

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 601 (SB 972)

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Mayfield (Altman)

115 Y's 0 N's

**COMPANION SB 972
BILLS:**

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

House Bill 601 passed the House on February 29, 2012, and subsequently passed the Senate on March 5, 2012.

The Sebastian Inlet Tax District (District) is an independent special taxing district covering parts of Brevard and Indian River counties. The District was created in 1919 by special act of the Legislature for the purpose of maintaining the navigational channel between the Atlantic Ocean and the Indian River. The District is authorized to collect an ad valorem tax not to exceed 1.5 mills.

HB 601 amends the District's election procedures contained in the charter. The new language provides that members of the board may be elected by a plurality vote, instead of a majority vote. This will eliminate the need for a run-off election if the electors fail to elect a board member by more than 50 percent of the votes.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

The bill was approved by the Governor on April 13, 2012, ch. 2012-238, Laws of Florida. The bill is effective upon becoming a law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Sebastian Inlet Tax District (District) is an independent special taxing district covering parts of Brevard and Indian River counties. The District was created in 1919 by special act of the Legislature for the purpose of maintaining the navigational channel between the Atlantic Ocean and the Indian River.

Section 3(b) of the District's charter, codified in ch. 2003-373, L.O.F., requires that the board members "shall be elected on a nonpartisan basis by a *majority* of the qualified electors of the District voting at the election."¹ (emphasis added).

Section 189.405(4), F.S., provides that "[w]ith the exception of elections of special district governing board members conducted on a one-acre/one-vote basis, in any election conducted in a special district the decision made by a majority of those voting shall prevail, except as otherwise specified by law."

In the past, the requirement that the winner of the election receive a majority was construed by Brevard and Indian River counties and the District to mean that the candidate that received the most votes was the winner even if that candidate failed to receive greater than 50 percent of the vote.² Consequently, the Supervisors of Elections for both Brevard and Indian River counties have traditionally held the election of District board members during the November general election, assuming that no run-off would be needed.³ This happened in 2004 when one of the District's board members was elected at the November general election while only receiving 35 percent of the votes cast.⁴

However in 2010, the Indian River and Brevard County Supervisors of Elections were informed by the Florida Division of Elections that:

"[D]ue to the specific language in the special act creating the Sebastian Inlet District, candidates for the Sebastian Inlet will appear on the primary election ballot under non-partisan races. If no candidate receives a majority of the vote, the top two vote getters will appear on the general election ballot. This will be reflected on your primary ballot certification."⁵

The Department of State recommended that the election be rescheduled to coincide with the August primary so that if a majority was not reached, the run-off election would coincide with the November general election. This would save the counties the expense of having to perform a run-off after the general election should one be needed. Because the Florida Division of Elections believed that a plurality winner was insufficient to elect board members, the District's standard practice of having only one election in November had to be modified to allow the possibility of a run-off. However, moving the election to August has raised concerns that many seasonal residents would be unable to participate in the election process.⁶

Effect of Changes

¹ To win by a majority, a candidate must receive greater than 50% of the vote.

² Florida Department of State, Division of Elections, *available at*:

<https://doe.dos.state.fl.us/elections/resultsarchive/DetailRpt.Asp?ELECTIONDATE=11/2/2004&RACE=SEB&PARTY=&DIST=&GRP=005&DATAMODE=>

³ *Id.*

⁴ *Id.*

⁵ Sebastian Inlet District minutes of the July 14, 2010 Board meeting, *available at*:

http://www.sebastianinletdistrict.com/meetings_file.jhtml?id=13&file=July2010RCMMinsApproved.pdf.

⁶ Jim Waymer, *Sebastian Inlet Election Puzzles Officials*, FLA. TODAY, July 26, 2010, *available at*:

<http://www.tcpalm.com/news/2010/jul/26/sebastian-inlet-election-puzzles-officials/?partner=RSS>.

HB 601 amends the District's charter, ch. 2003-373, L.O.F., relating to election of board members by replacing the word "majority" with the word "plurality." This would have the effect of reinstating the District's election procedures that it has followed in the past. By changing the requirement that board members may be elected by a plurality of electors, the potential need for a run-off is eliminated. As such, the election of board members can be scheduled at the November general election.

The bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 26, 2011 (Indian River County); September 22, 2011 (Brevard County)

WHERE? Indian River Press Journal (Indian River County); Florida Today (Brevard County)

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No