tax notice to each taxpayer whose payment has not been received notifying that taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.<sup>12</sup> Additionally, upon written request, a

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<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 119.15(3), F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Article I, s. 24(c), FLA. CONST.

<sup>5</sup> Article VIII, s. 1(d), FLA. CONST.

<sup>6</sup> Section 197.333, F.S.

<sup>7</sup> Section 197.322(3), F.S.

<sup>8</sup> Section 197.222(5), F.S.

<sup>9</sup> Section 197.222(1), F.S.

<sup>10</sup> Section 197.222(3), F.S.

<sup>11</sup> Section 197.333, F.S.

<sup>12</sup> Section 197.343(1), F.S.

tax notice will be sent to a third party designated by the taxpayer,<sup>13</sup> or in specified circumstances, to a mortgagee<sup>14</sup> or vendee.<sup>15</sup>

In 2011, tax collectors were given authority to send certain notices concerning the payment of taxes electronically.<sup>16</sup> Tax collectors may send notices of taxation to taxpayers by e-mail if the taxpayer is a participant in a prepayment installment plan<sup>17</sup> or if the tax collector has received express consent from the taxpayer to do so.<sup>18</sup>

#### Public Record Exemption under Review

In 2015, the Legislature created a public record exemption for taxpayer e-mail addresses held by tax collectors for any of the following purposes:<sup>19</sup>

- Obtaining a taxpayer's consent to send the tax notice described in s. 197.322(3), F.S.;
- Sending a quarterly tax notice for prepayment of estimated taxes to the tax payer pursuant to s. 197.222(3), F.S.;
- Sending an additional tax notice or delinquent tax notice to the taxpayer pursuant to s. 197.343, F.S.; or
- Sending a tax notice to a designated third party, mortgagee, or vendee pursuant to s. 197.344(1), F.S.

Such e-mail addresses are exempt<sup>20</sup> from public disclosure. E-mail addresses held by tax collectors for other purposes, however, are not exempt from public record requirements. As a result, if a tax collector holds an e-mail address for the above mentioned reasons and the same e-mail address is held for a purpose other than those reasons, then the e-mail address would be protected from public disclosure in the former example, but not in the latter.

The 2015 public necessity statement<sup>21</sup> for the exemption provides that:

The Legislature finds that . . . [e-mail] addresses are unique to the individual and, when combined with other personal identifying information, can be used for identity theft, taxpayer scams, and other invasive contacts. The public availability of personal e-mail addresses invites and exacerbates thriving and well-documented criminal activities and puts taxpayers at increased risk of harm. Such harm would be significantly curtailed by allowing a tax collector to preserve the confidentiality of taxpayer e-mail addresses.<sup>22</sup>

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2020, unless reenacted by the Legislature.<sup>23</sup>

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<sup>13</sup> A taxpayer must be 60 years old or older to designate a third party to receive a tax notice. Section 197.344(1)(a), F.S.

<sup>14</sup> The mortgagee, to receive a tax notice, must be a trustee of an escrow account for ad valorem taxes due on the property. Section 197.344(1)(b), F.S.

<sup>15</sup> The vendee, to receive a tax notice, must be the vendee of an unrecorded or recorded contract for deed. Section 197.344(1)(c), F.S.

<sup>16</sup> Chapter 2011-151, L.O.F.

<sup>17</sup> Section 197.222(3), F.S.

<sup>18</sup> Sections 197.322(3), 197.343, and 197.344(1), F.S.

<sup>19</sup> Chapter 2015-13, L.O.F.; codified as s. 197.3225, F.S.

<sup>20</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. (*See Attorney General Opinion 85-62*, Aug. 1, 1985).

<sup>21</sup> Article I, s. 24(c), FLA. CONST., requires each public record exemption "state with specificity the public necessity justifying the exemption."

<sup>22</sup> Section 2, ch. 2015-13, L.O.F.

<sup>23</sup> Section 197.3225(2), F.S.

During the 2019 interim, subcommittee staff sent a questionnaire to the 67 Florida County Tax Collector Offices. Thirty-three of the offices responded to the questionnaire. A slight majority indicated that they currently use e-mail to provide at least one of the tax notices described in the exemption.<sup>24</sup> When asked whether the exemption should be repealed, reenacted as is, or reenacted with changes, a large majority of respondents indicated the exemption should be reenacted as is, with none indicating it should be repealed.<sup>25</sup> Three respondents recommended the exemption be expanded.<sup>26</sup> The respondents indicated that they believe the exemption protects taxpayers from fraud and encourages public participation in electronic billing.<sup>27</sup>

### **Effects of the Bill**

The bill removes the scheduled repeal date of the public record exemption, thereby maintaining the public record exemption for taxpayer e-mail addresses held by tax collectors for certain tax notice purposes.

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

Section 1 amends s. 197.3225, F.S., to save from repeal the public record exemption for taxpayer e-mail addresses held by tax collectors for certain tax notice purposes.

Section 2 provides an effective date of October 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

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<sup>24</sup> Open Government Sunset Review Questionnaire, County Tax Collector Office Responses, July 18, 2019, through Aug. 15, 2019, on file with the House Oversight, Transparency & Public Management Subcommittee.

<sup>25</sup> *Id.*

<sup>26</sup> The three respondents that recommended the exemption be reenacted with changes were Manatee, Sarasota, and Sumter. The Manatee County Tax Collector's Office suggested that all taxpayer e-mail addresses held by tax collectors be exempt from public records requirements. The Sarasota County Tax Collector's Office suggested offering protections for local business tax notices. The Sumter County Tax Collector's Office suggested that email addresses provided by a taxpayer during the cashiering process should be exempt from public records requirements. *Id.*

<sup>27</sup> *Id.*



### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 197.3225, F.S.;  
 4           removing the scheduled repeal of an exemption from  
 5           public records requirements for taxpayer e-mail  
 6           addresses held by a tax collector for the purposes of  
 7           electronically sending certain tax notices or  
 8           obtaining the consent of a taxpayer for electronic  
 9           transmission of certain tax notices; providing an  
 10          effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1.   Section 197.3225, Florida Statutes, is amended  
 15   to read:

16           197.3225   Public records exemption; taxpayer e-mail  
 17   addresses.—

18           ~~(1)~~   A taxpayer's e-mail address held by a tax collector  
 19   for any of the following purposes is exempt from s. 119.07(1)  
 20   and s. 24(a), Art. I of the State Constitution:

21           (1)~~(a)~~   Sending a quarterly tax notice for prepayment of  
 22   estimated taxes to the taxpayer pursuant to s. 197.222(3).

23           (2)~~(b)~~   Obtaining the taxpayer's consent to send the tax  
 24   notice described in s. 197.322(3).

25           (3)~~(c)~~   Sending an additional tax notice or delinquent tax

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26 | notice to the taxpayer pursuant to s. 197.343.

27 |       (4)~~(d)~~ Sending a tax notice to a designated third party,  
28 | mortgagee, or vendee pursuant to s. 197.344(1).

29 |       ~~(2) This section is subject to the Open Government Sunset~~  
30 | ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
31 | ~~on October 2, 2020, unless reviewed and saved from repeal~~  
32 | ~~through reenactment by the Legislature.~~

33 |       Section 2. This act shall take effect October 1, 2020.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7023 PCB OTM 20-09 OGSR/Child Abuse Death Review Committees

**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, Pigman

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7002

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Smith	Smith
1) Children, Families & Seniors Subcommittee	11 Y, 0 N	Woodruff	Brazzell
2) State Affairs Committee		Smith	Williamson

### SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Current law establishes the State Child Abuse Death Review Committee (state committee) and local child abuse death review committees (local committees) within the Department of Health. The state and local committees must review the facts and circumstances of all deaths of children, from birth through age 18, that occur in the state and are reported to the central abuse hotline of the Department of Children and Families. The state committee must prepare an annual statistical report containing data, trends, analysis, findings, and recommendations for state and local action to prevent deaths from child abuse.

Current law provides public record and public meeting exemptions for the state and local committees. The public record exemption protects information that reveals the identity of the surviving siblings of a deceased child whose death occurred as a result of a verified report of abuse or neglect. It also protects the identity of a deceased child whose death has been reported to the central abuse hotline but was determined not to be the result of abuse or neglect and the identity of the surviving siblings, family members, or others living in the home of such deceased child. In addition, confidential or exempt information obtained by the state committee or a local committee retains its confidential or exempt status. Portions of meetings held by the state committee or a local committee in which this identifying information is discussed are exempt from public meeting requirements. The closed portion of the meeting must be recorded and the recording of such meeting is exempt from public record requirements.

The bill saves from repeal the public record and public meeting exemptions, which will repeal on October 2, 2020, if this bill does not become law.

The bill does not appear to have a fiscal impact on the state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>3</sup>

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>4</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created<sup>5</sup> then a public necessity statement and a two-thirds vote for passage are not required.

##### Child Abuse Death Review Committees

In 1999, the Legislature passed the Kayla McKean Child Protection Act<sup>6</sup> that established the State Child Abuse Death Review Committee (state committee) and local child abuse death review committees (local committees) within the Department of Health (DOH).<sup>7</sup> The committees review the facts and circumstances surrounding the deaths of children in the state, which occur as the result of reported child abuse or neglect, and prepare an annual statistical report on the incidence and causes of death resulting from child abuse.<sup>8</sup> Prior to 2014, the state and local committees reviewed only the deaths of children that were the result of verified child abuse or neglect.<sup>9</sup> In 2014, the Legislature expanded the jurisdiction of the committees to require the committees to review the deaths of all children, from birth through age 18, that occur in Florida and are reported to the central abuse hotline of the Department of Children and Families (DCF).<sup>10</sup>

A local committee's primary function is to conduct individual case reviews of deaths, generate information, make recommendations, and implement improvements at the local level.<sup>11</sup> The state

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<sup>1</sup> S. 119.15, F.S.

