

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 1591 South Seminole and North Orange County Wastewater Transmission Authority

SPONSOR(S): Plakon and others

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

FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 1591 passed the House on April 1, 2021, and subsequently passed the Senate on April 29, 2021.

The South Seminole and North Orange County Wastewater Transmission Authority (Authority) is an independent special district created in 1978 by special act. The Authority owns and operates an untreated wastewater transmission system located in unincorporated portions of Seminole and Orange Counties, and the Cities of Casselberry, Winter Park, and Maitland.

The bill makes the following revisions to the charter of the Authority:

- Designates the regional sewage treatment plant as the Orlando Iron Bridge Wastewater Treatment Facility (facility);
- Removes the City of Winter Springs from the Authority;
- Removes the requirement that appointees to the governing board (board) be qualified electors within the appointing governmental entity;
- Requires that a board vacancy be filled for not only a member but also his or her alternate, adds a secretary to the list of officers, and clarifies that officers are selected at the last annual meeting preceding each September 30;
- Removes a requirement that a 72-hour notice of a meeting be delivered by registered mail to each member and alternate member, provides that in addition to the board, the Authority director may cancel a meeting, and removes the requirement to use "Robert's Rules of Order, Revised" for meeting parliamentary matters;
- Changes the quorum of a meeting from four members to three members and requires that any conflict of interest of a board member must be identified by the member consistent with general law;
- Authorizes the Authority to contract with an entity and to utilize the services of the staffs of participating member entities;
- Clarifies that all lift stations must be owned by the Authority at its own expense;
- Removes provisions relating to private utility flow and votes apportioned by flow; the appointment of alternate governing board members; required connections; contracts with private utilities; the Authority's operation, maintenance, and construction of lift stations; the Authority's facility plan; indebtedness; and the collection of transmission charges; and
- Provides definitions for a "member entity," "transmission system," "wastewater force and gravity mains," and "wastewater pump station."

According to the Economic Impact Statement filed with the bill, there is no fiscal impact to the state or local governments

The bill was approved by the Governor on June 29, 2021, ch. 2021-259, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Independent 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.¹ Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.² 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.³

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the 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 governing body of a single county or municipality.⁴ An "independent special district" is any district that is not a dependent special district.⁵

Charter of an Independent Special District

With the exception of community development districts,⁶ the charter for an independent special district must include the minimum elements required by statute.⁷ Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.⁸

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁹

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

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

³ 2020–2022 *Local Gov't Formation Manual*, pp. 60-61, at

<https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited March 8, 2021).

⁴ S. 189.012(2), F.S.

⁵ S. 189.012(3), F.S.

⁶ S. 189.0311, F.S. See s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

⁷ S. 189.031(1), F.S. Section 189.031(3), F.S., sets forth the minimum charter requirements for an independent special district.

⁸ S. 189.031(3), F.S. (setting forth the minimum charter requirements).

⁹ Art. VII, s. 9(a), Fla. Const.

South Seminole and North Orange County Wastewater Transmission Authority

The South Seminole and North Orange County Wastewater Transmission Authority (Authority) is an independent special district created in 1978 by special act.¹⁰ The Authority owns and operates an untreated wastewater transmission system located in unincorporated portions of Seminole and Orange Counties, and the Cities of Casselberry, Winter Park, and Maitland.¹¹ The purpose of the Authority is to transmit wastewater from the retail collection systems owned and operated by the municipalities and counties to the regional sewage treatment plant.¹²

Each municipality and Seminole County must appoint one member to the governing board (board) and one alternative member who acts in all matters during the member's absence. Appointees must be qualified electors within the appointing governmental entity.¹³ If a board member is unable to serve, the entity represented must appoint a new member or an alternate member, or both, within 30 days after notification to serve the remaining term of office. Notification may be by the member's absence from two consecutive authorized meetings of the board or the member's inability to serve.¹⁴

By a majority vote, the board must select a Chairman and Vice Chairman who will serve until the following September 30.¹⁵ However, after the board's initial meeting, the charter does not specify when the officers start their terms.

The board must meet at least once each quarter. A special meeting may be called by the Chairman or Vice Chairman acting as Chairman, or by mutual consent of any two board members by giving 72-hour notice by registered mail. The board may cancel meetings so long as it meets at least once each quarter. The board must adhere to "Robert's Rules of Order, Revised" for parliamentary matters.¹⁶

In matters before the board, the first 50 votes must be divided equally among board members, plus an additional 50 votes must be divided among board members in the proportion that wastewater flow from each governmental entity bears to the total wastewater flow from all governmental entities. Votes apportioned by flow from private utilities is prohibited.¹⁷

The Authority has all rights, powers, and authority necessary to perform its duties including the power to:¹⁸

- Employ a director;¹⁹
- Serve as the wholesale service customer of the entity or entities that operate the regional sewage treatment plant;
- Require all wastewater collection systems receiving or collecting wastewater from the public and operating facilities located within the Authority's boundaries to discharge their collected sewage directly or indirectly into the Authority's system for transmission by the Authority to the regional sewage treatment plant;
- Contract with local governments or private utilities;
- Contract with represented participating governments or other entity customers or with private contractors for the operation and maintenance of lift stations, force mains, and other facilities according to the specified guidelines.
- Construct, install, erect, acquire and to operate, maintain, improve, extend or enlarge, and reconstruct a sewage transportation system within the boundaries of the Authority;

¹⁰ Ch. 78-617, Laws of Fla. The special act constitutes the charter for the district.

