

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/HB 1481	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Community & Military Affairs Subcommittee; Abruzzo	117 Y's	0 N's
<b>COMPANION BILLS:</b>	N/A	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/HB 1481 passed the House on February 29, 2012, and subsequently passed the Senate on March 5, 2012. The bill, pursuant to a voter referendum held in June 2011, revises the procedures for the election of the board members for the Loxahatchee Groves Water Control District 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 Economic Impact Statement indicates there is no fiscal impact.

The bill was approved by the Governor on April 6, 2012, ch. 2012-262, Laws of Florida. The bill is effective upon becoming a law.

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Present Situation

#### **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.<sup>1</sup> 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.<sup>2</sup> Examples of special districts include, but are not limited to, drainage and water control, economic development, fire control and rescue, and solid waste disposal.<sup>3</sup> A special district is governed by a board.<sup>4</sup>

##### 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.<sup>5</sup> A popularly-elected system is one in which each qualified elector<sup>6</sup> of the district has one vote.<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

##### 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.<sup>10</sup> 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.<sup>11</sup>

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<sup>1</sup> Section 189.403(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> 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).

<sup>4</sup> See s. 189.404(3)(e), F.S.

<sup>5</sup> 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).

<sup>6</sup> 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."

<sup>7</sup> 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.

<sup>8</sup> 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).

<sup>9</sup> *Id.*

<sup>10</sup> See s. 189.4051, F.S.

<sup>11</sup> 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.”<sup>12</sup> The table below shows the ratio of qualified elector seats to landowner seats, as well as the initial term lengths following a successful referendum.<sup>13</sup>

Urban Area	Qualified Elector Seats	Initial Term Length(s)	1 Acre/1 Vote Seats	Initial Term Length(s) <sup>14</sup>
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 law<sup>15</sup> or by the enabling legislation for the district.<sup>16</sup>

### **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 community<sup>17</sup> 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.<sup>18</sup> The district was founded in 1917<sup>19</sup> 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.<sup>20</sup>

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

Pursuant to current law,<sup>21</sup> 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.<sup>22</sup>

<sup>12</sup> 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.”

<sup>13</sup> This table is based on s. 189.4051, F.S.

<sup>14</sup> 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.

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

<sup>16</sup> See s. 189.4051(2)(a)4., F.S.

<sup>17</sup> 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).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See s. 189.4051(2)(a)1.b., F.S.

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?”<sup>23</sup> The referendum was approved.<sup>24</sup>

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.<sup>25</sup> Thus, under the provisions of the special act, one board seat is to be elected by qualified electors.

### **Effect of 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,<sup>26</sup> and candidates for the position are required to qualify with the Palm Beach County Supervisor of Elections pursuant to the procedures in state law.<sup>27</sup> The bill specifies the qualifying period for this seat is between noon of the 71<sup>st</sup> day prior to the date of the annual landowners’ meeting to noon of the 67<sup>th</sup> 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.<sup>28</sup> The board member may win with a plurality of the qualified electors<sup>29</sup> 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
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<sup>22</sup> 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.

<sup>23</sup> *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).

<sup>24</sup> 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.

<sup>25</sup> 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.”

<sup>26</sup> 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.”

<sup>27</sup> See s. 99.061, F.S.

<sup>28</sup> 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).

<sup>29</sup> The term “qualified elector” has the same meaning as found in s. 189.4051(1)(a), F.S.

1	Qualified Elector	2012, 2015
2	Landowners	2013
3	Landowners	2013
4	Landowners	2014
5	Landowners	2014

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 is effective upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 13, 2011.

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  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-2012 or 2012-2013.