

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1065 Melbourne-Tillman Water Control District, Brevard County
SPONSOR(S): Fine
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	15 Y, 0 N	Renner	Miller
2) Ways & Means Committee	14 Y, 0 N	Engelbrecht	Langston
3) State Affairs Committee	21 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

The Melbourne-Tillman Water Control District (district) was created in 1986 by ch. 86-417, Laws of Fla., and its charter was recodified by ch. 2001-336, Laws of Fla., as amended. The district was created as a dependent special district to “secure, operate, and maintain an adequate, dependable surface water management system” within the district’s boundaries.

In 2010, the Preserve at Heritage Oaks (41.8 acres) and Eastwood at Heritage Oaks (39.5 acres) subdivisions were accepted into the district for stormwater services at the request of the developer.

Current law provides that when a water control district is created, or its authorities or boundaries are amended, by special act, lands may be added or deleted only through legislative modification of the special act.

The bill revises the district’s boundaries by adding Eastwood II at Heritage Oaks, a 20.6-acre subdivision.

According to the Economic Impact Statement, the bill is projected to result in no new net expenditures or revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law,² special act,³ local ordinance,⁴ or by rule of the Governor and Cabinet.⁵ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁶

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.⁷

An "independent special district" is a special district that is not a dependent special district.⁸ Additionally, a district that includes more than one county is an independent special district, unless that district lies wholly within a single municipality's boundaries.⁹

Water Control Districts

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).¹⁰ A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.¹¹ A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of the district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.¹²

¹ S. 189.012(6), F.S.

² S. 189.031(3), F.S.

³ *Id.*

⁴ S. 189.02(1), F.S.

⁵ S. 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

⁶ *2018-2020 Local Government Formation Manual*, p. 60, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3025> (last visited Feb. 25, 2019).

⁷ S. 189.012(2), F.S.

⁸ S. 189.012(3), F.S.

⁹ *Id.*

¹⁰ All special districts operating under ch. 298, F.S., and formerly known as "drainage districts" or "water management districts" are now officially called water control districts. Section 298.001, F.S.

¹¹ S. 298.22, F.S.

¹² S. 298.22(3), F.S.

Current law generally prohibits any special laws or general laws of local application that grant additional authority, powers, rights, or privileges to a WCD formed pursuant to ch. 298, F.S.¹³ However, the prohibition does not apply to such laws if the law:

- Amends an existing special act providing for the levy of an annual maintenance tax of a district;
- Extends the corporate life of a district;
- Consolidates adjacent districts; or
- Authorizes the construction or maintenance of roads for agricultural purposes.

Further, current law expressly does not prohibit special laws or general laws of local application that:

- Change the method of voting for a board of supervisors for any WCD;¹⁴
- Change the term of office or qualifications for WCD board members;¹⁵ and
- Change the governing authority or governing board of any WCD.¹⁶

Any special or local law the Legislature enacts pertaining to a WCD prevails on the WCD and has the same force and effect as if it were part of ch. 298, F.S., at the time the WCD was created and organized.¹⁷

Current law provides that when a WCD is created, or its authorities or boundaries amended, by special act, lands may be added or deleted only through legislative modification of the special act.¹⁸

Melbourne-Tillman Water Control District

The Melbourne-Tillman Water Control District (district) was created in 1986 by ch. 86-417, Laws of Fla. The district charter was recodified by ch. 2001-336, Laws of Fla, as amended by chs. 2003-334 and 2010-1053, Laws of Fla. The district was created as a dependent special district to “secure, operate, and maintain an adequate, dependable surface water management system” within the district’s boundaries.¹⁹ The district contains 100 square miles within its boundaries, and owns and maintains over 2300 acres of canal rights-of-way in 163 miles of canals.²⁰

The district is governed by a seven-member board of directors, comprised of three members appointed by the Brevard County Board of County Commissioners, three members appointed by the City of Palm Bay City Council, and one member appointed by the City of West Melbourne City Council.²¹

The district is funded by non ad valorem user fees applied to each parcel within the district’s boundary based on property size and use.²² The three use categories include agriculture, residential, and commercial.²³

In 2010, the Preserve at Heritage Oaks (41.8 acres) and Eastwood at Heritage Oaks (39.5 acres) subdivisions were accepted into the district for stormwater services at the request of the developer.

