

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 821 Melbourne-Tillman Water Control District, Brevard County
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee; Altman
TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 112 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

CS/HB 821 passed the House on March 4, 2024, and subsequently passed the Senate on March 7, 2024.

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

The Melbourne-Tillman Water Control District (District) was created in 1986 and its charter was recodified in 2001. The District provides a water management system to prevent damage from flooding, erosion, and excessive drainage. The District is funded by non-ad valorem user fees applied to each parcel within the District's boundaries based on property size and use. The District's fees must be approved by the District board, as well as both a majority of the entire membership of Brevard County Board of County Commissioners and the affirmative vote of each county commissioner whose district lies wholly or partially within the boundaries of the District. The District's charter provides a limitation on both the annual rate at which the fee may increase, as well as maximum fee amount.

The bill increases the maximum stormwater management user fee the District may charge.

The bill does not appear to have a fiscal impact on the District.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁴

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁵

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.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

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.⁸ 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 may also acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations,

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 ss. 189.012(6), F.S.

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?Committeed=3227> (last visited Jan. 14, 2024).

⁴ The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District); see also, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S.

⁷ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

⁸ S. 298.22, F.S.

pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.⁹ As of February 15, 2024, there were 82 active water control districts.¹⁰

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.¹¹ Today, WCDs may be created only by special act or by county ordinance.¹²

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.¹³ 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.¹⁴ 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.¹⁵

Melbourne-Tillman Water Control District

The Melbourne-Tillman Water Control District (District) is a dependent special district created in 1986,¹⁶ and the District charter was recodified in 2001.¹⁷ The District provides a water management system to prevent damage from flooding, erosion, and excessive drainage.¹⁸ The District contains 100 square miles within its boundaries and owns and maintains over 2,300 acres of canal rights-of-way in 163 miles of canals.¹⁹

The District is governed by a seven-member board of directors, comprised of three members appointed by the Brevard County Board of County Commissioners, three members appointed by the City of Palm Bay City Council, and one member appointed by the City of West Melbourne City Council.²⁰

The District is funded by non-ad valorem user fees applied to each parcel within the District's boundaries based on property size and use.²¹ The District's charter provided an initial stormwater management fee rate structure per acre or portion thereof for Fiscal Year (FY) 1990-91:

- Residential - \$10.
- Agricultural - \$3.50.
- Commercial - \$8.50.²²

⁹ S. 298.22(3), F.S.

¹⁰ Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Feb. 15, 2024).

¹¹ 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).

¹² S. 289.01, F.S.

¹³ S. 298.11(1), F.S. But see e.g. ch. 2021-253, Laws of Fla. (providing for a five-member popularly-elected board for the Coral Springs Improvement District).

¹⁴ 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.

¹⁵ S. 298.12(1), F.S.

¹⁶ Ch. 86-418, Laws of Fla.

¹⁷ Ch. 2001-336, Laws of Fla. Ch. 2001-336, s. 3, Laws of Fla., amended by chs. 2003-334, 2010-253, and 2019-175, Laws of Fla., contain the charter of the district (hereinafter District Charter)

¹⁸ Melbourne-Tillman Water Control District, *District Overview*, <http://www.melbournetillman.org/> (last visited Jan. 18, 2024).

¹⁹ *Id.*

²⁰ District Charter, s. 4.

²¹ See Melbourne-Tillman Water Control District, *FY 2023-2024 Budget*, <https://melbournetillman.org/wp-content/uploads/2023/09/Amended-Budget-FY-2023-2024.pdf> (last visited Jan. 18, 2024).

²² District Charter, s. 8(12)(d).

The District's charter limits any annual increase in the stormwater management fee to 10 percent of the prior year's fee for that type of parcel. Additionally, the charter provides a maximum stormwater management user fee per acre or portion thereof as follows:

- Residential – \$25.
- Agricultural – \$8.50.
- Commercial – \$52.50.²³

The stormwater management fee levied by the District must be approved by the District's board.²⁴ Subsequently, the fee must be approved by the Brevard County Board of County Commissioners after conducting a special public hearing within the boundaries of the District.²⁵ Approval of the fee requires both a majority vote of all members of the Brevard County Board of County Commissioners and an affirmative vote from each county commissioner whose district lies wholly or partially within the District.²⁶

Effect of the Bill

The bill removes obsolete language from the District's charter pertaining to initial stormwater management fees levied for FY 1990-91. The bill also increases the maximum stormwater management user fee per acre or portion thereof the District may charge. The bill increases the maximum stormwater management user per acre or portion thereof fee:

- From \$25 to \$50 for residential.
- From \$8.50 to \$17 for agricultural.
- From \$52.50 to \$105 for commercial.

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 [X] No []

D. NOTICE PUBLISHED? Yes [X] No []

²³ *Id.*

²⁴ District Charter, s. 8(12)(a).

²⁵ District Charter, s. 8(12)(b).

²⁶ District Charter, s. 8(12)(c).

IF YES, WHEN? November 8, 2023.

WHERE? The *Florida Today*, a newspaper of general circulation in Brevard County.

E. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?