

STORAGE NAME: h2251a.ca
DATE: April 28, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 2251
RELATING TO: Bradford County Historical Board of Trustees
SPONSOR(S): Representative Crady
COMPANION BILL(S): None

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

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

I. SUMMARY:

This bill dissolves the Bradford County Historical Board of Trustees, a dependent special district, due to it being declared an inactive special district by the Department of Community Affairs.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 189.4044, Florida Statutes

Section 189.4044, Florida Statutes, provides the procedures to dissolve an inactive special district. The Department of Community Affairs (DCA) is charged with the duty of reviewing the status of special districts and determining whether the district is still active. A factor in the DCA's determination is whether the district meets one of the following criteria:

- no district action has been taken for 2 calendar years;
- there is no district governing board or a sufficient number of governing board members to constitute a quorum for more than 18 months;
- no reports, required by section 189.414, Florida Statutes, have been filed or attempted to be filed; or
- no fees assessed by the Special District Information Program have been paid for 2 fiscal years.

If the district satisfies one of the above criteria, then the DCA publishes a notice of its proposed declaration of inactive status once a week for 4 weeks in a newspaper of general circulation within the boundaries of the district. The notice must contain the name of the district, the laws in which it was organized and operated under, and the territory of such district. In addition, the notice must include a provision relating to any objections to (a) the proposed declaration or (b) any claims against district assets, and requiring that any objections or claims must be filed with the DCA within 60 days following the date of last publication. A second factor in its determination is whether 60 days from last publication there were any sustained objections filed with the DCA.

If a determination of inactive status is made, then the DCA notifies the Speaker of the House of Representatives and the President of the Senate of its determination and all special acts relating to the inactive district's creation and its charter. A special district declared inactive under section 189.404, Florida Statutes, is dissolved by a special act which repeals the inactive district's enabling laws.

The declaration of inactive status is sufficient notice as required by section 10, Article III of the Florida Constitution.

The assets and property of the inactive district are subject to legal process for payment of any district debts. Following the payment of all debts, any assets or property of the district escheats to the county or municipality in which the district is located. If there are no assets to pay the district indebtedness, then the local government where the district is situated may levy any tax on the property within the boundaries of the former district in order to pay such debts. The tax is assessed and collected by the county property appraiser and tax collector.

The Bradford County Historical Board of Trustees

The Bradford County Historical Board of Trustees (District) was created in 1973 by chapter 73-408, Laws of Florida, as a dependent special district in Bradford County. The purpose of the District is to preserve, maintain and operate for the use and benefits of the residents of Bradford County, the State, and the Nation, objects of historical and antiquarian interest of Bradford County and surrounding areas. The governing board of the District was composed of seven members serving terms of four years. Members were appointed by the governor.

The District is listed in the *1998 Special District Handbook*, published by the Department of Community Affairs, as a dependent district. In addition, it filed the requisite reports for some time in order to keep its active status. However, the District has taken no action within the last two years. In addition, the District has not had enough members on its governing board to constitute a quorum for more than eighteen months.

Declaration of Inactive Status

The Department of Community Affairs, pursuant to section 189.4044, Florida Statutes, declared the District inactive on February 16, 1999. The DCA received a letter from the District's registered agent in June 1998 which certified that the District had taken no action within the last two years, and did not have enough members on its governing board to constitute a quorum for more than eighteen months. The DCA then published a notice of inactive status of the District in the *Bradford County Telegraph* for four consecutive weeks beginning November 26, 1998. The notice required any party objecting to the District's dissolution to file an objection within 60 days after the date of the last publication of the notice. In addition, the notice required District creditors to file claims against the District within the 60 day time period. No sustained objections were filed with the DCA within the 60 day period.

DCA Secretary Siebert sent a letter, dated March 24, 1999, to Senate President Jennings and House Speaker Thrasher, as required by section 189.4044(3), Florida Statutes, requesting that the Legislature dissolve the District by repealing its enabling laws. Attached to the letter was the Declaration of Inactive Status Report concerning the District.

B. EFFECT OF PROPOSED CHANGES:

This bill dissolves the Bradford County Historical Board of Trustees, a dependent special district, due to it being declared an inactive special district by the Department of Community Affairs. After the District's debts are paid, any remaining assets will escheat to Bradford County.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 73-408, Laws of Florida; Chapter 80-452, Laws of Florida; Chapter 90-436, Laws of Florida

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?

Yes. With the dissolution of the District, the District's governing body will cease to exist.

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

Potentially. If the District's debts total more than its assets, the County will be obligated to determine how much tax to levy on residents within the boundaries of the inactive district, and see that such tax is levied.

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

No.

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?

Potentially. If the District's debts total more than its assets, the County will be obligated to levy a tax on residents within the boundaries of the inactive district in order to satisfy the debts of the District.

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

No.

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

No.

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

No.

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

Potentially. If the District's debts total more than its assets, the County is authorized by section 189.4044(2), Florida Statutes, to levy a tax on residents within the boundaries of the inactive district in order to satisfy the debts of the District.

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: Repeals all prior special acts relating to the Bradford County Historical Board of Trustees.

Section 2: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

STORAGE NAME: h2251a.ca

DATE: April 28, 1999

PAGE 6

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 26, December 3, December 10, & December 17, 1998

WHERE? *Bradford County Telegraph*

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

The resident agent of the District, Mr. Ray Norman, was contacted by staff regarding the dissolution of the District, District assets, and whether taxes would be levied in order to pay District creditors. Prior to publication of this analysis, Mr. Norman had not commented.

This bill does not have a Local Bill Certification or an Economic Impact Statement filed as required by Community Affairs Committee policy. The Chair of the Committee on Community Affairs is waving this requirement in order to accommodate the dissolution of an inactive district.

Although this legislation was not noticed, it appears as though the publication of inactive status, pursuant to section 189.4044(1)(b), Florida Statutes, is sufficient notice. Section 11.02 requires notice of special or local legislation to be published in a newspaper circulated throughout the affected county one time at least thirty days prior to the introduction of the legislation. The notice must contain the substance of the legislation as required by section 10, Article III of the Florida Constitution. However, section 189.4044(3), Florida Statutes, provides that the declaration of inactive status is sufficient notice as required by section 10, Article III of the Florida Constitution. It appears as though the more specific statutory provision, section 189.4044, Florida Statutes, controls.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

Staff Director:

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