

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1453 North Sumter County Hospital District
SPONSOR(S): H. Gibson
TIED BILLS: IDEN./SIM. BILLS: SB 2864

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Local Affairs (Sub), 7 Y, 0 N, Mitchell, Cutchins.

SUMMARY ANALYSIS

This bill creates the North Sumter County Hospital District (District) in Sumter County as an independent special district. The District includes 12,834 tax parcels.

The bill provides the minimum requirements which must be addressed in the charter pursuant to chapter 189, Florida Statutes.

The bill also provides additional charter provisions: a bond requirement for each member of the board of trustees; a quorum requirement to conduct business; limits on public records access; provisions for an annual meeting; provisions for special meetings; eminent domain power; general powers; distribution of the tax proceeds to nonprofit organizations; an annual report requirement; levy and collection of any authorized ad valorem taxes; authorization for expenses; limits on comprehensive planning; liberal construction of the charter; and severability of the charter provisions.

Certain provisions in this bill may provide an exemption from general law1 and require passage by three-fifths vote of the membership of each house.

Summary of the District:

- The purpose of the District is to ensure continued hospital services for its residents.
The District will be governed by a board of trustees appointed by the Governor for a term of six years.
The District will have general powers and the power of eminent domain.
If approved in a referendum by majority vote, the District may levy an ad valorem tax of up to one mill, which will provide approximately \$1,467,461 in revenue for the District at a rate of one mill.
All future tax proceeds of the District are paid to the Villages Tri-County Medical, Inc. and Villages Regional Hospital Foundation, Inc. who must file an annual financial report.

1 Since this bill appears to create an exemption from general law, it may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills pursuant to House Rule 5.5(b).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

The bill does not reduce government because it creates an independent special district which has the authority, upon approval by referendum of the voters, to levy an ad valorem tax up to 1 mill.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the North Sumter County Hospital District (District) in Sumter County as an independent special district.

A special district is a local unit of *special purpose government* whose special purpose or purposes are implemented by specialized functions and related prescribed powers within a limited boundary.² An independent special district is one which does not have any of the following:

- the membership of its governing body as identical to that of the governing body of a single county or a single municipality;
- all members of its governing body appointed by the governing body of a single county or a single municipality;
- members of the governing body of the special district subject to removal at will by the governing body of a single county or a single municipality during their unexpired terms; or
- a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.³

An independent special district must comply with the creation, dissolution, and reporting requirements set forth in chapter 189, Florida Statutes.⁴ An independent special district, except for a community development district, is also required to have a charter that meets certain minimum requirements.⁵

Minimum Charter Requirements

By creating an independent special district, certain minimum requirements must be addressed in the charter set forth in the bill pursuant to chapter 189, Florida Statutes. The bill provides these minimum requirements:

² See Fla. Stat. § 189.403(1) (2003) (also exempting from the definition of special district: school districts, community college districts, a special improvement districts, municipal service taxing or benefit units, or boards which provide electrical service and which is a political subdivision of a municipality or is part of a municipality).

³ See Fla. Stat. § 189.403(3) (2003).

⁴ See Fla. Stat. § 189.4031(1) (2003).

⁵ See Fla. Stat. §§ 189.4031(2) and 189.404(3) (2003).

Purpose of the District

The purpose of the District is “to ensure continued hospital services for the residents” of the District.⁶

Powers Duties and Functions of the District

The charter of the District must set forth the powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.⁷

Ad Valorem Taxation - the District may levy an ad valorem tax of up to 1 mill on the value of all nonexempt property within the District provided such authority has been approved in a referendum by a majority vote of the electors residing in the District.⁸

Bond Issuance - the District does not have authority to issue bonds.

Other Revenue-Raising Capabilities - the District is not provided other revenue raising capabilities.

Budget Preparation and Approval - the Board of Trustees of the District is required to prepare an annual balanced budget in accordance with generally accepted accounting practices and in the manner prescribed by section 189.418, Florida Statutes.⁹

Liens and Foreclosure of Liens - liens and foreclosures of liens resulting from failure to pay ad valorem taxation shall be treated as liens and foreclosures resulting from other ad valorem taxes.¹⁰

Use of Tax Deeds and Tax Certificates As Appropriate - the bill makes no provision for the use of tax deeds and tax certificates.

Contractual Agreements - the District has the power to “contract and be contracted with.”¹¹

Methods for Establishing the District

The bill establishes the District.¹²

Method for Amending the Charter

The charter of the District may only be amended through action of the Legislature.¹³

Membership and Organization of the Governing Board

The bill sets forth the membership and organization of the governing board:¹⁴

⁶ HB 1453, § 2 (2004).

⁷ See Fla. Stat. § 189.404(3) (2003).

⁸ HB 1453, § 4(3) (2004).

⁹ HB 1453, § 4(9) (2004).

¹⁰ HB 1453, § 4(10) (2004).

¹¹ HB 1453, § 4(2) (2004).

¹² HB 1453, § 1(2) (2004).

¹³ HB 1453, § 5 (2004).

¹⁴ HB 1453, § 3 (2004).

- The District is governed by a board of trustees composed of five persons appointed by the Governor.
- The term of office of each trustee shall be five years and a trustee may serve more than one term.
- Members or the board of trustees may be removed by the Governor at any time for cause.
- Vacant trustee seats are filled through appointment by the Governor.

Maximum Compensation of a Governing Board Member

Paragraph (b) of section 3 provides that members of the board of trustees shall serve without pay.

Administrative Duties of the Governing Board

The board of trustees may select a chair, vice chair, secretary, and treasurer from among its membership.¹⁵

Applicable Financial Disclosure, Noticing, and Reporting Requirements

The charter contains several provisions related to the applicable financial disclosure, noticing, and reporting requirements:

- The board of trustees is required to cause true and accurate minutes and records to be kept of all business transacted by the board and to keep full, true, and complete books of account and minutes.¹⁶
- The Villages Tri-County Medical Center, Inc. and the Villages Regional Hospital Foundation, Inc. must file annual audited financial statements with the District.¹⁷
- At least once every year, the board of trustees must make and file with the Clerk of the Circuit Court of Sumter County, a complete financial statement of all moneys received and distributed by the board since the last statement so filed.¹⁸
- The complete financial statement filed with the Clerk of the Circuit Court has to show the several sources from which the funds were received and show the balance on hand at the time of making the statement. The statement is also has to how the complete statement of the financial condition of the district.¹⁹
- Notice of the complete financial statement must be filed with the Clerk of the Circuit Court of Sumter County and must be published in a newspaper regularly published in Sumter County. The statement must also be made available at all reasonable times to all residents of the District for their inspection.²⁰

Authority, Procedures, and Requirements for Issuing Bonds

There is not authority to issue bonds, therefore no procedures and requirements are set forth.

¹⁵ HB 1453, § 3(1)(c) (2004).

¹⁶ *Id.*

¹⁷ HB 1453, § 4(5) (2004).

¹⁸ HB 1453, § 4(8) (2004).

¹⁹ *Id.*

²⁰ *Id.*

Procedures for Conducting Elections or Refrenda

The bill sets forth the following procedures for conducting elections and referenda:

- “Election of officers” of the board of trustees is part of the agenda for the annual meeting held during the month of January of each year.²¹
- The District does not have the authority to levy an ad valorem tax unless this authority has been approved in a referendum by a majority vote of the electors residing in the District voting on the question.²²
- The referendum on the ad valorem authority must occur no later than December 31, 2006 and pursuant to a resolution adopted by the board of trustees and the applicable Florida Statutes.²³

Qualifications of an Elector of the District

There are no qualifications for electors of the District except to reside in the District in order to vote in the referendum approving the authority of the District to levy an ad valorem tax.

As the board of trustees is appointed by the Governor, there are no qualifications for electing the board of trustees.

Methods for Financing the District

The only method for financing the District is the authority, subject to referendum approval, to levy an ad valorem tax.²⁴

Millage Rate Authorized for Ad Valorem Taxes

The district may levy an ad valorem tax of up to 1 mill on the dollar of the value of all nonexempt property within the District, subject to referendum approval.

Methods for Collecting Non-Ad Valorem Assessments, Fees, or Service Charges

There are no non-ad valorem assessments, fees, or service charges permitted by the bill.

Planning Requirements

Except as otherwise required by general law, comprehensive planning is not required by the charter of the District.²⁵ There are no other planning requirements in the bill.

Geographic Boundary Limitations

The territorial boundaries of the District are set forth in the bill.²⁶

²¹ HB 1453, § 4(2)(2004).

²² HB 1453, § 4(3) (2004).

²³ *Id.*

²⁴ *Id.*

²⁵ HB 1453, § 7 (2004).

²⁶ HB 1453, § 1(2) (2004).

Additional Provisions of the Charter

The charters of independent special districts may have additional provisions to the minimum requirements. The charter for the District includes such additional provisions.

Bond Requirement

Each member of the board of trustees is required to give the Board of County Commissioners of Sumter County a bond for the use and benefit of the District for the faithful performance of his or her duties. The amount of the bond is set at \$1,000 with a surety company qualified to business in the state as a surety. The bond must be approved and accepted by the Clerk of the Circuit Court of Sumter County. The premiums on the bond will be paid by the District as part of the expenses of the District.

Quorum Requirements

Three of the trustees shall constitute a quorum and a vote of a majority of the trustees in attendance at a meeting is necessary for the transaction of any business of the District.²⁷

Public Records

The board of trustees is required to "cause true and accurate minutes and records to be kept of all business transacted by the board" and to keep full, true, and complete books of account and minutes.²⁸

The bill provides that the minutes and books will be open and subject to the inspection only to the *inhabitants of the district* at all reasonable times during normal business hours.²⁹ Yet the bill also provides that any person desiring to do so may obtain a copy of the minutes and books of accounts or such portions thereof as he or she may desire upon payment of the costs of reproduction.³⁰

Annual Meeting

The bill provides for an annual meeting of the district to be held during the month of January of each year at such time and place within the district as is determined by the board of trustees.³¹

The bill requires the notice of the date, time, and place of the annual meeting to be published in a daily newspaper of general circulation, in a section other than the legal advertisement or classified advertisement section, in the North Sumter County Hospital District once per week for 2 consecutive weeks.³² The date of the first publication of such notice must be at least 15, and not more than 30, days before the annual meeting.³³

The bill also sets forth the minimum requirements for the agenda at the annual meeting: (a) call to order; (b) presentation and approval of minutes of the last annual meeting and of any special meeting held since that meeting; (c) financial report; (d) presentation of the annual report of the board of trustees; transaction of any business that may properly be brought before the board; (f) election of officers of the board of trustees.

²⁷ HB 1453, § 3(1)(c) (2004). The nature of the quorum requirement and the required vote for the transaction of business could allow decisions of the District to be made with as few as two members of the board of trustees.

²⁸ HB 1453 § 3(1)(c) (2004).

²⁹ *Id.*

³⁰ *Id.*

³¹ HB 1453, § 3(2) (2004).

³² *Id.*

³³ *Id.*

Special Meetings

The bill permits special meetings of the board of trustees to be called at any time by the chair or upon the written request of four members of the board of trustees.³⁴

The bill provides for notice of such special meetings of the board of trustees by publication in a newspaper of general daily circulation in the North Sumter County Hospital District at least 7 days before such meeting, stating the date and place and general matters of the business to be considered.³⁵

Eminent Domain

The bill authorizes the District, through its board of trustees, to exercise the power of eminent domain.

General Powers

In addition to the general power to “contract and be contracted with,” the board of trustees “has all the powers of a body corporate.” The following powers are specifically delineated:

- the power to sue and be sued under the name of the North Sumter County Hospital District;
- to adopt and use a common seal; and
- to acquire, purchase, hold, lease, and convey such real and personal property as the board of trustees deems proper or expedient to carry out the purposes of this act.³⁶

Tax Proceeds to Nonprofit Organizations for Health Care Purposes

The bill provides that all future tax proceeds generated from within the District, less one-half of the amount reserved annually by the board of trustees to pay for the maintenance and services for the board, shall be paid to the Villages Tri-County Medical Center, Inc., and the Villages Regional Hospital Foundation, Inc.³⁷

