

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1013 Technological Research & Development Authority, Brevard County

SPONSOR(S): Local & Federal Affairs Committee, and Workman

TIED BILLS: HB 4033 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 0 N, As CS	Nelson	Rojas
2) Economic Affairs Committee	16 Y, 0 N	Thompson	Creamer

SUMMARY ANALYSIS

The Technological Research and Development Authority (TRDA) was created as an independent special district in Brevard County by the 1987 Florida Legislature. TRDA's purpose is to support scientific research and development that leads to new business formation, job creation and economic growth on the Space Coast and throughout the state. As the result of a settlement agreement negotiated with the United States Department of Justice, the TRDA has requested dissolution.

HB 1013 repeals the special act charter for the TRDA, and dissolves the district effective December 31, 2013. It also transfers all assets and indebtedness of the district, if any, to Brevard County.

The bill has an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Technological Research and Development Authority

The Technological Research and Development Authority (TRDA) was created as an independent special district in Brevard County by ch. 87-455, L.O.F. Various special acts relating to the TRDA were codified by ch. 2005-337, L.O.F.

TRDA's purpose is to support scientific research and development that leads to new business formation, job creation and economic growth on the Space Coast and throughout the state. The TRDA works with early-stage technology companies and entrepreneurs to accelerate their business planning, fundraising efforts, business development strategies and growth. Since its inception in 1987, the TRDA has mentored hundreds of technology entrepreneurs and supported over 175 new technology companies that have created more than 1,350 high wage jobs throughout Florida. In May 2007, the TRDA opened a 31,000 square foot incubator in Melbourne that currently provides facilities and business development services to early-stage technology companies in sectors that include clean energy, software, wireless, IT, semiconductor, biotechnology and other tech industries.¹

The TRDA is administered by a five-member commission of county residents who are appointed by the Governor to serve four-year terms. This board is empowered to:

- plan and undertake a program of action which promotes scientific research and development and fosters higher education which relates to scientific research and development or provides for the economic development of Brevard County as a center for high technology and scientific research and development;
- contract with and support the programs of those accredited institutions of higher learning with research capability and whose main campuses are located within Brevard County, and to contract with any other accredited institutions of higher learning with a research capability;
- enter into grants, bequests, contracts and other agreements with units of government and private parties for the purpose of obtaining funds for projects and programs;
- establish an annual budget, amend the budget when necessary, and utilize all funds received only for projects, contracts, programs and grants;
- acquire real and personal property by lease, purchase or option;
- finance or refinance and to secure the issuance and repayment of bonds; and
- employ personnel, consultants, accountants, attorneys, engineers and such other experts.

¹ <http://www.trda.org/>.

On March 1, 2012, a lawsuit (captioned *United States v. Technological Research and Development Authority*, No. 1:12-cv-00065-LG-JMR) was filed against TRDA by the United States Department of Justice (DOJ) in the U.S. District Court for the Southern District of Mississippi. In this lawsuit, the United States sought to recover damages and civil penalties under the False Claims Act, 31 U.S.C. s. 3729, and at common law, for false claims and statements in connection with the application for, and use of, federal grants from the National Aeronautics and Space Administration (NASA) and the United States Department of Commerce, Economic Development Administration (EDA).

During the period relevant to the complaint, the TRDA maintained incubator facilities in Syracuse, New York; Homestead, Florida; and Brevard County; and received funds through grants awarded and administered by NASA at the NASA Shared Services Center, located at Stennis Space Center, in Mississippi.

In 2004, the TRDA, Melbourne Airport Authority and the City of Melbourne International Airport agreed to construct a new headquarters and incubator facility for the TRDA using NASA research grant funds, with additional funding coming from an EDA grant. The United States alleged that construction of this office building was outside the scope of the NASA grants and contrary to the terms of an EDA grant awarded jointly to the TRDA and the Melbourne Airport Authority, which prohibited combining funds from more than one federal agency for the project.²

On May 30, 2012, the TRDA Board of Directors unanimously authorized its legal counsel to enter into settlement negotiations with the DOJ. On November 15, 2012, the TRDA Board voted 4-0 in favor of dissolving the district,³ and approved the execution of a settlement agreement, which specified that the TRDA would:

- take the necessary steps to wind-down its operations as quickly as possible and take the necessary steps to dissolve; and
- on or before three days prior to TRDA's dissolution date, pay all of its remaining "cash on hand," use of which is not restricted by an underlying grant or applicable law, to the United States.

While a Consent Judgment also was entered into on November 15 against the TRDA for \$15 million, per the settlement agreement the United States agreed not to enforce this judgment against TRDA assets.

In addition, the settlement agreement releases the TRDA's current Board of Directors and staff from civil liability related to the conduct alleged in the lawsuit. The settlement agreement states that it is neither an admission of liability by the TRDA nor a concession by the United States that its claims are not well founded, but was executed in order to avoid the delay, uncertainty, inconvenience and expense of protracted litigation.

