

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1495 Spring Lake Improvement District, Highlands County

**SPONSOR(S):** Community & Military Affairs Subcommittee; Albritton

**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	Duncan	Hoagland
2) Finance & Tax Committee	21 Y, 0 N	Aldridge	Langston
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Spring Lake Improvement District (District) is an independent water control district located in Highlands County and created in 1971. The District is responsible for the construction, operation, and maintenance of the water management system for drainage and flood control and is governed by ch. 298, F.S., relating to drainage and water control. The District consists of 3,359 acres and serves approximately 3,800 residents.

The bill revises the provisions relating to the election of the District's Board of Supervisors to reflect the results of a referendum approved by the electors in 1998 and removes obsolete language. The bill also:

- Removes the authority for the District to condemn any land or property within the District as provided in ch. 73, F.S., relating to eminent domain, and ch. 74, F.S., relating to the proceedings supplemental to eminent domain.
- Provides that the aggregate principal amount of bonds outstanding at any one time may not exceed 15 percent of the assessed value of the taxable property within the District based on the tax records when the new bond issue was authorized. If the District wishes to issue bonds in excess of 15 percent of the assessed value of the taxable property within the District, then the amount of the excess bond issuance must be approved by a majority vote of landowners voting on a one-acre one-vote basis by referendum.
- Grants the District the power to construct and maintain facilities for and take measures to control mosquitoes and other arthropods of public health importance. This provision is subject to a referendum of the landowners voting on a one-acre one-vote basis on the question of granting the District the power to provide mosquito control services.

The bill provides an effective date of upon becoming a law; however, if the referendum on the question of whether the District should be granted the authority to provide mosquito services fails, then the act will be repealed on December 31, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The Spring Lake Improvement District (District) is an independent water control district located in Highlands County and created in 1971.<sup>1</sup> The District is responsible for the construction, operation, and maintenance of the water management system for drainage and flood control. The District consists of 3,359 acres<sup>2</sup> and serves approximately 3,800 residents.<sup>3</sup>

The District is governed by a five-member board of supervisors (Board). Three supervisors are elected on a one-acre one-vote basis, two are popularly elected.<sup>4</sup> Each supervisor is entitled to compensation in an amount not to exceed \$100 per month.<sup>5</sup> The Board exercises the powers granted to the District under its charter<sup>6</sup> and the state law governing drainage and water control.<sup>7</sup>

The District's authority includes the power to:<sup>8</sup>

- Contract and be contracted with; to sue and be sued in the name of the District; to adopt and use a seal; to acquire by purchase, gift, devise, eminent domain, or otherwise, property, real or personal, or any estate, within the District, to be used for the purpose of water control.
- Adopt a water control plan;<sup>9</sup> and to construct, operate, and maintain a system of main and lateral canals, drains, ditches, levees, dikes, dams, sluices, lockes, revetments, reservoirs, holding basins, floodways, pumping stations, siphons, culverts, and storm sewers to drain and reclaim the lands within the District and to connect some or any of them with roads and bridges.
- Clean out, straighten, widen, open up, or change the courses and flow, alter, or deepen any canal, ditch, drain, river, water course, or natural stream to drain and reclaim lands within the District.
- Hold, control, and acquire by donation, purchase, or condemnation, any easement, reservation, or dedication in the District. To condemn as provided in chapters 73 and 74, F.S., or acquire, by purchase or grant for use in the District, any land or property within the District.
- Issue general obligation bonds, revenue bonds, assessment bonds, or any other bonds or obligations to pay all or part of the cost of acquisition, construction, reconstruction, extension, repair, improvement, maintenance, or operation of any project, to provide for any facility, service, or other activity of the District and to provide for the retirement or refunding of any bonds or obligations of the District.

During the 2010 legislative session, CS/HB 1487 was filed proposing to grant the District the authority to modify its charter. The bill was subject to a referendum on the question of whether the district shall

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<sup>1</sup> Chapter 71-669, L.O.F.

<sup>2</sup> Spring Lake Improvement District, General Information, About Spring Lake Improvement District, *available at* <http://www.springlakefl.com/About/GeneralInformation/tabid/68/Default.aspx> (last visited February 2, 2012).

<sup>3</sup> Joe DeCerro, District Manager, Spring Lake Improvement District, via email forwarded to House Community & Military Affairs Subcommittee staff on February 2, 2012.

<sup>4</sup> On March 10, 1998, a referendum of the qualified electors of the District was held to decide whether certain members of its Board of Supervisors could be elected on a one-person one-vote basis pursuant to s. 189.4051, F.S. The resulting board has 3 members elected by via one-acre one vote and 2 members elected via popular election. Florida House of Representatives, *Local Bill Staff Analysis of HB 1487*, Local Government Council and Finance & Tax Committee, April 14, 2005.

<sup>5</sup> Section 9 of s. 3, ch. 2005-342, L.O.F.

<sup>6</sup> Chapter 2005-342, L.O.F.

<sup>7</sup> See ch. 298, F.S.

