

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1185 Indian Trail Improvement District, Palm Beach County

SPONSOR(S): Local Administration & Veterans Affairs Subcommittee; Roth

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

FINAL HOUSE FLOOR ACTION: 119 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1185 passed the House on April 21, 2021, and subsequently passed the Senate on April 29, 2021.

The Indian Trails Improvement District (District) is an independent special district in Palm Beach County that provides water control, water supply, and drainage services by the construction and maintenance of canals, ditches, levees, dikes, pumping plants, and other works and improvements. The District was created by special act in 1957 and its charter was re-codified in 2002. The District maintains 164 miles of canals and 458 miles of roads, providing service to over 40,000 residents.

The bill authorizes the District to expend funds for the purposes of:

- Determining the feasibility of converting the District into a municipality pursuant to statute;
- Creating an incorporation committee with public membership to conduct hearings seeking community input on the review of the feasibility study and development of a draft municipal charter; and
- Developing a draft municipal charter.

The bill provides transition provisions in the event the District converts into a municipality.

The bill was approved by the Governor on June 21, 2021, ch. 2021-250, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

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

An “independent special district” is characterized by having a governing board comprised of members who are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality.⁵ Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

Municipal Conversion of Independent Special Districts

The electors of an independent special district can petition the governing body of the district to commence a municipal conversion if the independent special district is:

- Created by special act of the Legislature;
- Designated as an improvement district, created pursuant to chapter 298, F.S., or is designated as a stewardship district, created pursuant to s. 189.031, F.S.;
- Governed by an elected board that agrees to the conversion;
- Provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities; and
- Contains no territory located within the jurisdictional limits of an existing municipality.⁶

The petition must follow a statutorily-specified format and be signed by at least 40 percent of the qualified electors of the district no later than one year after the start of the qualified elector-initiated municipal conversion proceeding.⁷ The petition must be filed with the governing body of the district and submitted to the supervisor of elections in the county where the district is located.⁸ The supervisor of elections must certify to the governing body of the district the number of signatures by qualified electors within 30 business days of receipt.

¹ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

² See ss. 189.031(3), 189.02(1), and S. 190.005(1), F.S. See *generally* s. 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 2020-2022 *The Local Government Formation Manual*, p. 70, at <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf>, (last visited March 4, 2021) (hereinafter *Local Government Manual*).

⁴ *Local Government Manual* at 65.

⁵ S. 189.012(3), F.S.

⁶ S. 165.0615(1), F.S.

⁷ S. 165.0615(2), F.S.

⁸ S. 165.0615(3), F.S.

Upon receiving a petition with a sufficient number of signatures, the governing body of the district must meet within 30 business days to prepare and adopt a proposed elector-initiated combined conversion and incorporation plan (Plan) containing:

- The name of the independent special district to be converted to a municipality;
- The name of the municipality to be created;
- The conversion schedule;
- Certification by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county;
- The rights, duties, and obligations of the municipality, and a feasibility study that contains the requirements under the municipal incorporation statutes, except that the provisions of s. 165.061(1)(b)-(d), F.S., do not apply if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the population and density requirements of the statute;⁹
- The territorial boundaries of the proposed municipality;
- The governmental organization of the proposed municipality and independent special district as the organization concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;
- An accounting of the independent special district's assets, including, but not limited to, real and personal property, and the current value of the property;
- An accounting of the independent special district's liabilities and indebtedness, bonded and otherwise, and the current value of the liabilities and indebtedness;
- Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the independent special district;
- Terms for the common administration and uniform enforcement of existing laws within the proposed municipality;
- An estimated date for final payment of any bonded indebtedness of the independent special district, and if maintained by the district after incorporation, the estimated date of automatic dissolution of the independent special district;
- The time and place for a public hearing on the proposed incorporation; and
- The effective date of the proposed incorporation.¹⁰

Within five business days after adopting the Plan, the governing body of the district must:

- Provide a copy of the Plan, as well as a descriptive summary, for public inspection in at least three public places within the district;
- Publish a copy of the Plan, as well as a descriptive summary, to the district's website or a website maintained by the county in which the district is located; and
- Arrange for the publication of the descriptive summary and the list of locations where the Plan may be reviewed in a newspaper of general circulation within the district at least once each week for four successive weeks.¹¹

The district must conduct at least one public hearing on the Plan.¹² All public hearings on the Plan must be held on weekdays and may not occur until at least seven business days after the first advertisement about the Plan is published. The district must also conduct a final public hearing and provide notice at least seven days before the hearing in a newspaper of general circulation.¹³ The notice for the final public hearing must contain the descriptive summary of the Plan and the list of locations where the Plan may be reviewed.

