

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1041 Florida Keys Mosquito Control District, Monroe County

**SPONSOR(S):** Raschein

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee	10 Y, 0 N	Moehrle	Miller
2) Ways & Means Committee	15 Y, 0 N	Aldridge	Langston
3) State Affairs Committee	23 Y, 0 N	Moehrle	Williamson

### SUMMARY ANALYSIS

Florida law authorizes Mosquito Control Districts (MCDs) to take whatever steps necessary to control all species of mosquito within the confines of applicable state and federal law. The Florida Keys MCD (District) is an independent special district created in 1949 and tasked with controlling and eliminating mosquitoes and other arthropods of public health importance in Monroe County. The District is governed by a board of commissioners (board), composed of five members elected in a general election to serve terms of four years.

The board is required to prepare a detailed work plan budget covering its proposed operations and requirements for arthropod control measures before July 15 of each year. The board must adopt a budget by resolution each fiscal year and the total amount available from taxation and other sources must equal the total appropriations for expenditures and reserves. The adopted budget regulates the District's expenditures and the board may expend funds or contract for expenditures in any fiscal year only for budgeted appropriations. Independent special districts generally are authorized to borrow money absent any prohibitions in their charters if the loan terms do not exceed the maximum interest rate set in statute.

The District's charter has included borrowing limits since its creation in 1949. Since 2003, the charter has limited District borrowing to no more than \$1 million for a period of five years.

The bill revises the requirements for the District to borrow money by removing the limitation that it may not borrow more than \$1 million for a period of five years. The bill provides that the District may borrow money in accordance with the Florida Constitution and applicable state laws.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Special Districts

The Legislature adopted ch. 189, F.S., to provide uniform statutes for the definition, creation, and operation of special districts.<sup>1</sup> A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>2</sup> A special district may be created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>3</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.<sup>4</sup> Each special district existing prior to the enactment of ch. 189, F.S., was required to submit a draft codified charter to the Legislature incorporating all of the special acts pertaining to its operation into a single act.<sup>5</sup>

A “dependent special district” is a district for which the membership of its governing body is identical to the governing body of a single county or municipality, all members of its 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> An “independent special district” is any district that is not a dependent special district or includes more than one county unless the district lies wholly within a single municipality.<sup>7</sup>

A special district is required to have a governing body.<sup>8</sup> The members of the governing body serve terms of no more than four years.<sup>9</sup>

##### Mosquito Control Districts

Mosquitos must be controlled to protect health and safety, improve quality of life, promote economic development, and to allow for the enjoyment of natural attractions of the state.<sup>10</sup> To that end, the Florida Anti-Mosquito Association, now known as the Florida Mosquito Control Association, was established in 1922.<sup>11</sup> Soon after the creation of the association, special taxing districts for mosquito control were established by statute. The first mosquito control district (MCD) formed was the Indian River MCD in 1925.<sup>12</sup> By 1935, five MCDs were created<sup>13</sup> and today there are 57 MCDs in Florida.<sup>14</sup>

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<sup>1</sup> S. 189.011(1), F.S.

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

<sup>3</sup> *Id.*

<sup>4</sup> *See* ss. 189.02(4)-(5) and 189.031(3), F.S.

<sup>5</sup> S. 189.019(1), F.S.

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

<sup>7</sup> S. 189.012(3), F.S.

<sup>8</sup> *See* ss. 189.02(4)-(5) and 189.031(3), F.S.

<sup>9</sup> S. 189.041(3)(b), F.S. The section provides two instances when the term may be less than the full four years, after the first election or the first landowners’ meeting following a referendum carried out as prescribed earlier in the statute.

<sup>10</sup> S. 388.101, F.S.

<sup>11</sup> Connelly, C.R. and D.B. Carlson (Eds.), 2009. Florida Coordinating Council on Mosquito Control. *Florida Mosquito Control: The state of the mission as defined by mosquito controllers, regulators, and environmental managers*. Vero Beach, FL: University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory at page 22.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at page 23.

<sup>14</sup> University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, *Florida mosquito control by counties in Florida*, <https://fmel.ifas.ufl.edu/florida-mosquito-control/florida-mosquito-control-table-by-county/> (last visited Jan. 10, 2020).

A MCD is a special district established by law for the express purpose of controlling certain insects within its boundaries.<sup>15</sup> Any municipality or county, in whole or part, regardless of whether the area encompasses an incorporated territory or two or more counties, may be incorporated into a single MCD.<sup>16</sup> On or after July 1, 1980, MCDs may only be created by counties.<sup>17</sup>

Florida law authorizes MCDs to take whatever steps are necessary to control all species of mosquito in compliance with applicable state and federal law.<sup>18</sup> Mosquito control is accomplished through integrated mosquito management (IMM), which uses multidisciplinary methodologies to implement pest control strategies. IMM includes source reduction, including digging ditches and ponds in marsh areas and eliminating standing water that serves as breeding ground for mosquitoes. IMM also includes the use of mosquito fish in ditches and ponds to eat mosquito larvae.<sup>19</sup> Another method of mosquito control is larviciding, or the application of insecticides to target and eliminate immature mosquitos in bodies of water harboring larvae and pupae.

