

STORAGE NAME: h3637.ca

DATE: March 6, 1998

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

BILL #: HB 3637

RELATING TO: Hillsborough County School District

SPONSOR(S): Representative Miller and others

COMPANION BILL(S): None

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

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

I. SUMMARY:

This bill provides that the Hillsborough County School District as a seven (7) member school district consist of five (5) members elected from single-member residence areas and two (2) members elected from the county at large. School board members continue to be elected on a nonpartisan basis. Elections are held in conjunction with the first primary and general elections.

The act shall take effect upon its approval by referendum.

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

II. SUBSTANTIVE RESEARCH:

A. 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's 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's 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. However, either the school board must pass a resolution providing for this alternative or the electors of the school district may petition to have the proposition placed on the ballot by presenting to the school board petitions signed by not less than 10 percent of the qualified electors residing within the school district. The statute provides the following:

- (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.

Section 230.106, Florida Statutes, provides for district school boards, in counties with populations of 1 million or more persons as of the last decennial census (other than a home rule charter county as defined in subsection 125.011(1), Florida Statutes). If a qualifying county decides to elect its school board members in this fashion, they are required to submit to the electors for approval at a referendum, the question of whether school board should be composed of as follows:

- Nine members;
- Seven of the nine members to be elected from a single-member residence area by the electors residing in the single-member residence area only; and
- Two members to be elected at-large, notwithstanding the provisions or s. 230.61, s. 230.10, or s. 230.105, Florida Statutes.

The referendum is to be held on the first Tuesday after the first Monday in November 1997. If the electors approve the question then the district school board is required to provide for the orderly transition to such election of school board members as the terms of incumbent members expire.

According to the 1997 Florida Estimates of Population, University of Florida, Bureau of Economic and Business Research, College of Business Administration, April 1, 1997, Dade, Broward, and Palm Beach Counties have populations greater than 1 million.

The Dade County School Board is precluded from the provisions of section 230,106, F. S., for two reasons. This section excludes applicability to Dade County and the county is also bound by a Settlement Agreement/Consent Decree in U.S. District Court, Southern District of Florida, *Suarez, et. al v. School Board of Dade County*, Case no. 91-

0457, to provide representation on the School Board by factors set out in the agreement.

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.

Note: Hillsborough County is a charter county. The Hillsborough County School District Board has not adopted a resolution directing an election to be held to place this proposition on the ballot.

CURRENT STATUS OF ELECTION OF HILLSBOROUGH COUNTY SCHOOL MEMBERS

The Hillsborough County School District Board currently consists of seven members elected in non-partisan elections (ch. 67-945, Laws of Florida, as amended by ch. 75-393, Laws of Florida). District members 1, 2, 3, 4, and 5 are elected by county-wide vote and must live within their member's residence areas. District members 6 and 7 are elected by county-wide vote and are required to reside within the county.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes the supervisor of elections for Hillsborough County to place a referendum on the ballot at the general election to be held on November 3, 1998. The referendum provides for a seven-member district school board with five members to be elected from single-member residence areas and two members elected from the county at-large.

The transition schedule for election of the members is:

DISTRICT #	CURRENT EXPIRATION OF TERM	SINGLE MEMBER	COUNTY WIDE	NEW EXPIRATION OF TERM
1	2000	YES		2000
2	1998	YES		2002
3	2000	YES		2000
4	1998	YES		2002
5	2000	YES		2000
6	1998		YES	2002
7	2000		YES	2000

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

N/A

D. 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?

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- 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?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Provides for the supervisor of elections of Hillsborough County to place a referendum on the ballot at the general election on November 3, 1998. The referendum poses the question of whether the District School Board shall consist of seven nonpartisan members, five of whom are to be elected from a single-member residence area by the electors residing in the residence area and two members to be elected from the county at-large.

