

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL 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
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Approved			
116	Y's 0	N's	

SUMMARY ANALYSIS

HB 1065 passed the House on April 17, 2019, and subsequently passed the Senate on May 1, 2019.

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.

The bill was approved by the Governor on May 23, 2019, ch. 2019-175, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 the Bill

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2019

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

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

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.