

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 739 North Brevard County Hospital District, Brevard County
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Fine
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	9 Y, 4 N, As CS	Roy	Darden
2) Select Committee on Health Innovation			
3) State Affairs Committee			

SUMMARY ANALYSIS

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. A special district may be created by general law, special act, local ordinance, or rule of the Governor and Cabinet. 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.

The North Brevard County Hospital District (NBHD) is an independent special district in Brevard County created in 1953. The charter of the district was recodified in 2003. The district was created for the purpose of establishing and operating hospitals in the county. The district operates Parrish Medical Center, a 210-bed hospital in the City of Titusville.

The district board consists of nine members: three members appointed by the Titusville City Council; three members appointed by the Brevard County Board of County Commissioners; and three members appointed by the Brevard County Board of County Commissioners, subject to confirmation by the Titusville City Council. Members serve a four-year term and must reside within the boundaries of the district.

The bill revises the NBHD charter by:

- Replacing the current board of the district with a five-member board appointed by the Governor;
- Providing appointment procedures for board members;
- Removes the district’s ability to levy an ad valorem tax;
- Revises dissolution procedures for the district, providing that the assets and liabilities of the district will be transferred to the Brevard County Board of County Commissioners; and
- Requiring the district, on or after October 1, 2024, to adopt a resolution to commence a valuation of the district’s assets and provides qualifications for who may conduct the evaluation. After the receiving the evaluation report, the bill requires the district to solicit bids for the district’s assets. If the district’s assets are sold, the proceeds are transferred to the Brevard County Board of County Commissioners.

The bill restricts current board members from relating selling, disposing of, encumbering, transferring, or expending the assets of the district as such assets existed as of October 1, 2023, other than in the ordinary course of business.

The Economic Impact Statement filed with the bill indicates that the bill will not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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

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

Hospital Districts

Hospital districts are a type of independent special district specializing in the provision of health care services. As of January 15, 2024, there are 30 special districts classified as hospital or health care districts.⁷ The charters of hospital districts generally possess a set of core features: a board appointed by the Governor, the authority to build and operate hospitals, the power of eminent domain; the ability to issue bonds payable from ad valorem taxes; the use of ad valorem revenue to be used for operating and maintaining hospitals, and a provision that the facilities be established for the benefit of the indigent sick.⁸

All special districts must operate within a defined geographic boundary absent an “express and unambiguous” grant of extraordinary authority.⁹ For example, the Sarasota County Public Hospital

¹ S. 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 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. 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 Jan. 16, 2024).

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

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S. Independent special districts are created by the Legislature, unless another mechanism is authorized by general law. See, e.g. s. 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 Commerce, *Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Jan. 15, 2024).

⁸ Florida TaxWatch, *Florida’s Fragmented Hospital Taxing District System in Need of Reexamination*, Briefings (Feb. 2009), available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/16012/Floridas-Fragmented-Hospital-Taxing-District-System-in-Need-of-Reexamination> (last visited Jan. 17, 2023).

⁹ *Halifax Hosp. Med. Center v. State*, 278 So. 3d 545, 548 (Fla. 2019).

District is authorized to operate hospitals and other types of health care facilities “both within and beyond the boundaries of the District.”¹⁰ The district is prohibited from using any funds derived from ad valorem taxation to establish or provide any health care facility or health care service beyond its boundaries. Meanwhile, the Cape Canaveral Hospital District is responsible for “support[ing] the health and welfare of all those in the District’s boundaries and the surrounding communities by providing health care facilities and services to all those in need regardless of ability to pay.”¹¹ The charter for the Halifax Hospital Medical Center empowers the district to operate hospitals and other types of health care facilities, as well as provide health services, in Brevard, Flagler, Lake, and Volusia Counties.¹²

Lease or Sale of Local Government Hospitals or Hospital Systems

Current law authorizes the sale or lease of local government owned hospitals.¹³ The governing board of the hospital or hospital system must find that the sale or lease of the hospital is in the best interest of the affected community¹⁴ and must state the basis of the finding. The governing board is responsible for determining the terms of the lease, sale, or contract. The hospital or hospital system may be leased or sold to a for-profit or a not-for-profit Florida entity, but the lease, contract, or agreement must:

- Subject the articles of incorporation of the lessee or buyer to approval by the board of the hospital;
- Require that not-for-profit lessees or buyers become qualified under s. 501(c)(3) of the United States Internal Revenue Code;
- Provide for orderly transition of operations and management;
- Provide for return of the facility upon termination of the lease, contract, or agreement; and
- Provide for continued treatment of the indigent sick.¹⁵

The lease, sale, or contract must be done through a public process that includes:

- Consideration of proposals by and negotiations with all qualified buyers or lessees following public notice to identify them;¹⁶
- Detailed, written board findings regarding the accepted proposal that meets specified requirements and disclosure of all information and documents relevant to the board’s determination must occur;¹⁷
- A 120-day timeline for conclusion of the lease, sale, or agreement measured in advance of the anticipated closing date that:
 - Begins with publishing all findings, information, and documents specified by law and a public notice of the proposed transaction;¹⁸
 - Allows receipt of public comment;¹⁹
 - Is subject to approval by the Secretary of the Agency of Health Care Administration (AHCA), unless law requires approval by the registered voters of the local government where the hospital or hospital system is located;²⁰
 - Requires a petition for approval of and a final order by AHCA;²¹
 - Provides a right of appeal for any interested party;²²

¹⁰ Ch. 2005-304, Laws of Fla.

¹¹ S. 1 of the Charter of the Cape Canaveral Hospital District, as codified in s. 3, ch. 2003-337, Laws of Fla.

¹² Ch. 2003-374, Laws of Fla., as amended by ch. 2019-172, Laws of Fla.

¹³ S. 155.40, F.S.

¹⁴ “Affected community” means those persons residing within the geographic boundaries defined by the charter of the county, district, or municipal hospital or health care system, or if the boundaries are not specifically defined by charter, by the geographic area from which 75 percent of the county, district, or municipal hospital’s or health care system’s inpatient admissions are derived. S. 155.40(4)(a), F.S.

¹⁵ Continued treatment of the indigent sick must comply with the Florida Health Care Responsibility Act and pursuant to chapter 87-92, Laws of Florida. S. 155.40(2)(e), F.S. Ss. 154.301-154.316, F.S., are the Florida Health Care Responsibility Act. S. 154.301, F.S.

¹⁶ S. 155.40(6), F.S.

¹⁷ S. 155.40(7)(a), F.S.

¹⁸ S. 155.40(8), F.S.

¹⁹ S. 155.40(9), F.S.

²⁰ S. 155.40(10), F.S.

²¹ S. 155.40(11), F.S. The AHCA final order is limited to whether the board complied with law and must require the board to approve or reject the proposal based on specified findings by AHCA.

²² S. 155.40(12), F.S. “Interested party” includes a person submitting a proposal for sale or lease of the county, district, or municipal hospital or health care system, as well as the governing board. S. 155.40(4)(c), F.S.

- Makes the costs the responsibility of the board, unless any interested party appeals, then the costs can be equitably assigned to the parties;²³ and
- Allows voiding of the transaction by any party if specified provisions are not followed.²⁴

If a hospital is sold, all tax authority associated with the hospital ceases.²⁵ Fifty percent of the proceeds from the sale or lease must be deposited into a health care economic development trust fund serving specified health care related purposes.²⁶ The district board must appropriate the other 50 percent to funding to care for the indigent sick.²⁷ Other taxing, financial, and liability considerations are provided by the law, including prohibitions on the transfer of government functions.²⁸ A streamlined process is provided if the property represents less than 20 percent of the hospital's net revenue.²⁹

North Brevard County Hospital District (NBHD)