Section 2: Provides for the following:

- If electors approve of section 1 of this act, the first election to implement the transition to single-member representation is held in conjunction with the first primary election in the year 2000. Any runoff election is held during the general election of that year.
- In the year 2000, school board members from Districts 1, 3, 5, and 7 shall be elected. **Note: Districts 1, 3, and 5 are single member district members. District 7 is an at large member.**
- In the year 2002, school board members from Districts 2, 4, and 6 shall be elected. **Note: Districts 2 and 4 are single member district members. District 6 is an at large member.**
- All elections for district school board members are nonpartisan and held at the same time as the first primary and general elections as provided by law.
- All school board members are elected to appropriately staggered terms of 4 years.
- Each candidate for election must be a qualified elector of the county.
- Each candidate for election to a single-member district must be a registered voter of that district at the time of qualifying.
- Each person elected to a single-member district is elected only by the electors residing in the single-member district for which he/she is qualified.
- Each person elected to the school board takes office 2 weeks after the general election at which he or she was elected.
- Seats 1, 2, 3, 4, and 5 are filled from single-member residence areas.
- Seats 6 and 7 are filled from the county at large.

- Single member districts shall be reapportioned by the school board, in consultation with the supervisor of elections, as soon after each decennial census as practicable.
- Candidates for election to the district school board shall meet the same qualifications for nonpartisan office as chapter 105, Florida Statutes.
- The qualifying fee for candidates for school board member is calculated using the percentages set forth in section 106.031(3), Florida Statutes.
- Candidates may qualify without paying the qualifying fee using the procedures set forth in section 105.035, Florida Statutes.
- Candidates qualifying by the alternative method for a single-member seat must obtain the signatures of a number of qualified voters equal to at least 3 percent of the total number of registered voters within the geographical boundaries of the district for which he or she intends to qualify.
- Candidates qualifying by the alternative method for an at-large seat shall obtain the signatures of a number of qualified voters equal to at least 3 percent of the total number of registered voters in Hillsborough County.
- Write-in candidates shall file his or her qualifying papers during the qualifying period, and space shall be made available on the general election ballot to write in the name of the write-in candidate who has qualified.
- The appearance of the name of a school board candidate shall be in accordance with the provisions applicable to candidates for the nonpartisan office of county court judge.

Section 3: Provides that the school board shall conduct its elections through the office of the supervisor of elections of Hillsborough County and consistent with the Florida Election Code.

Section 4: Provides for the title and substance of the referendum to appear on the ballot.

Section 5: Repeals sections 1, 2, 4, 5, 6, and 7 of chapter 67-945, Laws of Florida, and section 3 of chapter 67-945, Laws of Florida, as amended by chapter 75-393, Laws of Florida.

Section 6: Provides that this act shall take effect upon its approval by referendum.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [] No [x]

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 3, 1998

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

Pursuant to the Voting Rights Act, 42 U.S.C. §1983 and 28 C.F.R. §41, Hillsborough County is required to obtain a preclearance determination from the United States Department of Justice that the election changes do not have the purpose and/or effect of denying the right to vote on account of race, color, or language minority group. This process takes approximately 90 days.

In the 1997 Legislative Session, HB 1655, by Representative Rayson, relating to the Broward County School Board was filed. The bill provided that the Broward County School Board would consist of nine members, six of whom would reside and be elected from single-member districts, and three of whom would be elected as members at large. The bill was passed by the House with one amendment. It was engrossed, received by the Senate, and placed on the Senate Calendar. The bill was removed from the Senate Calendar and referred to the Senate Rules & Calendar Committee. Upon adjournment, the bill died in the Senate Rules & Calendar Committee. Pursuant to House Rule 96, the bill was carried over to the 1998 Session and placed on the House Consent Calendar. On June 12, 1997, the bill was withdrawn from further consideration by the sponsor.

In 1997, the Legislature passed ch. 97-88, Laws of Florida, which created section 230.106, Florida Statutes. This section provided that charter counties of populations of 1 million or more were required to hold a referendum on the question of whether the school board should be composed of nine members, seven of whom are elected from a single-member residence area by electors residing in that area, and two of whom are to be elected at-large. In 1997, Broward County voters approved the referendum.

Florida House of Representatives Rule 92.(b) provides:

If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The following two amendments to the bill are being offered by Representative Miller:

- A title amendment corrects the chapter law citation in the title; and
- An amendment to section 1 of the bill provides the sections of general law from which the bill is seeking an exemption.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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