

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1465 Hardee County Economic Development Authority, Hardee County

SPONSOR(S): Bell

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N	Rivera	Miller
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N	Cobb	Davis
3) State Affairs Committee	18 Y, 0 N	Rivera	Williamson

SUMMARY ANALYSIS

The state levies an excise tax on the removal of phosphate rock from Florida soil or water for commercial use, and distributes a portion of the revenue generated to the counties from which the phosphate is removed. The proceeds must be used for phosphate-related expenses unless the county is designated as a rural area of opportunity. The proceeds are paid directly to the county unless a local authority has been created to receive the proceeds and promote and direct the economic development of the county.

The Hardee County Economic Development Authority (Authority) is an independent special district created in 2004 to solicit, rank, and fund projects that provide economic development opportunities or infrastructure and maximize the use of federal, local, and private resources within Hardee County. The Authority can appropriate the phosphate tax revenue received from the state but has no taxing authority. The Authority also has the power to approve time and cost sheets for the county employees it uses for Authority business, but cannot approve an annual operating budget.

The bill authorizes the Authority to approve an annual operating budget including the ability to directly appropriate funds for the Authority outside of the grant program operated by the Authority.

The Economic Impact Statement submitted by the Authority indicates the bill will have no fiscal impact on the Authority and will not impact present governmental services.

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 A special district may be 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 where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the 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.⁵ An “independent special district” is any district that is not a dependent special district.⁶

The governing body of each special district must annually adopt a budget by resolution. At a minimum, the adopted budget must show the level of detail required for the annual financial report to the Department of Financial Services.⁷ The adopted budget must regulate expenditures of the special district, and an officer of a special district may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.⁸ The proposed budget of a dependent special district must be contained within the general budget of the local governing authority to which it is dependent and be clearly stated as the budget of the dependent district.

The governing body of each special district may amend its budget at any time within a fiscal year or within 60 days following the end of the fiscal year as permitted by statute.⁹ An amended budget must be posted on the district’s official website within five days after adoption and must remain on the website for at least two years.¹⁰

A local general-purpose government may review the budget or tax levy of any special district located solely within its boundaries.¹¹

¹ S. 189.012(6), F.S. The Legislature adopted ch. 189, F.S., in 1989, to provide uniform statutes for the definition, creation, and operation of special districts. See s. 189.011(1), F.S.

² S. 189.012(6), F.S.

³ 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 2018 – 2020 Local Gov’t Formation Manual, p. 64, at <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2020&DocumentType=General Publications&FileName=2018-2020 Local Government Formation Manual.pdf> (last visited January 23, 2020)(hereinafter Local Government Manual).

⁴ Local Government Manual, p. 64.

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S.

⁷ See s. 218.32(1), F.S.

⁸ S. 189.016(3), F.S.

⁹ S. 189.016(6), F.S.

¹⁰ S. 189.016(7), F.S.

¹¹ S. 189.016(8), F.S.

All special districts must comply with the statutory financial reporting requirements for local government entities.¹² A special district must comply with a local general-purpose government's request for the district's financial information if the district is located solely within its boundaries and the request is to satisfy the local general-purpose government's statutory reporting requirements.¹³

Rural Economic Development Initiative

The Legislature created the Rural Economic Development Initiative (REDI) to encourage and facilitate the location and expansion of major economic development projects in rural communities and regions.¹⁴ A "rural area of opportunity" is a rural community,¹⁵ or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.¹⁶ The Governor may designate up to three rural areas of opportunity as priority assignment areas for REDI by executive order, allowing the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development incentive.¹⁷

Phosphate Rock Severance Tax

The state levies an excise tax on those severing phosphate rock from Florida soils or waters for commercial use, which tax is collected, administered, and enforced by the Department of Revenue.¹⁸ Each county designated as a rural area of opportunity receives payments from the revenues generated by the tax equal to 8.9 percent of the county's proportionate share of statewide phosphate mining.¹⁹ These payments are made to the local authority designated to promote and direct the economic development of the county, if the Legislature has established one, or alternatively to the county directly.²⁰

Hardee County Economic Development Authority

¹² See ss. 218.32 and 218.39, F.S.

¹³ S. 189.016(9), F.S.

¹⁴ S. 288.0656(1)(a)-(b), F.S. REDI is within the Department of Economic Opportunity (DEO) and state and regional agencies are authorized to participate. REDI is responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities to find ways to balance environmental and growth management issues with local needs. S. 288.0656(3), F.S.

¹⁵ S. 288.0656(2)(e), F.S. A "rural community" is:

1. A county, or a municipality within a county, with a population of 75,000 or fewer;
2. A county, or a municipality within a county, with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; or
3. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified and verified by DEO.

"Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities. S. 288.0656(2)(c), F.S.

¹⁶ S. 288.0656(2)(d), F.S.

