

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1045 West Villages Improvement District, Sarasota County

SPONSOR(S): Buchanan

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	17 Y, 0 N	Leshko	Miller
2) State Affairs Committee	20 Y, 0 N	Leshko	Williamson

SUMMARY ANALYSIS

The West Villages Improvement District (WVID) is an independent special district located in the City of North Port and unincorporated parts of Sarasota County, created by special act on June 14, 2004. WVID is authorized to plan, finance, construct, operate, and maintain public infrastructure in planned developments. The purpose of WVID is to provide infrastructure, including community development, systems, facilities, services, projects, and improvements to the district. WVID is governed by a five-member board of supervisors elected by the landowners to serve four-year terms. The district is authorized to levy non-ad valorem assessments and collect other rates, fees, rentals, fares, or other charges for property, facilities, and services made available to residents of the district but does not have ad valorem taxing power. WVID has the power to borrow money and issue bonds to be repaid by the collection of levies, fees, penalties, charges, fares, and assessments or revenues of said district.

The bill adds approximately 20 acres to WVID's jurisdictional boundaries, expanding the total acreage from 12,420 acres to 12,444 acres.

According to the economic impact statement, the expansion into the additional areas will increase district expenses to construct and maintain infrastructure by approximately \$1 million in each of the first two fiscal years following the expansion, which would be offset by funds remaining from prior bond issuances for construction and increased non-ad valorem assessment revenues.

The territorial expansion would go into effect only if affirmed by a majority vote of the landowners within the expansion area voting in a referendum to be held at a meeting of such landowners within 90 days from the effective date of the bill. The provisions providing for the referendum and required voter approval will go into effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Independent 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 The charter of a special district created by special act may be altered or amended by subsequent special acts.³ 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.⁴ A “dependent special district” is a special district subject to significant control by 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

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

Stewardship Districts

Stewardship districts provide management and financing structures for long term development of lands in different areas of the state. Stewardship districts incorporate many elements of community development district⁸ law, including statutory definitions,⁹ general and special powers,¹⁰ public financing including ad valorem taxes,¹¹ and the authority to issue bonds and related debt instruments.¹² The primary distinction between stewardship districts and community development districts is the timing for members of the board of supervisors to be chosen by all the qualified electors residing in the district.¹³

Water Control Districts

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 and Veterans Affairs Subcommittee, *Local Bill Policies and Procedures Manual 2020 – 2022*, p. 23, <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf> (last accessed Jan. 27, 2022).

⁴ Local Administration and Veterans Affairs Subcommittee, *The Local Gov’t Formation Manual 2020 – 2022*, pp. 60-61, <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last accessed Jan. 27, 2022).

⁵ S. 189.012(2), F.S. Types of such control include the county or municipality governing body acting as the district governing body, having the authority to appoint or remove at will district board members, or having final approval authority over the district’s budget.

⁶ S. 189.012(3), F.S.

⁷ Art. VII, s. 9(a), Fla. Const.

⁸ Ch. 190, F.S.

⁹ S. 190.003, F.S.

¹⁰ Ss. 190.007, 190.011, 190.012, 190.0125, 190.013, 190.031, 190.033, 190.035, 190.043, 190.44, F.S.

¹¹ Ss. 190.015, 190.012, 190.022, 190.024, 190.025, 190.026, F.S.

¹² Ss. 190.014, 190.016, 190.017, 190.023, F.S.

¹³ Local Administration and Veterans Affairs Subcommittee, *The Local Gov’t Formation Manual 2020 – 2022*, pp. 60-61, <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last accessed Jan. 27, 2022).

Water control districts (WCD)¹⁴ are created either by county ordinance or special act of the Legislature.¹⁵ A WCD is authorized to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to implement its specific water control plan.¹⁶ A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of its 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.¹⁷ To fund the costs of constructing and completing the necessary improvements, a WCD levies a non-ad valorem assessment apportioned on all lands in the district benefitting from the improvements.¹⁸ Each WCD also may levy annually a non-ad valorem assessment known as a “maintenance tax” to defray the costs of maintaining and preserving the district improvements.¹⁹

