

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1169 Hamilton County

**SPONSOR(S):** Shoaf

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	18 Y, 0 N	Burgess	Darden
2) State Affairs Committee	18 Y, 0 N	Burgess	Williamson

## SUMMARY ANALYSIS

A “special district” is a unit 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 “dependent special district” is a special district subject to significant control by the governing body of a single county or municipality.

The Hamilton County Development Authority (Authority) is an independent special district created by a special act in 1959. The Authority assists the growth of existing businesses in Hamilton County and encourages new investments and industry for the community. The Authority is governed by an eight-member board of supervisors (Board) made up of qualified electors appointed by the Governor to serve three-year terms. The Authority’s proposed budget for Fiscal Year 2021-22 was \$3.5 million, primarily funded by the phosphate rock severance tax. The Authority will be dissolved on June 1, 2023, per general law, unless reestablished on or after that date.

The bill reestablishes the Authority, effective June 1, 2023, and provides a new charter. The new charter largely mirrors the existing charter, except that the new chapter:

- Specifies that the boundaries of the district are coextensive with boundaries of Hamilton County; and
- Provides for a seven-member governing board serving four-year terms, with five members appointed by the Governor, one from each county commission district, and two members appointed by the Hamilton County Board of County Commissioners.

The bill does not appear to create any additional fiscal impact on the District.

# 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.<sup>1</sup> A special district may be created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>2</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.<sup>3</sup> Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>4</sup>

A “dependent special district” is a special district meeting at least one of the following criteria:

- The membership of the district’s governing body is identical to the governing body of a single county or municipality;
- All members of the district’s 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 approval by the governing body of a single county or municipality.<sup>5</sup>

An “independent special district” is any district that is not a dependent special district or one that includes more than one county unless the district lies wholly within a single municipality.<sup>6</sup>

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts (Official List of Districts), there are 1,918 special districts, including 1,303 independent special districts and 615 dependent districts.<sup>7</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>8</sup>

Generally, the maximum millage rate for an independent special district is the millage rate authorized by law and approved by the electors of the district in a referendum.<sup>9</sup> The 1968 Florida Constitution, however, provides that an independent special district with ad valorem tax authority established by law

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<sup>1</sup> S. 189.012(6), F.S. See also *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547-48 (Fla. 2019).

<sup>2</sup> S. 189.012(6), F.S.

<sup>3</sup> 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), Fla. Const. and ss. 125.01 and 166.021, F.S. See also *Local Gov’t Formation Manual 62*, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited March 3, 2023).

<sup>4</sup> *Local Gov’t Formation Manual* at 62.

<sup>5</sup> S. 189.012(2), F.S.

<sup>6</sup> S. 189.012(3), F.S. Independent special districts are created by the Legislature, unless another mechanism is authorized by general law. See, e.g. s. 190.005, F.S. (community development districts maybe created by a county, municipality, or the Florida Land and Water Adjudicatory Commission, depending on the size and location of the district).

<sup>7</sup> Dept. of Economic Opportunity, Special Dist. Accountability Program, “Official List of Special Districts,” <https://specialdistrictreports.floridajobs.org/OfficialList/DistrictWebsitePDF> (last visited March 3, 2023).

<sup>8</sup> See art. VII, s. 9(a), Fla. Const.

<sup>9</sup> See art. VII, s. 9(b), Fla. Const.

before its effective date may continue to exercise that authority, but that the authority may be restricted or withdrawn by law unless such power is necessary to pay outstanding debts.<sup>10</sup>

### Formation and Charter of an Independent Special District

With the exception of community development districts,<sup>11</sup> the charter for an independent special district must include the minimum elements required by ch. 189, F.S.<sup>12</sup> Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.<sup>13</sup>

### Independent Special District Dissolution

Generally, an independent special district may be dissolved in one of the four following ways:

- Voluntary dissolution by a majority vote plus one of the district's board;<sup>14</sup>
- For districts created by special act, the passage of a special act dissolving the district, subject to approval by a majority vote of the residents or landowners of the district;<sup>15</sup>
- For districts created by a local government, voter approval of a referendum dissolving the district or by the procedure used to create the district;<sup>16</sup> or
- For districts that have been declared inactive by DEO, by special act or ordinance without a referendum.<sup>17</sup>

Additionally, s. 189.0311(2), F.S., provides for the dissolution of all independent special districts created by special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts are not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after that date.<sup>18</sup> Such districts dissolve on June 1, 2023, unless reestablished pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. According to the Official List of Districts, 132 active independent special districts were created by special act before November 5, 1968,<sup>19</sup> and of those districts, six do not operate under a charter that was reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968.<sup>20</sup>

Unless otherwise provided by law or ordinance, all assets and liabilities of a dissolved independent special district are transferred to the local general-purpose government having jurisdiction over the territory of the district.<sup>21</sup>

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<sup>10</sup> Art. XII, ss. 2, 15, Fla. Const. See also art. IX, s. 2, Fla. Const. (1885), amended by SJR 69 (1939) (approved by the voters Nov. 5, 1940) (prohibition on state levy of ad valorem taxes for state purposes). *Bailey v. Ponce de Leon Port Authority*, 398 So. 2d 812 (Fla. 1981); see also *Hillsborough County v. Tampa Port Authority*, 563 So. 2d 1108 (Fla. 2d DCA 1990).