¹⁷ S. 288.0656(7)(a), F.S. REDI may recommend up to three rural areas of opportunity to the Governor. Designation as a rural area of opportunity under this subsection is contingent upon the execution of a memorandum of agreement among DEO; the governing body of the county; and the governing bodies of any municipalities to be included within a rural area of opportunity. S. 288.0656(7)(b), F.S.

¹⁸ S. 211.3103(1), F.S. The tax is in addition to any ad valorem taxes levied upon the separately assessed mineral interest in land the rock was located, or any other tax, permit, or license fee imposed by the state or counties. S. 211.3103(4), F.S.

¹⁹ S. 211.3103(6)(b), F.S. After December 31, 2022, the percentage will increase to 10 percent. S. 211.3103(6)(a), F.S.

²⁰ Section 211.3103(6)(a)4., F.S.

Hardee County has been designated a rural area of opportunity.²¹ The Hardee Economic Development Authority (Authority) is an independent special district created by special act in 2004 to solicit, rank, and fund projects that provide economic development opportunities or infrastructure and maximize the use of federal, local, and private resources within Hardee County.²²

The Authority must adopt administrative rules and hold public meetings pursuant to general law, establish procedures for soliciting and awarding grants, direct the county clerk to expend funds upon proper authorization, and create a standardized application form for the award of grants by the Authority. The Authority's discretionary power includes the power to conduct business and receive funds on behalf of the Authority, approve or amend time and cost sheets submitted by county employees appointed to work for the Authority, and any other acts reasonable and necessary to implement and enforce the charter and rules adopted in accordance with the charter.

The Authority may appropriate funds paid to the clerk²³ by the state's chief financial officer in distributing the county's portion of the state's excise tax on the severance of phosphate rock, but cannot levy taxes or impose fees within the county.²⁴ The Authority does not have the authority to create an annual budget for its operating expenses.

The Authority has a governing body composed of nine members serving staggered terms.²⁵ The Hardee County Board of County Commissioners (BOCC) serves as five members. The remaining four members are the President of the Heartland Workforce Investment Board, Inc., in Hardee County, and three members appointed by the governing bodies of the three municipalities within the county (the City of Bowling Green, City of Wauchula, and Town of Zolfo Springs).²⁶

Appointed members serve four-year terms and the commissioner members serve terms that run concurrent with their commission terms.²⁷ Members are not compensated and may serve successive terms.²⁸ The chair of the BOCC serves as interim chair to call the first meeting of the Authority and the Authority may elect any sitting member to serve as chair. Each member is entitled to one vote and a majority of the members constitutes a quorum.²⁹

Effect of Proposed Changes

The bill authorizes the Authority to approve an annual operating budget that directly appropriates funds for the Authority exclusive of the grant program operated by the Authority. The budget approval process is subject to the accountability program regulating special districts, which is overseen by the Department of Economic Opportunity. The Economic Impact Statement submitted by the Authority indicates the bill will have no fiscal impact on the Authority and will not impact present governmental services. The bill will lead to increased efficiency.³⁰

B. SECTION DIRECTORY:

Section 1. Amends chapter 2004-394, Laws of Florida, as amended; authorizing the Authority to approve an operating budget for specified purposes under certain circumstances.

²¹ Fla. Exec. Order No. 16-150 (June 27, 2016), at https://www.flgov.com/wp-content/uploads/orders/2016/EO_16-150.pdf (last visited February 11, 2020).

²² Ch. 2004-394, Laws of Fla., as amended by chs. 2006-349, 2010-271, and 2018-185 Laws of Fla., and ss. 211.3103(6)(a)4. and (6)(b)4., F.S.

²³ The clerk of court acting in the capacity of chief financial officer for Hardee County. See ch. 2004-394, s. 2(2), Laws of Fla.; art. VIII, s. 1(d). Fla. Const.

²⁴ See Ch. 2004-394, s. 4, Laws of Fla.

²⁵ Ch. 2004-394, s. 3, Laws of Fla., as amended by ch. 2018-185, s. 3(1) of s. 1, Laws of Fla.

²⁶ *Id.*

²⁷ Ch. 2004-394, s. 3, Laws of Fla., as amended by ch. 2018-185, s. 3(2) of s. 1, Laws of Fla.

²⁸ Ch. 2004-394, s. 3, Laws of Fla., as amended by ch. 2018-185, s. 3(4) of s. 1, Laws of Fla.

²⁹ Ch. 2004-394, s. 3, Laws of Fla., as amended by ch. 2018-185, s. 3(3) of s. 1, Laws of Fla.

³⁰ Hardee County Economic Development Authority, *2020 Economic Impact Statement Form*, available at <https://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=EconomicImpactStatement.pdf&DocumentType=localbilldocuments&Session=2020&BillNumber=1465> (last visited February 14, 2020).

Section 2. Provides the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 19, 2019

WHERE? *The Herald-Advocate*, Wauchula, Hardee 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:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.