<sup>8</sup> Section 10 of s. 3, ch. 2005-342, L.O.F.

<sup>9</sup> "Water control plan" means the comprehensive operational document that describes the activities and improvements to be conducted by a water control district authorized under ch. 298, F.S., and includes any district "plan of reclamation," "water management plan," or "plan of improvement" that details the system of water management improvements implemented by the water control district. Section 298.005, F.S.

have the authority to provide public safety and security services, fire rescue services with the approval of the county, and mosquito control services; to construct and maintain district transportation facilities and educational facilities with the approval of the county school board; to establish district departments, committees and boards; and compensate its supervisors up to \$250 per month with supermajority approval of the board. The bill was effective upon approval by referendum.<sup>10</sup> However, the referendum was not approved by the voters so the provisions in the bill did not become law.

In 2011, the Spring Lake Improvement District Board asked the Florida Attorney General if the District had the authority to use its funds for the control of arthropods. According to the letter submitted to the Attorney General, the District initiated mosquito spraying in 1980 and have owned and operated mosquito control equipment and supplies since that time. On February 25, 2011, the Attorney General opined that it did not appear that the District is authorized to use District funds for the control of arthropods.<sup>11</sup>

## **Effect of Proposed Changes**

### **Board of Supervisors**

The bill modifies the provisions relating to the election of the board of supervisors (Board) to reflect the current structure of the Board based on the referendum<sup>12</sup> approved by the District's qualified electors in March 1998. The bill provides that the Board is governed by a five-member Board of Supervisors and the composition of the Board, terms of office, and the qualification of the supervisors, are determined pursuant to the provisions in the "Uniform Special District Accountability Act of 1989" (Special District Act).<sup>13</sup> As provided in current law, all supervisors must be landowners within the District.

Supervisors elected on a one-acre one-vote basis must be elected at a landowner meeting held annually in November. The landowner meetings must be held in accordance with the drainage and water control provisions governing landowners' meetings and the annual election of supervisors<sup>14</sup> established in state law. The remaining supervisors are elected pursuant to the provisions established in the Special District Act. The bill establishes the terms of office for supervisors elected on a one-acre one-vote basis and all other supervisors.

### **Powers of the District**

The bill removes the authority for the District to condemn any land or property within the District as provided in ch. 73, F.S., relating eminent domain, and ch. 74, F.S., relating to the proceedings supplemental to eminent domain.

With respect to the District's authority to issue general obligation bonds, revenue bonds, assessment bonds, or any other bonds, the bill provides that the aggregate principal amount of bonds outstanding at any one time may not exceed 15 percent of the assessed value of the taxable property within the District based on the tax records when the new bond issue was authorized. If the District wishes to issue bonds in excess of 15 percent of the assessed value of the taxable property within the District, then the amount of the excess bond issuance must be approved by a majority vote of landowners voting on a one-acre one-vote basis by referendum.

The bill grants the District the power to construct and maintain facilities for and take measures to control mosquitoes and other arthropods of public health importance. This provision is subject to a referendum of the landowners voting on a one-acre one-vote basis. The referendum must occur by July 1, 2012.

The bill further provides that the act is effective upon becoming a law; however, if the referendum on the question of whether the District should be granted the authority to provide mosquito services fails, then the act will be repealed on December 31, 2012.

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<sup>10</sup> Chapter 2010-266, L.O.F.

<sup>11</sup> Op. Atty. Gen. Fla AGO 2011-02 (Feb. 25, 2011)

<sup>12</sup> *Supra* note 6.

<sup>13</sup> See s. 189.4051, F.S., relating to elections; special requirements and procedures for districts with governing boards elected on a one-acre/one-vote basis.

<sup>14</sup> See ss. 298.11 and 298.12, F.S.

**B. SECTION DIRECTORY:**

Section 1: Amends ss. 6 and 10 of s. 3, ch. 2005-342, L.O.F., relating to the District's board of supervisors and its powers.

Section 2: Repeals ch. 2010-266, L.O.F.

Section 3: Requires a referendum of the District's landowners and provides a ballot question.

Section 4: Provides an effective date upon becoming a law with repeal date should the referendum fail.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 9, 11, 2011

WHERE? *The News-Sun*, a tri-weekly newspaper published at Sebring in Highlands, County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? No later than July 1, 2012.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the economic impact statement, the cost of mosquito control for fiscal years 2012-2013 and 2013-2014 is \$25,000 per year.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is effective upon becoming a law. However, if the referendum required in section 3 of the bill pertaining to the District's authority to provide mosquito control services fails, then the act is repealed. As a consequence, other provisions in the bill that do not require approval by referendum would also be repealed.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 7, 2012, the Community & Military Affairs Subcommittee adopted an amendment requiring the Spring Lake Improvement District to conduct a referendum of landowners voting on a one-acre one-vote basis on the question of granting the District the power to provide mosquito control services. The amendment also contains a ballot question and the act is repealed on December 31, 2012, should the vote to provide mosquito control services fail.

The analysis has been updated to reflect the amendment adopted by the subcommittee.