

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1605 South Broward Hospital District
SPONSOR(S): Gottlieb
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	_____	<u>Smith</u>	<u>Cutchins</u>
2) <u>Finance & Tax</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The South Broward Hospital District (District) is an independent special district that was created by chapter 24415 (1947), Laws of Florida, and which has been amended by subsequent special acts.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill deletes outdated language and organizes previously authorized powers of the Authority. The bill also makes minor, stylistic changes to some of the language of the charter.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2004-05 or 2005-06.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The South Broward Hospital District (District) is an independent special district that was created by chapter 24415 (1947), Laws of Florida, and which has been amended by subsequent special acts.

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The bill deletes outdated language and organizes previously authorized powers of the Authority. The bill also makes minor, stylistic changes to some of the language of the charter.

Changes to the Charter

There are, however, provisions of this bill which do not simply codify existing law, but amend the charter of the Authority:

- Authorizes a petition of not less than 25 qualified electors owning property in the district, to call and hold an election within the district after giving more than 30 days notice of the time and place within the district where the election will be held.
- Removes antiquated language regarding elections held during previous years.
- Removes definition of "person."
- Removes the 9 ½% interest cap on the issuance of bonds.
- Removes the provision that the board of commissioners may sell certificates in a manner and for a price, determined to be for the best interest of the board of commissioners, but no certificates issued will be sold for less than 95 percent of the par value and accrued interest.
- Removes the provision that all bonds issued under a certain requirement will be advertised for sale on sealed bids, which advertisement will be published one time, the publication to be made at least 10 days preceding the date fixed for the reception of bids, in a newspaper published in the hospital district. The board of commissioners may reject any and all bids. If the bonds are not sold pursuant to such advertisements, they may be sold by the board at private sale within 60 days after the date advertised for the reception of sealed bids, but no private sale will be made at a price less than the highest bid which will have been received. If not sold, the bonds will be re-advertised in the manner prescribed, but no such bonds issued hereunder will be sold for less than 95 percent of the par value and the accrued interest.

- Removes the provision that if the board of commissioners determines to sell any refunding bonds, the refunding bonds will be sold at not less than 95 percent of par at public or private sale, in the manner and upon the terms as the board of commissioners will deem best for the interest of the district.

Charter of Authority

In recreating and reenacting the charter for the District, the bill provides:

Section 1:¹ Establishes an independent special tax district; provides boundaries.

Section 2:² Provides for boundaries of the properties annexed by the district.

Section 3:³ Provides for sub-districts.

Section 4:⁴ States the number of members of the governing body of the district is seven commissioners.

Provides the members will serve without compensation.

Provides the governing body to be electors residing in Broward County for more than one year and in the subdistricts for more than ninety days prior to the appointments.

Provides for staggered terms of 4 years each for each commissioner.

Provides that each succeeding appointment by the board of commissioners shall be for terms of 4 years.

Provides the Governor may remove any commissioner for cause, and fill any vacancy that may at any time occur.

Requires each commissioner to give a bond to the Governor for \$5,000, to be kept by the Clerk of the Circuit Court of Broward County.

Allows each member to serve until his or her successor shall be appointed.

Section 5:⁵ Provides the board of commissioners for the district will have all governmental, corporate, and proprietary powers.

Section 6:⁶ Provides four commissioners constitute a quorum. Provides a vote of at least three commissioners is necessary for the transaction of district business.

Section 7:⁷ Authorizes the district to create an employees' pension fund, annuity or retirement plan and to provide for life or disability or medical insurance for any and all of its employees or officers on a group insurance, or other acceptable plan, approved by the board.

¹ See ch. 24415, 1947, Laws of Fla. s.1.

² See ch. 65-1339, Laws of Fla. s. 1.

³ See ch. 79-431, Laws of Fla. s. 1.

⁴ See ch. 82-269, Laws of Fla. s. 1.

⁵ See ch. 84-400, Laws of Fla. s. 1.