<sup>2</sup> S. 119.15(3), F.S.

<sup>3</sup> S. 119.15(6)(b), F.S.

<sup>4</sup> S. 24(c), Art. I of the State Constitution.

<sup>5</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

<sup>6</sup> Mireya Navarro, *Florida Will Tighten Child Welfare Policies After Father's Killing of Girl*, 6, N.Y. TIMES, Dec. 5, 1998, available at <https://www.nytimes.com/1998/12/05/us/florida-will-tighten-child-welfare-policies-after-father-s-killing-of-girl-6.html> (last visited Jan. 8, 2020).

<sup>7</sup> Ch 99-168, L.O.F.

<sup>8</sup> *Id.*

<sup>9</sup> See s. 383.402(1), F.S. (2013).

<sup>10</sup> Ch. 2014-224, L.O.F.

<sup>11</sup> S. 383.402(7), F.S.

committee's primary function is to provide direction and leadership for the review system and to analyze data and recommendations from local committees to identify statewide issues and trends.<sup>12</sup> The state committee must prepare an annual statistical report containing data, trends, analysis, findings, and recommendations for state and local action to prevent deaths from child abuse.<sup>13</sup>

The state and local committees have broad access to any information related to the deceased child or the child's family that is necessary to carry out their duties, including:<sup>14</sup>

- Medical, dental, or mental health care records;
- Records in the possession of a state agency or political subdivision; and
- Records of law enforcement that are not part of an active investigation.

In order to protect the rights of the child and the child's parents or persons responsible for the child's welfare, all records held by DCF concerning reports of child abandonment, abuse, or neglect, are confidential and exempt<sup>15</sup> from public record requirements.<sup>16</sup>

#### Public Record and Public Meeting Exemptions under Review

Current law provides public record and public meeting exemptions for the state and local committees.<sup>17</sup>

The public record exemption protects information that reveals the identity of the surviving siblings of a deceased child whose death occurred as a result of a verified report of abuse or neglect. It also protects the identity of a deceased child whose death has been reported to the central abuse hotline but was determined not to be the result of abuse or neglect and the identity of the surviving siblings, family members, or others living in the home of such deceased child.<sup>18</sup> The information is confidential and exempt from public record requirements and may only be disclosed with other local committees, other governmental agencies in furtherance of their duties, and persons or entities authorized by the Department of Health to use such information for bona fide research or statistical purposes.<sup>19</sup> In addition, confidential or exempt information obtained by the state committee or a local committee retains its confidential or exempt status.<sup>20</sup> Any person who knowingly or willfully violates the public records exemption commits a misdemeanor of the first degree.<sup>21</sup>

Portions of meetings of the state or a local committee at which confidential and exempt information is discussed are exempt from public meeting requirements.<sup>22</sup> The closed portion of a meeting must be recorded and no portion may be off the record.<sup>23</sup> The recording of the closed portion of the meeting is exempt from public record requirements.<sup>24</sup>

The public record and public meeting exemptions were initially enacted by the Legislature in 1999 alongside the substantive bill creating the state and local committees.<sup>25</sup> The exemptions were amended and reenacted, thereafter in 2005,<sup>26</sup> 2010,<sup>27</sup> and 2015.<sup>28</sup> In 2015, the public record exemption was

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<sup>12</sup> S. 383.402(1), F.S.

<sup>13</sup> S. 383.402(4), F.S.

<sup>14</sup> S. 383.402(5), F.S.

<sup>15</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (Aug. 1, 1985).

<sup>16</sup> S. 39.202(1), F.S.

<sup>17</sup> S. 383.412, F.S.

<sup>18</sup> S. 383.412(2), F.S.

<sup>19</sup> S. 383.412(4), F.S.

<sup>20</sup> S. 383.412(2)(c), F.S.

<sup>21</sup> S. 383.412(5), F.S. A misdemeanor of the first degree is punishable by imprisonment not to exceed one year and a fee not to exceed \$1,000. Ss. 775.082 and 775.083, F.S.

<sup>22</sup> S. 383.412(3), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> S. 383.412(3)(b), F.S.

<sup>25</sup> Ch. 99-210, L.O.F.

<sup>26</sup> Ch. 2005-190, L.O.F.

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expanded to also protect the identity of a deceased child whose death was determined not to be the result of abuse or neglect and the identity of the deceased child's surviving siblings, family members, or others living in the home.

The Legislature, in its original public necessity statement,<sup>29</sup> found that the release of sensitive, personal information could hamper open communication and coordination among parties during the death review and that the harm resulting from the release of such information substantially outweighed any public benefit.<sup>30</sup> In addition, allowing the committees to have access to the confidential records "increases the potential for reduced morbidity or mortality of children and reduces the potential for poor outcomes for children, thereby improving the overall quality of life for children."<sup>31</sup>

Pursuant to the Open Government Sunset Review Act, the public record and public meeting exemptions will repeal on October 2, 2020, unless reenacted by the Legislature.<sup>32</sup>

During the 2019 interim, subcommittee staff met with representatives from DOH and DCF and conducted surveys of each of the 23 local review committees. DOH and DCF representatives stated that the exemptions have been effective and recommended making no changes to the statewide exemption. Survey responses were similar with near unanimous support for the public record and public meeting exemptions to be reenacted without changes to ensure continued coordination and open communication between and among the state and local committees.<sup>33</sup>

### **Effect of the Bill**

The bill removes the scheduled repeal date of the public record and public meeting exemptions thereby reenacting the exemptions for state and local committees.

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

**Section 1:** amending s. 383.412, F.S., to save from repeal the public record and public meeting exemptions for the state committee or a local committee.

**Section 2:** provides an effective date of October 1, 2020.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

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<sup>27</sup> Ch. 2010-40, L.O.F.

<sup>28</sup> Ch. 2015-77, L.O.F.

<sup>29</sup> S. 24(c), Art. I of the State Constitution requires each public record and public meeting exemption to "state with specificity the public necessity justifying the exemption."

<sup>30</sup> Ch. 99-210, L.O.F.

<sup>31</sup> *Id.*

<sup>32</sup> S. 383.412(6), F.S.

<sup>33</sup> Open Government Sunset Review Questionnaire, responses on file with the Oversight, Transparency & Public Management Subcommittee.



2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority on an agency nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 383.412, F.S., which  
 4           provides an exemption from public records requirements  
 5           for certain identifying information held by the State  
 6           Child Abuse Death Review Committee or local committee  
 7           for certain purposes and provides an exemption from  
 8           public meetings requirements for meetings wherein such  
 9           information is discussed; removing the scheduled  
 10          repeal of the exemptions; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Section 383.412, Florida Statutes, is amended  
 15           to read:

16           383.412 Public records and public meetings exemptions.—

17           (1) For purposes of this section, the term "local  
 18           committee" means a local child abuse death review committee or a  
 19           panel or committee assembled by the State Child Abuse Death  
 20           Review Committee or a local child abuse death review committee  
 21           pursuant to s. 383.402.

22           (2) (a) Any information held by the State Child Abuse Death  
 23           Review Committee or a local committee which reveals the identity  
 24           of the surviving siblings of a deceased child whose death  
 25           occurred as the result of a verified report of abuse or neglect

26 | is confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
27 | I of the State Constitution.

28 |       (b) Any information held by the State Child Abuse Death  
29 | Review Committee or a local committee which reveals the identity  
30 | of a deceased child whose death has been reported to the central  
31 | abuse hotline but determined not to be the result of abuse or  
32 | neglect, or the identity of the surviving siblings, family  
33 | members, or others living in the home of such deceased child, is  
34 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
35 | of the State Constitution.

36 |       (c) Information made confidential or exempt from s.  
37 | 119.07(1) and s. 24(a), Art. I of the State Constitution which  
38 | is obtained by the State Child Abuse Death Review Committee or a  
39 | local committee shall retain its confidential or exempt status.

40 |       (3) (a) Portions of meetings of the State Child Abuse Death  
41 | Review Committee or a local committee at which information made  
42 | confidential and exempt pursuant to subsection (2) is discussed  
43 | are exempt from s. 286.011 and s. 24(b), Art. I of the State  
44 | Constitution. The closed portion of a meeting must be recorded,  
45 | and no portion of the closed meeting may be off the record. The  
46 | recording shall be maintained by the State Child Abuse Death  
47 | Review Committee or a local committee.

48 |       (b) The recording of a closed portion of a meeting is  
49 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
50 | Constitution.

51 (4) The State Child Abuse Death Review Committee and local  
52 committees may share information made confidential and exempt by  
53 this section:

54 (a) With each other;

55 (b) With a governmental agency in furtherance of its  
56 duties; or

57 (c) With any person or entity authorized by the Department  
58 of Health to use such relevant information for bona fide  
59 research or statistical purposes. A person or entity who is  
60 authorized to obtain such relevant information for research or  
61 statistical purposes must enter into a privacy and security  
62 agreement with the Department of Health and comply with all laws  
63 and rules governing the use of such records and information for  
64 research or statistical purposes. Anything identifying the  
65 subjects of such relevant information must be treated as  
66 confidential by the person or entity and may not be released in  
67 any form.