¹³ S. 298.76(1), F.S.

¹⁴ S. 298.76(2), F.S.

¹⁵ S. 298.76(3), F.S.

¹⁶ S. 298.76(4), F.S.

¹⁷ S. 298.76(5), F.S.

¹⁸ S. 298.301(1), F.S.

¹⁹ Ch. 2001-336, Section 3, s. 1, Laws of Fla.

²⁰ Melbourne-Tillman Water Control District website, available at <http://www.melbournetillman.org/> (last visited Feb. 25, 2019).

²¹ Ch. 2001-336, Section 3, s. 2(8), Laws of Fla.

²² Ch. 2001-336, Section 8, s. 12(a), Laws of Fla.

²³ Ch. 2001-336, Section 8, s. 12(d), Laws of Fla.

Effect of Proposed Changes

The bill revises the district's boundaries by adding Eastwood II at Heritage Oaks, a 20.6-acre subdivision. The developer, Holiday Builders, Inc., has requested that this subdivision be accepted into the district and included for fee collection commencing with the 2019 Brevard County tax rolls to be consistent with all other properties paying for the same services in the area.²⁴ The deed restriction associated with properties within this subdivision explains that the "compensation [due to the district] shall be deemed a common operating expense of the [Homeowners] Association and included within its annual assessments unless and until the Subdivision is include[d] within the boundaries of [the district] and assessments are thereafter against the individual lots and owners in the Subdivision by the [district], (which assessments may be made and collected for [the district] through the offices of the Brevard County Property Appraiser and Tax Collector)."²⁵

B. SECTION DIRECTORY:

Section 1 amends ch. 2001-336, Laws of Fla., revising district boundaries.

Section 2 provides that the bill takes effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2019

WHERE? *Florida Today*, a newspaper published in Brevard 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:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

²⁴ Letter from Holiday Builders, Inc., to the district. On file with Local, Federal & Veterans Affairs Subcommittee.

²⁵ HB 1065 Economic Impact Statement. On file with Local, Federal & Veterans Affairs Subcommittee.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HOUSE OF REPRESENTATIVES

2019 - 2020 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1065
SPONSOR(S): Fine
RELATING TO: Melbourne-Tillman Water Control District, Brevard County; revising the boundaries of the district
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Brevard County Legislative Delegation
CONTACT PERSON: Anna Budko, Legislative Assistant, House District 53
PHONE NO.: (321) 409-2017 E-Mail: Anna.Budko@myfloridahouse.gov

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
 - (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s);
 - (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting; and
 - (4) An Economic Impact Statement for local bills must be prepared at the local level and filed with the Clerk of the House. Under House policy, a local bill will not be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level:

Section 298.301, F.S., provides that when a water control district is created, or its authorities or boundaries amended, by special act, lands may be added to or deleted only through legislative modification of the special act.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES NO

Date hearing held: Tuesday, January 15, 2019

Location: Palm Bay City Council Chambers, City Hall, 120 Malabar Road, Palm Bay, FL 32907

(3) Was this bill formally approved by a majority of the delegation members?

YES NO UNANIMOUSLY APPROVED

(4) Was an Economic Impact Statement prepared at the local level and filed with the Clerk of the House?

YES NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE January 25th, 2019

Where? Florida Today Newspaper County Brevard County

Referendum in lieu of publication: YES NO

Date of Referendum

III. Article VII, section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO


(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Please file this completed, original form with the Clerk of the House.


Delegation Chair (Original Signature)

3/04/19
Date

Printed Name of Delegation Chair

TOM A. WRIGHT

**HOUSE OF REPRESENTATIVES
2019 ECONOMIC IMPACT STATEMENT FORM**

Read all instructions carefully.

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please file this completed, original form with the Clerk of the House as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 1065
SPONSOR(S): Fine
RELATING TO: Melbourne-Tillman Water Control District, Brevard County; revising the boundaries of the district
[Indicate Area Affected (City, County or Special District) and Subject]

Check if this is a revised Economic Impact Statement

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	FY 19-20	FY 20-21
Revenue decrease due to bill:	\$ 0	\$ 0
Revenue increase due to bill:	\$ 0	\$ 0

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	FY 19-20	FY 20-21
	\$ 0	\$ 0

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

The economic impact is revenue neutral. The bill revises the collection mechanism of an existing user fee to be billed directly to residential lot owners by a special district, instead of through an HOA.

III. FUNDING SOURCE(S):

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 19-20</u>	<u>FY 20-21</u>
Local:	\$ 0	\$ 0
State:	\$ 0	\$ 0
Federal:	\$ 0	\$ 0

IV. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

- | | |
|-------------------------------|---|
| 1. Advantages to Individuals: | The existing fee will be more transparent and accountable because authority and amount will be presented on individual's "NOTICE OF AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS," thereafter collected directly by the Tax Collector. Individuals will also enjoy a more direct relationship with the special district. |
| 2. Advantages to Businesses: | Not Applicable, as bill relates to property developed as a residential neighborhood. |
| 3. Advantages to Government: | The dependent special district (Melbourne-Tillman Water Control District) will be able to better coordinate with another governmental agency (e.g. Tax Collector) and with individual property owners, instead of through a HOA. |

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals:

Failure of individuals to pay existing fee could result in collection by a governmental authority, and not via civil action by the HOA. In other words, the weight of collection authority could be greater.

2. Disadvantages to Businesses:

Not Applicable, as bill relates to properties developed as a residential neighborhood.

3. Disadvantages to Government:

None anticipated

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

The anticipated impact of the bill to present governmental services should manifest in better planning, coordinating, budgeting, collection and implementation of services within the geographical boundaries of the affected area.

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

The Melbourne-Tillman Water Control District (hereafter "district") was created in 1986 by ch. 86-417, L.O.F. Subsequent amendments followed and were codified by ch. 2001-336, L.O.F. The district was created as a dependent special district to "secure, operate, and maintain an adequate, dependable surface water management system" within the district's boundaries. The district is governed by a seven member board of directors, comprised of three members appointed by the Brevard County Board of County Commissioners, three members appointed by the City of Palm Bay City Council, and one member appointed by the City of West Melbourne City Council.

The district is funded by a non ad valorem user fee applied to each parcel within the district's boundary. The fee is based on an approved rate (approved annually by the district's board and by the Brevard county commission) applied to parcel acreage and land use category as designed by the Brevard county property appraiser. For example, under the current user fee rates, a typical single-family residential lot pays ~\$23.44 per year (~\$23.44 per acre or portion thereof on residential classifications).

The bill amends the boundaries of the district by adding the following subdivision: Eastwood Two at Heritage Oaks (20.6 acres±, 56 residential lots). Eastwood Two (a residential subdivision) is the second part of the Heritage Oaks subdivision known as Eastwood. There are four subdivisions that comprise Heritage Oaks, and these are Eastwood, Preserve, Brookshire and Woodfield, all of which are gated and contain private roads. Eastwood One has already been built with houses and infrastructure. Eastwood Two is still under construction. The subdivision was accepted into the district for drainage at the request of the developer, RJP Development, on the condition that the developer submits a request to the Legislature to include this area in the district's boundaries. At that time, in 2004, the area was undeveloped. The deed restriction associated with properties within this subdivision explains that the "compensation [due to the district] shall be deemed a common operating expense of the [Homeowners] Association and included within its annual assessments unless and until the Subdivision is include[d] within the boundaries of [the district] and assessments are thereafter made against the individual lots and owners in the Subdivision by the [district], (which assessments may be made and collected for [the district] through the offices of the Brevard County Property Appraiser and Tax Collector)." Eastwood One was included within the boundaries of the district in 2010 by chapter 2010-253, L.O.F. This bill revises the boundaries to include Eastwood Two.

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: Calvin L Holton III (Tres)
[Must be signed by Preparer]

Print preparer's name: Calvin L Holton III (Tres)

02/25/2019
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

CEO

REPRESENTING: The Holton Group, LLC

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