West Villages Improvement District

West Villages Improvement District (WVID) is an independent special district created by special act on June 14, 2004.²⁰ WVID spans approximately 12,420 acres within the City of North Port and in unincorporated Sarasota County.²¹ WVID is governed by a five-member board of supervisors elected to serve four-year terms by the landowners voting on a one acre/one vote basis.²² WVID is authorized to plan, finance, construct, operate, and maintain public infrastructure in planned developments. The purpose of WVID is to provide infrastructure including community development, systems, facilities, services, projects, and improvements to the district.²³ WVID has the authority to levy non-ad valorem assessments and collect other rates, fees, rentals, fares, or other charges for property, facilities, and services made available to residents of the district but does not have ad valorem taxing power.²⁴ WVID has the power to borrow money and issue bonds to be repaid by the collection of levies, fees, penalties, charges, fares, and assessments or revenues of said district.²⁵

WVID may exercise all powers, functions, and duties of a water control district under ch. 298, F.S.²⁶ In lieu of the statutory maintenance tax, WVID may impose a non-ad valorem maintenance assessment on specified property in the district.²⁷

Any expansion of the powers or boundaries of WVID within the City of North Port or within the unincorporated area of Sarasota County requires the prior approval of the specific local government or its designee.²⁸

Effect of Proposed Changes

The bill expands the boundaries of WVID by approximately 20 acres.

According to the economic impact statement, the district will spend approximately \$2,000,000 to install the infrastructure needed in the expansion parcel. WVID will finance these capital improvements by

¹⁴ All special districts operating under ch. 298, F.S., and formerly known as “drainage districts” or “water management districts” are now officially called water control districts. S. 298.001, F.S.

¹⁵ S. 298.01, F.S. Prior to 1980, water control districts could be created by circuit court order. See s. 298.03, F.S. (1979).

¹⁶ S. 298.22, F.S.

¹⁷ S. 298.22(3), F.S.

¹⁸ S. 298.305(1), F.S.

¹⁹ S. 298.54, F.S.

²⁰ Ch. 2004-456, Laws of Fla.

²¹ Ch. 2004-456, Laws of Fla., as amended by ch. 2006-355, 2007-307, 2008-284, Laws of Fla.

²² Ch. 2004-456, s. 4, Laws of Fla.

²³ City of North Port, *West Villages Improvement District (WVID) Information*,

<https://www.cityofnorthport.com/home/showpublisheddocument/17485/636600950709130000> (last visited Jan. 23, 2022).

²⁴ Ch. 2004-456, s. 3(2)(q), Laws of Fla. (No rates, fares, charges, or fees shall be established until after a public hearing of the board at the district at which all affected persons shall be given an opportunity to be heard).

²⁵ Ch. 2004-456, ss. 3(2)(t), 10, Laws of Fla.

²⁶ Ch. 2004-456, s. 3(1), Laws of Fla.

²⁷ Ch. 2004-456, s. 7, Laws of Fla.

²⁸ Ch. 2004-456, s. 2(4), Laws of Fla., as amended by ch. 2006-355, s. 1, Laws of Fla.

issuing bonds. WVID imposes special assessments on the properties that benefit from the improvements and uses these assessments to fund the bonds. Additionally, WVID has construction funds available from prior bond issuance that may be utilized to fund the infrastructure costs of the expansion parcel. WVID does not anticipate needing to issue additional bonds.²⁹ Therefore, any additional funds required for the planned development of the expansion parcel will be assessed to the residents of the WVID directly benefiting from the new infrastructure and developments.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2004-456, s. 17, Laws of Florida, as amended by ch. 2006-355, 2007-307, and 2008-284, Laws of Fla., revising and expanding the boundaries of the West Villages Improvement District.

Section 2: Provides that each assessable acre or fraction thereof present in person or by proxy at the landowners' meeting is counted as one vote.

Section 3: Provides that section 1 becomes effective upon approval by a majority of those qualified landowners within the area described in section 1 voting in a referendum to be held within 90 days from the effective date of the bill, and sections 2 and 3 become effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 10, 2021.

WHERE? In *The Herald-Tribune*, a newspaper printed and published in the city of Sarasota, and of general circulation in the Counties of Sarasota, Manatee, and Charlotte, in the state of Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? A referendum of the affected landowners must be held within 90 days after the effective date of this bill.

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 does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

²⁹ Special District Services, Inc., *Statement of Estimated Regulatory Costs West Villages Improvement District Expansion of the District's Boundaries*, November 17, 2021, (attached to Economic Impact Statement).

Under the district charter as amended, expansion within the boundaries of the City of North Port or within the unincorporated area of Sarasota County appears to require the prior approval of the affected local government.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.