

STORAGE NAME: h1611a.er

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ELECTION REFORM
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1611

RELATING TO: Orange County/School Board

SPONSOR(S): Representative Starks and others

COMPANION BILL(S): None

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

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
 - (2) ELECTION REFORM YEAS 9 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill requires the School Board of Orange County to submit to the electors of the county school district, at a specified referendum, the question of whether the district school board will consist of seven members, each to be elected from a single-member residence area by electors residing in that residence area only.

The bill requires the district school board to provide for the orderly transition to election of district school board members, upon the approval of the voters. The bill provides the transition to occur as the terms of the incumbent district school board members expire.

This act shall take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

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 that the election of members of the school board must be by vote of the qualified electors of the entire district. Each candidate for school board member must, 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 must be listed according to the school board member's residence area in which she or he resides. Each qualified elector of the district is 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 is elected to the school board.

Section 230.06(1)(a), Florida Statutes: Provides that, 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 must be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

Section 230.105, Florida Statutes: 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:

- District school board members must be nominated and elected to office in accordance with the provisions of sections 230.061 and 230.10, Florida Statutes, 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 by law.
- If the school board is composed of seven members, at the option of the school board, the proposition must provide, as follows:
 - Five of the seven members must reside one in each of five residence areas, the areas together covering the entire district and as nearly equal in population as practicable, each of whom must 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
 - All seven members must reside one in each of seven residence areas, the areas together covering the entire district and as nearly equal in population as practicable,

each of whom must 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). 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 the school board should be composed 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.

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.

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.

Orange County School District: The Orange County School Board is composed of seven elected members. The board makes policy for Orange County Public Schools. Members serve a staggered 4-year term and are elected in county wide partisan elections. Members must live within the school district they represent.

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

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Orange County School Board to submit to electors of the county school district, at a specified referendum, the question of whether the district school board must consist of seven members, each to be elected from single-member residence areas by electors residing in that residence area only. The bill requires the district school board to provide for the orderly transition to such election of district school board members, if approved, as the terms of the incumbent district school board members expires, beginning with a general election.

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?

The bill requires the Orange County School Board to submit to the electors of the county school district, at a specified referendum, the question of whether the district school board must consist of seven members, each to be elected from a single-member residence areas by electors residing in that residence area only.

The bill requires that, upon approval of the referendum, the Orange County School board must provide for an orderly transition from countywide school board members to single-district school board members.

- (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 ANALYSIS:

Section 1: Requires the following:

- School Board of Orange County is to submit to the electors of the county school district for approval or rejection, at a referendum in conjunction with the 2000 presidential preference primary, the question of whether the district school board must be composed of seven members, each to be elected from a single-member residence area by electors residing in the single-member residence area only, notwithstanding the provisions of sections 230.061, 230.10, or 230.105, Florida Statutes.

[Note: Section 230.061, Florida Statutes, provides the requirements for school board member residence areas. **Section 230.10, Florida Statutes,** provides for the election of the school board by districtwide vote. **Section 230.105, Florida Statutes,** provides an alternate procedure for the election of district school board members to provide for single-member representation.]

- Requires that if the electors approve the election of single-member school board members, the seven single-member residence areas must be drawn by the district school board, and the district school board must provide for the orderly transition of district school board members as the terms of incumbent district school board members expire, beginning with the general election in November 2000.

Section 2: Provides that this act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? February 7, 1999

WHERE? The Orlando Sentinel, Orlando, Orange County, Florida

- B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? At the time of the 2000 presidential preference primary.

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C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, the cost of a third ballot for the Presidential Preference Primary elections is estimated at \$6,000. Once the bill is law, no additional funds are required because the ballot orders are automatically placed through the Supervisor of Elections office as part of the regular order.

IV. COMMENTS:

Florida House of Representatives Rule 44(b): Provides if a committee determines that a local bill provides only an exemption from general law, it shall be introduced as a general bill. It is unclear whether this bill provides "an exemption from general law," as neither the school board on its own initiative, or the electors by petition, have sought to place on the ballot a referendum requiring school board members to be elected on a single-district representation basis.

Section 230, Florida Statutes, provides **three methods** for electing school board members, as follows:

Section 230.10, Florida Statutes, requires that the election of school board members must be by vote of the qualified electors of the entire school district.

[**Note:** This is the method currently used to elect the Orange County School Board members.]

Section 230.105, Florida Statutes, provides an alternate procedure for the election of district school board members to provide for single-district member representation upon approval of the voters. The alternate method provides that, in cases of seven-member school boards, five of the seven members will be elected to provide for single-member representation and two of the seven members will be elected at-large. This section also requires that all seven members reside in seven residence areas. This section also provides for a method by which the electors of the school district may petition to have the proposition for the alternative procedure for the election of district school board members placed on the ballot.

[**Note:** The Orange County School board has not submitted a referendum to the voters requesting approval to elect school board members on a single-district basis. Electors in the Orange County School Board District have not petitioned the school board to place on the ballot a referendum electing the school board members on a single-district basis.]

Section 230.106, Florida Statutes, provides for the composition of the district school board in counties, with the exception of Miami-Dade County, with populations of over 1 million or more persons as of the last decennial census.

[**Note:** This section does not apply to the Orange County School District as it does not meet the population criteria. According to the *1998 Estimates of Florida Population*, from the Bureau of Economic and Business Research, University of Florida, Orange County's population as contained in the 1990 Census was 677,491. In addition, the April 1, 1998, estimate of population was 824,095]

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 8, 1999, the Committee on Community Affairs adopted an amendment to clarify the title of the bill.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Tonya Sue Chavis, Esq.

Staff Director:

Joan Highsmith-Smith

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