

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 11B Sunshine Water Control District, Broward County

SPONSOR(S): Daley

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee	20 Y, 0 N	Mwakyanjala	Williamson

SUMMARY ANALYSIS

The Sunshine Water Control District (District) is an independent special district in Broward County, created by a decree of the Fifteenth Judicial Circuit in 1963 and subsequently ratified and approved by a special act the same year. The District provides water management improvements and services to support local development, maintaining 5,422 acres of canals and right-of-way property providing drainage and flood protection to approximately 17,000 landowners in Coral Springs. A three-member board of supervisors elected by landowners governs the District until the general election to be held on November 5, 2024, at which time a five-member board is required to be elected by the qualified electors of the District.

For its 2020-2021 Fiscal Year (FY), the District reported outstanding long-term debt of \$12,004,956. The District's proposed budget for FY 2022-23 is \$3.6 million.

The bill reaffirms and continues the District's authority to raise revenue and pay outstanding bonds and other obligations without interruption. The bill codifies, reenacts, and amends the charter of the District and repeals the special acts and judicial decree that created the District. The bill reaffirms the District's boundaries, the applicability of ch. 298, F.S., including the power to levy and collect taxes as provided in that chapter, the powers of the District to construct and maintain roads, and the transition to a governing five-member board.

The bill further provides that the District is not dissolved as of June 1, 2023.

The bill does not appear to create any additional fiscal impact on the District.

According to House Rule 5.5(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 5.5(b) may apply to this bill.

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. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³

A “dependent special district” is a special district meeting at least one of the following criteria:

- The membership of the district’s governing body is identical to the governing body of a single county or municipality;
- All members of the district’s 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.⁴

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.⁵

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts (Official List of Districts), there are 1,918 special districts, including 1,303 independent special districts and 615 dependent districts.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

Generally, the maximum millage rate for an independent special district is the millage rate authorized by law and approved by the electors of the district in a referendum.⁸ The 1968 Florida Constitution, however, provides that independent special districts with ad valorem tax authority established by law before its effective date may continue to exercise that authority, but that the authority may be restricted or withdrawn by law unless such power is necessary to pay outstanding debts.⁹

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 Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 58, at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2023&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited Jan. 27, 2023).

⁴ S. 189.012(2), F.S.

⁵ S. 189.012(3), F.S. Independent special districts are created by the Legislature, unless another mechanism is authorized by general law. See, e.g. s. 190.005, F.S. (community development districts maybe created by a county, municipality, or the Florida Land and Water Adjudicatory Commission, depending on the size and location of the district).

⁶ Dept. of Economic Opportunity, Special Dist. Accountability Program, “Official List of Special Districts,” at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Feb. 1, 2023).

⁷ See art. VII, s. 9(a), Fla. Const.

⁸ See art. VII, s. 9, Fla. Const.

⁹ Art. XII, ss. 2, 15, Fla. Const. See also art. IX, s. 2, Fla. Const. (1885), amended by SJR 69 (1939) (approved by the voters Nov. 5, 1940) (prohibition on state levy of ad valorem taxes for state purposes).

Formation and Charter of an Independent Special District

With the exception of community development districts,¹⁰ the charter for an independent special district must include the minimum elements required by ch. 189, F.S.¹¹

Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.¹²

Independent Special District Dissolution

Generally, an independent special district may be dissolved in one of the four following ways:

- Voluntary dissolution by a majority vote plus one of the district's board;¹³
- For districts created by special act, the passage of a special dissolving the district, subject to approval by a majority vote of the residents or landowners of the district;¹⁴
- For districts created by a local government, voter approval of a referendum dissolving the district or by the procedure used to create the district;¹⁵ or
- For districts that have been declared inactive by DEO, by special act or ordinance without a referendum.¹⁶

Additionally, s. 189.0311(2), F.S., provides for the dissolution of all independent special districts created by special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts are not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after that date.¹⁷ Such districts dissolve on June 1, 2023, unless re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. According to the Official List of Districts, 132 active independent special districts were created by special act before November 5, 1968,¹⁸ and of those districts, six do not operate under a charter that was reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968.¹⁹

Unless otherwise provided by law or ordinance, all assets and liabilities of a dissolved independent special district are transferred to the local general-purpose government having jurisdiction over the territory of the district.²⁰

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). A WCD has authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.²¹ A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of said district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations,

¹⁰ S. 189.0311, F.S.; see s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

¹¹ Ss. 189.031(1) and (3), F.S., sets forth the minimum charter requirements for an independent special district.

¹² S. 189.031(3), F.S. (setting forth the minimum charter requirements).

¹³ S. 189.072(1), F.S. If the district was created by special act, dissolution also requires a special act of the Legislature to take effect.

¹⁴ S. 189.072(2)(a), F.S.

¹⁵ S. 189.072(2)(b), F.S. If the district has the power to levy ad valorem taxes, a referendum is required for dissolution. See Art. VII, s. 9(b), Fla. Const.

¹⁶ S. 189.072(3), F.S.

¹⁷ Created by ch. 2022-266, Laws of Fla.

¹⁸ Dept. of Economic Opportunity, Special Dist. Accountability Program, "Official List of Special Districts," at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Feb. 1, 2023).

¹⁹ Bradford County Development Authority, Bradford County; Eastpoint Water and Sewer District, Franklin County; Hamilton County Development Authority, Hamilton County; Marion County Law Library, Marion County; Reedy Creek Improvement District, Orange and Osceola Counties; and Sunshine Water Control District, Broward County will dissolve on June 1, 2023, unless re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. Of those scheduled to sunset, Eastpoint Water and Sewer District, Reedy Creek Improvement District, and Sunshine Water Control District have debt obligations.

