

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: HB 11-B

INTRODUCER: Representative Daley

SUBJECT: Sunshine Water Control District, Broward County

DATE: February 9, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Twogood	RC	Favorable

I. Summary:

HB 11-B is a local bill that reaffirms and continues the Sunshine Water Control District’s (district) authority to raise revenue and pay outstanding bonds and other obligations without interruption. The bill codifies, reenacts, and amends the charter of the district and repeals the special acts and judicial decree that created the district. The bill reaffirms the district’s boundaries, the applicability of ch. 298, F.S., including the power to levy and collect taxes as provided in that chapter, the powers of the district to construct and maintain roads, and the transition to a governing five-member board.

The bill further provides that, notwithstanding s. 189.0311(2), F.S., the district is not dissolved as of June 1, 2023, but continues in full force and effect.

II. Present Situation:

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 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

¹ Section 189.012(6), F.S. *See also Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547-48 (Fla. 2019).

² Section 189.012(6), F.S.

³ Sections 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. FLA. CONST. art VIII, ss. 1(f) and (g), 2(b), s. 6(e) and sections 125.01 and 166.021, F.S. *See also Local Gov’t Formation Manual 62*, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Feb. 8, 2023).

⁴ *Local Gov’t Formation Manual* at 62.

A “dependent special district” is a special district meeting at least one of the following criteria:

- The membership of the district’s governing body is identical to the governing body of a single county or municipality;
- All members of the district’s 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 approval by the 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

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts (Official List of Districts), there are 1,918 special districts, including 1,303 independent special districts and 615 dependent districts.⁷

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.⁸

Generally, the maximum millage rate for an independent special district is the millage rate authorized by law and approved by the electors of the district in a referendum.⁹ The 1968 Florida Constitution, however, provides that independent special districts with ad valorem tax authority established by law before its effective date may continue to exercise that authority, but that the authority may be restricted or withdrawn by law unless such power is necessary to pay outstanding debts.¹⁰

Formation and Charter of an Independent Special District

With the exception of community development districts,¹¹ the charter for an independent special district must include the minimum elements required by ch. 189, F.S.¹² Charters of independent special districts must address and include a list of required provisions, including the purpose of

⁵ Section 189.012(2), F.S.

⁶ Section 189.012(3), F.S. Independent special districts are created by the Legislature, unless another mechanism is authorized by general law. *See, e.g.* section 190.005, F.S. (community development districts may be created by a county, municipality, or the Florida Land and Water Adjudicatory Commission, depending on the size and location of the district).

⁷ Dept. of Economic Opportunity, Special Dist. Accountability Program, “Official List of Special Districts,” available at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Feb. 8, 2023).

⁸ FLA. CONST. art VII, s. 9(a)

⁹ FLA. CONST. art VII, s. 9(b)

¹⁰ FLA. CONST. art XII, ss. 2, 15 *See also* FLA. CONST. art. IX, s. 2 (1885), *amended by* SJR 69 (1939) (approved by the voters Nov. 5, 1940) (prohibition on state levy of ad valorem taxes for state purposes). *Bailey v. Ponce de Leon Port Authority*, 398 So. 2d 812 (Fla. 1981); *see also Hillsborough County v. Tampa Port Authority*, 563 So. 2d 1108 (Fla. 2d DCA 1990).

¹¹ Section 189.0311, F.S.; *see* section 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

¹² Sections 189.031(1) and (3), F.S., sets forth the minimum charter requirements for an independent special district.

the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.¹³

Independent Special District Dissolution

Generally, an independent special district may be dissolved in one of the four following ways:

- Voluntary dissolution by a majority vote plus one of the district's board;¹⁴
- For districts created by special act, the passage of a special act dissolving the district, subject to approval by a majority vote of the residents or landowners of the district;¹⁵
- For districts created by a local government, voter approval of a referendum dissolving the district or by the procedure used to create the district;¹⁶ or
- For districts that have been declared inactive by DEO, by special act or ordinance without a referendum.¹⁷

Additionally, s. 189.0311(2), F.S., provides for the dissolution of all independent special districts created by special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts are not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after that date.¹⁸ Such districts dissolve on June 1, 2023, unless re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. According to the Official List of Districts, 132 active independent special districts were created by special act before November 5, 1968,¹⁹ and of those districts, six do not operate under a charter that was reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968.²⁰

Unless otherwise provided by law or ordinance, all assets and liabilities of a dissolved independent special district are transferred to the local general-purpose government having jurisdiction over the territory of the district.²¹

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.²² A WCD may build and construct any other works and improvements deemed

¹³ Sections 189.031(3), F.S. (setting forth the minimum charter requirements).

¹⁴ Section 189.072(1), F.S. If the district was created by special act, dissolution also requires a special act of the Legislature to take effect.

¹⁵ Section 189.072(2)(a), F.S.

¹⁶ Section 189.072(2)(b), F.S. If the district has the power to levy ad valorem taxes, a referendum is required for dissolution. FLA. CONST. art. VII, s. 9(b).

¹⁷ Section 189.072(3), F.S.

¹⁸ Created by ch. 2022-266, Laws of Fla.

¹⁹ Dept. of Economic Opportunity, Special District Accountability Program, "Official List of Special Districts," available at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Feb. 8, 2023).

²⁰ Bradford County Development Authority, Bradford County; Eastpoint Water and Sewer District, Franklin County; Hamilton County Development Authority, Hamilton County; Marion County Law Library, Marion County; Reedy Creek Improvement District, Orange and Osceola Counties; and Sunshine Water Control District, Broward County will dissolve on June 1, 2023, unless re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date. Of those scheduled to sunset, Eastpoint Water and Sewer District, Reedy Creek Improvement District, and Sunshine Water Control District have debt obligations.

