

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1491 Alligator Point Water Resources District, Franklin County

SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Shoaf

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee	15 Y, 0 N	Berg	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

The Alligator Point Water Resources District (District) is an independent special district created by special act in 1963. The District maintains and operates a potable water system in the portions of Franklin County known as Alligator Point and Bald Point. The District is governed by a three-member board made up of landowners who are appointed by the Governor. The District is financed by ad valorem taxes and fees for water and sewer service.

The bill expands the boundaries of the District, subject to approval by a majority of the qualified electors in the area to be annexed voting in a referendum to be held November 8, 2022, the 2022 general election. The areas to be annexed currently receive services from the District, with properties assessed a flat monthly surcharge of \$30 since they are not subject to ad valorem taxation by the District. Residents of the area to be annexed may see reduced costs for services, depending on the value of their property relative to the current surcharge.

The Economic Impact Statement filed with the bill indicated a revenue shortfall of \$4,388 per year related to the shift from monthly surcharges to ad valorem collections for the 127 affected properties. The Economic Impact Statement also notes an anticipated annual cost of \$255,000 related to the provision of fire services in the District as a result of the bill, although the bill does not explicitly contain this provision. No revenue increase is noted to pay for those services.

The bill is effective upon becoming a law, except that Section 1 is effective only upon approval by a majority vote of landowners voting in a referendum.

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.¹ A special district may be 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.³ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁴

A "dependent special district" is a special district in which 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.⁵ An "independent special district" is any district that is not a dependent special district or one that includes more than one county unless the district lies wholly within a single municipality.⁶

Alligator Point Water Resources District

The Alligator Point Water Resources District (District) is an independent special district created by special act in 1963.⁷ The District maintains and operates a potable water system in the portions of Franklin County known as Alligator Point and Bald Point.⁸ The District is governed by a three-member board made of up landowners who are appointed by the Governor.⁹ The board is authorized to set rates and charges for the use of the water system.¹⁰ The rates set by the board must be sufficient to:

- Pay for the cost of maintaining, repairing, and operating the District's water and sewer systems;
- Pay the principal and interest on all outstanding bonds of the District where the revenues received from rates have been pledged as collateral; and
- Maintain sufficient reserves.¹¹

Additionally, the board of the District is authorized to levy an ad valorem tax of up to five mills.¹² For FY 2021-22, the District levied an ad valorem tax of 1.6642 mills, a decrease from the 1.7989 mills levied

¹ S. 189.012(6), F.S. The Legislature adopted ch. 189, F.S., in 1989 to provide uniform statutes for the definition, creation, and operation of special districts. See s. 189.011(1), F.S.

² S. 189.012(6), F.S.

³ See ss. 189.02(4)-(5) and 189.031(3), F.S. Counties and municipalities have "home rule" powers allowing them to enact ordinances not inconsistent with general or special law for governmental, corporate, or proprietary purposes. Special districts do not possess home rule powers and are permitted to impose only those taxes, assessments, or fees authorized by special or general law. See art. VIII, ss. 1(f) and (g), 2(b), s. 6(e), Fla. Const. and ss. 166.021 and 125.01, F.S. See also *2021 – 2022 Local Gov't Formation Manual*, p. 70, at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteedId=3117> (last visited Jan. 13, 2022) (hereinafter *Local Government Manual*). See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

⁴ *Local Government Manual* at 64.

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S. Independent special districts are created by the Legislature unless otherwise authorized by general law. The charter of a newly-created district must meet minimum statutory requirements which includes a statement that it is an independent special district.

⁷ Ch. 63-1350, Laws of Fla.

⁸ Alligator Point Water Resources District, <http://www.alligatorpointwater.com/> (last visited Jan. 29, 2022).

⁹ Ch. 2005-351, s. 3(4), Laws of Fla.

¹⁰ Ch. 2005-351, s. 3(9), Laws of Fla.

¹¹ Ch. 2005-351, ss. 3(9)(1)-(3), Laws of Fla.

¹² Ch. 2005-351, s. 3(8), Laws of Fla.

the previous year.¹³ Those receiving service outside the district boundaries are charged an additional surcharge of \$30 per month.¹⁴

The District charter does not authorize the District to provide fire control or protection services.¹⁵ The District may expend its funds only to provide the services and exercise the powers authorized in the charter.¹⁶

Effect of Proposed Changes

The bill expands the boundaries of the District, subject to approval by a majority of the qualified electors in the area to be annexed voting in a referendum held November 8, 2022, the 2022 general election.¹⁷ The area to be annexed contains approximately 127 households, compared to 650 within the District today.¹⁸ The area to be annexed currently receive services from the District, with properties assessed a flat surcharge since they are not subject to ad valorem taxation.¹⁹ Individual residents of the area to be annexed may see reduced costs for services, depending on the value of their property relative to the current surcharge.²⁰

The Economic Impact Statement filed with the bill indicated a revenue shortfall of \$4,388 per year related to the shift from monthly surcharges to ad valorem collections for the 127 affected properties. The Economic Impact Statement also notes an anticipated annual cost of \$255,000 related to the provision of fire services in the District as a result of the bill, although the bill does not explicitly contain this provision. No revenue increase is noted to pay for those services.

The bill is effective upon becoming a law, except that Section 1 is effective only upon approval by a majority vote of landowners voting in a referendum

B. SECTION DIRECTORY:

- Section 1: Amends ch. 2005-351, Laws of Fla., to expand the boundaries of the Alligator Point Water Resources District, Franklin County.
- Section 2: Provides for a referendum in the area to be annexed during the 2022 general election.
- Section 3: Provides that section 1 of the bill shall only take effect upon approval by a majority of qualified electors voting in a referendum during the 2022 general election and sections 2 and 3 take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

¹³ See Email from Bucky Mitchell, Chairman, Alligator Point Water Resources District, RE: HB 1491 - Alligator Point Water Resources District (Jan. 26, 2022) (on file with Local Administration & Veterans Affairs Subcommittee) (stating the current year millage rate is 1.6642 mills) and Franklin County Property Appraiser, *2020 Proposed Millage Rates*, <https://franklincountypa.net/wp-content/uploads/sites/37/2020/08/2020-proposed-millage-rate-1.pdf> (last visited Jan. 29, 2022) (FY 2020-21 millage rate).

¹⁴ *Id.* email from Bucky Mitchell, *supra*.

¹⁵ Ch. 2005-351, s. 6, Laws of Fla.

¹⁶ Ch. 2005-351, s. 7, Laws of Fla. See *Halifax Hospital Medical Center*, *supra* n. 3.

¹⁷ A map of the area to be annexed is attached as Appendix A.

¹⁸ David Adlerstein, *Legislators back vote to enlarge Alligator Point water district*, The Apalachicola Times, Dec. 8, 2021, <https://www.franklincounty.news/stories/legislators-back-vote-to-enlarge-alligator-point-water-district,6829>

¹⁹ Email from Bucky Mitchell, Chairman, Alligator Point Water Resources District, RE: HB 1491 - Alligator Point Water Resources District (Jan. 26, 2022) (on file with Local Administration & Veterans Affairs Subcommittee).

²⁰ See *id.* (stating customers with properties valued at less than \$200,000 should see a decrease in costs for services relative to the current surcharge).

WHERE?

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 does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 2, 2022, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS reformatted language concerning the area to be added to the District to conform with changes made by a previous special act and corrected technical errors in the provision creating the referendum.

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

APPENDIX A
Map of Alligator Point Water Resources District and Area to Be Annexed