¹¹ Ch. 78-617, s. 3, Laws of Fla.

¹² Ch. 78-617, s. 2, Laws of Fla.

¹³ Ch. 78-617, s. 4(1), Laws of Fla.

¹⁴ Ch. 78-617, s. 4(4), Laws of Fla.

¹⁵ Ch. 78-617, s. 5, Laws of Fla.

¹⁶ Ch. 78-617, s. 7, Laws of Fla.

¹⁷ Ch. 78-617, s. 4(2), Laws of Fla.

¹⁸ Ch. 78-617, s. 6, Laws of Fla.

¹⁹ Ch. 78-617, s. 5, Laws of Fla., defines a director as a person appointed by the board to serve at the pleasure of the board and to function as its chief executive officer.

- Develop plans to provide wastewater transmission service to present and future population centers within the Authority's boundaries;
- Contract for necessary laboratory services with the owner of the regional plant or other governmental or private entities; and
- Assume or retire the current indebtedness of any system or systems for which the Authority assumes responsibility.

Contracts awarded or entered into by the Authority must be awarded only after a public advertisement and call for sealed bids is published in a newspaper and must meet certain criteria. The award must be made to the bidder who can make the improvements at the lowest cost to the Authority.²⁰

The Authority prohibits free wastewater transmission services. Charges must be fixed and collected from any county, school district, or other political subdivision using the facilities of the Authority's transmission system as charges are fixed and collected from other users of the facilities in the same class. Free services are prohibited by the Authority and discrimination is not permitted for users of the same class.²¹

Effect of the Bill

The bill designates the Regional Sewage Treatment Plant as the Orlando Ironbridge Wastewater Treatment Facility (Ironbridge). The bill removes the City of Winter Springs from the Authority. The bill removes provisions relating to private utility flow and votes apportioned by flow; the appointment of alternate governing board members; required connections; contracts with private utilities; the Authority's operation, maintenance, and construction of lift stations; the Authority's facility plan; indebtedness; and the collection of transmission charges. The bill also makes conforming changes.

Governing Board

The bill revises provisions relating to the selection of governing board members by removing the requirement that appointees be qualified electors within the appointing governmental entity. The bill specifies that a board vacancy must be filled not only for a member but also for that member's alternate. The bill adds a secretary to the list of officers and clarifies that officers are selected at the last annual meeting preceding each September 30.

The bill removes a requirement that a 72-hour notice of a meeting be delivered by registered mail to each member and alternate member. The bill provides that in addition to the board, the Authority director may cancel a meeting. The bill removes the requirement to use "Robert's Rules of Order, Revised", for parliamentary matters that may arise during a meeting.

The bill changes the quorum of a meeting from four members to three members. Any conflict of interest of a board member must be identified by that member consistent with general law.

The bill removes provisions relating to private utility flow and votes apportioned by flow, and the appointment of alternate governing board members.

²⁰ Ch. 78-617, s. 11, Laws of Fla.

²¹ Ch. 78-617, s. 12, Laws of Fla.

Definitions

The bill revises the definition of “director” to mean a person or entity appointed by the board and employed or contracted by the Authority to serve at the pleasure of the board and to function as its chief executive officer. The bill provides the following definitions:

- “Member Entity” means any governmental entity that delivers wastewater to the facilities of the Authority for transmission.
- “Transmission System” means wastewater pump stations and wastewater force and gravity mains owned by the Authority that transmit wastewater directly to the City of Orlando Gravity Sewer System, which discharges directly to Ironbridge, as reflected by a duly adopted Authority resolution.
- “Wastewater force and gravity mains” means those mains that transmit wastewater only between wastewater pump stations and the City of Orlando Gravity Sewer System, which discharges directly to Ironbridge, as reflected by a duly adopted Authority resolution.
- “Wastewater pump station” means the final pump station within a sanitary sewer shed to which all the wastewater of a specified geographical area flows and which discharges directly to the City of Orlando Gravity System which discharges directly to Ironbridge, as reflected by a duly Authority resolution.

Authority Powers

The bill authorizes the Authority to contract with an entity and to utilize the services of the staffs of participating member entities and to not employ persons whose duties are the same of participating member entities’ staffs. The bill clarifies that lift stations must be owned by the Authority at its own expense.

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:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 18, 2021 and January 24, 2021

WHERE? *Orlando Sentinel*, a daily newspaper published in Orlando, FL.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?