²¹ Sections 189.072(4) and 189.076(2), F.S.

²² Section 298.22, F.S.

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.²³

Prior to July 1, 1980, WCDs were created by the submission of a petition signed by a majority of the landowners in the area of the proposed district to the circuit court that had jurisdiction over the area.²⁴ Today, WCDs may be created only by special act or by county ordinance.²⁵

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.²⁶ 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.²⁷ Landowners may vote in person or by a signed proxy statement. 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 serve a three-year term, with one member of the board elected by the landowners each year.²⁸

Sunshine Water Control District

The Sunshine Water Control District (district) is an independent special district in Broward County, created by a decree of the Fifteenth Judicial Circuit in 1963²⁹ and subsequently ratified and approved by a special act the same year.³⁰ The district provides water management improvements and services to support local development, maintaining 5,422 acres of canals and right-of-way property providing drainage and flood protection to 17,000 landowners in Coral Springs.³¹ For its 2020-2021 Fiscal Year (FY), the district reported outstanding long-term debt of \$12,004,956. The district's proposed budget for FY 2022-23 is \$3.6 million, derived almost entirely from special assessments.³²

In 2021, the Legislature amended the district's charter, increasing the board from three to five members and requiring each board member to be elected by the qualified electors of the district.³³ However, the bill required the voters of the district to approve the proposed amendment before it could go into effect and required a referendum be held on November 8,

²³ Section 298.22(3), F.S.

²⁴ Section 298.01, F.S. (authorizing "water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section and former ss. 298.02 and 298.03, may continue to operate as outlined in this chapter.") *See also* s. 298.01, F.S. (1980) and ch. 79-5, ss. 1-3, Laws of Fla. Originally, the Board of Drainage Commissioners for the State also had authority to prepare and file a petition to form a drainage district. *See* ch. 6458, s. 1, Laws of Fla. (1913).

²⁵ Section 289.01, F.S.

²⁶ Section 298.11(1), F.S.

²⁷ Section 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 votes for any fraction of an acre greater than one-half owned in addition to votes equal to the number of whole acres owned.

²⁸ Section 298.12(1), F.S.

²⁹ Decree in chancery no. 62-4569-F (Jan. 23, 1963) entered by the Circuit Court in and for the Fifteenth Judicial Circuit of Florida.

³⁰ Ch. 63-609, s. 1, Laws of Fla.

³¹ *About the District*, Sunshine Water Control District, available at: <https://www.sunshinewcd.net/about.php> (last visited Feb. 8, 2023).

³² *Sunshine Water Control District Adopted Budget Fiscal Year 2021*, Sunshine Water Control District, available at <https://www.sunshinewcd.net/assets/documents/fy-2023/2022-SWCD-budget-proposed.pdf?v=1666205375> (last visited Feb. 8, 2023).

³³ Ch. 2021-255, s. 1, Laws of Fla.

2022, for that purpose. At the referendum held on that date, the voters approved the referendum question and ch. 2021-255, s. 1, Laws of Fla., went into effect.³⁴

III. Effect of Proposed Changes:

The bill ratifies and confirms the continued existence of the Sunshine Water Control District (district) and provides legislative intent to preserve the district's necessary authority to generate revenue and pay outstanding indebtedness as provided in its original charter as such authority was preserved by Art. XII, ss. 2 and 15 of the Florida Constitution.

The bill codifies, reenacts, and amends the charter of the district and repeals chs. 63-609 and 2021-255, Laws of Fla., and the decree in chancery No. 62-4596-F entered by the Fifteenth Judicial Circuit Court creating the district.

The bill further reaffirms and continues the district's boundaries, the applicability of ch. 298, F.S., including the power to levy taxes and collect taxes as provided in that chapter, the powers of the district to construct and maintain roads, and the transition to a governing five-member board elected by the qualified electors of the district beginning in 2024.

Finally, the bill provides that, notwithstanding s. 189.0311(2), F.S., the district is not dissolved as of June 1, 2023, but continues in full force and effect.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

This bill is a local law, an important distinction because the State Constitution imposes special requirements on local laws and prohibits local laws on specified subjects where

³⁴ Election results from Broward County Supervisor of Elections website, available at <https://enr.electionsfl.org/BRO/3281/Summary/> (last visited Feb 8, 2022).

the law should be uniform statewide. The general guiding test to distinguish the difference is:

A statute relating to subdivisions of the state or to subjects or to persons or things of a class, based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the class, is a ‘general law’; while a statute relating to particular subdivisions or portions of the state, or to particular classified localities, is a local law. . .³⁵

Section 10 Article III of the State Constitution requires that notice of intent to seek enactment of a local law be published in the manner provided by general law,³⁶ or that the local law be conditioned to take effect only upon approval by vote of the area affected. A local law must satisfy one of these requirements or it is unconstitutional.³⁷

Notice was published on December 19, 2022, in the Sun-Sentinel, a daily newspaper of general circulation in Broward, Miami-Dade, and Palm Beach counties, FL.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on the district.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill repeals, reenacts, and amends chapters 63-609 and 2021-255, Laws of Florida.

³⁵ State *ex rel.* Buford v. Daniel, 99 So. 804 (1924)

³⁶ Sections 11.02, 11.021, and 11.03, F.S.

³⁷ Barndollar v. Sunset Realty Corp., 379 So.2d 1278 (Fla. 1979)

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