⁹ See s. 165.061(1)(b) and (d), F.S. (requiring an area proposed for municipal incorporation to have a population of at least 1,500 in counties with a population of 75,000 or less (at least 5,000 in counties with a population of more than 75,000), an average population density of 1.5 persons per acre, and a minimum distance of at least two miles from any existing municipality in the same county).

¹⁰ S. 165.0615(4), F.S.

¹¹ S. 165.0615(6), F.S.

¹² S. 165.0615(7), F.S.

¹³ S. 165.0615(8), F.S.

Revisions to the Plan made after the final hearing may only occur if those revisions comply with notice and public hearing requirements.¹⁴ The governing body of the district must approve a final version within 60 business days after the final hearing. After the final hearing, the governing body of the district notifies the supervisor of elections, who schedules a date for the conversion referendum.¹⁵ There must be at least 60 business days between the District's adoption of the Plan and the referendum.¹⁶

The district must provide published notice 30 days prior to the referendum.¹⁷ The notice must be published at least twice, in the fifth week and the third week prior to the referendum. The notice must contain:

- A brief summary of the resolution and Plan;
- A statement as to where the Plan may be reviewed;
- The name of the district to be converted and a description of the territory included in the Plan;
- The time and place where the referendum will be held; and
- Other matters necessary to call, provide for, and give notice of the referendum to provide for its conduct and the canvassing of the returns.¹⁸

If the referendum is approved, the district is governed as before until the effective date specified in the Plan, at which point the new municipality is created.¹⁹ If the referendum fails, the conversion process may not be re-initiated for at least two years after the date of the referendum.²⁰

Indian Trails Improvement District

The Indian Trails Improvement District (District) is an independent special district in Palm Beach County that provides water control, water supply, and drainage services by the construction and maintenance of canals, ditches, levees, dikes, pumping plants, and other works and improvements.²¹ The District was created by special act in 1957 and its charter was re-codified in 2002.²² The District maintains 164 miles of canals and 458 miles of roads, providing service to over 40,000 residents.²³

A board of five members serving four-year terms governs the District.²⁴ Members of the board must be qualified electors of the district and maintain residency during their time in office.²⁵

The total budget of the District for fiscal year 2020-21 is \$15.7 million, funded primarily by non-ad valorem special assessments.²⁶

¹⁴ S. 165.0615(9), F.S.

¹⁵ S. 165.0615(10), F.S.

¹⁶ S. 165.0615(5), F.S.

¹⁷ Ss. 100.342, 165.0615(11), F.S.

¹⁸ S. 165.0615(11), F.S.

¹⁹ S. 165.0615(18), F.S.

²⁰ S. 165.0615(17), F.S.

²¹ *Fiscal Year 2021 Budget Recommendation*, Indian Trails Improvement District, available at <https://www.indiantrail.com/departments/finance/budgets-financial-reports> (last visited Mar. 19, 2021).

²² Ch. 2002-330, ss. 2, 3, Laws of Fla.

²³ *Fiscal Year 2021 Budget Recommendation*, Indian Trails Improvement District, available at <https://www.indiantrail.com/departments/finance/budgets-financial-reports> (last visited Mar. 19, 2021).

²⁴ Ch. 2002-330, s. 3(6), F.S.

²⁵ Ch. 2002-330, s. 3(6)(1)(c), F.S.

²⁶ *Fiscal Year 2021 Budget Recommendation*, Indian Trails Improvement District, available at <https://www.indiantrail.com/departments/finance/budgets-financial-reports> (last visited Mar. 19, 2021).

Effect of Proposed Changes

The bill authorizes the District to expend funds for the purposes of:

- Determining the feasibility of converting the District into a municipality pursuant to statute;²⁷
- Creating an incorporation committee with public membership to conduct hearings seeking community input on the review of the feasibility study and development of a draft municipal charter; and
- Developing a draft municipal charter.

The bill provides that in the event the District is converted into a municipality, the District will continue to exist until its existing debts are terminated or the District and the new municipality have agreed to a transition date. The bill provides that the District's existing assets, liabilities, and contracts would be unaffected by the transition and that all resolutions and policies of the District remain in effect until amended, revised, or terminated by the municipality.

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. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2021

WHERE? The *Palm Beach Post*, a daily newspaper of general circulation published in Palm Beach County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

²⁷ S. 165.0615, F.S.