The NBHD is an independent special district in Brevard County created in 1953.³⁰ The district was created for the purpose of establishing, constructing, equipping, operating and maintaining, repairing, or leasing a hospital or hospitals in the county.³¹ The NBHD's charter was recodified in 2003.³² The district operates Parrish Medical Center, a 210-bed hospital in the City of Titusville.³³

The district is governed by a nine-member board: three members appointed by the Titusville City Council; three members appointed by the Brevard County Board of County Commissioners; and three members appointed by the Brevard County Board of County Commissioners, subject to confirmation by the Titusville City Council.³⁴ Board members serve four-year terms and must reside within the boundaries of the district.³⁵

The board is required to determine by July 15 of each year the amount of revenue the district will need for operations during the following fiscal year.³⁶ The board submits the information to the Brevard County Board of County Commissioners, who may levy an ad valorem tax of up to five mills on behalf of the NBHD. The NBHD did not levy an ad valorem tax in the most recent fiscal year and "has a legacy of providing affordable health care without doing so."³⁷

The NBHD charter provides that in the event of dissolution of the district, the assets of the district must be distributed to an entity organized under s. 501(c)(3) or s. 170(c)(2) of the Internal Revenue Code whose primary purpose is the same health care responsibilities as those performed by the district, together with other public needs of the district.³⁸ The entity must provide the same annual percentage of charity care, indigent care, and Medicaid care, based on gross revenues, that was provided by the public hospital and reported to the Health Care Cost Containment Board in its most recent reporting

²³ S. 155.40(13), F.S.

²⁴ S. 155.40(14), F.S. If any board member negligently or willfully violates specified provisions, they are subject to penalty by the Commission on Ethics.

²⁵ S. 155.40(15), F.S.

²⁶ S. 155.40(16)(a), F.S. The trust fund is controlled by the local government where the leased or sold property is located. The net proceeds in trust fund shall be distributed, in consultation with the Department of Economic Opportunity, to promote job creation in the health care sector of the economy through new or expanded health care business development, new or expanded health care services, or new or expanded health care education programs or commercialization of health care research within the affected community.

²⁷ S. 155.40(16)(b), F.S. Funding the delivery of indigent care, includes, but not limited to, primary care, physician specialty care, out-patient care, in-patient care, and behavioral health, to hospitals within the boundaries of the district with consideration given to the levels of indigent care provided.

²⁸ S. 155.40(17)-(21), F.S.

²⁹ S. 155.40(22), F.S.

³⁰ Ch. 2003-362, s. 1, Laws of Fla.

³¹ Ch. 2003-362, s. 3(1), Laws of Fla.

³² Ch. 2003-362, Laws of Fla.

³³ Parrish Healthcare, *History & Facts*, <https://parrishhealthcare.com/about-us/history-facts/> (last visited Jan. 14, 2024).

³⁴ Ch. 2003-362, s. 3(2), Laws of Fla.

³⁵ *Id.*

³⁶ Ch. 2003, s. 3(6), Laws of Fla.

³⁷ North Brevard County Hospital District, *Financial Statements and Supplementary Information For the Year Ended September 30, 2022 and Independent Auditor's Report* at 4, https://www.parrishhealthcare.com/documents/FS_22-Parrish-Medical-Final.pdf (last visited Jan. 14, 2024).

³⁸ Ch. 2003-362, s. 3(17), Laws of Fla.

cycle.³⁹ The transfer of the assets must be approved by the member of the Brevard County Board of County Commissioners representing the area, as well as a four-fifths vote of the Titusville City Council.

The charter also requires any sale of hospital facilities to be subject to a referendum of the electors of the district.⁴⁰

Effect of Proposed Changes

Board Membership

The bill reduces the size of the NBHD board from nine members to five and provides that all members shall appointed by the Governor. Board members must be qualified electors of the district. For the initial appointment, the Governor must issue a public notice soliciting citizen nominations for board members within 120 days after the effective date of the bill. The nomination solicitation period will remain open for at least 30 days after the notice and the Governor must appoint initial members to the board from among the nominees within 60 days after the close of the solicitation period. The initial terms of office for board members commence upon appointment, with three members serving until October 1, 2026 and two members serving until October 1, 2028.