68 (5) Any person who knowingly or willfully makes public or  
69 discloses to any unauthorized person any information made  
70 confidential and exempt under this section commits a misdemeanor  
71 of the first degree, punishable as provided in s. 775.082 or s.  
72 775.083.

73 ~~(6) This section is subject to the Open Government Sunset~~  
74 ~~Review Act in accordance with s. 119.15, and shall stand~~  
75 ~~repealed on October 2, 2020, unless reviewed and saved from~~

HB 7023

2020

76 | ~~repeal through reenactment by the Legislature.~~

77 |       Section 2. This act shall take effect October 1, 2020.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7037      PCB JDC 20-01      Constitutional Amendments Proposed By Initiative

**SPONSOR(S):** Judiciary Committee, Grant, J.

**TIED BILLS:**                    **IDEN./SIM. BILLS:** CS/SB 1794

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	12 Y, 6 N	Jones	Luczynski
1) Appropriations Committee	20 Y, 10 N	Cobb	Pridgeon
2) State Affairs Committee		Toliver	Williamson

### SUMMARY ANALYSIS

The Florida Constitution may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative. For a citizen initiative to be placed in the constitution:

- A sponsor must register as a Florida political committee and gather a sufficient number of signatures from Florida voters;
- The Florida Supreme Court must review the proposed amendment to ensure legal compliance;
- The Financial Impact Estimating Conference (FIEC) must analyze the proposal's financial impacts; and
- At least 60 percent of the voters voting on the proposed amendment must vote yes.

The bill changes the process for amending the Florida Constitution by citizen initiative by:

- Revising the role of FIEC to require FIEC to estimate the proposal's financial impact on state and local governments and the state budget.
- Requiring the Attorney General to ask the Supreme Court to determine whether the proposal violates the U.S. Constitution.
- Providing that the President of the Senate and the Speaker of the House of Representatives may direct legislative staff to analyze any other impacts of the proposal.
- Increasing the number petitions that must be gathered before the Secretary of State refers a proposal to the Attorney General and FIEC from 10 percent of the statewide electors required to ultimately place an amendment on the ballot, to 50 percent .
- Creating a cause of action to challenge a petition circulator's failure to register.
- Providing that a signature is valid until the next February 1 of an even-numbered year, which prevents a signature from being held over for a subsequent election.
- Requiring a supervisor of elections to charge the actual cost for verifying a petition signature and requiring the Department of State to determine the actual cost amount annually.
- Providing that a signature obtained illegally or by an unregistered paid petition circulator is invalid.
- Allowing the Division of Elections within the Department of State or a supervisor of elections to provide a petition form in PDF format, with printing costs to be borne by the sponsor.
- Requiring the ballot to include statements indicating:
  - The name of the sponsor.
  - The percentage of in-state contributions received for the proposal.
  - Whether the sponsor used out-of-state petition circulators.
  - Notice, when applicable, that FIEC estimates a negative or indeterminate fiscal impact or cannot reach a consensus.
- Requiring a copy of the proposal in each voting booth.
- Requiring a political committee sponsoring a proposal to disclose the percentage of in-state contributions.

The bill may have an indeterminate fiscal impact on state government and on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

The Florida Constitution is the charter of the liberties of Floridians.<sup>1</sup> It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.<sup>2</sup> A citizen initiative must embrace only one subject,<sup>3</sup> unless it concerns limiting the power of government to raise revenue, but proposals originating from the other sources are not so limited.<sup>4</sup>

The Florida Constitution requires the sponsor of an amendment proposed by citizen initiative to obtain a specified number of signatures on a petition to place the proposal on the ballot.<sup>5</sup> The petition must contain the signatures of a number of voters equal to 8 percent of the votes cast in the state in the preceding presidential election as well as 8 percent of the votes cast in that election in each of at least half of the congressional districts of the state.<sup>6</sup> The number of signatures required for placement on the 2018 or 2020 ballot is 766,200, with a specified number of that total required to come from at least 14 of the state's congressional districts.<sup>7</sup>

According to the Florida Supreme Court, the Legislature and the Secretary of State (Secretary) are responsible for ensuring ballot integrity and a valid election process.<sup>8</sup> To this end, the Legislature may pass laws regulating the initiative process, which must be either:

- Neutral, nondiscriminatory regulations of petition-circulation and voting procedure explicitly or implicitly contemplated by the constitution; or
- Necessary for ballot integrity.<sup>9</sup>

##### Citizen Initiative Process

Before gathering signatures for an amendment proposed by citizen initiative, the sponsor of the proposed amendment must register as a Florida political committee.<sup>10</sup> After registering, the sponsor must gather the required number of signatures. The sponsor must present each signature to the appropriate supervisor of elections (supervisor) where the signee resides within 30 days of gathering the signature.<sup>11</sup>

If the sponsor uses a paid petition circulator to gather signatures, the circulator must register with the Secretary before collecting signatures.<sup>12</sup> Failure of a paid petition circulator to register before collecting petition forms is a second-degree misdemeanor.<sup>13</sup> The paid petition circulator must provide to the Secretary:

- His or her name, permanent address, temporary address, and date of birth.
- A Florida address where the circulator will accept service of process.

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<sup>1</sup> *Browning v. Fla. Hometown Democracy, Inc., PAC*, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).

<sup>2</sup> Art. XI, Fla. Const.

<sup>3</sup> Art. XI, s. 3, Fla. Const.

<sup>4</sup> Art. XI, ss. 1, 2, 4, 6, Fla. Const.

<sup>5</sup> Art. XI, s. 3, Fla. Const.

<sup>6</sup> *Id.*

<sup>7</sup> FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, <https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf> (last visited Feb. 1, 2020).

<sup>8</sup> *Browning*, 29 So. 3d at 1057-58.

<sup>9</sup> *Id.*

<sup>10</sup> Ss. 100.371(2) and 106.03(1)(a), F.S.

<sup>11</sup> S. 100.371(7), F.S.

<sup>12</sup> S. 100.371(3), F.S.

<sup>13</sup> S. 104.187, F.S. See also s. 104.186, F.S. (making it a first-degree misdemeanor to compensate a petition circulator based on the number of petitions gathered).



- A statement that the circulator consents to the jurisdiction of Florida courts.
- Any information required by the Secretary to verify the circulator's identity or address.<sup>14</sup>

In addition, a paid petition circulator must provide an affidavit with each petition form gathered.<sup>15</sup> The affidavit must include the circulator's name and permanent address and a signed statement verifying, under penalties of perjury, that the petition was signed in the circulator's presence.<sup>16</sup>

The date when the elector signs the petition is presumed to be the date of collection.<sup>17</sup> The sponsor incurs a fine of \$50 for each petition form submitted to the supervisor more than 30 days after the elector signed the petition.<sup>18</sup> The sponsor incurs a fine of \$500 for each petition form not submitted to the supervisor.<sup>19</sup> If the sponsor acted willfully, the fines are raised to \$250 and \$1,000 per petition, respectively.<sup>20</sup> The sponsor can avoid fines if it shows that failure to deliver the petitions was due to force majeure<sup>21</sup> or impossibility of performance.<sup>22</sup> If the Secretary believes these provisions have been violated, she may refer the matter to the Attorney General for enforcement.<sup>23</sup>

The Division of Elections (division) within the Department of State (DOS) or the supervisor must provide petition forms to registered paid petition circulators that contain information identifying the paid petition circulator.<sup>24</sup> The division must maintain a database of registered paid petition circulators and petition forms assigned to each, updating the database daily with respect to petition forms.<sup>25</sup> The supervisor must provide the division information relating to petition forms assigned to and received from paid petition circulators.<sup>26</sup>

The sponsor is required to pay the supervisor, in advance, 10 cents for each signature checked or the actual cost of checking the signature, whichever is less.<sup>27</sup>

When a sponsor delivers the collected signatures to the supervisor, the supervisor must check each signature to ensure the:

- Elector's original signature is recorded.
- Elector accurately recorded the date on which he or she signed the form.
- Elector is a qualified and registered Florida voter.
- Form on which the signature is recorded contains the elector's name, address, city, county, and voter registration number or date of birth.<sup>28</sup>

A petition form is invalid if any of the above requirements are not met.<sup>29</sup>

Each supervisor must submit his or her total numbers of valid signatures to the Secretary.<sup>30</sup> Once a sponsor obtains verified signatures equal to 10 percent of the statewide requirement to place an amendment on the ballot in at least 25 percent of Florida's congressional districts,<sup>31</sup> the Secretary sends the petition to the:

<sup>14</sup> S. 100.371(4), F.S.

<sup>15</sup> S. 100.371(5), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> S. 100.371(10), F.S.

<sup>18</sup> S. 100.371(7)(a)1., F.S.

<sup>19</sup> S. 100.371(7)(a)2., F.S.

<sup>20</sup> S. 100.371(7)(a), F.S.

<sup>21</sup> "Force majeure" refers to circumstances that cannot be foreseen or controlled, which prevent a person from completing a legal obligation. See *Black's Law Dictionary* 673 (8th ed. 2004).

<sup>22</sup> S. 100.371(7)(b), F.S.

<sup>23</sup> S. 100.371(8), F.S.

<sup>24</sup> S. 100.371(6), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> S. 99.097, F.S.

<sup>28</sup> S. 100.371(11), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> S. 15.21(3), F.S. For the 2018 and 2020 elections, the number is 76,632 and must come from at least seven congressional districts. FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, <https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf> (last visited Jan. 14, 2020).