<sup>11</sup> S. 189.0311, F.S.; see s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

<sup>12</sup> Ss. 189.031(1) and (3), F.S., sets forth the minimum charter requirements for an independent special district.

<sup>13</sup> S. 189.031(3), F.S. (setting forth the minimum charter requirements).

<sup>14</sup> S. 189.072(1), F.S. If the district was created by special act, dissolution also requires a special act of the Legislature to take effect.

<sup>15</sup> S. 189.072(2)(a), F.S.

<sup>16</sup> S. 189.072(2)(b), F.S. If the district has the power to levy ad valorem taxes, a referendum is required for dissolution. See Art. VII, s. 9(b), Fla. Const.

<sup>17</sup> S. 189.072(3), F.S.

<sup>18</sup> Created by ch. 2022-266, Laws of Fla.

<sup>19</sup> Dept. of Economic Opportunity, Special Dist. Accountability Program, "Official List of Special Districts,"

<https://specialdistrictreports.floridajobs.org/OfficialList/DistrictWebsitePDF> (last visited March 3, 2023).

<sup>20</sup> Bradford County Development Authority, Bradford County; Eastpoint Water and Sewer District, Franklin County; Hamilton County Development Authority, Hamilton County; Marion County Law Library, Marion County; Reedy Creek Improvement District, Orange and Osceola Counties; and Sunshine Water Control District, Broward County will dissolve on June 1, 2023, unless re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. Of those scheduled to sunset, Eastpoint Water and Sewer District, Reedy Creek Improvement District, and Sunshine Water Control District have debt obligations.

<sup>21</sup> Ss. 189.072(4) and 189.076(2), F.S.

## Hamilton County Development Authority

The Hamilton County Development Authority (Authority) is an independent special district created by a special act in 1959.<sup>22</sup> The Authority, assists existing local businesses in Hamilton County and encourages investments and industry in the community.<sup>23</sup> The Authority is governed by an eight-member board of supervisors (Board) made up of qualified electors appointed by the Governor to serve three-year terms.<sup>24</sup> The Authority's proposed budget for Fiscal Year 2021-22 was \$3.5 million,<sup>25</sup> primarily funded by the phosphate rock severance tax.<sup>26</sup>

### **Effect of Proposed Changes**

The bill reestablishes the Authority, effective June 1, 2023, and provides a new charter for the district. The new charter for the Authority largely mirrors the existing charter, while removing provisions that are now provided for in general law. The new charter differs from the existing charter in two ways:

- Specifies the boundaries of the authority are coextensive with the boundaries of Hamilton County; and
- Provides for a seven-member governing board serving four-year terms, with five members appointed by the Governor, one from each county commission district, and two members appointed by the Hamilton County Board of County Commissioners.

The bill does not appear to create any additional fiscal impact on the District.

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

- Section 1: Creates the district and provides a statement of purpose.
- Section 2: Provides definitions.
- Section 3: Creates the board of supervisors for the Authority, provides for appointment, terms, quorum, and compensation.
- Section 4: Provides general powers and duties for the Authority.
- Section 5: Prohibits creating a debt as against the state, county, or any of the incorporated municipalities in Hamilton County.
- Section 6: Provides for liberal construction.
- Section 7: Provides severability.
- Section 8: Provides this act may be amended only by special act of the Legislature.
- Section 9: Provides an effective date of June 1, 2023.

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

A. NOTICE PUBLISHED? Yes  No

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<sup>22</sup> Ch. 59-1322, Laws of Fla.

<sup>23</sup> Hamilton County Development Authority, *About HCDA*, <https://www.hamiltoncda.org/about-hcda/> (last visited Mar. 3, 2023).

<sup>24</sup> Ch. 59-1322, s. 4, Laws of Fla.

<sup>25</sup> *2021 Hamilton County Development Authority Financial Statements 23*, available at [https://flauditor.gov/pages/specialdistricts\\_efile%20rpts/2021%20hamilton%20county%20development%20authority.pdf](https://flauditor.gov/pages/specialdistricts_efile%20rpts/2021%20hamilton%20county%20development%20authority.pdf) (last visited Mar. 3, 2023).

<sup>26</sup> *2021 Hamilton County Development Authority Financial Statements 10*, available at [https://flauditor.gov/pages/specialdistricts\\_efile%20rpts/2021%20hamilton%20county%20development%20authority.pdf](https://flauditor.gov/pages/specialdistricts_efile%20rpts/2021%20hamilton%20county%20development%20authority.pdf) (last visited Mar. 3, 2023).

IF YES, WHEN? January 25, 2023.

WHERE? The *Riverbend News*, a weekly newspaper published in Suwannee, Lafayette, and Hamilton Counties.

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 does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.