

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 759  
County

Northern Palm Beach County Improvement District, Palm Beach

**SPONSOR(S):** Domino

**TIED BILLS:**

**IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	9 Y, 0 N	Fudge	Hoagland
2)	Economic Development & Community Affairs Policy Council		Fudge	Tinker
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The Northern Palm Beach Improvement District was created in 1959 in Palm Beach County. Today the district provides a range of services which include: storm water control, drought protection, water quality control, utilities construction, environmental services, landscaping, roadway construction, street lights, and maintenance of canals, waterways and lakes. The district is governed by a five-member Board of Supervisors. Three Supervisors are elected by the landowners within the boundaries of the service area, while the remaining two are popularly elected.

The bill revises the procedures for election of board members and provides a process for transitioning from landowner elected to popularly elected supervisors. However, one supervisor will remain landowner elected. The bill also exempts from landowner elections publicly owned lands not subject to assessments, lands not currently subject to assessment and land for which assessments have not been paid for the previous year.

The bill is effective upon becoming law.

**Pursuant 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) appear to apply to this bill.**

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The Northern Palm Beach Improvement District was created in 1959 in Palm Beach County. Today the district provides a range of services which include: storm water control, drought protection, water quality control, utilities construction, environmental services, landscaping, roadway construction, street lights, and maintenance of canals, waterways and lakes. The district is funded from revenues generated from special assessments levied against only those lands where service is provided. The special assessments are included on landowners' property tax bills and are collected by the Palm Beach County Tax Collector. The district is governed by a five-member Board of Supervisors. Three Supervisors are elected by the landowners within the boundaries of the service area, while the remaining two are popularly elected. The district is governed by a five person board of supervisors who serve for four years. Seats 1, 3 and 4 are filled by landowner elections. Seats 2 and 5 are nonpartisan elected positions as defined by ch. 97, F.S.

##### Election of Supervisors

To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located, unless a district's special act provides otherwise. Section 298.11(2), Florida Statutes, provides that every acre of assessable land within a district represents one share, or vote. Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Section 298.76 Florida Statutes, authorizes special or local legislation:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

In 2005, the district began transition the composition of the board from landowner elected to popularly elected by requiring that two of the board members be popularly elected. This bill continues that process by requiring four of the five board members be popularly elected.

### **Effect of Proposed Changes**

The bill requires that the supervisors elected to seats 2 and 5 must be residents and electors of the District and sunsets, beginning in 2012, the requirement that the board member elected to seat 2 must reside south of PGA Boulevard and the member elected to seat 5 must reside north of PGA Boulevard.

Beginning with the landowner elections in 2010, those board members elected pursuant to landowner elections must be a resident of the State of Florida and either a resident of Palm Beach County or own, or have a beneficial interest in an entity that owns, real property within the district.

Beginning with the general election in 2012, seat 4 will be converted to a nonpartisan election and seats 4 and 5 must be residents of the district, must own, or have a beneficial interest in an entity that owns, real property within the district, and must be electors of the district.

Beginning with the general election in 2014, seat 3 will be converted to a nonpartisan elected position and seats 2 and 3 must be residents of the district, must own, or have a beneficial interest in an entity that owns, real property within the district, and must be electors of the district.

Upon conversion to nonpartisan elected positions, seats 2, 3, 4, and 5 shall qualify with the Palm Beach County Supervisor of elections pursuant to ch. 105, F.S., and be elected for a 4 year term by a plurality<sup>1</sup> of the electors within the jurisdictional boundary of the district who vote in their respective general elections. Each nonpartisan elected board member shall take office within 10 days after election. Candidates who do not collect campaign funds are not obligated to appoint a campaign treasurer pursuant to s. 106.021, F.S.<sup>2</sup> Any member who fails to maintain their residency requirement shall notify the district within 10 days. Any member who fails to reestablish residency within 30 days after such notice shall create an automatic vacancy for the member's seat. Any vacancies on the board shall be selected and appointed by a simple majority vote of the remaining members of the board.

The bill exempts from landowner elections: publicly owned lands not subject to assessments, lands not currently subject to assessment and land for which assessments have not been paid for the previous year.<sup>3</sup>

### **B. SECTION DIRECTORY:**

Section 1: Amends the qualification and election procedures for members of the board of supervisors.

Section 2: Provides an effective date of upon becoming law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

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<sup>1</sup> Allowing the plurality of votes to determine the winner would avoid the cost of a runoff election. For example, if there is more than one candidate for a position, a winner could be determined by who has the most votes, instead of requiring that the candidate receive a majority of the votes cast.

<sup>2</sup> This provision is similar to s. 99.061(3), F.S., which provides that "notwithstanding s. 106.021, a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository."

<sup>3</sup> Section 298.12(1), F.S., provides that "[o]wners whose assessments have not been paid for the previous year are not entitled to vote."

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 11, 2009.

WHERE? In the *Palm Beach Post*, a daily newspaper published in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **Possible Exemption from General law**

The bill provides that members of the board are elected by plurality vote of the electors. However, s. 105.051, F.S., requires a majority vote. This appears to be an exemption from general law.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES