

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1481 Loxahatchee Groves Water Control District, Palm Beach County
SPONSOR(S): Community & Military Affairs Subcommittee, Abruzzo
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	14 Y, 0 N, As CS	Tait	Hoagland
2) Government Operations Subcommittee	13 Y, 0 N	Naf	Williamson
3) Economic Affairs Committee	17 Y, 0 N	Tait	Tinker

SUMMARY ANALYSIS

The Loxahatchee Groves Water Control District is a special district that provides surface water management, road maintenance, and related services for the Loxahatchee Groves community and for a portion of Royal Palm Beach. The district is governed by a board of supervisors consisting of five members who are elected by landowners pursuant to a one-acre/one-vote system.

Pursuant to a voter referendum held in June 2011, the bill revises the procedures for the election of the board members to provide that one seat will be a popularly-elected, nonpartisan office. It specifies such seat will be elected by qualified electors on the day of the annual landowners' meeting in 2012, and that such election will be administered by the district.

The bill extends the term of one board member by one year and updates a provision specifying the number of board members.

The bill specifies that in the event of a conflict with another act, this act will control. It also provides for severability of any provisions found to be invalid or unenforceable.

The bill provides that the act will take effect upon becoming a law.

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. EFFECT OF PROPOSED CHANGES:

Background

Governance of Special Districts

Special Districts, Generally

A special district is a local unit of special-purpose (as opposed to general-purpose) government within a limited boundary.¹ It may be created by general law, special act, 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.² Examples of special districts include, but are not limited to, drainage and water control, economic development, fire control and rescue, and solid waste disposal.³ A special district is governed by a board.⁴

Election Procedures for Members of a Special District's Governing Board

Members of a special district's governing board may be elected by a popularly-elected system or a one-acre/one-vote system.⁵ A popularly-elected system is one in which each qualified elector⁶ of the district has one vote.⁷ A one-acre/one-vote electoral system is one in which each landowner has one vote for each acre of land he or she owns in the special district.⁸

Newly-created special districts use the one-acre/one-vote system. As a special district grows in population, it may begin to move toward a system in which some board members are popularly-elected and some board members are elected under the one-acre/one-vote system.⁹

Changing the Election Procedure for Members of a Special District's Governing Board

Current law provides a process by which a governing board of a special district may transition from a one-acre/one-vote system to a popularly-elected system.¹⁰ Such board may call a referendum in which qualified electors may vote on the question of whether certain members of the board should be popularly-elected if:

- The district has a total population, according to the latest official state census, a special census, or population estimate, of at least 500 qualified electors; and
- A petition signed by 10 percent of the qualified electors of the district is filed with the governing board of the district.¹¹

¹ Section 189.403(1), F.S.

² *Id.*

³ See "Special District Primary Function Cross-Reference List," Florida Department of Economic Opportunity, <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/functions.cfm> (last visited January 29, 2012).

⁴ See s. 189.404(3)(e), F.S.

⁵ See "Florida Special District Handbook Online – Elections," Florida Department of Economic Opportunity, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program/florida-special-district-handbook-online/elections> (last visited January 29, 2012).

⁶ Section 189.4051(1)(a), F.S., defines a "qualified elector" as "any person at least 18 years of age who is a citizen of the United States, a permanent resident of Florida, and a freeholder or freeholder's spouse and resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open."

⁷ Seats for which popular elections are held are nonpartisan. The Election Code (ch. 97-106, F.S.) governs qualifications and the qualifying period for such seats. See s. 189.4051(4), F.S.

⁸ See "Florida Special District Handbook Online – Elections," Florida Department of Economic Opportunity, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/special-district-information-program/florida-special-district-handbook-online/elections> (last visited January 29, 2012).

⁹ *Id.*

¹⁰ See s. 189.4051, F.S.

¹¹ See s. 189.4051(2)(a), F.S.

If the qualified electors approve such popular-election procedure, the composition of the governing board must be amended to provide for a number of qualified elector seats, based upon the percentage of land in the district that qualifies as “urban area.”¹² The table below shows the ratio of qualified elector seats to landowner seats, as well as the initial term lengths following a successful referendum.¹³

Urban Area	Qualified Elector Seats	Initial Term Length(s)	1 Acre/1 Vote Seats	Initial Term Length(s) ¹⁴
0 – 25%	1	4 years	4	1, 2, 3, and 4 years
26 – 50%	2	4 years	3	1, 2, and 3 years
51 – 70%	3	4 years (2 members) 2 years (1 member)	3	1 and 2 years
71 – 90%	4	2 years (2 members) 4 years (2 members)	1	1 year
91% or more	5	4 years (3 members) 2 years (2 members)	0	N/A

If the qualified electors disapprove such popular-election procedure, elections of board members continue as described by general law¹⁵ or by the enabling legislation for the district.¹⁶

Loxahatchee Groves Water Control District

Background on District

The Loxahatchee Groves Water Control District (district) provides surface water management, road maintenance, and related services for the Loxahatchee Groves community¹⁷ and a portion of Royal Palm Beach. Its area covers 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals in Northern Palm Beach County.¹⁸ The district was founded in 1917¹⁹ and all of its prior special acts have been codified into one special act pursuant to ch. 99-425, L.O.F., later amended by ch. 2004-410, L.O.F., and ch. 2011-257, L.O.F. (special act).

The district is governed by a board of supervisors (board), the five members of which are elected by landowners pursuant to a one-acre/one-vote system. The members of the board are elected to three-year terms.²⁰

Referendum to Change the Election Procedure for Members of the Board of Supervisors

Pursuant to current law,²¹ a sufficient percentage of the district’s qualified electors filed a petition with the board to initiate the transition of the election of the board’s members from the one-acre/one-vote system to the popular-election system.²²

¹² See s. 189.4051, F.S. Section 189.4051(1)(a), F.S., defines “urban area” as “a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.”

¹³ This table is based on s. 189.4051, F.S.

¹⁴ Governing board members elected on a one-acre/one-vote basis are elected for the periods listed in the table, as prescribed by ss. 298.11 and 298.12, F.S.

¹⁵ The general law referred to is s. 298.12, F.S., which prescribes elections procedures for certain special district boards of supervisors.

¹⁶ See s. 189.4051(2)(a)4., F.S.

¹⁷ There are more than 1,200 homes in the district, with an estimated population of 3,500. See “About Us,” Loxahatchee Groves Water Control District, <http://www.lgwcd.org/index.php?go=home.category&categoryId=2> (last visited January 29, 2012).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See s. 189.4051(2)(a)1.b., F.S.

²² See email correspondence between House of Representatives staff and the Palm Beach County Legislative Delegation, dated January 18, 2012, on file with the Community and Military Affairs Subcommittee.

The district subsequently held the required referendum on June 27, 2011, in which qualified electors were asked the following question: "Should certain members of the board of supervisors, who are currently elected on a one-acre/one-vote basis, be elected by qualified electors, who are registered voters, district residents, and district landowners or landowners' spouses pursuant to section 189.4051, Florida Statutes?"²³ The referendum was approved.²⁴

The "Loxahatchee Groves Control District Urban Area Study," dated August 8, 2011, establishes that urban areas constitute approximately 11 percent of the district under one of the statutory methods.²⁵ Thus, under the provisions of the special act, one board seat is to be elected by qualified electors.

Effect of Proposed Changes

The bill amends the special act to change election procedures and terms of seats for board members as a result of the June 27, 2011 referendum. It numbers the board seats as 1, 2, 3, 4, and 5. Those seats set to expire in 2012 will be determined by lot to be either Seat 1 or Seat 2. Seat 1 is designated the seat elected by qualified electors of the district (popular election). Seat 2 will remain a seat elected by landowners in the district (one-acre/one-vote election). Seat 3 is the seat for which the term will expire in 2013, and Seats 4 and 5 are the seats for which the terms will expire in 2014.

