

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1465 Hardee County Economic Development Authority, Hardee County

SPONSOR(S): Bell

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N	Rivera	Miller
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N	Cobb	Davis
3) State Affairs Committee			

SUMMARY ANALYSIS

The state levies an excise tax on the severance of phosphate rock from Florida soil, a portion of which is distributed to the counties from which the phosphate is severed to be used for phosphate-related expenses. Counties designated as a rural area of opportunity receive a portion without the limitation to use it for phosphate-related expenses. Payment is made to the county or a legislatively-created local authority to promote and direct the economic development of the county.

The Hardee County Economic Development Authority (Authority) is an independent special district created in 2004 to solicit, rank, and fund projects that provide economic development opportunities or infrastructure and maximize the use of federal, local, and private resources within Hardee County. The Authority can appropriate the phosphate tax revenue received from the state but has no taxing authority. The Authority also has the power to approve time and cost sheets for the county employees it uses for Authority business, but cannot approve an annual operating budget.

The bill authorizes the Authority to approve an annual operating budget including the ability to directly appropriate funds for the Authority outside of the grant program operated by the Authority.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Independent and Dependent 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.¹ A special district may be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.³ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁴

A "dependent special district" is a special district in which 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.⁵ The county or municipality upon which the district will be dependent must adopt its charter by local ordinance.⁶ The Legislature may create a dependent special district by special act at the request or with the consent of the local government upon which the special district will be dependent.⁷

An "independent special district" is any district that is not a dependent special district or one that includes more than one county unless the district lies wholly within a single municipality.⁸ Independent special districts are created by the Legislature unless otherwise authorized by general law.⁹ The charter of a newly created district must meet minimum statutory requirements, which includes a statement that it is an independent special district.¹⁰

The governing body of each special district must annually adopt a budget by resolution. At a minimum, the adopted budget must show the level of detail required for the annual financial report required under s. 218.32(1), F.S. The adopted budget must regulate expenditures of the special district, and an officer of a special district may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.¹¹ The proposed budget of a dependent special district must be contained within

¹ Section 189.012(6), F.S. The Legislature adopted ch. 189, F.S., in 1989, to provide uniform statutes for the definition, creation, and operation of special districts. See s. 189.011(1), F.S.

² Section 189.012(6), F.S.

³ See ss. 189.02(4)-(5) and 189.031(3), F.S. Counties and municipalities have "home rule" powers allowing them to enact ordinances not inconsistent with general or special law for governmental, corporate, or proprietary purposes. Special districts do not possess home rule powers and are permitted to impose only those taxes, assessments, or fees authorized by special or general law. See art. VIII, ss. 1(f) and (g), 2(b), s. 6(e), Fla. Const. and ss. 166.021 and 125.01, F.S. See also 2018 – 2020 Local Gov't Formation Manual, p. 64, at [https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2020&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual.pdf](https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2020&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual.pdf) (last visited January 23, 2020)(hereinafter Local Government Manual).

⁴ Local Government Manual, p. 64.

⁵ Section 189.012(2), F.S.

⁶ Sections 189.011(1) and 189.02(1), F.S. A county can create dependent special districts within the boundary lines of the county, subject to the approval of the governing body of the incorporated area affected. Section 189.02(2), F.S.

⁷ Section 189.02(5), F.S. Despite the statutory limitations, the Legislature is permitted under the state Constitution to create a dependent special district without the authorization of the local governing body upon which the district will depend. See art. VIII, s. 6(b), Fla. Const.

⁸ Section 189.012(3), F.S.

⁹ Section 189.031(4), F.S.

¹⁰ Section 189.031(2), (3), and (5), F.S.

¹¹ S. 189.016(3), F.S.

the general budget of the local governing authority to which it is dependent and be clearly stated as the budget of the dependent district.

The governing body of each special district may amend its budget at any time within a fiscal year or within 60 days following the end of the fiscal year as permitted by statute.¹² An amended budget must be posted on the district's official website within 5 days after adoption and must remain on the website for at least 2 years.¹³

A local general-purpose government may review the budget or tax levy of any special district located solely within its boundaries.¹⁴

All special districts must comply with the statutory financial reporting requirements for local government entities.¹⁵ A special district must comply with a local general-purpose government's request for the district's financial information if the district is located solely within its boundaries and the request is to satisfy the local general-purpose government's statutory reporting requirements.¹⁶

Rural Economic Development Initiative

The Legislature created the Rural Economic Development Initiative (REDI) to encourage and facilitate the location and expansion of major economic development projects in rural communities and regions.¹⁷ A "rural area of opportunity" is a rural community,¹⁸ or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.¹⁹ The Governor may designate up to three rural areas of opportunity as priority assignment areas for REDI by executive order, allowing the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development incentive.²⁰

Phosphate Rock Severance Tax

The state levies an excise tax on those severing phosphate rock from Florida soils or waters for commercial use, which tax is collected, administered, and enforced by the Department of Revenue

¹² S. 189.016(6), F.S.

¹³ S. 189.016(7), F.S.

¹⁴ S. 189.016(8), F.S.

¹⁵ See ss. 218.32 and 218.39, F.S.

¹⁶ S. 189.016(9), F.S.

