

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/CS/HB 1501 Sunshine Drainage District, Broward County  
**SPONSOR(S):** Public Integrity & Elections Committee, Local Administration & Veterans Affairs  
Subcommittee, Daley  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N, As CS	Darden	Miller
2) Public Integrity & Elections Committee	14 Y, 0 N, As CS	Rubottom	Rubottom
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Sunshine Water Control District (District) is an independent special district in Broward County, created by a circuit court decree in 1971, with a charter codified by a special act the same year. The District provides water management improvements and services to support the development, maintaining 5,422 acres of canals and right-of-way property providing drainage and flood protection to 17,000 landowners in Coral Springs.

A three-member board elected by the landowners governs the District. Voting is conducted on a one-acre/one-vote basis.

The total budget of the District for FY 2020-21 is \$4.2 million, derived almost entirely from special assessments.

The bill increases the size of the District's board from three to five members and requires each board member to be elected by the qualified electors of the district. The bill is subject to approval by the qualified electors of the District voting in a referendum to be held during the 2022 general election. If approved, the first election of the popularly-elected board would occur at the 2024 general election, with three members elected to four-year terms and two members elected to two-year terms. All members would be elected to four-year terms thereafter. Members of the board serving as of October 1, 2023, will continued to serve until the certification of the 2024 general election results.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### 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.<sup>1</sup> Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.<sup>2</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>3</sup>

An "independent special district" is characterized by having a governing board comprised of members who are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality.<sup>4</sup> Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

##### Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). A WCD has authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.<sup>5</sup> A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of said 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>6</sup>

Most WCDs are governed by a three-member board composed of landowners within the district who are also residents of the county where the district is located.<sup>7</sup> A landowner meeting to elect the initial board must be noticed within 20 days after the effective date of the special act creating the district. The notice must be published at least once a week for two consecutive weeks in a newspaper of general circulation in each county in which the district is located and the last publication must be no less than ten and no more than fifteen days before the date of the meeting.

Landowners vote for the governing board of the district on a one-acre/one-vote basis, with the three persons receiving the highest number of votes elected in the initial election.<sup>8</sup> Landowners may vote in person or by a signed proxy that complies with the requirements of s. 607.0722, F.S. The landowners at the initial election determine the length of the term of office for the initial board, selecting one member to serve a one-, two-, or three-year term, respectively. All members subsequently elected

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<sup>1</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>2</sup> See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally s. 189.012(6), F.S.

<sup>3</sup> 2020 – 2022 Local Gov't Formation Manual, pp. 60-61, at

<https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Mar. 23, 2021).

<sup>4</sup> S. 189.012(3), F.S.

<sup>5</sup> S. 298.22, F.S.

<sup>6</sup> S. 298.22(3), F.S.

<sup>7</sup> S. 298.11(1), F.S.

<sup>8</sup> S. 298.11(2), F.S. Landowners who own less than one acre receive one vote, while landowners who own more than one acre are entitled to additional vote for any fraction of an acre greater than one-half owned in addition to votes equal to the number of whole acres owned.

serve a three-year term, with one member of the board elected by the landowners each year.<sup>9</sup> Ch. 298, F.S., provides no authority to convert the governing board of a WCD to election by the qualified electors of the district on a one-person/one-vote basis.<sup>10</sup>

A special act or general law of local application may not grant additional authority, powers, rights, or privileges to a WCD.<sup>11</sup> This prohibition, however, excludes legislation that would:

- Amend an existing special act to provide for the levy of an annual maintenance tax of a district;
- Extend the corporate life of a district;
- Consolidate adjacent districts; or
- Authorize the construction or maintenance of roads for agricultural purposes.

Additionally, the statute expressly does not prohibit special or local legislation to:

- Change the method of voting for a board of supervisors for any WCD;<sup>12</sup>
- Change the term of office for board members and the qualifications to serve on the board of supervisors in a WCD;<sup>13</sup> and
- Change the governing authority or governing board of any WCD.<sup>14</sup>

Any special or local law enacted by the Legislature pertaining to a WCD prevails on the district and has the same force and effect as if it was a part of ch. 298, F.S., at the time the district was created and organized.<sup>15</sup>

### Sunshine Water Control District

The Sunshine Water Control District (District) is an independent special district in Broward County, created by a circuit court decree in 1971, with a charter codified by a special act the same year.<sup>16</sup> The charter does not provide for conversion of the district to popular elections of the board members. The District provides water management improvements and services to support the development, maintaining 5,422 acres of canals and right-of-way property providing drainage and flood protection to 17,000 landowners in Coral Springs.<sup>17</sup>

The total budget of the District for FY 2020-21 is \$4.2 million, derived almost entirely from special assessments.<sup>18</sup>

### Effect of Proposed Changes

The bill increases the size of the District's board from three to five members and requires each member of the board to be elected by the qualified electors of the district. The first election of the popularly-elected board would occur at the 2024 general election, with three members elected to four-year terms and two members elected to two-year terms. All members are elected to four-year terms thereafter. Members of the board serving as of October 1, 2023, will continue to serve until the certification of the 2024 general election results.

Elections to the board must be non-partisan and conducted in accordance with general law concerning elections. Candidates for the board are required to file qualifying papers for individual seats and either pay a qualifying fee or submit a petition signed by at least one percent of the qualified electors of the district.

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<sup>9</sup> S. 298.12(1), F.S.

<sup>10</sup> See ss. 298.11, 298.12, F.S.

<sup>11</sup> S. 298.76(1), F.S. Before revisions in 1980, this section provided an explicit restatement of the Legislature's authority to grant additional powers to WCDs by special act. See ch. 80-281, s. 5, Laws of Fla.

<sup>12</sup> S. 298.76(2), F.S.

<sup>13</sup> S. 298.76(3), F.S.

<sup>14</sup> S. 298.76(4), F.S.

<sup>15</sup> S. 298.76(5), F.S.

<sup>16</sup> Ch. 63-609, s. 1, Laws of Fla.

<sup>17</sup> *About the District*, Sunshine Water Control District, <https://www.sunshinewcd.net/about.php> (last visited Mar. 17, 2021).

<sup>18</sup> *Sunshine Water Control District Adopted Budget Fiscal Year 2021*, Sunshine Water Control District, available at <https://www.sunshinewcd.net/documents.php> (last visited Mar. 17, 2021).

The bill may only take effect upon approval of the qualified electors of the District voting in a referendum held during the 2022 general election. The bill provides a ballot title and question for the referendum and instructs the Broward County Supervisor of Elections to conduct the referendum election.

**B. SECTION DIRECTORY:**

- Section 1: Amends ch. 63-609, Laws of Fla., to provide for election of District board members by all qualified electors of the district.
- Section 2: Sets a referendum on the bill to be held at the 2022 general election and provides a ballot summary and ballot question.
- Section 3: Provides the bill takes effect upon its approval by a majority vote of the qualified electors of the District voting in a referendum to be held on November 8, 2022, except section 2 and section 3 take effect upon the bill becoming a law.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 17, 2021

WHERE? The *Sun-Sentinel*, a daily newspaper of general circulation published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? November 8, 2022

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 provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 23, 2021, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS expands the District's board from three members to five members and conditions the bill taking effect upon approval by District's electors voting in a referendum to be held during the 2022 general election.

This analysis is drafted to the committee substitute as approved by the Local Administration & Veterans Affairs Subcommittee.

On April 9, 2021, the Public Integrity & Elections Committee adopted a technical amendment removing extraneous language and reported the bill favorably as a committee substitute. The amendment did not change the substance of the bill.

This analysis is drafted to the committee substitute as approved by the Public Integrity & Elections Committee.