The bill provides that Seat 1 is to be converted to a nonpartisan office,²⁶ and candidates for the position are required to qualify with the Palm Beach County Supervisor of Elections pursuant to the procedures in state law.²⁷ The bill specifies the qualifying period for this seat is between noon of the 71st day prior to the date of the annual landowners' meeting to noon of the 67th day prior to the annual landowners' meeting. The bill requires the district to administer the election on the day of the annual landowner's meeting in 2012, and every three years thereafter.²⁸ The board member may win with a plurality of the qualified electors²⁹ voting in the election, and he or she shall take office within 10 days after the election. The board member shall serve until the expiration of his or her term, resignation, or removal, or until the election of a new board member for that seat.

The bill extends Seat 2's term for one year so that it expires in 2013. The term lengths for Seat 3, 4, and 5 remain unchanged. The table below shows the election method and term expiration date for each of the five seats.

Seat	Election Method	Term Expiration Date
1	Qualified Elector	2012, 2015
2	Landowners	2013
3	Landowners	2013
4	Landowners	2014
5	Landowners	2014

²³ *Id.* Since the district's inception in 1917, district elections, including the referendum election discussed herein, have been conducted by a third-party auditor (*see* email correspondence between House of Representatives staff and the Loxahatchee Groves Water Control District Administrator, dated 1/24/12, which is on file with the Community and Military Affairs Subcommittee).

²⁴ *See* email correspondence between House of Representatives staff and the Palm Beach County Legislative Delegation, dated January 18, 2012, on file with the Community and Military Affairs Subcommittee.

²⁵ Section 189.4051(1)(b), F.S., provides two methods for determining percentage of "urban area." The one used here is "a contiguous developed and inhabited urban area within a district with a minimum density of one single-family home per 2.5 acres with access to improved roads."

²⁶ Section 97.021, F.S., defines "nonpartisan office" as "an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation."

²⁷ *See* s. 99.061, F.S.

²⁸ The district plans to hold this election on the day of the annual landowners' meeting, which is the fourth Monday of June. Qualified electors will be allowed to vote from 7 a.m. to 7 p.m. that day; however, qualified electors will not be able to submit absentee ballots. The election will be conducted by a third-party auditor (*see* email correspondence between House of Representatives staff and the Loxahatchee Groves Water Control District Administrator, dated 1/24/12, which is on file with the Community and Military Affairs Subcommittee).

²⁹ The term "qualified elector" has the same meaning as found in s. 189.4051(1)(a), F.S.

The bill updates a provision relating to the number of board members to provide that the board of supervisors will consist of five members.

The bill specifies that if there is a conflict between the provisions of this act and the provisions of any other act, the provisions of this act will control to the extent of such conflict. It further provides for severability of any provisions of the act that are found to be invalid or unenforceable.

The bill provides that the act will take effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends ch. 99-425, L.O.F., as amended by ch. 2004-410, L.O.F., and ch. 2011-257, L.O.F., relating to the Loxahatchee Groves Water Control District, revising election procedures for members of the board of supervisors.

Section 2: Provides that if there is a conflict between this act and the provisions of any other act, this act shall control to the extent of such conflict.

Section 3: Provides for severability of any invalid or unenforceable provisions of the act.

Section 4: Provides that the act will take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN?

WHERE? *The Palm Beach Post*, a daily and Sunday paper of general circulation published in West Palm Beach, Palm Beach County, Florida and distributed in Palm Beach 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, no fiscal impacts are anticipated for either fiscal year 2011-2012 or 2012-2013.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments:

As stated earlier in the staff analysis, s. 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to governing

board members elected by qualified electors of the district. The bill appears to differ from s. 189.4051, F.S., in the number of years each board member is to serve, as well as the date for the election for the board member elected by qualified electors of the district.

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 CHANGES

On January 15, 2012, the Community and Military Affairs Subcommittee adopted two technical amendments and reported the bill favorably as a committee substitute. The first amendment removed an ambiguous phrase regarding the effective date of the bill. The second amendment clarified that the dates for the qualifying period are to be set in accordance with the date of the annual landowners' meeting. The second amendment also clarified that the election for the popularly-elected board seat is to be the day of the annual landowners' meeting (which is typically held the fourth Monday in June). This analysis has been updated to reflect those amendments.