For subsequent appointments, the Governor must have a citizen nomination solicitation period for at least 30 days, and appointed members serve for 4-year terms commencing on October 1 of the year in which they are appointed. If there is a vacancy for an unexpired portion of a term, the Governor must fill the vacancy within 60 days if the remainder of the term exceeds 90 days. If a member is appointed to complete an unexpired term, the member's terms starts at the time of appointment and continues through the remainder of the unexpired term.

The bill provides the offices and terms of current members of the NBHD board terminate as of the effective date of the bill. Members may continue to serve until a successor in office is appointed and qualified. Until successors are appointed and qualified to replace all the members of the board, the district may not sell, dispose of, encumber, transfer, or expend the assets of the district as such assets existed as of October 1, 2023, other than in the ordinary course of business.

Budget and Finance

The bill requires the NBHD board to submit a report its operating budget and projected revenues to the Brevard County Board of County Commissioners by July 15th of each year and removes the district's power to levy ad valorem taxes.

Dissolution Procedures

The bill removes provisions of the current charter specifying the distribution of the district's assets, instead requiring all assets and liabilities of the NBHD be transferred to the Brevard County Board of County Commissioners.

Valuation and Sale

The bill requires that, on or after October 1, 2024, the board must adopt a resolution to commence a valuation of the district's assets. The board must contract with an independent entity that has at least five years of experience conducting comparable evaluations of hospital organizations similar in size and function in accordance to applicable industry best practices. The bill provides that the independent entity may not have any current affiliation with or financial involvement with the district, any support corporation of the district, the Jess Parrish Medical Foundation, Inc., or any member of the NBHD board.

³⁹ The Health Care Cost Containment Board was abolished in 1992 and its duties transferred to the Agency for Health Care Administration. Ch. 92-33, Laws of Fla.

⁴⁰ *Id.*

The valuation must be completed and a final report presented to the board no later than 180 days after the date the valuation commenced. The report must be published to the district's website and include a statement signed by the chair of the board and the chief executive officer of the independent entity based on each person's reasonable knowledge and belief the contents and conclusion of the valuation are true and correct.

The board must adopt a resolution commencing the process of soliciting bids for the district's assets no later than 30 days after the date the board received the final valuation report. The report must be made available to all potential bidders, include the time and date for the receipt of bids and of the public opening, and include all applicable contractual terms and conditions. The resolution must establish a minimum acceptable bid for the district's assets based on a commercially reasonable value and require bidders to enter into an enforceable commitment that programs and services provided by the district for indigent care must be continued in perpetuity, unless otherwise agreed to by the Brevard County Board of County Commissioners.

Upon completion of the sale of the district's assets, all liabilities and proceeds shall be transferred to the Brevard County Board of County Commissioners. Proceeds received by the board must first be used to satisfy all liabilities of the former district. No later than 30 days after the complete transfer of assets and liabilities, the district must notify the Florida Department of Commerce. The district is dissolved automatically upon receipt of the notice by the department.

The Economic Impact Statement filed with the bill indicates the bill will not have a fiscal impact.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2003-362, Laws of Fla., relating to the North Brevard Hospital District, Brevard County.

Section 2: Provides the terms of current board members end as of the effective date of the bill, allows those members to continue to serve until the appointment of their successors, and prohibits district board members, officers, and employees from undertaking certain actions outside of the ordinary course of business with district assets as of the effective date of the bill.

Section 3: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 1, 2023.

WHERE? *Florida Today*, a daily newspaper of general circulation published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

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 January 19, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarifies who is responsible for notifying the Department of Commerce after the complete transfer of the district's assets and liabilities.

The analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.