MCDs use permanent strategies to control mosquitoes, including ditching and draining swampy areas that serve as mosquito breeding grounds. MCDs also use temporary control measures, such as aerosol spraying by ground and aerial equipment to kill adult and larval mosquitoes.<sup>20</sup>

MCDs are governed by a board of commissioners (board) composed of three or five members elected in a general election.<sup>21</sup> Members serve terms of four years.<sup>22</sup> The board may levy on the taxable property in the MCD an amount not to exceed 10 mills as a maintenance tax.<sup>23</sup> The taxes are assessed by the county property appraiser and collected by the tax collector.<sup>24</sup>

The board is required to prepare a detailed work plan budget covering its proposed operations and requirements for arthropod control measures before July 15 of each year.<sup>25</sup> The board must adopt an annual budget by resolution and the total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total appropriations for expenditures and reserves.<sup>26</sup> The adopted budget controls the MCD's expenditures, and the board may expend or contract for expenditures only for budgeted appropriations.<sup>27</sup>

Independent special districts such as MCDs may borrow money, absent any prohibitions stated in their charters.<sup>28</sup> However, Florida law does regulate the maximum interest rates allowable on general obligation bonds for public agencies authorized to issue bonds.<sup>29</sup> The Florida Office of the Attorney General has opined that a written obligation or evidence of indebtedness issued by a special district to

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<sup>15</sup> S. 388.011(5), F.S.

<sup>16</sup> S. 388.021(1), F.S.

<sup>17</sup> S. 388.021(2), F.S.

<sup>18</sup> See ch. 388, F.S.; ch. 487, F.S., regulates the use of pesticides in controlling mosquitoes. Ch. 5E-2, F.A.C., regulates pesticide registration in Florida. States must also comply with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.

<sup>19</sup> American Mosquito Control Association, *Control*, <http://www.mosquito.org/control> (last visited Jan. 10, 2020).

<sup>20</sup> *Id.*

<sup>21</sup> S. 388.101(1)-(2), F.S.

<sup>22</sup> S. 388.101(1), F.S.

<sup>23</sup> S. 388.221, F.S. The board is required to certify, by resolution, the tax rate to be applied by the property appraiser of the county in a timely fashion for the preparation of the tax roll. Certified copies of the resolution, executed by the board chairperson and secretary, must be delivered to the property appraiser, the board of county commissioners, and the Department of Revenue no later than September 30 of each year.

<sup>24</sup> *Id.* The tax collector collects the tax levied by the MCD in the same manner as other taxes are collected and pays the same within the time and manner prescribed by law to the treasurer of the board.

<sup>25</sup> S. 388.201(1), F.S. The tentative detailed work plan budget must set forth (classified by account number, title and program items, and by fund from which to be paid) the proposed expenditures of the District for construction, acquisition of land, and other purposes, for the operation and maintenance of the MCD's works, the conduct of the MCD generally, and any amount held as a reserve.

<sup>26</sup> S. 218.34(1), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> See ch. 388, F.S., ch. 189, F.S., and Art. VII, s. 10, Fla. Const.

<sup>29</sup> S. 215.84, F.S. See also 82-15 Fla. Op. Att'y Gen. 3 (1982).

secure the borrowing and loans provided for in a district's charter are general obligation bonds within the purview and for the purpose of Florida Statutes.<sup>30</sup>

Florida law provides that bonds may not bear interest at a rate not to exceed an average net interest cost rate, which must be computed by adding 300 basis points to the Bond Buyer "20 Bond Index" published immediately preceding the first day of the calendar month in which the bonds are sold.<sup>31</sup> Upon request of the MCD, the State Board of Administration (SBA) may authorize, for a specific issue or reissue of bonds, a rate in excess of the maximum rate prescribed in statute.<sup>32</sup> The MCD must, in its request to the SBA, include the following information:

- The official statement or prospectus, or similar information relating to the sale of bonds;
- The resolution or ordinance authorizing the issuance of the bonds;
- Financial data relating to anticipated revenue, debt service, and coverage;
- The most recent financial statement of the governmental unit; and
- Information relating to the sale of the bonds, including whether they will be sold at public or private sale, and the amount of the discount, if any.<sup>33</sup>

### Florida Keys Mosquito Control District

The Florida Keys Mosquito Control District (District) is an independent special district, created in 1949 and currently operating under a charter codified in 2002, tasked to control and eliminate mosquitoes and other arthropods of public health importance in Monroe County.<sup>34</sup> The District has the authority to use all the privileges and powers of a MCD under Florida law.<sup>35</sup>