⁶ See ch. 70-618, Laws of Fla. s. 2.

⁷ See ch. 61-1925, Laws of Fla. s. 1.

- Section 8:⁸ Authorizes the board of commissioners to establish, construct, operate, and maintain hospital(s) and other health facilities, and facilities for limited care and treatment.
- Section 9:⁹ Authorizes the board of commissioners to establish, construct, operate, and maintain in connection with the hospital, any educational or vocational institution in the state, a school or training program for nurses, paramedics, medical technicians, and other technical employees in the hospital, medical, or related field. Allows board of commissioners to set rules and regulations necessary for training programs. Provides the hospital is allowed to give diplomas or certificates of training to certain persons who have completed the programs satisfactorily. Empowers the board to setup cooperative doctors' residence programs.
- Section 10:¹⁰ Grants eminent domain authority.
- Section 11:¹¹ Provides definition of "anticipation warrants"; authorizes the district to borrow money, to issue anticipation time warrants, including bond anticipation notes, grant anticipation notes, revenue anticipation notes, and tax anticipation notes, and to issue the same in the form of commercial paper, having such maturities, not in excess of five years, form, and terms and bearing interest at such a rate or rates, including variable rates, as to be determined by the board of commissioners or by the Chairman, the Vice-Chairman, or the Secretary-Treasurer within guidelines and limits determined by the board of commissioners, and to refund any or all previously issued anticipation time warrants.
- Section 12:¹² Authorizes the board of commissioners of the district to issue bonds of such form and denomination, becoming due not more than 40 years from the date of issuance, in an amount not to exceed \$50 million as the total bonded indebtedness of the district for the purpose of raising funds to establish, construct, acquire, add to, operate and maintain the hospital or hospitals and to refund any and all previous issues of bonds in such manner as the district determines to be in its best interests.
- Section 13:¹³ Provides reference to issuance of such bonds.
- Section 14:¹⁴ Provides all bonds issued by the district, except refunding bonds and revenue certificates, are issued only after approval at a bond election.
- Section 15:¹⁵ Authorizes the board of commissioners to sell and assign accounts receivable, notes receivable, and judgments at discount, and the authority to subordinate its interest in mortgage and judgment liens to the interests of third parties.

⁸ See ch. 84-400, Laws of Fla. s. 2.

⁹ See ch. 74-436, Laws of Fla. s. 1.

¹⁰ See ch. 24415 (1947), Laws of Fla. s. 8.

¹¹ See ch. 83-378, Laws of Fla. s. 2.

¹² See ch. 80-469, Laws of Fla. s. 2.

¹³ See ch. 80-469, Laws of Fla. s. 3.

¹⁴ See ch. 80-469, Laws of Fla. s. 4.

¹⁵ See ch. 82-269, Laws of Fla. s. 2.

- Section 16:¹⁶ Authorizes the board of commissioners of the district to issue revenue certificates of the hospital district for the furnishing and reconstruction of any hospitals of the district; provides for revenue certificates to bear interest at rates determined by the board of commissioners and to mature not more than 40 years from their date or dates in such denominations as may be determined by the board; provides that revenue certificates will not be considered as part of the total bonded indebtedness of the district; and authorizes the board of commissioners to provide by resolution for the issuance of refunding certificates under such terms and conditions as the board of commissioners shall determine to be in the best interests of the district.
- Section 17:¹⁷ Provides general law for bond elections governance.
- Section 18:¹⁸ Provides that all bonds issued under the provisions of section 10 of this act shall be in the denomination of \$100 or \$1,000 and will be payable at such place or places as the governing authority may determine.
- Section 19:¹⁹ Provides bonds issued in section 12 of this act may either be registered or coupon bonds.
- Section 20:²⁰ Provides that the board of commissioners of the district will investigate and determine the legality of the proceedings before any bonds are issued pursuant to section 12 of this act; provides that where a recital is authorized it will be deemed to be an authorized declaration by the governing body of the district and will import that there is constitutional and statutory authority for incurring debt and issuing bonds.
- Section 21:²¹ Provides that in issuing bonds under the provisions of section 12 of this act or in issuing revenue certificates under the provisions of section 16 of this act there may be more than one improvement in hospital purpose in any such issuance.
- Section 22:²² Provides that no publication of any resolution or proceeding relating to the issuance of certain certificates will be required, except as required by this act.
- Section 23:²³ Provides for the board of commissioners of the district to provide by resolution for the issuance of refunding bonds of an existing bond indebtedness, issued under the provisions of section 12 of this act.
- Section 24:²⁴ Providing that such refunding bonds mature not later than 40 years from their respective dates.
- Section 25:²⁵ Providing that the authority of the district to issue obligations under this act may be determined and obligations to be issued under this act may be validated as provided by law.

¹⁶ See ch. 80-469, Laws of Fla. s. 5.

¹⁷ See ch. 69-910, Laws of Fla. s. 6.

¹⁸ See ch. 80-469, Laws of Fla. s. 6.

¹⁹ See ch. 80-469, Laws of Fla. s. 7.

²⁰ See ch. 80-469, Laws of Fla. s. 8.

²¹ See ch. 80-469, Laws of Fla. s. 9.

²² See ch. 80-469, Laws of Fla. s. 11.

²³ See ch. 80-469, Laws of Fla. s. 12.

²⁴ See ch. 80-469, Laws of Fla. s. 13.

²⁵ See ch. 80-469, Laws of Fla. s. 14.

- Section 26:²⁶ Providing that refunding bonds may be sold or exchanged at any time, on, before, or after the maturity of any of the outstanding bonds, to be refinanced.
- Section 27:²⁷ Provides funds of the district will be paid out only by warrant signed by the chairman of the board, having the corporate seal of the district, and no warrant will be drawn or issued against funds of the district except for the purposes of this act.
- Section 28:²⁸ Authorizes the district to annually assess and levy 2.5 millage of ad valorem taxation.
- Section 29:²⁹ Provides that the levy of the taxes authorized by this act will be by resolution of the board and duly entered into the minutes of the board.
- Section 30:³⁰ Authorizes the board to pay from the funds of the district all expenses of the organization of the board and all expenses necessarily incurred with the formation of the district and all other reasonable and necessary expenses, including the fees and expenses for other means.
- Section 31:³¹ Provides for notice of all moneys received and disbursed by the district.
- Section 32:³² Provides the hospital or clinic established by this act will be for the use and benefit of the residents of this district.
- Section 33:³³ Authorizes the district to set rules, regulations, and by-laws for the operation of the hospital and the hospital staff.
- Section 34:³⁴ Provides that the provisions of this act shall be liberally construed.
- Section 35: Authorizes a petition of not less than 25 qualified electors owning property in the district, to call and hold an election within the district after giving more than 30 days notice of the time and place within the district where the election will be held.
- Section 36: Provides for severability.
- Section 37:³⁵ Provides for the fiscal year.
- Section 38:³⁶ Provides for interest rates and prices on bonds.
- Section 39:³⁷ Authorizes board of commissioners to invest funds.

²⁶ See ch. 80-469, Laws of Fla. ss. 15, 16.

²⁷ See ch 24415 (1947), Laws of Fla. s. 25.

²⁸ See ch. 81-351, Laws of Fla. s. 1.

²⁹ See ch. 24415(1947), Laws of Fla. s. 27.

³⁰ See ch. 24415 (1947), Laws of Fla. s. 28.

³¹ See ch. 24415 (1947), Laws of Fla. s. 29.

³² See ch. 24415 (1947), Laws of Fla. s. 30.

³³ See ch. 24415 (1947), Laws of Fla. s. 31.

³⁴ See ch. 24415 (1947), Laws of Fla. s. 32.

