

STORAGE NAME: h1655.ca

DATE: April 4, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1655

RELATING TO: Broward County (School Board)

SPONSOR(S): Representative Rayson

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2) ELECTION REFORM
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that the members of the Broward County School Board shall reside one in each of seven residential areas which together cover the entire district and are as equal in population as is practicable. The candidates for school board membership will then be nominated and elected only by the qualified electors who reside in the same residence area as the candidate. The bill also provides for a referendum.

According to the attached Economic Impact Statement, this bill has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

PRESENT SITUATION:

CONSTITUTIONAL PROVISION/SCHOOL DISTRICTS

Article IX, Section 4 subsection (a), State Constitution, provides that:

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

STATUTORY PROVISIONS/SCHOOL DISTRICTS

Several statutory provisions govern the election of district school board members from member residence areas. These provisions are summarized below.

Section 230.10, Florida Statutes, provides:

The election of members of the school board shall be by vote of the qualified electors of the entire district. Each candidate for school board member shall, at the time he or she qualifies, be a resident of the school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot of the general election shall be listed according to the school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each school board member residence area. The candidate from each school board member residence area who receives the highest number of votes in the general election shall be elected to the school board.

Section 230.06(1)(a), Florida Statutes, provides:

For those school districts, which have seven school board members, the district may be divided into five district school board member residence areas, with two school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

Section 230.105, Florida Statutes, is known as "The School District Local Option Single-Member Representation Law of 1984." This section provides an alternate procedure for the election of district school board members to provide for single-member representation. The statute provides:

(2) District school board members shall be nominated and elected to office in accordance with the provisions of ss. 230.061 and 230.10, or as otherwise provided by law, unless a proposition calling for single-member representation within the residence areas of the district is submitted to and approved by a

majority of the qualified electors voting on such proposition in the manner provided in subsection (3).

- (2) (b) If the school board is composed of seven members, at the option of the school board, such proposition shall provide that:
1. Five of the seven members shall reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member, and two of the seven members shall be nominated and elected at large; or
 2. All seven members shall reside one in each of seven residence areas, the areas together covering the entire district and as nearly equal in population as practicable, pursuant to s. 230.061, each of whom shall be nominated and elected only by the qualified electors who reside in the same residence area as the member.

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11 of Article III of the Florida Constitution lists a number of subjects which may not be addressed in any special act or general bill of local application. This list includes prohibitions on local bills pertaining to 20 wide-ranging topics, including the:

election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies.

In Kane v. Robbins 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis.

However, in School Board of Palm Beach County v. Winchester 565 So.2d 1350 (Fla. 1990), the Court ruled that Article III, section 11(a)1, Florida Constitution, did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

CURRENT STATUS OF ELECTION OF BROWARD COUNTY SCHOOL MEMBERS

In 1978, the Florida Legislature passed the special act which now applies to the election of school board members in Broward County (chapter 78-476, Laws of Florida). The act requires that the 7 members of the Broward County School Board reside in the area from which they are elected. The election of school board members is done on a county-wide basis, pursuant to section 230.10, F.S.

A. EFFECT OF PROPOSED CHANGES:

This bill provides that all seven members of the Broward County School Board shall reside one in each of seven residential areas which together cover the entire district and are as equal in population as is practicable. The candidates for school board membership will then be nominated and elected only by the qualified electors who reside in the same residence area as the candidate.

B. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 73-414, Laws of Florida, as amended by chapter 78-476, Laws of Florida.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Not applicable.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Not applicable.

(3) any entitlement to a government service or benefit?

Not applicable.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Not applicable.

- b. Does the bill require or authorize an increase in any fees?

Not applicable.

- c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

- d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

- e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?
Not applicable.
 - (2) Who makes the decisions?
Not applicable.
 - (3) Are private alternatives permitted?
Not applicable.
 - (4) Are families required to participate in a program?
Not applicable.
 - (5) Are families penalized for not participating in a program?
Not applicable.
- b. Does the bill directly affect the legal rights and obligations between family members?
Not applicable.
- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:
 - (1) parents and guardians?
Not applicable.
 - (2) service providers?
Not applicable.
 - (3) government employees/agencies?
Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1 provides that all seven members of the Broward County School Board shall reside one in each of seven residential areas which together cover the entire district and are as equal in population as is practicable. The candidates for school board membership will then be nominated and elected only by the qualified electors who reside in the same residence area as the candidate.

Section 2 provides that the Broward County School Board shall provide for an orderly transition to election from single member residence areas.

Section 3 provides that this act shall take effect upon its approval by referendum, except that section 3 will take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 1997.

WHERE? The Sun-Sentinel, Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? In conjunction with the next primary, general, special, or other election to be held in Broward County.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

According to the attached Economic Impact Statement, this bill is desired because the election of school board members from districts would be more reflective of the citizens of Broward County.

This special act is needed to change the Broward County School Board elections to single-member residence area elections because the current controlling special act requires county-wide elections. In conformity with general law requirements, the bill provides for referendum approval by a majority of Broward County electors before changing to single member residence area elections.

STORAGE NAME: h1655.ca

DATE: April 4, 1997

PAGE 8

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Kristen M. Rademaker

Jenny Underwood Dietzel