

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1633

Alachua County Housing Authority

**SPONSOR(S):** Cretul

**TIED BILLS:**

**IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) Local Government Council		Nelson	Hamby
2)			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

HB 1633 provides that the Alachua County Board of Commissioners may appoint two alternate members to the Alachua County Housing Authority. The bill also provides that the Alachua County Housing Authority is not a dependent special district.

The bill has an effective date of upon becoming law.

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

**Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.**

## 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**

##### Special Districts

Section 189.403, F.S., defines a “special district” as a local unit of special purpose (as opposed to general-purpose) government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers.

“Dependent special district” is defined as a special district that meets at least one of the following criteria:

- (a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- (b) All members of its governing body are appointed by the governing body of a single county or a single municipality.
- (c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.
- (d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

An “independent special district” means a special district that is not a dependent special district.

##### County Housing Authorities

Section 421.27, F.S., creates a housing authority in each Florida county. The area of operation of a housing authority created for a county includes all of the county for which it is created except that portion of the county which lies within the territorial boundaries of any city as defined in the Housing Authorities Law<sup>1</sup>, as amended.

These housing authorities may not transact business or exercise their powers until or unless the governing body of the county declares by resolution that there is need for a housing authority in such county. Upon notification of the adoption of such resolution, the commissioners of the housing authority are appointed by the Governor. These appointments are to be made “in the same manner as the commissioners of a housing authority created for a city may be appointed by the mayor....”

Section 421.05, F.S., which provides for such appointments, states that the mayor shall appoint no fewer than five persons, and no more than seven persons,<sup>2</sup> as commissioners of the authority. Three of the commissioners who are first appointed are designated to serve for terms of one, two and three years, respectively; the remaining commissioners are designated to serve for terms of four years each, from the date of their appointment. Thereafter, each commissioner is appointed for a four year term, except that a vacancy is filled for the unexpired term. Each housing authority is required to have at least one commissioner who is a resident who is current in rent in a housing project or a person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy

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<sup>1</sup> Part I of ch. 421, F.S.

<sup>2</sup> Notwithstanding this limitation on the number of commissioners of a housing authority, any housing authority that has more than seven commissioners on March 28, 1991, may maintain the same number.

through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority. In the case of an authority does not have a completed project, no tenant-commissioner may be appointed until 10 percent of the units in the first project of the authority have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project or the cessation of rent subsidy removes the tenant-commissioner from office, and another person meeting the qualifications required for the office is appointed for the unexpired portion of the term. After all reasonable efforts have been made and documented, if the commissioners find that no housing project resident or rent subsidy recipient is available to serve as a tenant-commissioner, the existing vacancy then is filled through the normal appointment procedures. However, such normal appointment does not preclude the requirement to exercise diligence in all succeeding vacancies to attempt to first appoint a tenant-commissioner until at least one tenant-commissioner has been appointed. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner holds office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner is filed with the clerk, and such certificate is conclusive evidence of the due and proper appointment of such commissioner. A commissioner receives no compensation for his or her services but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. The requirements of this subsection with respect to the number of commissioners of a housing authority apply without regard to the date on which the housing authority was created.

These commissioners may be removed or suspended in the same manner and for the same reasons as other gubernatorial appointees.

#### Alachua County Housing Authority

Chapter 71-526, L.O.F., currently provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County in lieu of the method appointment provided for under ch. 421.27, F.S. The Housing Authorities' web site<sup>3</sup> notes that its board of commissioners is comprised of five commissioners. According to the Florida Department of Community Affairs Official List of Special Districts, this entity currently is classified as dependent special district.<sup>4</sup>

#### **Effect of Proposed Changes**

HB 1633 amends ch. 71-526, L.O.F. It retains the language which provides that the commissioners of the Alachua County Housing Authority shall be appointed by the Board of County Commissioners of Alachua County. The bill also corrects a reference to s. 421.27(2), F.S. Additionally, the bill provides that the board of county commissioners may appoint one at-large alternate member and one alternate tenant commissioner.<sup>5</sup>

The bill further states that the Alachua County Housing Authority is an independent authority and not a dependent special district of Alachua County, because the Board of County Commissioners of Alachua County cannot remove housing authority members or control housing authority budgets.

Chapter 189 clearly distinguishes the attributes of an independent vs. dependent special district. The Department of Community Affairs' Florida Special District Handbook (January 2006) notes that "[a]n independent special district does not have *any* dependent characteristics." There may be certain benefits in the classification of a district as independent for a county (for example, the millage of such a district does not count against that of its county when calculating the maximum millage allowable by law<sup>6</sup>). However, a dependent special district must shed its various dependent qualities before declaring

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<sup>3</sup> <http://fdt.net/~acha/BoardofCommish.htm/>

<sup>4</sup> <http://floridaspecialdistricts.org/OfficialList/report.asp>

<sup>5</sup> While ch. 421, F.S., allows for up to seven commissioners, it does not contemplate the appointment of alternate members.

<sup>6</sup> See, s. 200.001(8)(d), F.S.

its independent status. In this case, the effect could be accomplished by reverting to gubernatorial appointment of housing authority board members.<sup>7</sup>

The bill also provides for severability, and an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ch. 71-526, L.O.F.

Section 2: Provides an effective date.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 24, 2006

WHERE? *The Gainesville Sun*, a daily newspaper published in Alachua 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

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

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

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<sup>7</sup>Section 189.404 (5), F.S., requires that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement is to be amended to conform with the Department of Community Affairs' determination or declaratory statement regarding the status of the district. Chapter 71-526, L.O.F., does not contain a charter for the Alachua County Housing Authority.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

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

The Sponsor of the bill intends to offer a strike-all amendment to the bill which removes the proposed:

- Section 2 of ch. 71-526, L.O.F., which contains language providing that the Alachua County Housing Authority is an independent special district; and
- Section 3 of ch. 71-526, L.O.F., which provides for severability.