

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1321 Florida Keys Aqueduct Authority, Monroe County

SPONSOR(S): Local and Federal Affairs Committee, Raschein

TIED BILLS: **IDEN./SIM. BILLS:** SB 1774

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 0 N, As CS	Dougherty	Rojas
2) State Affairs Committee	17 Y, 0 N	Rosenthal	Camechis

SUMMARY ANALYSIS

This bill replaces the Governor-appointment process for the board of directors of the Florida Keys Aqueduct Authority (FKAA) with a general, nonpartisan election process. An independent special district in Monroe County, the FKAA is the only provider of potable water in the Keys and manages wastewater collection, treatment, and disposal.

The Governor has appointed FKAA directors since 1937, but recent expansion of board powers has engendered concerns among some Monroe County residents. A 2012 referendum showed that 70 percent of voters support changing the appointed board to an elected board. Opponents argue that the current system maintains a strong relationship with the Governor. Furthermore, the board is not a taxing authority but rather operates similar to a revenue-based utility.

This bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Keys Aqueduct Authority

The Florida Keys Aqueduct Authority (FKAA) is an independent special district located in Monroe County. It was created in 1937 by special act and later recreated in ch. 76-441, L.O.F., which has been amended by subsequent special acts. The FKAA is the only provider of potable water for the Keys. Additionally, the FKAA manages wastewater collection, treatment, and disposal.

FKAA Board of Directors

A five member board of directors governs the FKAA and is appointed by the Governor for staggered four-year terms. Each director represents one of five coterminous districts of the Board of County Commissioners of Monroe County. Chapter 2002-337, L.O.F., provides that each board member receive \$300 per meeting, not to exceed three meetings per month. The compensation amount for the members of the board may be adjusted annually based upon the index provided for pursuant to s. 287.017(2), F.S. Board members are reimbursed for expenses pursuant to s. 112.061, F.S.

The board's duties include making policy; establishing employee compensation; entering into contracts; prosecuting and defending lawsuits; building, operating, and maintaining water production and distribution facilities; and, in general, doing all things included in the operation of a water utility. This includes the power to establish and collect rates, fees, rentals, and other charges, and to provide for reasonable penalties for any related delinquency. The board may also issue bonds.

Proposed Change from Appointed to Elected FKAA Board of Directors

In response to constituents' concerns, the Monroe County Board of County Commissioners placed a referendum on board appointments versus elections on the November 2012 ballot in Monroe County. The referendum passed by a 70 percent margin in favor of the board being determined by election.

Proponents argue that an elected board would be more responsive to the constituents' issues and concerns than the appointed board. Additionally, proponents believe that the FKAA's scope has expanded drastically in the past several years, as it partnered with Monroe County on the implementation and oversight of wastewater projects in unincorporated areas of the county. Therefore, proponents argue that expansion of authority and jurisdiction warrant an elected board.

Opponents include the FKAA's Executive Director and current board, who believe that the appointment process ensures that the FKAA maintains a strong relationship with the Governor. Furthermore, opponents point out that the board has no taxing authority and is completely revenue based, comparable to a utility. The appointment process has been used for 76 years.

The proposed change was included in a 2005 bill (HB 225 sponsored by Representative Sorensen), which was vetoed by the Governor. It attempted to codify all special acts related to FKAA, pursuant to s. 189.429, F.S., and amend the charter. One attempted amendment provided for a referendum on whether the board should be elected or appointed. HB 225 provided language that would supersede section four of the FKAA charter if such referendum was approved by majority vote in Monroe County. The 2005 attempted changes to section four of the charter are similar to those in the present bill, the only substantive differences being the role of the secretary-treasurer and timing rules for filling a mid-term vacancy.

Effect of Proposed Changes

Elections

The bill provides that, consistent with the 2012 referendum, the board of directors of the FCAA will be elected in nonpartisan, general elections, replacing the current system of gubernatorial appointments. The term of each board position is set at four years. The bill further provides that the board members serving when the bill becomes effective will complete their term and then new members will be chosen by the Monroe County electors. In order to be placed on the ballot, candidates must submit petitions with signatures of three percent of the total number of registered voters in the district.

Mid-term Vacancies

If a mid-term vacancy arises, the vacancy will be filled by gubernatorial appointment until the next general election. If the vacancy remains 30 days before the next general election qualifying period, that election alone – not an appointment – will fill the vacancy for the remainder of the term in which the vacancy occurred.

This bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 76-441(4)(1), L.O.F., as amended, providing that the Florida Keys Aqueduct Authority board of directors will be elected in nonpartisan elections rather than be appointed by the Governor, providing qualification requirements for such elections, providing when elected members will replace current members, providing how to fill a mid-term vacancy, removing outdated and inoperative language.

Section 2: Provides that this act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 27, 2013

WHERE? The *Key West Citizen*, a daily newspaper published in Monroe 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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the House Local and Federal Affairs Committee adopted a technical amendment and passed the bill as amended.

This analysis has been updated to reflect the amendment adopted by the Local and Federal Affairs Committee.