- Financial Impact Estimating Conference (FIEC)<sup>32</sup> to complete an analysis on the proposed amendment's fiscal impact within 75 days.<sup>33</sup>
- Attorney General, who in turn petitions the Florida Supreme Court for an advisory opinion as to whether the proposed amendment complies with the single-subject requirement and other legal requirements.<sup>34</sup>

### Fiscal Impact Estimating Conference (FIEC)

After FIEC receives a proposed amendment from the Secretary, FIEC estimates the proposal's projected impacts on the costs and revenues of state and local governments, the state and local economies, and the state budget. FIEC must complete two documents: a financial impact statement and an initiative financial information statement.<sup>35</sup>

The financial impact statement is placed on the ballot to inform voters of the potential financial impact of the proposed amendment.<sup>36</sup> The supervisor must include a copy of the FIEC's financial information summaries in the publication or mailing for sample ballots.<sup>37</sup>

In addition, if the financial impact statement estimates that the proposal will cause increased costs, decreased revenues, a negative impact on the economy, or an indeterminate fiscal impact, the ballot must include a statement indicating such effect in bold font.<sup>38</sup>

The initiative financial information statement is a lengthier, more in-depth analysis of the amendment's fiscal effects. The initiative financial information statement is available on the websites of the Secretary and the Office of Economic and Demographic Research.<sup>39</sup> Each supervisor must include in the publication and mailing of sample ballots the internet addresses where FIEC's full information statements can be viewed and a summary of the statements.<sup>40</sup> A summary of the information statements is also available at each polling place, at the main office of the supervisor, upon request, and on the supervisor's website.<sup>41</sup>

### Ballot Placement and Passage

If the Secretary determines that the sponsor has collected the required number of verified signatures by February 1 of the election year,<sup>42</sup> he or she assigns an amendment number and certifies the proposed amendment's ballot position.<sup>43</sup> When the proposal is printed on the ballot, the ballot must also include:

- A ballot summary of up to 75 words summarizing the proposal's purpose.
- A ballot title including a caption of up to 15 words describing the proposal.
- The financial impact statement prepared by FIEC.<sup>44</sup>

<sup>32</sup> The Florida Constitution provides that the Legislature must provide by general law for the provision of a statement to public regarding the probable financial impact of any amendment proposed by initiative. Art. XI, s. 5(c), Fla. Const. The Legislature created FIEC to review, analyze, and estimate the fiscal impact of constitutional amendments proposed by citizen initiative. It consists of four persons: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research or a designee; one professional Senate staffer; and one professional House staffer. S. 100.371(13)(c)1., F.S.

<sup>33</sup> See s. 100.371(13), F.S. (providing for the 75-day timeframe, which is tolled when the Legislature is in session).

<sup>34</sup> S. 16.061, F.S.; FLORIDA DEPARTMENT OF STATE, 2018 Initiative Petition Handbook, <https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf> (last visited Jan. 14, 2020); art. IV, s. 10, Fla. Const.; art. XI, s. 3, Fla. Const.; *Advisory Opinion to the Attorney General re Rights of Electricity Consumers Regarding Solar Energy Choice*, 188 So. 3d 822 (Fla. 2016) (outlining the scope of the Supreme Court's analysis when determining whether to approve a constitutional amendment for placement on the ballot).

<sup>35</sup> S. 100.371(13), F.S.

<sup>36</sup> S. 100.371(13)(a), F.S.

<sup>37</sup> S. 100.371(13)(e)5., F.S.; see also s. 101.20, F.S.

<sup>38</sup> S. 100.371(13)(d), F.S.

<sup>39</sup> S. 100.371(13)(e)5., F.S.

<sup>40</sup> Ss. 100.371(13)(e)5. and 101.20, F.S.

<sup>41</sup> S. 100.371(13)(e), F.S.

<sup>42</sup> Art. XI, s. 5(b), Fla. Const.

<sup>43</sup> Ss. 100.371(12) and 101.161, F.S.

<sup>44</sup> S. 101.161(1), F.S.

At the general election, if at least 60 percent of the voters voting on the proposed amendment vote yes,<sup>45</sup> the proposed amendment is incorporated into the Florida Constitution.<sup>46</sup> The amendment becomes effective on the first Tuesday after the first Monday in January following the election or on a different date if specified in the amendment.<sup>47</sup>

## **Effect of Proposed Changes**

The bill modifies several aspects of the citizen initiative process to increase transparency, strengthen the integrity of the ballot, and reduce costs for the supervisors. Specifically, the bill changes the deadline for gathering signatures, the FIEC analysis process, the ballot language requirements, and the requirements for supervisors.

### Petition Circulators and Petition Form Signatures

The bill provides that if a paid petition circulator collects a petition form but is not registered pursuant to law, the petition form is invalid. Moreover, a paid petition circulator's registration may be challenged in court. If a court finds that a petition circulator is not properly registered with DOS pursuant to law, the court may enjoin the circulator from collecting signatures or initiative petitions for compensation until he or she is lawfully registered.

The bill also provides that a signature on a petition form is valid only until February 1 of the next even-numbered year. This means that a sponsor may begin gathering signatures for a proposed amendment in February of an even-numbered year for the election to occur two years later, giving a sponsor almost two years to collect signatures. This also prohibits a sponsor from collecting a signature for a particular election and then using the signature for a subsequent election instead.

### Analysis of the Proposed Amendment's Projected Impacts

The bill changes the process for the Secretary to refer a proposed amendment for further analysis by:

- Changing the percentage of signatures required to trigger referral from 10 percent of the number of statewide electors required to place an amendment on the ballot to 50 percent; and
- Requiring the Secretary to refer the proposed amendment to the President of the Senate and Speaker of the House of Representatives in addition to the Attorney General and FIEC.

Under the bill, FIEC is no longer required to estimate the proposal's projected impacts on the state and local economies. The bill revises FIEC's role, requiring it to estimate the proposal's:

- Effect on increasing or decreasing revenues or costs to state or local governments; and
- Overall impact to the state budget.

The bill allows the President of the Senate and Speaker of the House of Representatives to direct legislative staff to conduct an analysis of the proposal, which may include, but is not limited to, whether the proposal:

- Has undefined terms.
- Conflicts with an existing provision of the Florida Constitution.
- Will cause unintended consequences or economic impacts.

The bill also requires the Attorney General, upon petitioning the Florida Supreme Court to review the legality of a proposed amendment, to ask the Court whether it violates the United States Constitution.

### Political Committee Disclosure and Ballot Requirements

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<sup>45</sup> Art. XI, s. 5(e), Fla. Const.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

The bill requires a political committee sponsoring a proposed amendment to disclose, in its regular campaign finance reports, the percentage of contributions received from in-state persons,<sup>48</sup> excluding political parties, affiliated party committees, or political committees. This ensures that the public is aware of the origination of the funds that support the amendment.

In addition to the ballot summary and the financial impact statement already required to appear on the ballot, the bill requires the ballot to include the following information:

- The name of the sponsor.
- The percentage of contributions received by the sponsor from in-state persons, excluding political parties, affiliated party committees, or political committees.
- A statement indicating whether an out-of-state petition circulator was used to collect any petitions.
- A statement in bold capital letters indicating if FIEC:
  - Determines the proposal will have a net negative financial impact on the state budget.
  - Cannot determine the proposal's financial impact.
  - Is unable to reach a consensus on the proposal's financial impact.

### Supervisors of Elections

The bill requires a supervisor to:

- Include a copy of the proposed amendment text in each voting booth.
- Charge the actual cost for checking a signature on a petition form, with the cost calculated by DOS through rule and updated annually.

The bill also gives a supervisor the option to provide petition forms to a sponsor in PDF format instead of requiring that the supervisor print the forms. If the supervisor opts to provide the petition forms by PDF, the printing costs for petition forms would be borne by the sponsor instead of the supervisor.

### Severability Clause and Effective Date

The bill provides that if any provision of the bill is held invalid, the remaining portion of the bill is severed from that provision and should be given full legal effect. The bill is effective upon becoming a law, and its changes apply to all initiative amendments proposed for the 2020 ballot. However, nothing in the bill affects the validity of a petition form gathered before the bill's effective date or a contract entered into before the bill's effective date.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 15.21, F.S., relating to initiative petitions; s. 3, Art. XI, State Constitution.

**Section 2:** Amends s. 16.061, F.S., relating to initiative petitions.

**Section 3:** Amends s. 100.371, F.S., relating to initiatives; procedure for placement on ballot.

**Section 4:** Amends s. 101.161, F.S., relating to referenda; ballots.

**Section 5:** Amends s. 101.171, F.S., relating to copy of constitutional amendment to be available at voting locations.

**Section 6:** Amends s. 106.07, F.S., relating to reports; certification and filing.

**Section 7:** Creates an unnumbered section clarifying that the bill applies to all revisions or amendments by initiative proposed for the 2020 election ballot, but that nothing in the bill affects the validity of any petition gathered prior to the bill's effective date.

**Section 8:** Creates an unnumbered section of law providing that if any provision contained within the bill is found to be invalid, the remaining portion of the bill is severed from that provision.

**Section 9:** Provides an effective date upon becoming a law.

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<sup>48</sup> For purposes of the bill, "person" includes an individual, corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. *Cf.*

s. 106.011(14), F.S.

**STORAGE NAME:** h7037b.SAC

**DATE:** 2/4/2020

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill may have an indeterminate positive fiscal impact on state government by not requiring the Attorney General to review the proposed amendment until the sponsor has collected 50 percent of the number of signatures required, instead of 10 percent, which may result in a reduced workload. The bill may also have an insignificant negative fiscal impact to DOS relating to the workload for calculating the actual cost of verifying a petition form; however, it is unlikely that this provision will require additional resources.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill requires supervisors to charge the actual cost for verifying petition signatures, which is likely higher than the current rate allowed and may, in turn, have an indeterminate positive fiscal impact on local government revenues.

