

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 913  
**SPONSOR(S):** Domino  
**TIED BILLS:**

Loxahatchee River Environmental Control District, Palm Beach County

**IDEN./SIM. BILLS:**

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| <b>REFERENCE</b>   | <b>ACTION</b>    | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|--|------------------|----------------|-----------------------|
| 1) <u>Committee on Urban &amp; Local Affairs</u>             | <u>8 Y, 0 N</u>  | <u>Nelson</u>  | <u>Kruse</u>          |
| 2) <u>Government Efficiency &amp; Accountability Council</u> | <u>10 Y, 0 N</u> | <u>Nelson</u>  | <u>Cooper</u>         |
| 3) _____   | _____            | _____          | _____                 |
| 4) _____   | _____            | _____          | _____                 |
| 5) _____   | _____            | _____          | _____                 |

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**SUMMARY ANALYSIS**

The Loxahatchee River Environmental Control District is a multicounty independent special district of the state located in portions of Palm Beach and Martin Counties. The district has a popularly elected five-member governing board serving four-year terms.

This bill amends the district’s 2002 codification bill to revise a provision relating to the election of the board member from “area five.” The bill provides that this member is to be elected beginning with the 2000 General Election, rather than the 2002 General Election, as the law now reads.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, the bill will not have a fiscal effect.

## 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

The Loxahatchee River Environmental Control District was created by ch. 71-822, L.O.F., as a multicounty independent special district of the State. The district consists of approximately 72 square miles located in portions of Palm Beach and Martin Counties, including the Town of Jupiter, Jupiter Inlet Colony, Juno Beach, and the Village of Tequesta, generally defined as the Loxahatchee River Basin.

The district has a popularly elected five-member governing board. The Board is required to divide the district into five separate areas, with each area having approximately the same population according to the latest official decennial census. One Board member is to be elected from each numbered area by the electors of the total district, and each board member is required to be a resident of the area in which he or she is elected. Currently, members from areas one and two are elected beginning with the 2000 General Election, and members from areas three, four and five are elected beginning with the 2002 General Election, in accordance with s. 100.031, F.S. <sup>1</sup> Board members serve four-year terms.

##### Effect of Proposed Changes

This bill amends ch. 2002-358, L.O.F., the codification <sup>2</sup> bill for the Loxahatchee River Environmental Control District, to revise a provision relating to the election of its governing board. The bill provides that the board member from area five is to be elected beginning with the 2000 General Election, rather than the 2002 General Election, as the law now reads.

The language relating to these seats in the codification bill was new as the district's governing board previously was elected pursuant to s. 4 of ch. 88-506, L.O.F.:

(3) The first elected board shall be elected in the general election of 1988 on the date provided in subsection (4). The terms of office shall be:

(a) Members from areas three, five, and seven shall be elected and hold office until the 1989 general election and until their successors are elected and qualified.

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<sup>1</sup> Section 100.031, F.S., provides that a general election be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal, state, county and district officer whose term will expire before the next general election and, except as provided in the State Constitution, to fill each vacancy in elective office for the unexpired portion of the term.

<sup>2</sup> Codification is the process of compiling, updating and systematically arranging the special acts that comprise a special district's charter. After a special district's charter is created by special act of the Legislature, the original charter provisions may be amended by subsequent special acts. However, special act amendments are not automatically incorporated into one special act charter. Therefore, in order to ascertain the current status of a special district's charter, it is necessary to locate all special acts amending a district's original charter. This often can be a difficult and time-consuming process for persons interested in determining the status of a district's charter. Codification of special district charters is important because it permits readers to easily locate and identify such a charter. Codification of special district charters was initially authorized by the 1997 Legislature in ss. 189.429 and 191.015, F.S., both of which were amended in 1998. The laws provide for codification of all special district charters by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district. The 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law: (1) shall not be construed to grant additional authority nor supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend or alter any covenants, contracts or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Thereafter, the successors of the Board Members from areas three, five, and seven shall be elected for a term of 2 years in odd-numbered years.

(b) Members from areas one, two, four and six shall be elected and hold office until the general election in 1990 and until their successors are elected and qualified. Thereafter, the successors of the board members from areas one, two, four, and six, shall be elected for a term of 2 years in even-numbered years. In no event shall this section be interpreted to reduce the duration of the term of any board member elected prior to this section becoming law.

Apparently, on November 7, 2000, the governing board member of the Loxahatchee River Environmental Control District for area five was elected for a four-year term from January 2, 2001, to January 3, 2005, although the current law governing the district called for two-year terms. This individual subsequently received a certificate dated November 19, 2000, signed by then-Governor Jeb Bush and Secretary of State Katherine Harris confirming the member as the duly elected representative of the district for this term.<sup>3</sup> When the Florida Legislature "codified" the special acts of the Loxahatchee River Environmental Control District into ch. 2002-358, L.O.F., s. 4(3)—which provided for four-year terms of office for the governing board member areas—stated that the election of the board member from area five would begin with the 2002 General Election. This would have been the correct date had the official previously been elected for the statutorily-required two-year term. On November 2, 2004, the incumbent was re-elected for another four-year term from January 4, 2005, to January 5, 2009. The district has proposed the bill to correct this member's election cycle.

The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends ss. (3) of s. 4 of s. 3 of ch. 2002-358, L.O.F., relating to the election of a board member from area five.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

January 20, 2007.

WHERE?

*The Palm Beach Post*, a daily newspaper of general circulation published in Palm Beach County.

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, the bill will not have a fiscal effect.

<sup>3</sup> Letter from legal counsel for the Loxahatchee River Environmental Control District, Curtis L. Shenkman, Esq., to the Florida Division of Elections, dated May 24, 2006.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

None.

**Other Comments**

Legal Counsel for the district has indicated that the Division of Elections in the Florida Department of State has no objections to the language contained in this bill.<sup>4</sup>

D. STATEMENT OF THE SPONSOR

Rep. Domino filed HB 913 to correct an error (glitch) from 2002. The District's codification passed in 2002 contained one tiny error as to Seat 5 being in the election cycle beginning in 2002, when it should have been in the election cycle beginning in the year 2000.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.

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<sup>4</sup> Telephone conversation with Curtis L. Shenkman, Esq., on March 8, 2007.