

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/CS/HB 1503 North Springs Improvement 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	15 Y, 0 N, As CS	Rubottom	Rubottom
3) State Affairs Committee			

### SUMMARY ANALYSIS

The North Springs Improvement 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, and re-codified in 2005. The District provides water treatment, wastewater collection, and stormwater management services to approximately 40,000 residents in the cities of Coral Springs and Parkland.

The District is governed by a board consisting of three supervisors: one elected by and from the landowners of the district whose property is within the City of Parkland, one elected by and from the landowners of the district whose property is within the City of Coral Springs, and one elected at-large by landowners. 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 \$20.1 million, with \$3 million in the District's general fund and \$17.1 million in the District's water and sewer enterprise fund. Approximately three-fourths of the District's revenue (\$15.8 million) is generated by charges for water and sewer service.

The bill increases the size of the District's board from three to five members, effective in 2030, and requires each board member to be elected by the qualified electors of the district. Candidates for two of the seats must be residents and electors of the Cities of Coral Springs and Parkland, respectively. The bill is subject to approval by the qualified electors of the District voting in a referendum to be held during the 2024 general election. If approved, one member of the board will be popularly-elected in the 2026 general election, and one additional member of the board will be popularly-elected in the 2028 general election, and the three remaining board members will be popularly-elected in 2030, with board members elected at each general election thereafter. One of the members elected in 2030 will serve a two-term term to create staggered terms, and serve a four-year term thereafter. All other members serve four-term terms.

**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>

### Conversion Procedure for Landowner-Elected Special District Governing Bodies

The general statutes governing all special districts provide a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.<sup>16</sup> A petition signed by ten percent of the qualified electors must be filed with the governing body of the district requesting a referendum.<sup>17</sup> Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.<sup>18</sup>

If the qualified electors approve of the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization of the district urban area map.<sup>19</sup> If the qualified electors do not approve of the transition, a new referendum may not be held for at least two years.<sup>20</sup>

Within 30 days after the transition referendum, the governing body of the district must direct the district's staff to prepare and present maps describing all urban areas contained in the district.<sup>21</sup> For the purposes of this determination, an "urban area" is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

- 1.5 persons per acre, as defined the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or

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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> S. 189.041(2)(a)1.a., F.S.

<sup>17</sup> S. 189.041(2)(a)1.b., F.S.

<sup>18</sup> S. 189.041(2)(a)2., F.S.

<sup>19</sup> S. 189.041(2)(a)3., F.S.

<sup>20</sup> S. 189.041(2)(a)4., F.S.

<sup>21</sup> S. 189.041(2)(b)1. F.S.

- 1 single-family home per 5 acres within a recorded plat subdivision.<sup>22</sup>

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.<sup>23</sup> The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.<sup>24</sup> If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.<sup>25</sup> After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.<sup>26</sup> A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.<sup>27</sup>

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board pursuant to s. 189.041(3)(a), F.S.<sup>28</sup> The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.<sup>29</sup>

The board composition of the board is determined by the percentage of the district that is urban area, as follows:<sup>30</sup>

Urban Area as Percentage of District	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

Governing board members elected by qualified electors serve four-year terms, except for those elected at the first election and the first landowner's meeting following the referendum, who serve the following terms:<sup>31</sup>

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1, 2, 3, and 4 year term	1 member serving a 4 year term
26%-50%	1 member serving each a 1, 2, and 3 year term	2 member serving a 4 year term
51%-70%	1 member serving each a 1 and 2 year term	2 members serving a 4 year term, 1 member serving a 2 year term
70%-90%	1 member serving a 1 year term	2 members serving a 4 year term, 2 members serving a 2 year term
More than 91%	n/a	3 members serving a 4 year term, 2 members serving a 2 year term

<sup>22</sup> S. 189.041(1)(b), F.S.

<sup>23</sup> S. 189.041(2)(b)2., F.S.

<sup>24</sup> Ss. 189.041(1)(b), (2)(b)3., F.S.

<sup>25</sup> S. 189.041(2)(b)3., F.S.

<sup>26</sup> S. 189.041(2)(b)4., F.S.

<sup>27</sup> S. 189.041(2)(b)5., F.S.

<sup>28</sup> S. 189.041(2)(b)6., F.S.

<sup>29</sup> S. 189.041(2)(b)8., F.S.

<sup>30</sup> S. 189.041(3)(a), F.S.

<sup>31</sup> S. 189.041(3)(b), F.S.

Annual landowners meetings continue to be held as long as at least one member of the board is elected on a one-acre/one-vote basis.<sup>32</sup> There is no requirement for a majority of the acreage of the district to be represented by either an owner or an owner's proxy at the landowners meeting.<sup>33</sup> Electors must hold landowner meetings in the month preceding the month of the election of governing body members.<sup>34</sup>

Initial elections of members elected by the qualified electors of the district are held at the next regularly scheduled election closest in time to the expiration date of the term of the member elected by the landowners.<sup>35</sup> If the nearest regularly scheduled election comes after the expiration of the term of the member elected by the landowners, that member holds office until the election of his or her successor. All elections for members elected by the qualified electors must be non-partisan.

This conversion process applies to all one-acre/one-vote special districts except for districts that were established and continue to operate as single-purpose water control districts, whether those districts were created pursuant to ch. 298, F.S., a special act, local government ordinance, or a judicial decree.<sup>36</sup>

### North Springs Improvement District

The North Springs Improvement 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, and re-codified in 2005.<sup>37</sup> The District provides water treatment, wastewater collection, and stormwater management services to approximately 40,000 residents in the cities of Coral Springs and Parkland.<sup>38</sup>

The District is governed by a board consisting of three supervisors: one elected by and from the landowners of the district whose property is within the City of Parkland, one elected by and from the landowners of the district whose property is within the City of Coral Springs, and one elected at-large.<sup>39</sup> Board members serve four-year terms, must be landowners within the District, and a majority of the members must be residents of Broward County.<sup>40</sup> Each landowner may cast one vote, in person or by proxy, for each acre he or she owns, as well one vote for any fraction of the acre owned.<sup>41</sup> In the event of a vacancy, the other members of the District's board may appoint a new member to serve the remainder of the unexpired term.<sup>42</sup> The board has been authorized since its creation to exercise the powers enumerated in ch. 298, F.S., governing drainage and water control districts, as well as powers specifically granted in the District's charter, such as the maintenance of a sewer system.<sup>43</sup>

A 2007 revision to the District's charter authorized the conversion of the District's board to one elected by the qualified electors of the District, subject to a majority vote of the current landowner-elected board.<sup>44</sup> The popularly-elected board under this provision would be a three-member board.<sup>45</sup> The provision required each member of the board to be a resident of the District and required at one seat to be held by a resident of the City of Parkland and one seat held by a resident of the City of Coral Springs. The members would be elected at a general election and serve four-term terms, except that one of the initial members would serve a two-year term to create staggered terms.

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<sup>32</sup> S. 189.041(3)(c)1., F.S.

<sup>33</sup> S. 189.041(3)(c)2., F.S.

<sup>34</sup> S. 189.041(3)(c)3., F.S.

<sup>35</sup> S. 189.041(4), F.S.

<sup>36</sup> S. 189.041(5), F.S. This subsection was adopted in 1980. As this change was not made retroactive, the allocation of additional powers to a water control district prior to the change would not have been curtailed. See s. 298.76, F.S. (1979).

<sup>37</sup> Ch. 2005-341, s. 2, 3(1), Laws of Fla.

<sup>38</sup> North Springs Improvement District, *About the North Springs Improvement District*, <http://nsidfl.gov/about-us.php> (last visited Mar. 17, 2021).

<sup>39</sup> Ch. 2005-341, s. 3(5)(2), Laws of Fla.

<sup>40</sup> Ch. 2005-341, s. 3(5)(1), Laws of Fla.

<sup>41</sup> Ch. 2005-341, s. 3(5)(2), Laws of Fla.

<sup>42</sup> Ch. 2005-341, s. 3(5)(5), Laws of Fla.

<sup>43</sup> Ch. 71-580, Laws of Fla.

<sup>44</sup> Ch. 2005-341, s. 3(4)(9)(a), Laws of Fla., as amended by ch. 2007-285, Laws of Fla.

<sup>45</sup> Ch. 2005-341, s. 3(4)(9)(b), Laws of Fla., as amended by ch. 2007-285, Laws of Fla.

The total budget of the District for FY 2020-21 is \$20.1 million, with \$3 million in the District's general fund and \$17.1 million in the District's water and sewer enterprise fund.<sup>46</sup> Approximately three-fourths of the District's revenue (\$15.8 million) is generated by charges for water and sewer service.<sup>47</sup>

### **Effect of Proposed Changes**

The bill increases the size of the District's board from three to five members, effective in 2030, and requires each member of the board to be elected by the qualified electors of the district. Candidates for two of the seats must be residents and electors of the Cities of Coral Springs and Parkland, respectively. The bill is subject to approval by the qualified electors of the District voting in a referendum to be held during the 2024 general election. .If approved, one member of the board will be popularly-elected in the 2026 general election, and one additional member of the board will be popularly-elected in the 2028 general election, and the three remaining board members will be popularly-elected in 2030, with board members elected at each general election thereafter. One of the members elected in 2030 will serve a two-term term to create staggered terms, and serve a four-year term thereafter. All other members serve four-term terms.

Existing provisions of the charter concerning landowner voting remain in place pending the conversion of the board to a popularly-elected board and then stand repealed effective November 5, 2030 unless reviewed and saved from repeal by subsequent act of the Legislature.

Elections to the board must be non-partisan and conducted in accordance with general law concerning elections. Candidates for the board must 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.

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: Effective November 5, 2030, amends ch. 2005-431, Laws of Fla., as amended, to expand the size of the board to five members.
- Section 2: Amends ch. 2005-431, Laws of Fla, as amended, to provide for election of District board members by all qualified electors of the district.
- Section 3: Provides for transition for one board seat to election by the qualified electors effective June 1, 2026.
- Section 4: Provides for transition for one board seat to election by the qualified electors effective June 1, 2028.
- Section 5: Provides for transition of remaining board seats effective November 5, 2030.
- Section 6: Sets a referendum on the bill to be held at the 2024 general election and provides a ballot summary and ballot question.
- Section 7: 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 5, 2024, except section 1 takes effect November 5, 2030 and sections 6 and 7 take effect upon the bill becoming a law.

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

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<sup>46</sup> See *General Funds Fiscal Year 2021*, North Springs Improvement District, available at <https://nsidfl.gov/financials.php> (last visited Mar. 17, 2021) and *Water & Sewer Budget Fiscal Year 2021*, North Springs Improvement District, available at <https://nsidfl.gov/financials.php> (last visited Mar. 17, 2021).

<sup>47</sup> *Water & Sewer Budget Fiscal Year 2021*, North Springs Improvement District, available at <https://nsidfl.gov/financials.php> (last visited Mar. 17, 2021).

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 conditions the bill taking effect upon approval by District's electors voting in a referendum to be held during the 2024 general election and provides for a phased transition of the board to a five-member popularly-elected board by 2030.

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 one amendment and reported the bill favorably as a committee substitute. The amendment cleared up an ambiguity relating to the transition of seat 1 to an elected position in 2030. It did not change the substance of the bill.

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