#### 2. Expenditures:

The bill requires supervisors, when an initiative is submitted to the electors, to include extra language on the ballot. The bill also requires supervisors to place a copy of each proposed amendment in each voting booth, which may have an indeterminate negative fiscal impact on local governments. However, the bill may have a positive indeterminate impact on local governments by allowing each supervisor to provide a petition form to a sponsor in PDF format, saving the supervisor printing costs.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill might have a negative fiscal impact on sponsors of constitutional amendments. The bill requires supervisors to charge the sponsor of an amendment the actual cost of verifying petition signatures, which is likely higher than the current rate allowed, and could result in political committees being charged more to verify signatures. In addition, the bill allows each supervisor to provide a petition form to a sponsor in PDF format, which could result in the sponsor having to bear the cost of printing the petition forms.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires each supervisor to provide a copy of the proposed constitutional text in each voting booth; however, an exemption likely applies under Art. VII, s. 18(d), because the bill relates to election laws.

## 2. Other:

The U.S. Supreme Court has held that states have a substantial interest in regulating the ballot-initiative process.<sup>49</sup> Likewise, the Florida Supreme Court has stated that the Legislature and the Secretary are responsible for ensuring ballot integrity and a valid election process. Legislation regulating the initiative process must be either:

- Neutral, nondiscriminatory regulations of petition-circulation and voting procedure explicitly or implicitly contemplated by the constitution; or
- Necessary for ballot integrity.<sup>50</sup>

## B. RULE-MAKING AUTHORITY:

The bill grants sufficient rulemaking authority to DOS to implement the bill's provisions.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill revises the process for amending the Florida Constitution by citizen initiative; however, section 5 of the bill appears to apply to all proposed constitutional amendments.

## **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>49</sup> *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182, 204-05 (1999).

<sup>50</sup> *See Browning v. Fla. Hometown Democracy, Inc. PAC*, 29 So. 3d 1053, 1057-58 (Fla. 2010).

1                   A bill to be entitled  
2           An act relating to constitutional amendments proposed  
3           by initiative; amending s. 15.21, F.S.; requiring the  
4           Secretary of State to submit an initiative petition to  
5           the Legislature when a certain amount of signatures  
6           are obtained; amending s. 16.061, F.S.; requiring the  
7           Attorney General to ask the Supreme Court to address  
8           in an advisory opinion the specific validity of the  
9           proposed amendment under the United States  
10          Constitution; amending s. 100.371, F.S.; providing  
11          that a citizen may challenge a failure to register by  
12          a petition circulator; providing that the division or  
13          a supervisor may provide petition forms in electronic  
14          format; revising the length of time that a signature  
15          is valid; requiring a supervisor to charge the actual  
16          cost of verifying petition forms; requiring the  
17          Department of State to adopt rules; providing that a  
18          petition form is invalid under certain circumstances;  
19          requiring the Secretary of State to submit a copy of  
20          an initiative petition to the Financial Impact  
21          Estimating Conference; requiring the Financial Impact  
22          Estimating Conference to analyze the financial impact  
23          to the state of a proposed initiative; requiring  
24          certain ballot language based on the findings of the  
25          Financial Impact Estimating Conference; authorizing

26 | the use of legislative staff to analyze the effects of  
 27 | a citizen initiative under certain circumstances;  
 28 | amending s. 101.161, F.S.; requiring that the ballot  
 29 | include certain disclosures and statements; amending  
 30 | s. 101.171, F.S.; requiring a copy of the amendment  
 31 | text in each voting booth; amending s. 106.07, F.S.;  
 32 | requiring a political committee sponsoring an  
 33 | initiative to disclose certain information; providing  
 34 | applicability; providing for severability; providing  
 35 | an effective date.

36 |  
 37 | Be It Enacted by the Legislature of the State of Florida:

38 |  
 39 | Section 1. Section 15.21, Florida Statutes, is amended to  
 40 | read:

41 | 15.21 Initiative petitions; s. 3, Art. XI, State  
 42 | Constitution.—The Secretary of State shall immediately submit an  
 43 | initiative petition to the Attorney General, the President of  
 44 | the Senate and the Speaker of the House of Representatives ~~and~~  
 45 | ~~to the Financial Impact Estimating Conference~~ if the sponsor  
 46 | has:

47 | (1) Registered as a political committee pursuant to s.  
 48 | 106.03;

49 | (2) Submitted the ballot title, substance, and text of the  
 50 | proposed revision or amendment to the Secretary of State



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51 pursuant to ss. 100.371 and 101.161; and

52 (3) Obtained a letter from the Division of Elections  
53 confirming that the sponsor has submitted to the appropriate  
54 supervisors for verification, and the supervisors have verified,  
55 forms signed and dated equal to 50 ~~40~~ percent of the number of  
56 electors statewide and in at least one-fourth of the  
57 congressional districts required by s. 3, Art. XI of the State  
58 Constitution.

59 Section 2. Subsection (1) of section 16.061, Florida  
60 Statutes, is amended to read:

61 16.061 Initiative petitions.—

62 (1) The Attorney General shall, within 30 days after  
63 receipt of a proposed revision or amendment to the State  
64 Constitution by initiative petition from the Secretary of State,  
65 petition the Supreme Court, requesting an advisory opinion  
66 regarding the compliance of the text of the proposed amendment  
67 or revision with s. 3, Art. XI of the State Constitution,  
68 whether the proposed amendment is facially invalid under the  
69 United States Constitution, and the compliance of the proposed  
70 ballot title and substance with s. 101.161. The petition may  
71 enumerate any specific factual issues that the Attorney General  
72 believes would require a judicial determination.

73 Section 3. Subsections (3), (6), (11), and (13) of section  
74 100.371, Florida Statutes, are amended to read:

75 100.371 Initiatives; procedure for placement on ballot.—

76 (3) (a) A person may not collect signatures or initiative  
77 petitions for compensation unless the person is registered as a  
78 petition circulator with the Secretary of State.

79 (b) A citizen may challenge a petition circulator's  
80 registration under this section by filing a petition in circuit  
81 court. If the court finds that the respondent is not a  
82 registered petition circulator, the court may enjoin the  
83 respondent from collecting signatures or initiative petitions  
84 for compensation until she or he is lawfully registered.

85 (6) The division or the supervisor of elections shall make  
86 hard copy petition forms or electronic portable document format  
87 petition forms available to registered petition circulators. All  
88 such forms must contain information identifying the petition  
89 circulator to which the forms are provided. The division shall  
90 maintain a database of all registered petition circulators and  
91 the petition forms assigned to each. Each supervisor of  
92 elections shall provide to the division information on petition  
93 forms assigned to and received from petition circulators. The  
94 information must be provided in a format and at times as  
95 required by the division by rule. The division must update  
96 information on petition forms daily and make the information  
97 publicly available.

98 (11) An initiative petition form circulated for signature  
99 may not be bundled with or attached to any other petition. Each  
100 signature shall be dated when made and shall be valid until the

101 next February 1 occurring in an even-numbered year for the  
102 purpose of appearing on the ballot for the general election  
103 occurring in that same year ~~for a period of 2 years following~~  
104 ~~such date~~, provided all other requirements of law are met. The  
105 sponsor shall submit signed and dated forms to the supervisor of  
106 elections for the county of residence listed by the person  
107 signing the form for verification of the number of valid  
108 signatures obtained. If a signature on a petition is from a  
109 registered voter in another county, the supervisor shall notify  
110 the petition sponsor of the misfiled petition. The supervisor  
111 shall promptly verify the signatures within 30 days after  
112 receipt of the petition forms and payment of a the fee for the  
113 actual cost of signature verification incurred by the supervisor  
114 ~~required by s. 99.097.~~ The Department of State shall adopt rules  
115 to set the cost to verify a petition under this subsection and  
116 update the cost annually. The supervisor shall promptly record,  
117 in the manner prescribed by the Secretary of State, the date  
118 each form is received by the supervisor, and the date the  
119 signature on the form is verified as valid. The supervisor may  
120 verify that the signature on a form is valid only if:

121 (a) The form contains the original signature of the  
122 purported elector.

123 (b) The purported elector has accurately recorded on the  
124 form the date on which he or she signed the form.

125 (c) The form sets forth the purported elector's name,

126 address, city, county, and voter registration number or date of  
 127 birth.

128 (d) The purported elector is, at the time he or she signs  
 129 the form and at the time the form is verified, a duly qualified  
 130 and registered elector in the state.

131 (e) The signature was obtained legally, including that if  
 132 a paid petition circulator was used, the circulator was validly  
 133 registered under subsection (3) when the signature was obtained.

134  
 135 The supervisor shall retain the signature forms for at least 1  
 136 year following the election in which the issue appeared on the  
 137 ballot or until the Division of Elections notifies the  
 138 supervisors of elections that the committee that circulated the  
 139 petition is no longer seeking to obtain ballot position.

140 (13) (a) At the same time the Secretary of State submits an  
 141 initiative petition to the Attorney General pursuant to s.  
 142 15.21, the secretary shall submit a copy of the initiative  
 143 petition to the Financial Impact Estimating Conference. Within  
 144 75 days after receipt of a proposed revision or amendment to the  
 145 State Constitution by initiative petition from the Secretary of  
 146 State, the Financial Impact Estimating Conference shall complete  
 147 an analysis and financial impact statement to be placed on the  
 148 ballot of the estimated increase or decrease in any revenues or  
 149 costs to state or local governments, ~~estimated economic impact~~  
 150 ~~on the state and local economy,~~ and the overall impact to the

151 state budget resulting from the proposed initiative. The 75-day  
152 time limit is tolled when the Legislature is in session. The  
153 Financial Impact Estimating Conference shall submit the  
154 financial impact statement to the Attorney General and Secretary  
155 of State.

