

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL 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
<b>FINAL HOUSE FLOOR ACTION:</b> 114 <b>GOVERNOR'S ACTION:</b> Vetoed			
	<b>Y's</b> 1	<b>N's</b>	

**SUMMARY ANALYSIS**

HB 1417 passed the House on April 11, 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.

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.

The effective date of this bill was upon becoming a law; however, this bill was vetoed by the Governor on May 24, 2019.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF 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,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup>

##### Water Control Districts

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> 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.

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<sup>1</sup> S. 189.031(3), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> S. 189.02(1), F.S.

<sup>4</sup> S. 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

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

<sup>6</sup> S. 189.012(2), F.S.

<sup>7</sup> 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.

<sup>8</sup> S. 298.22, F.S.

<sup>9</sup> S. 298.22(3), F.S.

<sup>10</sup> 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;<sup>11</sup>
- Change the term of office or qualifications for WCD board members;<sup>12</sup> or
- Change the governing authority or governing board of any WCD.<sup>13</sup>

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.<sup>14</sup>

### 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.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup>

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.<sup>18</sup> The three land use categories include agriculture, residential, and commercial.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup>

### **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

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<sup>11</sup> S. 298.76(2), F.S.

<sup>12</sup> S. 298.76(3), F.S.

<sup>13</sup> S. 298.76(4), F.S.

<sup>14</sup> S. 298.76(5), F.S.

<sup>15</sup> Ch. 2001-336, Section 3, s. 1, Laws of Fla.

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

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

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

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

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

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

<sup>22</sup> *Id.*

Commissioners, and specifies one commissioner whose county commission residency area lies wholly or partially within the district must vote in the affirmative.

## 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 31, 2019

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

E. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?