Relatedly, the Melbourne International Airport and its governing body, the Melbourne Airport Authority, have agreed to pay the United States \$4 million to resolve alleged False Claims Act violations based on the same events.⁴

On November 28, 2012, the TRDA requested dissolution effective December 31, 2013, pursuant to s. 189.4042, F.S.

The TRDA also is taking the necessary steps to successfully complete:

- execution of existing federal and state grants and contracts;
- mentoring to existing incubation clients;

² The result of this construction project, the Business Innovation Center, opened in May 2007, and is owned by the Melbourne Airport Authority. The TRDA had a long-term lease on the building, which is being terminated effective March 15, 2013.

³ March 12, 2013, e-mail from Chester Straub, Executive Director of the TRDA.

⁴ <http://www.justice.gov/opa/pr/2012/November/12-civ-1397.html>.

- termination of any long-term leases or service contracts; and
- expending or distribution of remaining resources within applicable restrictions.

Dissolution of an Independent Special District

Chapter 189, F.S., the “Uniform Special District Accountability Act of 1989,” provides general provisions for the definition, creation and operation of special districts. That chapter also contains several provisions relating to the dissolution of these districts.

Section 189.4042, F.S., provides general merger and dissolution procedures. Section 189.4042 (3)(a), F.S., describes voluntary dissolution of an active independent special district:

Voluntary dissolution.—If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

Section 189.4042(3)(d), F.S., provides that financial allocations of the assets and indebtedness of a dissolved independent special district shall be pursuant to s. 189.4045, F.S. Section 189.4045 (2), F.S., provides that unless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

Effect of Proposed Changes

HB 1013 dissolves the Technological Research and Development Authority in Brevard County, repealing the charter for the special district, ch. 2005-337, L.O.F., effective December 31, 2013.

The bill also transfers all assets and indebtedness of the district, if any, to Brevard County pursuant to s. 189.4045(2), F.S. Nonetheless, per the terms of the settlement agreement entered into by the TRDA, it appears that it will have little to no assets upon dissolution if it pays its “remaining cash on hand” to the United States prior to that event.

The projected assets and liabilities of the TRDA as of December 31, 2013, are: \$511,000 in assets with no liabilities.

TRDA account balances as of January 31, 2013, are as follows:

	TD Bank	SBA⁵ Florida Prime	SBA Fund B
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⁵ Florida State Business Administration.
STORAGE NAME: h1013c.EAC
DATE: 4/3/2013

Challenger Account	\$96,206.76	\$5,738.07	\$16,101.96
Energy Account	374,959.95	4,170.54	11,703.09
Escrow Account	15,502.13		
Incubator Account	63,216.95	820.14	2,301.40
Operating Account	285,146.17	4,530.06	12,712.19
Payroll Account	123,668.14		
NASA Account		20.86	46.08

The TRDA also has nominal non-cash assets which include furniture and equipment for the TRDA Business Innovation Center totaling approximately \$35,000, which the TRDA is in the process of selling, and additional furniture and equipment used by TRDA totaling approximately \$5,000, which will be disposed of upon dissolution.

For the period March 2013 through December 31, 2013, the TRDA sources of funds will be TRDA cash accounts (as detailed above), nominal rent collected from tenants of the TRDA Business Innovation Center (\$11,849 for the month of March and nothing thereafter), and Challenger/Columbia license plate fees (projected to be \$185,300 for March through September 2013). The TRDA does not receive funding under s. 379.2201, F.S.⁶

The projected wind-down expenses for the period March 2013 through December 2013 are \$608,366. This includes personnel expenses, a lease of office space, IT and telecommunications services, and general day-to-day administration.⁷

B. SECTION DIRECTORY:

Section 1: Dissolves the Technological Research and Development Authority, and transfers its assets and indebtedness.

Section 2: Repeals ch. 2005-337, L.O.F, relating to the Technological Research and Development Authority.

Section 3: Provides that the Authority will no longer receive user fees collected from the sale of Challenger/Columbia specialty license plates.

Section 4: Provides an effective date(s).

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 24, 2013

WHERE? *Florida Today*, a daily newspaper of general circulation published in Brevard County, Florida.

⁶ Section 379.2201, F.S., provides for the TRDA to receive funds through all saltwater license and permit fees collected and deposited into the Marine Resources Conservation Trust Fund to be used for administration of licensing programs and education, fishery enhancements, and marine research and management, among other things.

⁷ March 12, 2013, e-mail from Chester Straub, Executive Director of the TRDA.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

Section 3. b. of the settlement agreement provides:

Dissolution...will require one or more acts of the Florida State legislature. The Florida State legislature's failure to act notwithstanding TRDA's good faith efforts shall not constitute a breach of this Agreement.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2013, the Local & Federal Affairs Committee adopted an amendment, which removed language from the bill stating that the TRDA will no longer receive user fees collected by the Department of Highway Safety and Motor Vehicles from the sale of Challenger/Columbia specialty license plates. HB 4033 amends s. 320.008058, F.S., which eliminate these payments as of September 30, 2013.