The bill permits “such proportional distribution as the board, in its sole discretion, deems appropriate” but also provides that “the Villages Tri-County Medical Center, Inc., shall receive not less than 80 percent of such funds so distributed.”³⁸

The bill requires a written request by the Villages Tri-County Medical Center, Inc., and the Villages Regional Hospital Foundation, Inc., respectively, that the funds are needed for healthcare purposes.³⁹

Annual Financial Report

The bill requires the Villages Tri-County Medical Center, Inc., and the Villages Regional Hospital Foundation, Inc., to file annual audited financial statements with the District.⁴⁰

³⁴ HB 1453, § 3(3) (2004).

³⁵ HB 1453, § 3(2) (2004).

³⁶ HB 1453, § 4(2) (2004).

³⁷ HB 1453, § 4(4) (2004).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ HB 1453, § 4(5) (2004).

Collection of Taxes

The bill provides that it is the “duty of the Property Appraiser of Sumter County to assess, and the Tax Collector of Sumter County to collect,” the up to 1 mill tax levied by the District upon the taxable property in the district.⁴¹

The bill mandates that the tax collector will collect the tax as levied by the board of trustees in the same manner as other taxes are collected and shall pay the same over to the board of trustees within the time and in the manner prescribed by law for the payment of taxes to the county depository.⁴²

The bill provides that it is the duty of the Department of Revenue to assess all such property in accordance with section 193.085, Florida Statutes.⁴³

The amount of each county or state tax and the taxes for the district shall be assessed by the officer respectively as are county taxes upon such property, and such tax shall be remitted by the collecting officer to the District. All such taxes shall be held by the Board of Trustees of the North Sumter County Hospital District and paid out by said board for purposes of the bill.⁴⁴

Expenses

The bill permits the board of trustees to pay from the funds of the district all expenses of the organization of the board of trustees and all expenses necessarily incurred in the development of the district.⁴⁵

The bill also allows the board of trustees to pay all other reasonable and necessary expenses, including the fees and expenses of a certified public accountant and an attorney as needed in the transaction of the business of the district in carrying out and accomplishing the purposes of this act.⁴⁶

The bill requires the board to include in its annual budget a reserve in an amount deemed necessary by the board for its yearly expenses.⁴⁷

Comprehensive Planning

The bill provides that comprehensive planning is not required except as may be otherwise required by general law.⁴⁸

Construction and Severability

The bill sets forth the intent that its provisions be construed liberally for accomplishing the purposes of the act.⁴⁹

The bill provides that if any provision or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and declares the provisions severable.⁵⁰

⁴¹ HB 1453, § 4(6) (2004).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ HB 1453, § 4(7) (2004).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ HB 1453, § 7 (2004).

⁴⁹ HB 1453, § 6 (2004).

Constitutional Limitations on Special Districts

There are additional statutory limits on special districts which prohibit certain types of special laws related to independent special districts. As these statutory limits were passed pursuant to section 11(a)(21) of Article III of the Florida Constitution, any special law which conflicts with these provisions must be passed by a 3/5 vote of the membership of each house.

This bill does not appear to enact four of the five types of special laws:

- it does not create an independent special district that does not conform to the minimum requirements for the charter of an independent special district;
- it does not exempt the independent special district elections from the appropriate requirements in section 189.405, Florida Statutes;⁵¹
- it does not exempt the independent special district from the requirements for bond referenda in section 189.408, Florida Statutes;⁵² and
- it has submitted a statement⁵³ has been submitted to the Legislature documenting: (1) the purpose of the proposed district; (2) the authority of the proposed district; (3) an explanation of why the district is the best alternative; and (4) resolution⁵⁴ or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Yet, it is also a prohibited special law for an independent special district to exempt itself from the reporting, notice, or public meetings requirements of sections 189.4085, 189.415, 189.417, or 189.418, Florida Statutes. This bill appears to exempt the District from the requirements of section 189.417, Florida Statutes, by specifying the notice required for the annual meeting⁵⁵ and special meetings⁵⁶ of the board.

C. SECTION DIRECTORY:

Section 1: Establishes the boundaries of the District.