²⁰ Ss. 189.072(4) and 189.076(2), F.S.

²¹ S. 298.22, F.S.

pumping machinery, motive equipment, electric lines and all appurtenant or auxiliary machines, devices, or equipment.²²

Prior to July 1, 1980, WCDs were created by the submission of a petition signed by a majority of the landowners in the area of the proposed district to the circuit court that had jurisdiction over the area.²³ Today, WCDs may be created only by special act or by county ordinance.²⁴

Most WCDs are governed by a three-member board composed of landowners within the district who are also residents of the county where the district is located.²⁵ Landowners vote for the governing board of the district on a one-acre/one-vote basis, with the three persons receiving the highest number of votes elected in the initial election.²⁶ Landowners may vote in person or by a signed proxy statement. The landowners at the initial election determine the length of the term of office for the initial board, selecting one member to serve a one-, two-, or three-year term, respectively. All members subsequently elected serve a three-year term, with one member of the board elected by the landowners each year.²⁷

Sunshine Water Control District

The Sunshine Water Control District (District) is an independent special district in Broward County, created by a decree of the Fifteenth Judicial Circuit in 1963²⁸ and subsequently ratified and approved by a special act the same year.²⁹ The District provides water management improvements and services to support local development, maintaining 5,422 acres of canals and right-of-way property providing drainage and flood protection to 17,000 landowners in Coral Springs.³⁰ For its 2020-2021 Fiscal Year (FY), the District reported outstanding long-term debt of \$12,004,956. The District's proposed budget for FY 2022-23 is \$3.6 million, derived almost entirely from special assessments.³¹

In 2021, the Legislature amended the District's charter, increasing the board from three to five members and requiring each board member to be elected by the qualified electors of the District.³² However, the bill required the voters of the District to approve the proposed amendment before it could go into effect and required a referendum be held on November 8, 2022, for that purpose. At the referendum held on that date, the voters approved the referendum question and ch. 2021-255, s. 1, Laws of Fla., went into effect.³³

Effect of the Proposed Changes

The bill ratifies and confirms the continued existence of the District and provides legislative intent to preserve the District's necessary authority to generate revenue and pay outstanding indebtedness as provided in its original charter as such authority was preserved by Art. XII, ss. 2 and 15 of the Florida Constitution.

²² S. 298.22(3), F.S.

²³ See s. 298.01, F.S. (authorizing "water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section and former ss. 298.02 and 298.03, may continue to operate as outlined in this chapter.") See also s. 298.01, F.S. (1980) and ch. 79-5, ss. 1-3, Laws of Fla. Originally, the Board of Drainage Commissioners for the State also had authority to prepare and file a petition to form a drainage district. See ch. 6458, s. 1, Laws of Fla. (1913).

²⁴ S. 289.01, F.S.

²⁵ S. 298.11(1), F.S.

²⁶ S. 298.11(2), F.S. Landowners who own less than one acre receive one vote, while landowners who own more than one acre are entitled to additional votes for any fraction of an acre greater than one-half owned in addition to votes equal to the number of whole acres owned.

²⁷ S. 298.12(1), F.S.

²⁸ Decree in chancery no. 62-4569-F (Jan. 23, 1963) entered by the Circuit Court in and for the Fifteenth Judicial Circuit of Florida.

²⁹ Ch. 63-609, s. 1, Laws of Fla.

³⁰ *About the District*, Sunshine Water Control District, <https://www.sunshinewcd.net/about.php> (last visited Oct. 29, 2022).

³¹ *Sunshine Water Control District Adopted Budget Fiscal Year 2021*, Sunshine Water Control District, available at https://www.sunshinewcd.net/_assets/documents/fy-2023/2022-SWCD-budget-proposed.pdf?v=1666205375 (last visited Oct. 19, 2022).

³² Ch. 2021-255, s. 1, Laws of Fla.

³³ Election results from Broward County Supervisor of Elections website at <https://enr.electionsfl.org/BRO/3281/Summary/> (last visited Nov. 10, 2022).

The bill codifies, reenacts, and amends the charter of the District and repeals chs. 63-609 and 2021-255, Laws of Fla., and the decree in chancery No. 62-4596-F entered by the Fifteenth Judicial Circuit Court creating the District.

The bill further reaffirms and continues the District's boundaries, the applicability of ch. 298, F.S., including the power to levy taxes and collect taxes as provided in that chapter, the powers of the District to construct and maintain roads, and the transition to a governing five-member board elected by the qualified electors of the District beginning in 2024.

Finally, the bill provides that, notwithstanding s. 189.0311(2), F.S., the district is not dissolved as of June 1, 2023, but continues in full force and effect.

B. SECTION DIRECTORY:

Section 1: Provides that chs. 63-609 and 2021-255, Laws of Fla., and the decree in chancery No. 62-4596-F entered by the Fifteenth Judicial Circuit of the State of Florida on January 23, 1963, are codified, reenacted, amended, and repealed as provided in the bill and provides legislative intent.

Section 2: Provides the charter for the Sunshine Water Control District.

Section 3: Provides for liberal construction of the act.

Section 4: Repeals chs. 67-764 and 2021-255, Laws of Fla., and the decree in chancery No. 62-4596-F entered by the Fifteenth Judicial Circuit of the State of Florida on January 23, 1963.

Section 5: Provides an exception to general law.

Section 6: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 19, 2022.

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward, Palm Beach, and Miami-Dade Counties, FL.

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 for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(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 5.5(b) may apply to this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.