³⁵ See ch. 75-346, Laws of Fla. s. 1.

³⁶ See ch. 83-378, Laws of Fla. s. 3.

³⁷ See ch. 90-488, Laws of Fla. s. 1.

Section 40:³⁸ Provides that the district is not a public body or taxing authority for purposes of part III of chapter 163, F.S.

C. SECTION DIRECTORY:

- Section 1: Provides that the bill constitutes the codification of all special acts relating to the South Broward Hospital District; sets forth legislative intent to provide a single, comprehensive special act charter for the authority; preserves authority, including the authority to annually assess and levy ad valorem taxation.
- Section 2: Codifies, reenacts, amends, and repeals chapters 24415 (1947), 59-1125, 59-1126, 59-1128, 61-1925, 61-1932, 61-1935, 63-1180, 65-1296, 65-1339, 67-1164, 69-910, 70-618, 71-566, 71-577, 72-494, 74-436, 74-450, 75-346, 75-349, 76-337, 76-339, 79-431, 80-459, 80-466, 80-467, 80-469, 81-351, 82-269, 83-378, 84-400, 90-488, and 99-423, Laws of Florida.
- Section 3: Recreates the South Broward Hospital District, and recreates and reenacts the charter of the District:
- Section 4: Provides that the provisions of this act shall be liberally construed as a remedial act for the purposes for which it was intended.
- Section 5: Provides for ratification.
- Section 6: Provides for the severability of any invalid section, subsection, sentence, clause, or phrase if found unconstitutional.
- Section 7: Repeals chapters 24415 (1947), 59-1125, 59-1126, 59-1128, 61-1925, 61-1932, 61-1935, 63-1180, 65-1296, 65-1339, 67-1164, 69-910, 70-618, 71-566, 71-577, 72-494, 74-436, 74-450, 75-346, 75-349, 76-337, 76-339, 79-431, 80-459, 80-466, 80-467, 80-469, 81-351, 82-269, 83-378, 84-400, 90-488, and 99-423, Laws of Florida.
- Section 8: Provides that the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2004

WHERE? *Sun-Sentinel*, Fort Lauderdale, Broward County, and Boca Raton, Palm Beach County, and Miami, Miami Dade County, Florida

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

³⁸ See ch. 99-423, Laws of Fla. s. 1.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor of the bill may wish to amend the bill to remove antiquated language, add a status statement, and remove the ratification provision.

Drafting Issues – Ratification

The provision which ratifies all specified acts and proceedings is problematic. The general rule for such curative provisions is: “what the Legislature could have authorized, it can ratify if it can authorize at the time of ratification.” See, e.g., *Charlotte H. & N. R. Co. v. Welles*, 260 U.S. 8 (1922). It is important to note, however, that most of the cases on the issue of ratification and validation in Florida, with respect to special districts, relate specifically to the issue of assessments, which the Legislature had the power to ratify. Yet, different issues are presented through the use of broad and ambiguous ratification language as it is not clear what exactly the Legislature is ratifying. Thus, there is no way to know whether the Legislature could have authorized all acts and proceedings of the circuit court, the county, or the district. Moreover, to the extent that this broad and ambiguous ratification provision is not “curing” a specific issue, its application raises issues as to whether it may be retroactively applied. See, e.g., *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 61 (Fla. 1995) (where the Florida Supreme Court noted its refusal to apply a statute retroactively if the statute impairs vested rights, creates new obligations, or imposes new penalties). It is suggested that the “ratification” clause be removed from the bill.

Dawn Credle, Memorial Healthcare System, Government Relations, representing the District, sent the following e-mail relating to the boundaries of the district:

The South Broward Hospital District is not annexing any property. This bill is taking all acts passed over time with the charter and combining them into one document.³⁹

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

³⁹ E-mail received from Dawn Credle, Memorial Healthcare System, Government Relations (March 17, 2004) (on file with the Committee on Local Government & Veterans' Affairs).