

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1213 Homosassa Special Water District, Citrus County

**SPONSOR(S):** Harding

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	17 Y, 0 N	Darden	Miller
2) Government Operations Subcommittee	17 Y, 0 N	Roth	Smith
3) State Affairs Committee	21 Y, 0 N	Darden	Williamson

### SUMMARY ANALYSIS

The Homosassa Special Water District (District) is an independent special district created in 1947 to provide water to portions of Citrus County for the purpose of “public, domestic, and industrial” use as well as fire protection. The District is governed by a five-member board elected to four-year terms. Any vacancy on the board must be filled by a special election held within 30 days after the vacancy occurs.

The bill revises the procedure for filling a vacancy on the board by allowing the other members of the board to select a new member to serve for the remainder of the unexpired term. If the board does not fill the vacancy within 30 days, the vacancy is filled by a special election.

The bill also increases the threshold required for the competitive solicitation of bids for construction and maintenance projects from \$5,000 to \$35,000. The bill allows the District to procure contractual services necessitated by an immediate danger to the public health, safety, or welfare, or a substantial loss, without receiving competitive sealed bids, as long as the board makes its determination of the immediate danger in writing and receives pricing information from at least two prospective vendors. These provisions align the competitive solicitation process for the District with those required for state agencies under general law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Homosassa Special Water District

The Homosassa Special Water District (District) is an independent special district originally created by a special act of the Legislature in 1947.<sup>1</sup> The District provides water to portions of Citrus County for the purpose of “public, domestic, and industrial” use as well as fire protection.<sup>2</sup> The District operates three facilities, a primary facility that operates two wells and provides 85 percent of the water produced by the District, and two secondary facilities that operate one well each.<sup>3</sup>

The District is governed by a five-member board with members elected to serve a four-year term.<sup>4</sup> Members of the board must be registered electors and residents of the District.<sup>5</sup> Any vacancy on the board must be filled by a special election held within 30 days after the vacancy occurs, unless the vacancy occurs within 90 days after a regular election.<sup>6</sup> The call for a special election is determined by the board chair, as directed by the members of the board of the District.<sup>7</sup> The new member elected in the special election serves for the remainder of the unexpired term.<sup>8</sup>

The District must solicit bids for any work to construct or maintain the water supply and distribution system requiring an expenditure exceeding \$5,000.<sup>9</sup> Bids are solicited by publishing an advertisement at least once a week for two consecutive weeks in a newspaper or journal of general circulation among contractors in the state. The contract must be secured by a performance bond, furnished by a surety company authorized to do business in the state, for at least 80 percent of the contract price.

##### Competitive Bidding Process

State agencies are required to engage in a competitive solicitation process for the procurement of any commodity or contractual service in excess of \$35,000.<sup>10</sup> An agency may fulfill this requirement by receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies.<sup>11</sup> This requirement does not apply where:<sup>12</sup>

- The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action;<sup>13</sup>
- The purchase is made by an agency from a state term contract procured by the Department of Management Services (DMS) or the agency, after receiving approval from DMS, from a contract procured by another agency;
- The commodity or contractual service is only available from a single source; or

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<sup>1</sup> Ch. 24429, Laws of Fla. (1947). The special acts comprising the charter of the District were codified, reenacted, and repealed as part of the recodification of the charter in 2003. See ch. 2003-354, s. 2, Laws of Fla.

<sup>2</sup> Ch. 2003-354, s. 3(1)(5), Laws of Fla.

<sup>3</sup> Homosassa Special Water District, *Frequently Asked Questions*, <https://www.homosassawater.com/frequent-questions.html> (last accessed Mar. 22, 2021).

<sup>4</sup> Ch. 2003-354, s. 3(3)(1), Laws of Fla.

<sup>5</sup> Ch. 2003-354, s. 3(3)(3), Laws of Fla.

<sup>6</sup> Ch. 2003-354, s. 3(3)(4), Laws of Fla.

<sup>7</sup> Ch. 2003-354, s. 3(3)(6), Laws of Fla.

<sup>8</sup> Ch. 2003-354, s. 3(3)(4), Laws of Fla.

<sup>9</sup> Ch. 2003-354, s. 3(10), Laws of Fla.

<sup>10</sup> S. 287.057(1), F.S. Competitive solicitation is required for any procurement in excess of the “Category Two” threshold amount provided by s. 287.017, F.S., which has been set at \$35,000 since 2010. See ch. 2010-151, Laws of Fla. (amending s. 287.017, F.S.)

<sup>11</sup> S. 287.057(3), F.S.

<sup>12</sup> S. 287.057(3)(a)-(e), F.S.

<sup>13</sup> S. 287.057(3)(a). The agency head must obtain pricing information from at least two prospective vendors before making the emergency procurement, unless he or she determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state.

- The commodity or contractual service is a specified type of exempt commodity or contractual service.<sup>14</sup>

### **Effect of Proposed Changes**

The bill revises the procedure for filling a vacancy on the board by allowing the other members of the board to select a new member to serve for the remainder of the unexpired term. If the board does not fill the vacancy within 30 days, the vacancy is filled by a special election.

The bill increases the threshold requirement for the competitive solicitation of bids for construction and maintenance projects from \$5,000 to \$35,000. The bill also allows the District to procure contractual services necessitated by an immediate danger to the public health, safety, or welfare, or a substantial loss, without receiving competitive sealed bids, as long as the board makes its determination of the immediate danger in writing and receives pricing information from at least two prospective vendors. These provisions align the competitive solicitation process for the District with those required for state agencies under general law.

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

Section 1: Amends ch. 2003-354, Laws of Fla, concerning the Homosassa Special Water District, Citrus County, revising requirements for filling a vacancy on the District's governing board and for the District's competitive solicitation process.

Section 2: Provides an effective date of upon becoming a law.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 23, 2021.

WHERE? The *Citrus County Chronicle*, a daily newspaper of general circulation published in Citrus 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:

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<sup>14</sup> S. 287.057(3)(e), F.S. These commodity and contractual services include prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients; artistic services; academic program reviews (for a fee of less than \$50,000); a lecture by an individual; legal services; health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration; services provided to persons with mental or physical disabilities by certain not-for-profit corporations; Medicaid services delivered to an eligible recipient; family placement services; prevention services related to mental health; training and education services provided to injured employees; contracts enter into pursuant to s. 337.11, F.S.; services or commodities provided by other government entities, and statewide public service announcement programs provided by a Florida statewide nonprofit corporation under s. 501(c)(6) of the Internal Revenue Code which have a guaranteed documented match of at least \$3 to \$1.

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.