

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1591 Hernando County

SPONSOR(S): Ingoglia

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	15 Y, 0 N	Mwakyanjala	Miller
2) State Affairs Committee	23 Y, 0 N	Mwakyanjala	Williamson

SUMMARY ANALYSIS

The Hernando County Port Authority (Authority) was created by special act in 1965 as an independent special district to allow Hernando County to utilize the capital financing mechanisms required by the 1959 Port Facilities Financing Law. The Authority is governed by a board of five members appointed by the Board of County Commissioners of Hernando County.

The bill amends ch. 65-1618, s. 2, Laws of Florida, as amended by ch. 71-666, Laws of Florida, substituting the Board of County Commissioners of Hernando County as the Hernando County Port Authority rather than appoint separate members to the Authority.

The bill does not appear to have an economic impact on state or local government.

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.¹ Special districts are created by general law, special act, local ordinance, or 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 subject to significant control by the governing body of a single county or municipality.⁵ An “independent special district” is any district that is not a dependent special district.⁶

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.⁷

Hernando County Port Authority

The Hernando County Port Authority (Authority) was created by special act in 1965 (Act) as an independent special district.⁸ The Authority was created to allow Hernando County to utilize the capital financing mechanisms required by the 1959 Port Facilities Financing Law.⁹

The Authority initially was governed by a board of five members appointed by the Governor and confirmed by the Senate. The terms of the members were to be one year, two years, three years, four years, and five years, as designated by the Governor upon the member’s appointment. The board chose a member to serve as chair for two-year terms.¹⁰

In 1971, the charter of the Authority was amended to require the members of the Authority be appointed by the Board of County Commissioners of Hernando County (BOCC). The term of each

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

² See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally s. 189.012(6), F.S.

³ *Halifax Hospital Medical Center, supra* at 547. 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 *2021 – 2022 Local Gov’t Formation Manual*, p. 70, at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3117> (last visited January 30, 2022) (hereinafter *Local Government Manual*).

⁴ *2020 – 2022 Local Gov’t Formation Manual*, pp. 60-61, at <https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited on January 31, 2022).

⁵ S. 189.012(2), F.S. Types of such control include the county or municipality governing body acting as the district governing body, having the authority to appoint or remove at will district board members, or having final approval authority over the district’s budget.

⁶ S. 189.012(3), F.S.

⁷ Art. VII, s. 9(a), Fla. Const.

⁸ Ch. 65-1618, Laws of Fla.

⁹ Hernando County Ordinance No. 2021-01. The 1959 Port Facilities Financing Law refers to ss. 315.01-315.18, F.S.

¹⁰ Ch. 65-1618, s. 2, Laws of Fla.

board member was amended to four years, with all vacancies filled by the BOCC and members of the Authority continuing to elect the board chair.¹¹

The Authority is granted the power to:

- Acquire land, submerged land, and water rights;¹²
- Construct fixtures, facilities, and infrastructure as necessary to promote, create, maintain, and operate a commercial port;¹³
- Contract;¹⁴
- Take by eminent domain;¹⁵
- Sue and be sued;¹⁶
- Prescribe, fix, maintain, and regulate charges, tolls, or rents for the use of any of its facilities;¹⁷
- Mortgage, pledge, or otherwise encumber any of its property or assets;¹⁸
- Borrow money and incur indebtedness by the issuance of revenue bonds or certificates;¹⁹
- Adopt and enforce rules and regulations or procedures pertaining to the use, acquisition, maintenance, development, operation, or disposal of any of the facilities or projects enumerated in the special act;²⁰
- Acquire and perform all things enumerated in the special act separately, jointly, or in conjunction with a municipality or other political subdivision of the state;²¹
- Employ secretaries, attorneys, engineers, and other technical assistants and employees.²²

The Authority does not have the power to levy ad valorem taxes or non-ad valorem special assessments.

Effect of the Bill

The bill amends ch. 65-1618, s. 2, Laws of Florida, as amended by ch. 71-666, Laws of Florida, to provide that the Board of County Commissioners of Hernando County sits and acts as the board for the Authority. All powers and duties of the Authority are vested in the BOCC. The bill removes the separate provisions for term lengths, filling vacancies, and electing a chair.

B. SECTION DIRECTORY:

Section 1: Amends ch. 65-1618, s. 2, Laws of Florida, as amended by ch. 71-666, Laws of Florida, providing that the BOCC of Hernando County sits and acts as the Hernando County Port Authority.

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 5, 2021

¹¹ Ch. 71-666, s. 2, Laws of Fla.

¹² Ch. 65-1618, s. 3(1), Laws of Fla.

¹³ Ch. 65-1618, s. 3(2), Laws of Fla.

¹⁴ Ch. 65-1618, s. 3(3), Laws of Fla.

¹⁵ Ch. 65-1618, s. 3(4), Laws of Fla.

¹⁶ Ch. 65-1618, s. 3(5), Laws of Fla.

¹⁷ Ch. 65-1618, s. 3(6), Laws of Fla.

¹⁸ Ch. 65-1618, s. 3(7), Laws of Fla.

¹⁹ Ch. 65-1618, s. 3(8), Laws of Fla.

²⁰ Ch. 65-1618, s. 3(9), Laws of Fla.

²¹ Ch. 65-1618, s. 3(10), Laws of Fla.

²² Ch. 65-1618, s. 3(11), Laws of Fla.

WHERE? The *Hernando Sun*, a weekly newspaper of general circulation, published in
Hernando 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:

This bill neither requires no provides authority for administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.