

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 1009 Special Neighborhood Improvement Districts

**SPONSOR(S):** Newton

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1424

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**FINAL HOUSE FLOOR ACTION:** 113 Y's 0 N's **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 1009 passed the House on February 20, 2020, and subsequently passed the Senate on March 12, 2020.

Neighborhood improvement districts (NIDs) are authorized under the Safe Neighborhoods Act of 1987 to address deteriorating business and residential neighborhoods and help revitalize them. By definition, a NID must use more than 75 percent of the land within its boundaries for either residential purposes or commercial, office, business, or industrial purposes, excluding land used for public facilities. Local governments may create four types of NIDs by ordinance: local government NIDs, property owners' association NIDs, community redevelopment NIDs, and special NIDs.

The ordinance creating a special NID must provide for specific features including a referendum before the NID can be implemented, authorization for the NID to levy an ad valorem tax up to two mills annually, and the appointment of a three-member board of directors. Board members serve three-year staggered terms and must be residents of the district who are subject to ad valorem taxation in the district. After 10 fiscal years, a special NID ceases to exist unless reapproved in another referendum.

The bill increases the number of members that can serve on special NID boards from three members to three, five, or seven members and increases board member terms from three-year staggered terms to four-year staggered terms. The bill requires members to be landowners, rather than residents, in the proposed area who are subject to ad valorem taxation. The bill requires counties or municipalities to specify the number of board members in the ordinance creating the special NID.

The bill does not appear to have a fiscal impact on state or local governments.

The bill was approved by the Governor on June 23, 2020, ch. 2020-86, L.O.F., and is effective on July 1, 2020.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Neighborhood Improvement Districts

The Safe Neighborhoods Act of 1987<sup>1</sup> (Act) was enacted to address deteriorating business and residential neighborhoods caused by the proliferation of crime, poor traffic flow planning, and other undesirable issues.<sup>2</sup> The Act authorizes the creation of neighborhood improvement districts (NIDs) to develop, redevelop, preserve, and revitalize neighborhoods.<sup>3</sup> NIDs are subject to the laws governing special districts under ch. 189, F.S., which takes precedent in the event of a conflict with the Act.<sup>4</sup>

NIDs are districts where more than 75 percent of the land within the boundaries of the district must be used for either residential purposes or commercial, office, business, or industrial purposes. This percentage excludes any land used for public facilities.<sup>5</sup> The governing body of a county or municipality may create a NID by adopting a local planning ordinance authorizing the creation of the district.<sup>6</sup> Counties or municipalities with a designated enterprise zone or community redevelopment authority (CRA) must consider creating a NID within the zone or CRA.<sup>7</sup>

After adopting the local planning ordinance, a local government may enact a separate ordinance creating one of the following types of NIDs:<sup>8</sup>

- Local government;<sup>9</sup>
- Property owners' association;<sup>10</sup>
- Special;<sup>11</sup> or
- Community redevelopment.<sup>12</sup>

An ordinance creating a NID must specify the district's name, size, and boundaries.<sup>13</sup> In addition, each NID must register with the Department of Economic Opportunity (DEO) and the Department of Legal Affairs (DLA) within 30 days of authorization by providing the departments with the NID's name, location, size, and type, and such other information as the departments may require.<sup>14</sup> Before taxes and fees can be levied or expended, NIDs must adopt a safe neighborhood improvement plan<sup>15</sup> that contains a number of required elements, including a statement of the district's goals and objectives, crime activity data and analysis, and cost estimates together with methods of financing and evaluation guidelines.<sup>16</sup>

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<sup>1</sup> Ch. 87-243, Laws of Fla.

<sup>2</sup> S. 163.502(1), F.S.

<sup>3</sup> S. 163.502(4), F.S.

<sup>4</sup> S. 163.5035, F.S. See chs. 163 and 189, F.S.

<sup>5</sup> S. 163.503(1), F.S.

<sup>6</sup> S. 163.504(1), F.S. No district may overlap the jurisdictional boundaries of a county or municipality without an interlocal agreement between the jurisdictions.

<sup>7</sup> S. 163.522, F.S.

<sup>8</sup> S. 163.504(1), F.S. Each NID must be created by separate ordinance.

<sup>9</sup> S. 163.506, F.S.

<sup>10</sup> S. 163.508, F.S.

<sup>11</sup> S. 163.511, F.S.

<sup>12</sup> S. 163.512, F.S.

<sup>13</sup> See ss. 163.506(1)(a), 163.508(1)(b), 163.511(1)(d), and 163.512(1)(a), F.S.

<sup>14</sup> S. 163.5055, F.S. All ordinances establishing a district must require the district to notify DEO and DLA within 30 days. See ss. 163.506(1)(h), 163.508(1)(g), 163.511(1)(i), and 163.512(1)(i), F.S.

<sup>15</sup> S. 163.516(9), F.S. The plan may be proposed by the county, the municipality, the district, or any other person or agency. S. 163.516(4), F.S.

<sup>16</sup> S. 163.516(1)-(3), F.S.