156 (b) Immediately upon receipt of a proposed revision or  
157 amendment from the Secretary of State, the coordinator of the  
158 Office of Economic and Demographic Research shall contact the  
159 person identified as the sponsor to request an official list of  
160 all persons authorized to speak on behalf of the named sponsor  
161 and, if there is one, the sponsoring organization at meetings  
162 held by the Financial Impact Estimating Conference. All other  
163 persons shall be deemed interested parties or proponents or  
164 opponents of the initiative. The Financial Impact Estimating  
165 Conference shall provide an opportunity for any representatives  
166 of the sponsor, interested parties, proponents, or opponents of  
167 the initiative to submit information and may solicit information  
168 or analysis from any other entities or agencies, including the  
169 Office of Economic and Demographic Research.

170 (c) All meetings of the Financial Impact Estimating  
171 Conference shall be open to the public. The President of the  
172 Senate and the Speaker of the House of Representatives, jointly,  
173 shall be the sole judge for the interpretation, implementation,  
174 and enforcement of this subsection.

175 1. The Financial Impact Estimating Conference is

176 established to review, analyze, and estimate the financial  
177 impact of amendments to or revisions of the State Constitution  
178 proposed by initiative. The Financial Impact Estimating  
179 Conference shall consist of four principals: one person from the  
180 Executive Office of the Governor; the coordinator of the Office  
181 of Economic and Demographic Research, or his or her designee;  
182 one person from the professional staff of the Senate; and one  
183 person from the professional staff of the House of  
184 Representatives. Each principal shall have appropriate fiscal  
185 expertise in the subject matter of the initiative. A Financial  
186 Impact Estimating Conference may be appointed for each  
187 initiative.

188       2. Principals of the Financial Impact Estimating  
189 Conference shall reach a consensus or majority concurrence on a  
190 clear and unambiguous financial impact statement, no more than  
191 150 words in length, and immediately submit the statement to the  
192 Attorney General. Nothing in this subsection prohibits the  
193 Financial Impact Estimating Conference from setting forth a  
194 range of potential impacts in the financial impact statement.  
195 Any financial impact statement that a court finds not to be in  
196 accordance with this section shall be remanded solely to the  
197 Financial Impact Estimating Conference for redrafting. The  
198 Financial Impact Estimating Conference shall redraft the  
199 financial impact statement within 15 days.

200       3. ~~If the members of the Financial Impact Estimating~~

201 ~~Conference are unable to agree on the statement required by this~~  
202 ~~subsection, or if the Supreme Court has rejected the initial~~  
203 ~~submission by the Financial Impact Estimating Conference and no~~  
204 ~~redraft has been approved by the Supreme Court by 5 p.m. on the~~  
205 ~~75th day before the election, the following statement shall~~  
206 ~~appear on the ballot pursuant to s. 101.161(1): "The ~~financial~~~~  
207 ~~impact of this measure, if any, has not been cannot be~~  
208 ~~reasonably~~ determined at this time."

209 (d) The financial impact statement must be separately  
210 contained and be set forth after the ballot summary as required  
211 in s. 101.161(1).

212 1. If the financial impact statement projects a net  
213 ~~estimates increased costs, decreased revenues, a negative impact~~  
214 ~~on the state budget or local economy, or an indeterminate impact~~  
215 ~~for any of these areas, the ballot must include the a statement~~  
216 ~~required by s. 101.161(1)(d) indicating such estimated effect in~~  
217 ~~bold font.~~

218 2. If the financial impact statement estimates an  
219 ~~indeterminate financial impact, the ballot must include the~~  
220 ~~statement required by s. 101.161(1)(e).~~

221 3. If the members of the Financial Impact Estimating  
222 ~~Conference are unable to agree on the statement required by this~~  
223 ~~subsection, the ballot must include the statement required by s.~~  
224 ~~101.161(1)(f).~~

225 (e)1. Any financial impact statement that the Supreme

226 Court finds not to be in accordance with this subsection shall  
227 be remanded solely to the Financial Impact Estimating Conference  
228 for redrafting, provided the court's advisory opinion is  
229 rendered at least 75 days before the election at which the  
230 question of ratifying the amendment will be presented. The  
231 Financial Impact Estimating Conference shall prepare and adopt a  
232 revised financial impact statement no later than 5 p.m. on the  
233 15th day after the date of the court's opinion.

234 2. If, by 5 p.m. on the 75th day before the election, the  
235 Supreme Court has not issued an advisory opinion on the initial  
236 financial impact statement prepared by the Financial Impact  
237 Estimating Conference for an initiative amendment that otherwise  
238 meets the legal requirements for ballot placement, the financial  
239 impact statement shall be deemed approved for placement on the  
240 ballot.

241 3. In addition to the financial impact statement required  
242 by this subsection, the Financial Impact Estimating Conference  
243 shall draft an initiative financial information statement. The  
244 initiative financial information statement should describe in  
245 greater detail than the financial impact statement any projected  
246 increase or decrease in revenues or costs that the state or  
247 local governments would likely experience ~~and the estimated~~  
248 ~~economic impact on the state and local economy~~ if the ballot  
249 measure were approved. If appropriate, the initiative financial  
250 information statement may include both estimated dollar amounts



251 and a description placing the estimated dollar amounts into  
252 context. The initiative financial information statement must  
253 include both a summary of not more than 500 words and additional  
254 detailed information that includes the assumptions that were  
255 made to develop the financial impacts, workpapers, and any other  
256 information deemed relevant by the Financial Impact Estimating  
257 Conference.

258 4. The Department of State shall have printed, and shall  
259 furnish to each supervisor of elections, a copy of the summary  
260 from the initiative financial information statements. The  
261 supervisors shall have the summary from the initiative financial  
262 information statements available at each polling place and at  
263 the main office of the supervisor of elections upon request.

264 5. The Secretary of State and the Office of Economic and  
265 Demographic Research shall make available on the Internet each  
266 initiative financial information statement in its entirety. In  
267 addition, each supervisor of elections whose office has a  
268 website shall post the summary from each initiative financial  
269 information statement on the website. Each supervisor shall  
270 include a copy of each summary from the initiative financial  
271 information statements and the Internet addresses for the  
272 information statements on the Secretary of State's and the  
273 Office of Economic and Demographic Research's websites in the  
274 publication or mailing required by s. 101.20.

275 (f) When the Secretary of State submits a proposed

276 initiative petition to the President of the Senate and the  
277 Speaker of the House of Representatives pursuant to s. 15.21,  
278 the President of the Senate and the Speaker of the House of  
279 Representatives may direct legislative staff to prepare an  
280 analysis of the petition. Such analysis may include, but is not  
281 limited to, whether the amendment has undefined terms, conflicts  
282 with an existing provision of the State Constitution, or will  
283 cause unintended consequences or economic impacts.

284 Section 4. Subsection (1) of section 101.161, Florida  
285 Statutes, is amended to read:

286 101.161 Referenda; ballots.—

287 (1) Whenever a constitutional amendment or other public  
288 measure is submitted to the vote of the people, a ballot summary  
289 of such amendment or other public measure shall be printed in  
290 clear and unambiguous language on the ballot after the list of  
291 candidates, followed by the word "yes" and also by the word  
292 "no," and shall be styled in such a manner that a "yes" vote  
293 will indicate approval of the proposal and a "no" vote will  
294 indicate rejection. The ballot summary of the amendment or other  
295 public measure and the ballot title to appear on the ballot  
296 shall be embodied in the constitutional revision commission  
297 proposal, constitutional convention proposal, taxation and  
298 budget reform commission proposal, or enabling resolution or  
299 ordinance. The ballot summary of the amendment or other public  
300 measure shall be an explanatory statement, not exceeding 75

301 words in length, of the chief purpose of the measure. In  
 302 addition, for every constitutional amendment proposed by  
 303 initiative, the ballot shall include, following the ballot  
 304 summary, in the following order:

305 (a) The name of the initiative's sponsor and the  
 306 percentage of total contributions obtained by the sponsor from  
 307 in-state persons. For purposes of this subparagraph, "person"  
 308 has the same meaning as provided in s. 106.011(14), except that  
 309 the term does not include a political party, affiliated party  
 310 committee, or political committee.

311 (b) Whether out-of-state petition circulators were used to  
 312 obtain signatures for ballot placement.

313 (c) A separate financial impact statement concerning the  
 314 measure prepared by the Financial Impact Estimating Conference  
 315 in accordance with s. 100.371(13) ~~s. 100.371(5).~~

316 (d) If the financial impact statement projects a net  
 317 negative impact on the state budget, the following statement in  
 318 bold print:

319  
 320 THIS PROPOSED CONSTITUTIONAL AMENDMENT IS ESTIMATED TO HAVE  
 321 A NET NEGATIVE IMPACT ON THE STATE BUDGET. THIS IMPACT MAY  
 322 RESULT IN HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN  
 323 ORDER TO MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY  
 324 THE CONSTITUTION.  
 325

326 (e) If the financial impact statement is indeterminate,  
327 the following statement in bold print:

328  
329 THE FINANCIAL IMPACT OF THIS AMENDMENT CANNOT BE DETERMINED  
330 DUE TO AMBIGUITIES AND UNCERTAINTIES SURROUNDING THE  
331 AMENDMENT'S IMPACT.

332  
333 (f) If the members of the Financial Impact Estimating  
334 Conference are unable to agree on the financial impact  
335 statement, the following statement in bold print:

336  
337 THE FINANCIAL IMPACT ESTIMATING CONFERENCE WAS UNABLE TO  
338 AGREE ON THE FINANCIAL IMPACT OF THIS PROPOSED  
339 CONSTITUTIONAL AMENDMENT. THIS AMENDMENT MAY RESULT IN  
340 HIGHER TAXES OR A LOSS OF GOVERNMENT SERVICES IN ORDER TO  
341 MAINTAIN A BALANCED STATE BUDGET AS REQUIRED BY THE  
342 CONSTITUTION.

343  
344 The ballot title shall consist of a caption, not exceeding 15  
345 words in length, by which the measure is commonly referred to or  
346 spoken of. This subsection does not apply to constitutional  
347 amendments or revisions proposed by joint resolution.

348 Section 5. Section 101.171, Florida Statutes, is amended  
349 to read:

350 101.171 Copy of constitutional amendment to be available

351 at voting locations.—Whenever any amendment to the State  
352 Constitution is to be voted upon at any election, the Department  
353 of State shall have printed and shall furnish to each supervisor  
354 of elections a sufficient number of copies of the amendment  
355 either in poster or booklet form, and the supervisor shall  
356 provide ~~have a copy in thereof conspicuously posted or available~~  
357 ~~at each voting booth polling room or early voting area upon the~~  
358 ~~day of election.~~

359 Section 6. Paragraph (a) of subsection (4) of section  
360 106.07, Florida Statutes, is amended to read:

361 106.07 Reports; certification and filing.—

362 (4) (a) Except for daily reports, to which only the  
363 contributions provisions below apply, and except as provided in  
364 paragraph (b), each report required by this section must  
365 contain:

366 1. The full name, address, and occupation, if any, of each  
367 person who has made one or more contributions to or for such  
368 committee or candidate within the reporting period, together  
369 with the amount and date of such contributions. For  
370 corporations, the report must provide as clear a description as  
371 practicable of the principal type of business conducted by the  
372 corporation. However, if the contribution is \$100 or less or is  
373 from a relative, as defined in s. 112.312, provided that the  
374 relationship is reported, the occupation of the contributor or  
375 the principal type of business need not be listed.

376           2. The name and address of each political committee from  
 377 which the reporting committee or the candidate received, or to  
 378 which the reporting committee or candidate made, any transfer of  
 379 funds, together with the amounts and dates of all transfers.

380           3. Each loan for campaign purposes to or from any person  
 381 or political committee within the reporting period, together  
 382 with the full names, addresses, and occupations, and principal  
 383 places of business, if any, of the lender and endorsers, if any,  
 384 and the date and amount of such loans.

385           4. A statement of each contribution, rebate, refund, or  
 386 other receipt not otherwise listed under subparagraphs 1.  
 387 through 3.

388           5. The total sums of all loans, in-kind contributions, and  
 389 other receipts by or for such committee or candidate during the  
 390 reporting period. The reporting forms shall be designed to  
 391 elicit separate totals for in-kind contributions, loans, and  
 392 other receipts.

393           6. The full name and address of each person to whom  
 394 expenditures have been made by or on behalf of the committee or  
 395 candidate within the reporting period; the amount, date, and  
 396 purpose of each such expenditure; and the name and address of,  
 397 and office sought by, each candidate on whose behalf such  
 398 expenditure was made. However, expenditures made from the petty  
 399 cash fund provided by s. 106.12 need not be reported  
 400 individually.

401           7. The full name and address of each person to whom an  
402 expenditure for personal services, salary, or reimbursement for  
403 authorized expenses as provided in s. 106.021(3) has been made  
404 and which is not otherwise reported, including the amount, date,  
405 and purpose of such expenditure. However, expenditures made from  
406 the petty cash fund provided for in s. 106.12 need not be  
407 reported individually. Receipts for reimbursement for authorized  
408 expenditures shall be retained by the treasurer along with the  
409 records for the campaign account.

410           8. The total amount withdrawn and the total amount spent  
411 for petty cash purposes pursuant to this chapter during the  
412 reporting period.

413           9. The total sum of expenditures made by such committee or  
414 candidate during the reporting period.

415           10. The amount and nature of debts and obligations owed by  
416 or to the committee or candidate, which relate to the conduct of  
417 any political campaign.

418           11. Transaction information for each credit card purchase.  
419 Receipts for each credit card purchase shall be retained by the  
420 treasurer with the records for the campaign account.

421           12. The amount and nature of any separate interest-bearing  
422 accounts or certificates of deposit and identification of the  
423 financial institution in which such accounts or certificates of  
424 deposit are located.

425           13. The primary purposes of an expenditure made indirectly

426 through a campaign treasurer pursuant to s. 106.021(3) for goods  
427 and services such as communications media placement or  
428 procurement services, campaign signs, insurance, and other  
429 expenditures that include multiple components as part of the  
430 expenditure. The primary purpose of an expenditure shall be that  
431 purpose, including integral and directly related components,  
432 that comprises 80 percent of such expenditure.

433 14. If filed by a political committee supporting an  
434 initiative, the percentage of total contributions obtained  
435 during the reporting period from in-state persons. For purposes  
436 of this subparagraph, the term "person" has the same meaning as  
437 provided in s. 106.011, except that the term does not include a  
438 political party as provided in s. 103.091, affiliated party  
439 committee as provided in s. 103.092, or political committee as  
440 defined in s. 106.011.

441 Section 7. The provisions of this act apply to all  
442 revisions or amendments to the State Constitution by initiative  
443 that are proposed for the 2020 election ballot and each ballot  
444 thereafter; provided, however, that nothing in this act affects  
445 the validity of any petition form gathered before the effective  
446 date of this act or any contract entered into before the  
447 effective date of this act.

448 Section 8. If any provision of this act or its application  
449 to any person or circumstance is held invalid for any reason,  
450 the remaining portion of this act, to the fullest extent



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451 | possible, shall be severed from the void portion and given the  
452 | fullest possible force and application.

453 |       Section 9. This act shall take effect upon becoming a law.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Grant, J. offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 348-358  
6  
7

8 -----  
9 **T I T L E A M E N D M E N T**

10 Remove lines 29-31 and insert:  
11 include certain disclosures and statements; amending s. 106.07,  
12 F.S.;



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB SAC 20-04 Public Records and Meetings/Applicant for President/State University or Florida College System Institution

**SPONSOR(S):** State Affairs Committee

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 774

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Toliver	Williamson

### SUMMARY ANALYSIS

State universities and Florida College System (FCS) institutions often establish search committees for filling a vacant president position. The purpose of a search committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position. Records held by a search committee are public records, and all meetings of the search committee are open and noticed to the public.

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process and discussions associated with the applicant search for the position of president of a state university or FCS institution.

The bill provides that any personal identifying information of an applicant for president of a state university or FCS institution is confidential and exempt from public record requirements. The bill provides that the personal identifying information of applicants who comprise a final group of applicants for president is no longer confidential and exempt from public record requirements at least 21 days before the date of a meeting at which either an interview is conducted or at which final action or a vote is to be taken on the employment of applicants.

The bill also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose the personal identifying information of applicants. However, a recording must be made of any closed portion of a meeting and the meeting cannot be held off the record. The recording is exempt from public record requirements. The public meeting exemption does not apply to a meeting held for the purpose of establishing the qualifications of potential applicants or establishing a compensation framework. Any meeting held after a final group of applicants has been selected at which an interview is to be conducted or at which final action or a vote is to be taken on the employment of applicants must be open to the public.

The bill provides for repeal of the section on October 2, 2025, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill may have a minimal fiscal impact on state universities and FCS institutions.

**Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

##### Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.<sup>1</sup> The board or commission must provide reasonable notice of all public meetings.<sup>2</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>3</sup>

No resolution, rule, or formal action is considered binding unless action is taken or made at a public meeting.<sup>4</sup> Acts taken by a board or commission in violation of this requirement are considered void,<sup>5</sup> though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.<sup>6</sup>

##### Public Record and Public Meeting Exemptions

The Legislature may provide by general law for the exemption of records and meetings from the requirements of Art. I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>7</sup>

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<sup>1</sup> Section 286.011(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 286.011(2), F.S.

<sup>4</sup> Section 286.011(1), F.S.

<sup>5</sup> *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).

<sup>6</sup> *Finch v. Seminole Cnty. Sch. Bd.*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

<sup>7</sup> Article I, s. 24(c), FLA. CONST.

Furthermore, the Open Government Sunset Review Act<sup>8</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. The exemption may be no broader than is necessary to meet one of the following purposes:<sup>9</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2<sup>nd</sup> of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>10</sup>

### State Universities and Florida College System Institutions

#### *Board of Governors and State University Boards of Trustees*

The Board of Governors (BOG) has the authority to regulate the State University System pursuant to Art. IX, s. 7(d) of the State Constitution and the Florida Statutes.<sup>11</sup> The BOG may develop procedures for adopting regulations to implement its constitutional duties.<sup>12</sup>

Each state university is administered by a board of trustees, which is subject to public record and open meetings laws.<sup>13</sup> The BOG establishes the powers and duties of the boards of trustees and may delegate its constitutional or statutory powers and duties to the boards of trustees as its designee.<sup>14</sup> The BOG establishes the personnel system for all state university employees and confirms the selection and reappointment of presidents by state university boards of trustees.<sup>15</sup>

#### *State Board of Education and Florida College System Institution Boards of Trustees*

The Legislature created the Florida College System consisting of institutions<sup>16</sup> governed by boards of trustees.<sup>17</sup> The State Board of Education<sup>18</sup> establishes the standards and guidelines for Florida College System (FCS) institutions.<sup>19</sup>

Each board of trustees is authorized to establish the personnel program for all employees of an FCS institution, including the president.<sup>20</sup> The established guidelines for the personnel program may include the recruitment, selection, or reappointment of personnel.<sup>21</sup> An FCS institution's board of trustees is authorized to appoint, suspend, or remove the president and may appoint a search committee to fill the vacancy.<sup>22</sup>

### *Search Committees*

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<sup>8</sup> Section 119.15, F.S.