Section 2: Sets forth the purpose of the District.

Section 3: Provides for the membership and organization of the governing board of the district.

Section 4: Sets forth the powers, functions, and duties of the charter including: eminent domain; general powers; ad valorem taxation; tax proceed distribution; annual financial report; collection of taxes; expenses; financial disclosure; notice and reporting requirements; preparation of budget; and liens and foreclosure.

Section 5: Provides that the charter may only be amended by action of the Legislature.

⁵⁰ HB 1453, § 8 (2004).

⁵¹ These provisions are not applicable to the District as the board of trustees is appointed by the Governor.

⁵² The District does not have the authority to issue bonds.

⁵³ See Memorandum from Representative Hugh Gibson to Representative Ken Sorensen, Chair of the H.R. Comm. on Local Gov't & Veterans' Affairs (Mar. 11, 2004) (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

⁵⁴ See Resolution of the Board of County Commissioners of Sumter County

⁵⁵ HB 1453, § 3(2) (2004).

⁵⁶ HB 1453, § 3(3) (2004).

- Section 6: Permits the provisions of the bill to be liberally construed for accomplishing its purposes.
- Section 7: Provides that comprehensive planning is not required by the bill, except as otherwise required by general law.
- Section 8: Provides for severability of the bill in that if any provision or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications.
- Section 9: This act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

- A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in The Village Daily Sun on January 21, 2004.

- B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

The District may not ad valorem tax unless such authority has been approved in a referendum by a majority vote of the electors residing within the district voting on the question. Such referendum shall be held not later than December 31, 2006, and conducted upon a resolution adopted by the board of trustees and in accordance with applicable Florida Statutes.

- C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

The Local Bill Certification indicates that the public hearing was held in Tallahassee on January 21, 2004. Policy of the House of Representatives requires the local legislative delegation to hold public hearings on local bills in the area affected.⁵⁷ This requirement appears to be satisfied as the Board of County Commissioners of Sumter County approved a resolution relating to the District on December 16, 2003.

- D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The Economic Impact Statement estimates \$1,467,461 in revenue for fiscal year 2004-2005 if the voters in the District authorize the full 1-mill levy authorized for the District. The Economic Impact Statement estimates that this amount, if the levy is approved, will increase to \$1,579,961 for fiscal year 2005-2006.

The Economic Impact Statement indicates that there are currently 12,834 tax parcels in the District, each of which would be subject to the levy of the District with an average of \$114.34 per parcel per year.

III. COMMENTS

- A. CONSTITUTIONAL ISSUES:

Constitutional Limitations on Special Acts Related to Independent Special Districts

⁵⁷ See Florida House of Representatives, Committee on Local Government & Veterans' Affairs, *Local Bill Policies and Procedures Manual 2003* (2003) at 16. See also 2004 Local Bill Certification Form.

There are five types of special laws related to independent special districts which are prohibited.⁵⁸

This bill may enact one of the five types of types of special laws which are prohibited related to special districts. A special law is prohibited if it exempts an independent special district from the reporting, notice, or public meetings requirements of sections 189.4085, 189.415, 189.417, or 189.418, Florida Statutes. This bill appears to exempt the District from the requirements of section 189.417, Florida Statutes, by specifying the notice required for the annual meeting⁵⁹ and special meetings⁶⁰ of the board.

Public Records Limitations

This bill appears to limit access to public records to the inhabitants or residents of the District:

- minutes and books shall be open and subject to the inspection of the inhabitants of the District at all reasonable times during normal business hours.⁶¹
- the statement shall be made available at all reasonable times to all residents of the District for their inspection.⁶²

These limitations may violate the provisions of section 24 of article I of the Florida Constitution which provides the right to inspect or copy any public record to *every person*.⁶³ While the Legislature may provide exemptions from the public records requirement, such an exemption must be by *general law* passed by a two-thirds vote of each house and state with specificity the public necessity justifying the exemption.⁶⁴

Prohibited Special Act – Grant of Privilege

This tax proceed distribution provided for by the charter may make this a prohibited special law pursuant to article III, section 11(a)(12) of the Florida Constitution as the direct payment⁶⁵ may “grant a privilege to a private corporation.”