¹⁷ Section 288.0656(1)(a)-(b), F.S. REDI is within the Department of Economic Opportunity and state and regional agencies are authorized to participate. REDI is responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities to find ways to balance environmental and growth management issues with local needs. Section 288.0656(3), F.S.

¹⁸ Section 288.0656(2)(e), F.S. A "rural community" is:

1. A county, or a municipality within a county, with a population of 75,000 or fewer;
2. A county, or a municipality within a county, with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; or
3. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified and verified by the department. "Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities. Section 288.0656(2)(c), F.S.

¹⁹ Section 288.0656(2)(d), F.S.

²⁰ Section 288.0656(7)(a), F.S. REDI may recommend up to three rural areas of opportunity to the Governor. Designation as a rural area of opportunity under this subsection shall be contingent upon the execution of a memorandum of agreement among the department; the governing body of the county; and the governing bodies of any municipalities to be included within a rural area of opportunity. Section 288.0656(7)(b), F.S.

(DOR).²¹ Each county designated as a rural area of opportunity receive payments from the revenues generated by the tax equal to 8.9 of the county's proportionate share of statewide phosphate mining.²² These payments are made to the local authority designated to promote and direct the economic development of the county, if the Legislature has established one, or alternatively to the county directly.²³

Hardee County Economic Development Authority

Hardee County has been designated a rural area of opportunity.²⁴ The Hardee Economic Development Authority (Authority) is an independent special district created by special act in 2004 to solicit, rank, and fund projects that provide economic development opportunities or infrastructure and maximize the use of federal, local, and private resources within Hardee County.²⁵

The Authority must adopt administrative rules and hold public meetings pursuant to general law, establish procedures for soliciting and awarding grants, direct the county clerk to expend funds upon proper authorization, and create a standardized application form for the award of grants by the Authority. The Authority's discretionary power includes the power to appropriate funds paid to the clerk by the state's chief financial officer in distributing the county's portion of the state's excise tax on the severance of phosphate rock, conduct business and receive funds on behalf of the Authority, approve or amend time and cost sheets submitted by county employees appointed to work for the Authority, and any other acts reasonable and necessary to implement and enforce the charter and rules adopted in accordance with the charter.

The Authority may appropriate funds paid to the clerk by the state's chief financial officer in distributing the county's portion of the state's excise tax on the severance of phosphate rock, but cannot levy taxes or impose fees within the county.²⁶ The Authority does not have the authority to create an annual budget for its operating expenses.

The Authority has a governing body composed of nine members serving staggered terms.²⁷ The Hardee County Board of County Commissioners (BOCC) serves as five members. The remaining four appointed members are the President of the Heartland Workforce Investment Board, Inc., in Hardee County, and three members appointed by the governing bodies of the three municipalities within the county (the City of Bowling Green, City of Wauchula, and Town of Zolfo Springs).²⁸

Appointed members serve four-year terms and the commissioner members serve terms that run concurrent with their commission terms.²⁹ Members are not compensated and may serve successive terms.³⁰ The chair of the BOCC serves as interim chair to call the first meeting of the Authority and the Authority may elect any sitting member to serve as chair.³¹ Each member is entitled to one vote and a majority of the members constitutes a quorum.³²

Effect of Proposed Changes

²¹ Section 211.3103(1), F.S. The tax is in addition to any ad valorem taxes levied upon the separately assessed mineral interest in land the rock was located, or any other tax, permit, or license fee imposed by the state or counties. Section 211.3103(4), F.S.

²² Section 211.3103(6)(b), F.S. After December 31, 2022, the percentage will increase to 10 percent. Section 211.3103(6)(a), F.S.

²³ Section 211.3103(6)(a)4., F.S.

²⁴ Fla. Exec. Order No. 16-150 (June 27, 2016), at https://www.flgov.com/wp-content/uploads/orders/2016/EO_16-150.pdf (last visited January 23, 2020).

²⁵ Ch. 2004-394, Laws of Fla., as amended by chs. 2006-349 and 2010-271, Laws of Fla., and ss. 211.3103(6)(a)4. and (5), F.S.

²⁶ See Ch. 2004-394, s. 4(1), Laws of Fla.

²⁷ Ch. 2004-394, s. 3(1), Laws of Fla., as amended by ch. 2018-185, Laws of Fla.

²⁸ *Id.*

²⁹ Ch. 2004-394, s. 3(2), Laws of Fla., as amended by ch. 2018-185, Laws of Fla.

³⁰ Ch. 2004-394, s. 3(2), Laws of Fla., as amended by ch. 2006-349, Laws of Fla.

³¹ Ch. 2004-394, s. 3(3), Laws of Fla., as amended by ch. 2018-185, Laws of Fla.

³² Ch. 2004-394, s. 3(3), Laws of Fla., as amended by ch. 2006-349 and 2018-185, Laws of Fla.

The bill authorizes the Authority to approve an annual operating budget including the ability to directly appropriate funds for the Authority outside of the grant program operated by the Authority.

B. SECTION DIRECTORY:

Section 1. Amends chapter 2004-394, Laws of Florida, as amended; authorizing the Hardee County Economic Development Authority to approve an operating budget for specified purposes under certain circumstances.

Section 2. Provides the bill shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 19, 2019

WHERE? *The Herald-Advocate*, Wauchula, Hardee 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 provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES