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DATE: May 10, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-294, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 559

RELATING TO: Pinellas County School Board

SPONSOR(S): Representative Peterman & others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) RULES, ETHICS, & ELECTIONS (PRC) YEAS 14 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that the Pinellas County School District, as a seven-member school district, consists of four members elected from single-member districts and three members elected from the county at-large. School board members continue to be elected on a nonpartisan basis. Elections are held in conjunction with the first primary and general elections.

The act shall take effect upon its approval by referendum.

Pursuant to House Rule 5.6(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 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

CONSTITUTIONAL PROVISION/SCHOOL DISTRICTS

Article IX, Section 4 subsection (a), State Constitution, provides that:

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

STATUTORY PROVISIONS/SCHOOL DISTRICTS

Several statutory provisions govern the election of district school board members from member residence areas. These provisions are summarized below.

Section 230.10, Florida Statutes, provides:

Notwithstanding any provision of local law or any charter county, the election of members of the school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as provided in chapter 105. Each candidate for school board member shall, at the time he or she qualifies, be a resident of the school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot of the general election shall be listed according to the school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each school board member residence area. The candidate from each school board member residence area who receives the highest number of votes in the general election shall be elected to the school board.

Section 230.061(1)(a), Florida Statutes, provides:

For those school districts, which have seven school board members, the district may be divided into five district school board member residence areas, with two school board members elected at large, or the district may be divided into seven district school board member residence areas.

In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

Section 230.105, Florida Statutes, is known as "The School District Local Option Single-Member Representation Law of 1984." This section provides an alternate procedure for the election of district school board members to provide for single-member representation. However, either the school board must pass a resolution providing for this alternative or the electors of the school district may petition to have the proposition placed on the ballot by presenting to the school board petitions signed by not less than 10 percent of the qualified electors residing within the school district. The statute provides the following:

(2) District school board members shall be elected to office in accordance with the provisions of ss. 230.061 and 230.10, or as otherwise provided by law, unless a proposition calling for single-member representation within the residence areas of the district is submitted to and approved by a majority of the qualified electors voting on such proposition in the manner provided in subsection (3).

(2) (b) If the school board is composed of seven members, at the option of the school board, such proposition shall provide that:

1. Five of the seven members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member, and two of the seven members shall be nominated and elected at large; or

2. All seven members shall reside one in each of seven residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member.

STATUTORY PROVISIONS/QUALIFYING FOR NONPARTISAN ELECTIONS

Chapter 105, Florida Statutes, provides the general statutory scheme for the nonpartisan election of candidates to the judiciary or school boards. Section 105.031(1), Florida Statutes, provides that nonpartisan candidates for a countywide office qualify with the supervisor of elections for the county. Candidates must qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the first primary election.

Section 105.031(3), Florida Statutes, provides for the payment of a qualifying fee and reads in pertinent part:

(3) Qualifying fee.--Each candidate qualifying for election to a judicial office or the office of school board member, except write-in judicial candidates, shall, during the time for qualifying, pay to the officer with whom he or she qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the alternative method. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. ...The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying.

However, section 105.035, Florida Statutes, provides an alternative method for qualifying for office that does not require the payment of a fee. Section 105.035(3), Florida Statutes provides:

(3) Each candidate for election to a judicial office or the office of school board member shall obtain the signature of a number of qualified electors equal to at least 1 percent of the total number of registered electors of the district, circuit, county, or other geographic entity represented by the office sought as shown by the compilation by the Department of State for the last preceding general election. A separate petition shall be circulated for each candidate availing himself or herself of the provisions of this section.

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11 of Article III of the Florida Constitution lists a number of subjects that may not be addressed in any special act or general bill of local application. This list includes prohibitions on local bills pertaining to 20 wide-ranging topics, including the:

- election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies.

In Kane v. Robbins, 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis. [Note: Martin County is not a charter county.]

However, in School Board of Palm Beach County v. Winchester, 565 So.2d 1350 (Fla. 1990), the Court ruled that Article III, section 11(a)1, Florida Constitution, did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

Note: Pinellas County has been a charter county since 1980. The Pinellas County School District Board has not adopted a resolution directing an election to be held to place this proposition on the ballot.

CURRENT STATUS OF ELECTION OF PINELLAS COUNTY SCHOOL MEMBERS

The Pinellas County School District Board currently operates pursuant to sections 230.10 and 230.061(1)(a), Florida Statutes, and consists of seven members elected in non-partisan elections. Five members must live in the district they represent (Districts 1-5) and two members are at-large. *All school board members are elected countywide.* Members serve 4-year terms.

C. EFFECT OF PROPOSED CHANGES:

This bill authorizes the supervisor of elections for Pinellas County to place a question on the ballot at the general election to be held on November 5, 2002. The question is whether the seven-member district school board shall consist of four members to be elected from single-member districts and three members elected from the county at-large. *Within each single-member district, members are elected by electors residing in that single-member district only. The three at-large members are elected county wide.* This changes the current process, as provided in sections 230.10 and 230.061(1), Florida Statutes, which allows all electors within the county to vote for all seats, including the single-member districts.

If approved at referendum, the transition schedule for election of the members is:

DISTRICT NUMBER	CURRENT DESIGNATION	CURRENT EXPIRATION OF TERM	PROPOSED SINGLE MEMBER OR AT-LARGE
1	Single-Member	2004	Single-Member
2	Single-Member	2006	Single-Member
3	Single-Member	2004	Single-Member
4	Single-Member	2006	Single-Member
5	Single-Member	2006	At-Large
6	At-Large	2006	At-Large
7	At-Large	2004	At-Large

School Board members continue to be elected on a nonpartisan basis. Elections are held in conjunction with the first primary and general election.

Pursuant to House Rule 5.6(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 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides for the supervisor of elections of Pinellas County to place a question on the ballot at the general election on November 5, 2002. The question is whether the District School Board shall consist of seven nonpartisan members, four of whom are to be elected from a single-member district by the electors residing in the residence area and three members to be elected from the county at-large.

Section 2: Provides for the following:

- If electors approve of section 1 of this act, the first election to implement the transition to single-member representation is held in conjunction with the first primary election in the year 2004. Any runoff election is held during the general election of that year. The full implementation occurs with the 2006 election.
- In the year 2004, school board members from Districts 1, 3, and 7 shall be elected. Note: Districts 1 and 3 remain single-member district members. District 7 remains an at-large member.
- In the year 2006, school board members from Districts 2, 4, 5, and 6 shall be elected. Note: Districts 2 and 4 remain single-member district members. District 5 moves from single member to an at-large member and District 6 remains an at-large member.
- All elections for district school board members are nonpartisan and held at the same time as the first primary and general elections as provided by law.
- All school board members are elected to appropriately staggered terms of 4 years.
- Each candidate for election must be a qualified elector of the county.
- Each candidate for election to a single-member district must be a registered voter of that district at the time of qualifying.

- Each person elected to a single-member district is elected only by the electors residing in the single-member district for which he/she is qualified.
- Each person elected to the school board takes office 2 weeks after the general election at which he or she was elected.
- Seats 1, 2, 3, and 4 are filled from single-member districts.
- Seats 5, 6 and 7 are filled from the county at-large.
- Single member districts shall be reapportioned by the school board, in consultation with the supervisor of elections, as soon after each decennial census as practicable.
- Candidates for election to the district school board shall meet the same qualifications for nonpartisan office as provided in chapter 105, Florida Statutes.
- The qualifying fee for candidates for school board member is calculated using the percentages set forth in section 105.031(3), Florida Statutes.
- Candidates may qualify without paying the qualifying fee using the procedures set forth in section 105.035, Florida Statutes, for the nonpartisan office of county court judge.
- Candidates qualifying by the alternative method for a single-member seat must obtain the signatures of a number of qualified voters equal to at least 3 percent of the total number of registered voters within the geographical boundaries of the district for which he or she intends to qualify.
- Candidates qualifying by the alternative method for an at-large seat shall obtain the signatures of a number of qualified voters equal to at least 1 percent of the total number of registered voters in Pinellas County.
- Write-in candidates shall file his or her qualifying papers during the qualifying period, and space shall be made available on the general election ballot to write in the name of the write-in candidate who has qualified.
- The appearance of the name of a school board candidate shall be in accordance with the provisions applicable to candidates for the nonpartisan office of county court judge.

Section 3: Provides that the school board shall conduct its elections through the office of the supervisor of elections of Hillsborough County and consistent with the Florida Election Code and this act.

Section 4: Provides for the title and substance of the referendum to appear on the ballot.

Section 5: Provides that this act shall take effect upon its approval by referendum to be held November 5, 2002. This section and section 1 take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 2, 2001

WHERE?

Tampa Bay Review; Clearwater, Pinellas County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

November 5, 2002

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Laura Jacobs

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON RULES, ETHICS, & ELECTIONS:

Prepared by:

Staff Director:

R. Michael Paredes

R. Philip Twogood, PhD.

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Laura Jacobs

Joan Highsmith-Smith