NIDs have general powers as authorized in s. 163.514, F.S., unless prohibited by local ordinance, including the power to improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.<sup>17</sup> NIDs may make and collect special assessments to pay for improvements and the reasonable expenses of operating the district, subject to referendum approval by a majority of the registered voters residing in the district. Any special assessment instituted by the NID must be used to pay for improvements to the district or reasonable expenses to operate the district.<sup>18</sup>

Local governments are authorized to cooperate with community organizations such as churches, urban leagues, and other not-for-profit organizations to create a NID. A NID may contract with a community organization to undertake any authorized NID activities except the preparation of a safe neighborhood improvement plan. The NID may compensate or receive compensation from a community organization with certain restrictions.<sup>19</sup>

The method for dissolving a NID depends on the type of NID created. Local government and CRA NIDs may be dissolved by the governing body that established them.<sup>20</sup> Property owners' association NIDs may continue in perpetuity as long as the property owners' association exists.<sup>21</sup> Special NIDs are dissolved at the end of the tenth fiscal year of operation unless another 10 years is approved in a referendum.<sup>22</sup>

Currently, there are 24 local government NIDs that are controlled by the local governing body<sup>23</sup> creating the district. There is one property owners' association NID that is controlled by the officers of the incorporated property owners' association<sup>24</sup> that petitioned for the district. There are also two special NIDs that are controlled by an appointed board of directors.<sup>25</sup>

### Special Neighborhood Improvement Districts

A special NID operates like other neighborhood improvement districts except that its governing board is not identical to the governing body of the general purpose local government or a property owners' association. Special NIDs do not operate within a CRA. An ordinance creating a special NID must:

- Declare a need for the district;
- Condition the implementation of the ordinance on the approval of a referendum;<sup>26</sup>
- Authorize the district to levy an ad valorem tax on real and personal property of up to two mills annually;<sup>27</sup>

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<sup>17</sup> S. 163.514, F.S. See also ss. 163.506(1)(g), 163.508(1)(f), 163.511(1)(h), 163.512(1)(f), and 163.514, F.S.

<sup>18</sup> S. 163.514(16), F.S. The county property appraiser may agree to collect the special assessment in the same manner as ad valorem taxes if so requested by the local governing body of the county or municipality. S. 163.5151(4), F.S.

<sup>19</sup> S. 163.523, F.S. The compensation cannot exceed 1 percent of the district's total annual budget or 2 percent of the district's total budget for any project for which maintenance services are rendered. S. 163.523, F.S. Service agreements between the district and community organizations cannot have a renewable term longer than three years.

<sup>20</sup> Ss. 163.506(4) and 163.512(3), F.S.

<sup>21</sup> S. 163.508(4), F.S.

<sup>22</sup> S. 163.511(13), F.S.

<sup>23</sup> S. 163.506(1)(e), F.S.

<sup>24</sup> S. 163.508(1)(e), F.S.

<sup>25</sup> DEO, *Official List of Special Districts Online, Active Special Districts Function Totals as of January 9, 2020*, <http://specialdistrictreports.floridajobs.org/webreports/functiontotals.aspx> (last visited January 9, 2020).

<sup>26</sup> The referendum must be held within 120 days of either a county declaring a need for the district or a petition signed by at least 40 percent of the electors or 20 percent of the property owners within a proposed district. Residential special NIDs must be approved by a majority of the electors in the proposed district voting in the referendum. Business special NIDs must be approved by freeholders representing more than 50 percent of the assessed value of the property within the district.

<sup>27</sup> Special NIDs are required to submit a tentative budget and proposed millage rate to the local governing body of the county or municipality for approval before any budget and rate can be adopted. S. 163.5151, F.S.

- Authorize the use of special assessments to support planning and implementation of district improvements pursuant to s. 163.514(16), F.S., including community policing innovations;
- Authorize the district to receive a planning grant from DLA;
- Provide for the appointment of a three-member board of directors (board) for the district;
- Authorize the district to exercise eminent domain powers pursuant to chapters 73 and 74, F.S.;<sup>28</sup> and
- Authorize the district to develop and implement community policing innovations in consultation with the local law enforcement agency having jurisdiction within the district boundaries.<sup>29</sup>

A special NID board is comprised of three members. The local governing body of the county or municipality must appoint the three board members by a majority vote within 30 days of the referendum approving the creation of the NID.<sup>30</sup> Eligible members must be residents of the proposed area who are subject to ad valorem taxation in the district.<sup>31</sup> Board members serve three-year staggered terms,<sup>32</sup> are not permitted to receive compensation, and may not be employed by the district.<sup>33</sup> Board members may be removed for inefficiency, neglect of duty, or official misconduct but only after a hearing.<sup>34</sup>

Upon dissolution, special NID property becomes the property of the county or municipality in which the district is located<sup>35</sup> and the property owners in the district must arrange, acceptable to the debtholders and local governments, to pay any outstanding debt.<sup>36</sup>

### **Effect of the Bill**

The bill increases the number of members that can serve on special NID boards from three members to either three, five, or seven members. The bill also increases member terms from three-year staggered terms to four-year staggered terms and requires such members to be landowners, rather than residents, in the proposed area who are subject to ad valorem taxation. The bill requires the number of board members to be specified in the county or municipal ordinance creating the special NID.

## **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:

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<sup>28</sup> S. 163.511(1)(g), F.S. Any property identified for eminent domain by the district is subject to the approval of the local governing body before eminent domain procedures are exercised. S. 163.511(1)(j), F.S.

<sup>29</sup> S. 163.511(1)(j), F.S.

<sup>30</sup> S. 163.511(8), F.S.

<sup>31</sup> S. 163.511(7), F.S.

<sup>32</sup> S. 163.511(8), F.S. Members are subject to the code of ethics for public officers and employees, and the requirements of the public records law and public meetings law in chapters 119 and 286, F.S., respectively. See s. 163.511(12), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> S. 163.511(10), F.S.

<sup>35</sup> S. 163.511(13), F.S.

<sup>36</sup> S. 163.511(14), F.S.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.