The District has had limitations on its borrowing limits since its creation in 1949. Originally, the District could not borrow a sum in excess of 50 percent of the anticipated taxes to be received in accordance with the prescribed levy fixed.<sup>36</sup> In 1967, the maximum sum the District could borrow was changed to \$100,000 for a period not to exceed two years, and bonds in an amount not to exceed \$150,000.<sup>37</sup> In 1974, the borrowing limit was raised to \$150,000,<sup>38</sup> an amount which would stay the same until 2003, when the borrowing limit was raised to \$1,000,000 for a term not to exceed five years (up from two years).<sup>39</sup> Although the District has charter authorization to borrow money for a term not to exceed five years, any borrowing for a term in excess of 12 months payable from ad valorem taxes is controlled by Art. VII, s. 12 of the Florida Constitution.<sup>40</sup>

The District's 2019-2020 approved budget is \$16,215,442 and its total reserves ending balance is \$2,501,029.<sup>41</sup> The District does not have any outstanding loans or liabilities.<sup>42</sup> At the end of 2018, the

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<sup>30</sup> S. 215.84, F.S.; S. 215.84(2)(b)1, F.S. General obligation bonds are obligations secured by the full faith and credit of a governmental unit or payable from the proceeds of ad valorem taxes of a governmental unit.

<sup>31</sup> S. 215.84(3), F.S.

<sup>32</sup> S. 215.84(4), F.S.

<sup>33</sup> S. 215.84(4)(a)-(b), F.S.

<sup>34</sup> See generally ch. 26042, Laws of Fla. (1949), as amended, ch. 2002-346, Laws of Fla., as amended, and s.189.019, F.S. The Florida Keys MCD was created in 1949 by special act and subsequent amendments were codified into a single charter in 2002 as required pursuant to ch. 189, F.S.

<sup>35</sup> Ch. 2002-346, s.5, Laws of Fla.

<sup>36</sup> Ch. 49-26042, Laws of Fla.

<sup>37</sup> Ch. 67-1726, Laws of Fla.

<sup>38</sup> Ch. 74-537, Laws of Fla.

<sup>39</sup> Ch. 2003-387, Laws of Fla. The District must issue a negotiable promissory note and bonds, or such necessary instruments to secure the loan.

<sup>40</sup> Art. VII, s. 12, Fla. Const. Special districts with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than 12 months after issuance only: to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation or to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate.

<sup>41</sup> Florida Keys Mosquito Control District, *Final Budget Hearing FY 2019-2020* (Sept. 17, 2019), available at [keysmosquito.org/Board-Documents/2019/September/2019-09-17FinalBudgetHearingWorkbook.pdf](https://keysmosquito.org/Board-Documents/2019/September/2019-09-17FinalBudgetHearingWorkbook.pdf) (last visited Jan. 13, 2020). The gross taxable value for operating purposes not exempt from taxation in Monroe County is \$28,455,659,714.

<sup>42</sup> *Id.*

District employed 67 full-time and 17 part-time employees and operated two airplanes, four helicopters, 75 vehicles, five all-terrain vehicles (ATVs), and five boats.<sup>43</sup> According to the District's 2018 financial audit, the continuing threats of Dengue Fever and the potential introduction of other mosquito borne diseases into the Florida Keys continue to pressure the scope of the District's operations. Environmental regulations and biological pressures (growing resistance of mosquitos to particular insecticides) have caused the District to encompass a wider variety of abatement materials, which can create financial pressure due to increasing costs associated with the various mosquito abatement materials required.<sup>44</sup> The District's fleet of aging aircraft may also lead to increased maintenance costs as replacement parts become scarcer and repairs occur more frequently.<sup>45</sup>

### **Effect of Proposed Changes**

The bill revises the District charter to remove the limitations on borrowing money (\$1 million for a time not to exceed five years) and provides that the District may borrow money in accordance with the Florida Constitution and general laws of the state.

#### **B. SECTION DIRECTORY:**

Section 1. Amends section 5 of chapter 2002-346, Laws of Fla., relating to the District, to remove limitations on the amount of money that may be borrowed.

Section 2. Provides that the act is effective upon becoming a law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

#### **A. NOTICE PUBLISHED? Yes No**

IF YES, WHEN? September 20, 2019, and September 22, 2019.

WHERE? The *Key West Citizen*, a daily newspaper of general circulation published in Monroe County, Florida.

#### **B. REFERENDUM(S) REQUIRED? Yes No**

IF YES, WHEN?

#### **C. LOCAL BILL CERTIFICATION FILED? Yes No**

#### **D. ECONOMIC IMPACT STATEMENT FILED? Yes No**

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill neither requires nor provides authority for agency rulemaking.

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<sup>43</sup> Oropeza & Parks Certified Public Accountants, *Florida Keys Mosquito Control District- Independent Auditor's Report* (June 19, 2019), available at [keysmosquito.org/Admin-Documents/2018-Financial-Audit.pdf](http://keysmosquito.org/Admin-Documents/2018-Financial-Audit.pdf) (last visited Jan. 13, 2020).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* To offset potential maintenance cost increases, the District developed an aircraft replacement schedule during the strategic planning process, and planned to lease two new Airbus helicopters in the summer of 2019.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.