



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Constitutional Provision/School Districts

Section 4(a), Art. IX of the State Constitution, **School districts; school boards.**—provides:

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

Section 1001.36, F.S., **District school board member residence areas.**— provides:

(1) For the purpose of electing district school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven district school board members, the district may be divided into five district school board member residence areas, with two district 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.

(b) For those school districts which have seven district school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board.

(2) Any district school board may make any change that it deems necessary in the boundaries of any district school board member residence area at any meeting of the district school board, provided that such changes shall be made only in odd-numbered years and that no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent member during the term for which he or she is elected.

(3) Such changes in boundaries shall be shown by resolutions spread upon the minutes of the district school board, shall be recorded in the office of the clerk of the circuit court, and shall be published at least once in a newspaper published in the district within 30 days after the adoption of the resolution, or, if there be no newspaper published in the district, shall be posted at the county courthouse door for 4 weeks thereafter. A certified copy of this resolution shall be transmitted to the Department of State.

Section 1001.361, F.S., **Election of board by districtwide vote.**—provides:

Notwithstanding any provision of local law or any county charter, the election of members of the district school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as

provided in chapter 105. Each candidate for district school board member shall, at the time she or he qualifies, be a resident of the district 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 shall be listed according to the district 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 district school board member residence area. The candidate from each district school board member residence area who receives the highest number of votes in the general election shall be elected to the district school board.

### **Effect of Proposed Changes**

In 1998, the Legislature passed a special act (ch. 98-465, L.O.F.) authorizing a referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The bill also contained transition language that phased in the new single member districts.

HB 1085 repeals this obsolete special law, and provides that consistent with the referendum held in Hillsborough County on November 3, 1998, and with the consent of the United States Department of Justice, Civil Rights Division,<sup>1</sup> dated January 24, 2000, the governing body of the District School Board of Hillsborough County shall consist of seven members, five of whom are elected from single-member residence areas (designated as Districts 1, 2, 3, 4 and 5) and two of whom are elected from the district at large. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census in accordance with s.1001.36(2), F.S., and applied to the election held the following year. The bill also states that the election of members of the district school board shall be conducted in accordance with general law.

The bill takes effect upon becoming a law.

#### **C. SECTION DIRECTORY:**

Section 1: Provides for membership of district school board, and reapportionment.

Section 2: Provides for election of district school board members in accordance with general law.

Section 3: Repeals ch. 98-465, L.O.F.

Section 4: Provides for effective date.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 11, 2006.

WHERE? *The Tampa Tribune*, a daily newspaper published in Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes  No

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<sup>1</sup> Pursuant to the Voting Rights Act of 1965, 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.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, this bill will have no fiscal impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

#### CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11, Art. III of the State Constitution lists a number of subjects which may not be addressed in a special act or general bill of local application. This list includes prohibitions on such bills which involve the:

election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies. See, s. 11(1), Art. III of the State Constitution.

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 s. 11(a) 1, Art. III, of the State 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.

Hillsborough County is a charter county.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES