

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1417 Melbourne-Tillman Water Control District, Brevard County
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N	Renner	Miller
2) State Affairs Committee	18 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.

The district is funded by non-ad valorem stormwater management user fees applied to each parcel within the district’s boundary based on property size and use. The fee must be established by resolution of the board of directors and approved by a simple-majority vote of the Brevard County Board of County Commissioners, with each commissioner whose residency area lies wholly or partially within the District voting in the affirmative.

The bill updates the date the public hearing notice requirements commence by changing it from the 1990-1991 budget year to the 2019-2020 budget year. The bill also revises the stormwater management user fee voting requirements to require a super-majority vote rather than a simple-majority vote of the Board of County Commissioners, and specifies only one commissioner whose county commission residency area lies wholly or partially within the district must vote in the affirmative.

The Economic Impact Statement submitted with the bill states that it is projected to have no fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present 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. Special districts are created by general law,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ 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.⁵

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.⁶

Water Control Districts

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).⁷ A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any works and improvements necessary to execute the water control plan adopted by that district.⁸ 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.⁹

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.¹⁰ 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.

¹ S. 189.031(3), F.S.

² *Id.*

³ S. 189.02(1), F.S.

⁴ S. 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

⁵ *2018-2020 Local Government Formation Manual*, p. 60, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3025> (last visited Feb. 25, 2019)

⁶ S. 189.012(2), F.S.

⁷ 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. S. 298.001, F.S.

⁸ S. 298.22, F.S.

⁹ S. 298.22(3), F.S.

¹⁰ S. 298.76(1), F.S.

Further, current law authorizes special laws or general laws of local application that:

- Change the method of voting for a board of supervisors for any WCD;¹¹
- Change the term of office or qualifications for WCD board members;¹² or
- Change the governing authority or governing board of any WCD.¹³

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.¹⁴

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.¹⁵ 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.¹⁶

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.¹⁷

The district is funded by non-ad valorem stormwater management user fees applied to each parcel within the district’s boundary based on property size and use.¹⁸ The three land use categories include agriculture, residential, and commercial.¹⁹

Fees may not be finally set by the board of directors, or approved by the Brevard County Board of County Commissioners during its annual budget review, until the Board of County Commissioners holds a public hearing.²⁰ After the 1990-1991 budget year, notice for public hearings on levying the user fees must be given by publication in a newspaper of general circulation in Brevard County at least seven days before the date of the hearing.²¹ The fee must be established by resolution of the board of directors and approved by a simple-majority vote of the Brevard County Board of County Commissioners, with each commissioner whose residency area lies wholly or partially within the district voting in the affirmative.²²

Effect of the Bill

The bill updates the date the public hearing notice requirements commence by changing the date from the 1990-1991 budget year to the 2019-2020 budget year. The bill also revises the stormwater management user fee voting requirements to require a super-majority vote of the Board of County Commissioners, and specifies one commissioner whose county commission residency area lies wholly or partially within the district must vote in the affirmative.

¹¹ S. 298.76(2), F.S.

¹² S. 298.76(3), F.S.

¹³ S. 298.76(4), F.S.

¹⁴ S. 298.76(5), F.S.

¹⁵ Ch. 2001-336, Section 3, s. 1, Laws of Fla.

¹⁶ Melbourne-Tillman Water Control District website, available at <http://www.melbournetillman.org/> (last visited March 6, 2019).

¹⁷ Ch. 2001-336, Section 3, s. 2(8), Laws of Fla.

¹⁸ Ch. 2001-336, Section 8, s. 12(a), Laws of Fla.

¹⁹ Ch. 2001-336, Section 8, s. 12(d), Laws of Fla.

²⁰ Ch. 2001-336, Section 8, s. 12(b), Laws of Fla.

²¹ Ch. 2001-336, Section 8, s. 12(c), Laws of Fla.

²² *Id.*

B. SECTION DIRECTORY:

Section 1 Amends ch. 2001-336, Laws of Fla., as amended, providing public hearing notice requirements for the 2019-2020 budget year; revising voting requirements of the Board of County Commissioners relating to stormwater management user fees.

Section 2 Provides that the bill takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 31, 2019

WHERE? *Florida Today*, a daily 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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

**HOUSE OF REPRESENTATIVES
2019 - 2020 LOCAL BILL CERTIFICATION FORM**

BILL #: 1417
SPONSOR(S): Representative Thad Altman
RELATING TO: Melbourne-Tillman Water Control District, Brevard County
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Brevard County Delegation
CONTACT PERSON: Representative Thad Altman
PHONE NO.: 850-717-5052 **E-Mail:** Thad.Altman@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:

The bill is needed to amend the charter in the Laws of Florida.

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

YES NO

Date hearing held: January 15, 2019

Location: Palm Bay City Hall

(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 1/31/2019

Where? Melbourne County Brevard

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

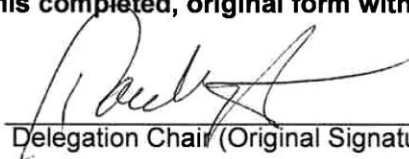
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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)

3-07-19
Date

Senator Tom Wright
Printed Name of Delegation Chair

**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 #:	1417
SPONSOR(S):	Representative Thad Altman
RELATING TO:	Melbourne-Tillman Water Control District providing for change in Method of Approval of Annual Stormwater Management User Fee

[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.

N/A

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:

N/A

2. Advantages to Businesses:

N/A

3. Advantages to Government:

N/A

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: N/A
- 2. Disadvantages to Businesses: N/A
- 3. Disadvantages to Government: N/A

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

The Bill could potentially impact the District by requiring a super-majority vote for a Stormwater Management Fee increase. Currently the requirement is a simple-majority vote by the Brevard County Commission, with both Commissioners who directly represent the District voting in the affirmative.

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.

N/A

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: 
[Must be signed by Preparer]

Print preparer's name: Daniel R. Anderson

February 7, 2019
Date

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

District Manager

REPRESENTING: Melbourne-Tillman Water Control District

PHONE: 321-723-7233

E-MAIL ADDRESS: mtwcd@melbournetillman.org