B. RULE-MAKING AUTHORITY:

The bill does not appear to provide any rulemaking authority to the District.

⁵⁸ Fla. Const. Art. III, § 11(a)(21) (provides that there shall be no special laws pertaining to any subject when prohibited by general law passed by 3/5 vote of the membership of each house). As Section 189.404, Florida Statutes, is a general law which was passed by three-fifths vote of the membership of each house, it makes any special law prohibited unless it is also passed by three-fifths vote of the membership of each house.

⁵⁹ HB 1453, § 3(2) (2004).

⁶⁰ HB 1453, § 3(3) (2004).

⁶¹ HB 1453, § 3(1)(c) (2004). While this section also provides that “any person desiring to do so may obtain a copy of the minutes and books of accounts or such portions thereof as he or she may desire upon payment of the costs of reproduction,” it is not clear how this would be read with the preceding restriction.

⁶² HB 1453, § 4(8) (2004).

⁶³ This section provides that “every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.”

⁶⁴ See Fla. Const. Art. 1, § 24(c)

⁶⁵ The tax proceed distribution provisions essentially make the independent special district a pass-through funding mechanism for these entities. While this serves the purpose of the District in ensuring continued hospital services for its residents, the manner in which the funding is provided may violate this constitutional prohibition. Proponents have argued this distribution scheme is permissible because it is almost identical to that being used by the North Lake County Hospital District. This fact does not, however, settle the issue. Not only does it ignore t Moreover, it overlooks important aspects related to the North Lake County Hospital District: it has an elected board of trustees The District could accomplish these objectives by using its power to contract with these hospitals and pay for services as part of that contract. The special law, however, grants these entities direct payment of a portion of the tax proceeds of the District.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues – Staggered Terms

The bill does not currently provide staggered terms for the members initially appointed to the board of trustees. As such, all six seats of the board will need to be appointed at the same time. This could potentially impact continuity, and therefore the operation, of the board. The sponsor may wish to provide for two of the five initial members to serve three year terms.

Drafting Issues – Constitutional Issues

The sponsor of the bill may wish to amend the bill to remove the potential constitutional issues.

Drafting Issues – “Election of Officers”

Using the phrase “election of officers of the board of trustees” as part of the agenda for the annual meeting⁶⁶ may be problematic. While the phrase seems to reference the selection of a chair, vice chair, secretary, and treasurer from among the membership of the board⁶⁷, these positions are not designated as “officers” and the use of this term might be read to mean the membership of the board itself is to be elected which conflicts with the language requiring the board of trustees to be appointed by the Governor⁶⁸.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On March 23, 2004, the Subcommittee on Local Affairs recommended the bill favorably with four amendments:

Amendment 1, by Representative Gibson, at lines 114-115, and amendment 2, by Representative Gibson, at line 238 removed provisions which may have enacted one of the five types of types of special laws which are prohibited related to special districts. A special law is prohibited if it exempts an independent special district from the reporting, notice, or public meetings requirements of sections 189.4085, 189.415, 189.417, or 189.418, Florida Statutes. This bill appeared to exempt the District from the requirements of section 189.417, Florida Statutes, by specifying the notice required for the annual meeting and special meetings of the board.

Amendment 3, by Representative Gibson, at lines 123-129 and amendment 4, by Representative Gibson, at lines 145-149, removed provisions which appeared to limit access to public records to the inhabitants or residents of the District:

- minutes and books shall be open and subject to the inspection of the inhabitants of the District at all reasonable times during normal business hours.
- the statement shall be made available at all reasonable times to all residents of the District for their inspection.

These limitations may have violated the provisions of section 24 of article I of the Florida Constitution which provides the right to inspect or copy any public record to every person. While the Legislature may provide exemptions from the public records requirement, such an exemption must be by general law passed by a two-thirds vote of each house and state with specificity the public necessity justifying the exemption.

⁶⁶ Fla. HB 1453, § 4(2)(2004).

⁶⁷ Fla. HB 1453, § 4(1)(c) (2004).

⁶⁸ Fla. HB 1453, § 4(1)(a) (2004).