

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 4017](#)

**TITLE:** Bermont Drainage District, Charlotte County

**SPONSOR(S):** Oliver

**COMPANION BILL:** None

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 111 Y's 0 N's

**GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill codifies the charter of the Bermont Drainage District, a water control district created by circuit court decree in 1965 that provides services to approximately 2,900 acres in eastern Charlotte County. The bill ratifies the proceedings of the circuit court concerning the district and provides that the bill is retroactive to March 12, 2025, the date the circuit court decree governing the district will expire.

#### Fiscal or Economic Impact:

None.

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### ANALYSIS

#### EFFECT OF THE BILL:

The bill ratifies, confirms, and approves the March 12, 1965, circuit court decree that created the [Bermont Drainage District](#) (District), an independent [special district](#) providing [water control](#) services in Charlotte County, as well as the subsequent proceedings of the circuit court concerning that initial decree. (Section [1](#))

The bill provides a codified charter for the District. The charter is consistent with [minimum charter requirements](#) established in general law. Specifically, the charter provides:

- The geographic boundaries of the District.
- The District is organized and exists for all purposes set forth in the bill and general law concerning water control districts.
- The District's charter may only be amended by special act.
- The District's governing board consists of three members elected by the landowners of the district on a one-acre/one-vote basis.
- The administrative duties of the governing board, as well as the procedures for the District to issue debt and conduct elections and the District's planning requirements, are governed by general law concerning special districts and water control districts.
- The District will follow general law requirements for financial disclosure, meeting notices, public records, and providing reimbursement for per diem expenses.
- The District may be financed by the methods established for water control districts, including non-ad valorem assessments and a "maintenance tax," which is levied on a per-acre basis.
- The District has all powers and authorities conferred by general law to water control districts.
- The charter is severable. (Section [2](#))

The bill provides that it is remedial in nature and retroactive to March 12, 2025, the date the circuit court decree governing the district will expire. (Section [3](#))

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law. (Section [4](#))

**STORAGE NAME:** h4017z.IAS

**DATE:** 5/9/2025

## FISCAL OR ECONOMIC IMPACT:

### LOCAL GOVERNMENT:

The Economic Impact Statement submitted with the bill projects that the bill will not result in new revenues as the bill reauthorizes the District. In Local Fiscal Year 2024, the District reported to the Department of Financial Services \$6,027 in revenues and zero expenditures.<sup>1</sup>

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### 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.<sup>2</sup> Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>3</sup> 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.<sup>4</sup> Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.<sup>5</sup>

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.<sup>6</sup>

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 single municipality.<sup>7</sup>

Special districts are governed generally by the Uniform Special District Accountability Act (USDAA).<sup>8</sup> The USDAA centralizes provisions governing special districts and applies to the formation,<sup>9</sup> governance,<sup>10</sup> administration,<sup>11</sup> supervision,<sup>12</sup> merger,<sup>13</sup> and dissolution<sup>14</sup> of special districts, unless otherwise expressly provided in law.<sup>15</sup> The

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<sup>1</sup> Florida Dept. of Financial Services, [Total Revenues, Expenditures and Debt](#) (last visited Mar. 17, 2025).

<sup>2</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>3</sup> See ss. [189.02](#), [189.031\(3\)](#), and [190.005\(1\)](#), F.S. See generally [s. 189.012\(6\)](#), F.S.

<sup>4</sup> Intergovernmental Affairs Subcommittee, [Local Government Formation Manual](#), p. 56 (last visited Mar. 3, 2025).

<sup>5</sup> 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\(1\)](#), 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. 3\(27\)](#), Laws of Fla. (South Broward Hospital District).

<sup>6</sup> S. [189.012\(2\)](#), F.S.

<sup>7</sup> S. [189.012\(3\)](#), F.S.

<sup>8</sup> S. [189.01](#), F.S., but see ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts), ch. 298, F.S. (water control districts), ch. 388, F.S. (mosquito control districts), and ch. 582, F.S. (soil and water conservation districts).

<sup>9</sup> See ss. [189.02](#) (creation of dependent special districts) and [189.031](#), F.S. (creation of independent special districts).

<sup>10</sup> See [s. 189.0311](#), F.S. (charter requirements for independent special districts).

<sup>11</sup> See [s. 189.019](#), F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>12</sup> See [s. 189.0651](#), F.S. (oversight for special districts created by special act of the Legislature).

<sup>13</sup> Ss. [189.071](#) and [189.074](#), F.S.

<sup>14</sup> Ss. [189.071](#) and [189.072](#), F.S.

<sup>15</sup> See, e.g., [s. 190.004](#), F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

USDAA requires notice and publication of tentative budgets and final budgets.<sup>16</sup> Certain budget amendments are allowed up to 60 days following the end of the fiscal year.<sup>17</sup>

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.<sup>18</sup>

### **Minimum Charter Requirements**

The charter of an independent special district created by general law or special act after September 30, 1989, must contain the:

- Purpose of the district.
- Powers and duties of the district concerning ad valorem taxation, debt issuance, budget preparation and approval, liens, the use of tax deeds and tax certificates for non-ad valorem assessments, and contractual agreements.
- Method by which the district is established and for amending the district’s charter.
- Membership, organization, maximum compensation, and administrative duties of the district’s governing body.
- Applicable financial disclosure, noticing, and reporting requirements.
- Procedures and requirements for issuing bonds, if a district has authority to issue bonds.
- Procedures for conducting required elections and referenda, as well as the qualifications for electors.
- Methods of financing the district.
- Maximum millage rate the district may levy, if the district is authorized to levy ad valorem taxes.
- Methods used by the district for collecting non-ad valorem assessments, fees, or service charges.
- Planning requirements for the district.
- Geographic boundaries of the district.<sup>19</sup>

### **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.<sup>20</sup> 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, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.<sup>21</sup>

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.<sup>22</sup> A landowner meeting to elect the initial board must be noticed within 20 days after the effective date of the special act creating the district. The notice must be published at least once a week for two consecutive weeks in a newspaper of general circulation in each county in which the district is located and the last publication must be no less than 10 and no more than 15 days before the date of the meeting.

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<sup>16</sup> S. [189.016\(4\), F.S.](#)

<sup>17</sup> S. [189.016\(6\), F.S.](#)

<sup>18</sup> See, e.g., [ch. 2006-354, Laws of Fla.](#) (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

<sup>19</sup> S. [189.031\(3\), F.S.](#)

<sup>20</sup> S. [298.22, F.S.](#)

<sup>21</sup> S. [298.22\(3\), F.S.](#)

<sup>22</sup> S. [298.11, F.S.](#)

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.<sup>23</sup> Landowners may vote in person or by a signed proxy that complies with the requirements for proxy voting in a Florida corporation.<sup>24</sup> 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 subsequently elected members serve a three-year term, with one member of the board elected by the landowners each year.<sup>25</sup>

WCDs are generally financed by special assessments.<sup>26</sup> The assessment represents the parcel's pro-rata share of the cost of executing the water control plan, as well as the costs of administering and maintaining the district.<sup>27</sup> WCDs are also authorized to levy a "maintenance tax" which is assessed based on the net benefits provided to the property by the improvements constructed by the district.<sup>28</sup>

Prior to July 1, 1980, the authority to create a WCD was delegated to circuit courts by statute. To create a WCDs, a petition signed by a majority of the landowners in the area of the proposed district must be submitted to the circuit court that had jurisdiction over the area.<sup>29</sup> Today, WCDs may be created only by special act or county ordinance.<sup>30</sup> The charter of a district that predates July 1, 1980, may only be modified by special act.<sup>31</sup>

### **Bermont Drainage District**

The Bermont Drainage District (District) is an independent special district in Charlotte County created by circuit court decree in 1965.<sup>32</sup> The District is a WCD providing services to approximately 2,900 acres in the eastern portion of the county. The circuit court decree creating the District provided for its dissolution 30 years after creation. A subsequent circuit court decree in 1994 extended the lifespan of the District by another 30 years, providing that it would dissolve on March 15, 2025.<sup>33</sup> The district was created as a drainage district pursuant to the provisions of ch. 298, F.S., and was authorized to exercise all powers conferred by that chapter.<sup>34</sup>

### **Local Bill Forms**

The Florida Constitution prohibits the passage of any special act unless a notice of intention to seek enactment of the bill has been published as provided by general law or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.<sup>35</sup> A legal advertisement of the proposed bill must be placed in a newspaper of general circulation or published on a publicly accessible website<sup>36</sup> at least 30 days prior to the introduction of the local bill in the House or Senate.<sup>37</sup> The bill was noticed in [The Daily Sun on January 10, 2025](#).

The House local bill policy requires a completed and signed Local Bill Certification Form and Economic Impact Statement Form be filed with the Clerk of the House at the time the local bill is filed or as soon thereafter as

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<sup>23</sup> 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.

<sup>24</sup> S. [607.0722, F.S.](#)

<sup>25</sup> S. [298.12\(1\), F.S.](#)

<sup>26</sup> Ss. [298.36\(1\)](#) and [298.54, F.S.](#)

<sup>27</sup> See Pal Mar Water Control District, [WCD FAQ's](#) (last visited Mar. 3, 2025).

<sup>28</sup> S. [298.54, F.S.](#)

<sup>29</sup> 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).

<sup>30</sup> S. [298.01, F.S.](#)

<sup>31</sup> See s. [298.76\(5\), F.S.](#)

<sup>32</sup> *In re: Bermont Drainage District*, Chancery Case No. 5498 (Fla. 12th Cir. Ct. Mar. 12, 1965).

<sup>33</sup> *In re: Bermont Drainage District Case No. 5498* (Fla. 12th Cir. Ct. Nov. 2, 1994).

<sup>34</sup> *In re: Bermont Drainage District*, Chancery Case No. 5498 (Fla. 12th Cir. Ct. Mar. 12, 1965).

<sup>35</sup> [Art. III, s. 10, Fla. Const.](#)

<sup>36</sup> S. [50.0311\(2\), F.S.](#)

<sup>37</sup> S. [11.02, F.S.](#) If there is no newspaper circulated throughout or published in the county and no publicly accessible website has been designated, notice must be posted for at least 30 days in at least three public places in the county, one of which must be at the courthouse.

possible.<sup>38</sup> Under the policy, a committee or subcommittee may not consider a local bill unless these forms have been filed. The following forms have been submitted for the bill:

- [Local Bill Certification Form](#)
- [Economic Impact Statement Form](#)

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<sup>38</sup> Intergovernmental Affairs Subcommittee, [Local Bill Policies and Procedures Manual](#), p. 11 (last visited Mar. 3, 2025).