<sup>9</sup> Section 119.15(6)(b), F.S.

<sup>10</sup> Section 119.15(3), F.S.

<sup>11</sup> Sections 20.155 and 1001.70-1001.706, F.S. *See also* s. 1001.705(a) and (d), F.S., defining the terms "Board of Governors" and "state universities" as used in the Florida K-20 Education Code.

<sup>12</sup> Section 1001.706(2), F.S.

<sup>13</sup> Article IX, s. 7(b)-(c), FLA. CONST.; *see also* s. 1001.72(2), F.S.

<sup>14</sup> Article IX, s. 7(c), FLA. CONST.; *see also* s. 1001.706(2)(b), F.S.

<sup>15</sup> Sections 1001.705(2)(k) and 1001.706(6)(a), F.S.

<sup>16</sup> *See* s. 1000.21(3), F.S., for a definition and list of each "Florida College System institution." Such institutions constitute political subdivisions of the state operated by boards of trustees. *See* s. 1004.67 and ss. 1001.61-1001.64, F.S.

<sup>17</sup> Sections 1001.60, 1001.61(1) and (2), and 1001.64(2), F.S.

<sup>18</sup> Article IX, s. 2, FLA. CONST.

<sup>19</sup> Section 20.15(1), (2), and (5); *see also* s. 1001.02(1) and (6), F.S.

<sup>20</sup> Section 1001.64(18), F.S.; *see also* s. 1001.02(6)(a), F.S.

<sup>21</sup> Section 1001.64(18), F.S.

<sup>22</sup> Section 1001.64(19), F.S.

State universities and FCS institutions<sup>23</sup> often establish search committees for filling a vacant president position. The purpose of a search committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position. The search committees may utilize consultants to aid them in their search. Records held by a search committee or its consultants are public records, and all meetings of the search committee are open and noticed to the public.

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.<sup>24</sup>

### **Effect of the Bill**

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process and discussions associated with the applicant search for the position of president of a state university or FCS institution.

The bill provides that any personal identifying information of an applicant for president of a state university or FCS institution is confidential and exempt<sup>25</sup> from public record requirements. The bill provides that the personal identifying information of applicants who comprise a final group of applicants for president is no longer confidential and exempt from public record requirements at least 21 days before the date of a meeting at which either an interview is conducted or at which final action or a vote is to be taken on the employment of applicants. However, the personal identifying information of all other applicants will remain confidential and exempt.

The bill also creates an exemption from public meeting requirements for any meeting held for the purpose of identifying or vetting applicants for president of a state university or FCS institution, including any portion of a meeting that would disclose the personal identifying information of applicants. However, a recording must be made of any closed portion of a meeting and the meeting cannot be held off the record. The recording is exempt from public record requirements. The public meeting exemption does not apply to a meeting held for the purpose of establishing the qualifications of potential applicants or establishing a compensation framework. In addition, any meeting held after a final group of applicants has been selected at which an interview is to be conducted or at which final action or a vote is to be taken on the employment of applicants must be open to the public.

The bill provides for repeal of the section on October 2, 2025, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

Section 1 creates s. 1004.098, F.S., to provide public record and public meeting exemptions associated with a search conducted by a state university or FCS institution for the purpose of identifying or vetting applicants for president.

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<sup>23</sup> *Id.*

<sup>24</sup> FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. *See Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d. 851 at 855, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

<sup>25</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. *See Op. Att'y Gen. Fla.*

(1985).

Section 2 provides a public necessity statement as required by the State Constitution.

Section 3 provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions because staff responsible for complying with public record requests and public meeting requirements could require training to implement the public record and public meeting exemptions. In addition, state universities and FCS institutions could incur costs associated with redacting the confidential and exempt information prior to releasing a record and recording the closed portions of meetings. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and FCS institutions.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.



### Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

### Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for the personal identifying information of an applicant for president of any state university or FCS institution. Once a final group of applicants has been selected, however, the personal identifying information of the final group is no longer confidential and exempt. In addition, the bill creates a public meeting exemption for any meeting wherein those applicants are vetted or during which the personal identifying information of an applicant is discussed. The public meeting exemption does not apply to meetings held for the purpose of establishing the qualifications of potential applications or establishing a compensation framework and meetings held after a final group of applicants have been selected at which an interview is conducted or at which final action or a vote is taken. As such, the exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

#### B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require rulemaking.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                   A bill to be entitled  
2           An act relating to public records and public meetings;  
3           creating s. 1004.098, F.S.; providing an exemption  
4           from public records requirements for any personal  
5           identifying information of an applicant for president  
6           of a state university or Florida College System  
7           institution; specifying that personal identifying  
8           information of applicants who comprise a final group  
9           of applicants is no longer confidential and exempt at  
10          a time certain; providing an exemption from public  
11          meeting requirements for any portion of a meeting held  
12          for the purpose of identifying or vetting applicants  
13          for president of a state university or Florida College  
14          System institution, including any portion of a meeting  
15          that would disclose identifying information of such  
16          applicants; requiring a recording to be made of any  
17          portion of a closed meeting and providing that no  
18          portion of a closed meeting may be held off the  
19          record; providing that the recording of any closed  
20          portion of a meeting is exempt from public record  
21          requirements; specifying that certain meetings are not  
22          exempt from public meeting requirements; providing for  
23          future legislative review and repeal of the  
24          exemptions; providing a statement of public necessity;  
25          providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1004.098, Florida Statutes, is created to read:

1004.098 Applicants for president of a state university or Florida College System institution; public record exemption; public meeting exemption.

(1) (a) Any personal identifying information of an applicant for president of a state university or Florida College System institution is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) The personal identifying information of applicants who comprise a final group of applicants for president of a state university or Florida College System institution is no longer confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution at least 21 days before the date of a meeting at which an interview will be conducted or at which final action or a vote is to be taken on the employment of the applicants.

(2) (a) Any portion of a meeting held for the purpose of identifying or vetting applicants for president of a state university or Florida College System institution, including any portion of a meeting that would disclose personal identifying

50 information of such applicants, is exempt from s. 286.011 and s.  
51 24(b), Art. I of the State Constitution.

52 (b) A complete recording must be made of any portion of a  
53 meeting that is closed pursuant to paragraph (a), and any closed  
54 portion of such meeting may not be held off the record. The  
55 recording of the closed portion of a meeting is exempt from s.  
56 119.07(1) and s. 24(a), Art. I of the State Constitution.

57 (c) The public meeting exemption provided in paragraph (a)  
58 does not apply to:

59 1. Any portion of a meeting held for the purpose of  
60 establishing qualifications of potential applicants or  
61 establishing any compensation framework to be offered to  
62 potential applicants for president of a state university or  
63 Florida College System institution.

64 2. Any meeting held after a final group of applicants for  
65 president of a state university or Florida College System  
66 institution has been established at which an interview is  
67 conducted or at which final action or a vote is to be taken on  
68 the employment of such applicants.

69 (3) This section is subject to the Open Government Sunset  
70 Review Act in accordance with s. 119.15 and shall stand repealed  
71 on October 2, 2025, unless reviewed and saved from repeal  
72 through reenactment by the Legislature.

73 Section 2. The Legislature finds that it is a public  
74 necessity that any personal identifying information of an

75 applicant for president of a state university or Florida College  
 76 System institution be made confidential and exempt from s.  
 77 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State  
 78 Constitution. The Legislature also finds that it is a public  
 79 necessity that any portion of a meeting held for the purpose of  
 80 identifying or vetting applicants for president of a state  
 81 university or Florida College System institution, including any  
 82 portion of a meeting that would disclose personal identifying  
 83 information of such applicants, be made exempt from s. 286.011,  
 84 Florida Statutes, and s. 24(b), Art. I of the State  
 85 Constitution, and that the recording of such meeting be made  
 86 exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I  
 87 of the State Constitution. The task of filling the position of  
 88 president of a state university or Florida College System  
 89 institution is often conducted by an executive search committee.  
 90 Many, if not most, applicants for such a position are currently  
 91 employed at another job at the time they apply and could  
 92 jeopardize their current positions if it were to become known  
 93 that they were seeking employment elsewhere. These exemptions  
 94 from public records and public meeting requirements are needed  
 95 to ensure that such a search committee can avail itself of the  
 96 most experienced and desirable pool of qualified applicants from  
 97 which to fill the position of president of a state university or  
 98 Florida College System institution. If potential applicants fear  
 99 the possibility of losing their current jobs as a consequence of

100 | attempting to progress along their chosen career path or simply  
101 | seeking different and more rewarding employment, failure to have  
102 | these safeguards in place could have a chilling effect on the  
103 | number and quality of applicants available to fill the position  
104 | of president of a state university or Florida College System  
105 | institution.

106 |       Section 3. This act shall take effect upon becoming a law.