

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 967 Lee County
SPONSOR(S): Botana
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Darden	Darden
2) Ways & Means Committee			
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. Special districts are 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.

The Lee County MCD is a mosquito control district created by special act in 1958. The charter of the district was re-codified in 1998. The district provides services to all of Lee County, except for the area that is serviced by the Fort Myers Beach MCD. The district is also authorized to take actions for the control and elimination of all species of mosquitoes and other arthropods of public health importance in a five-mile radius outside the boundaries of the district. The district levies an ad valorem tax of 0.23 mills for the current fiscal year, generating approximately \$25.9 million in revenue.

The Fort Myers Beach MCD is a mosquito control district created by county resolution in 1949. The charter of the district was re-codified in 2001. The district levies an ad valorem tax of 0.1123 mills for the current fiscal year, generating \$320,370 in revenue.

Subject to approval by the electors of Lee County voting in a referendum to be held during the 2024 general election, the bill repeals the charter of the Fort Myers Beach MCD and expands the boundaries of the Lee County MCD to include all of Lee County. The bill provides that the districts are merged as of the effective date of the act and all assets and liabilities of the Fort Myers Beach Mosquito Control District as of the effective date of the act shall be transferred to the Lee County Mosquito Control District.

According to the Economic Impact Statement (EIS), the Fort Myers Beach MCD currently pays \$60,000 to the Lee County MCD for aerial spraying and inspection services. The EIS states that a merger would result in more equitable sharing of the cost of mosquito control services and most taxpayers would see a reduction in their millage rate.

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 Special districts are 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. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁴

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as the governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁵

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁶

Special districts are governed generally by the Uniform Special District Accountability Act (USDAA).⁷ The USDAA centralizes provisions governing special districts and applies to the formation,⁸ governance,⁹ administration,¹⁰ supervision,¹¹ merger,¹² and dissolution¹³ of special districts, unless otherwise expressly provided in law.¹⁴ The USDAA requires notice and publication of tentative budgets and final budgets.¹⁵ Certain budget amendments are allowed up to 60 days following the end of the fiscal year.¹⁶

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

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

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

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?Committeed=3227> (last visited January 18, 2024).

⁴ The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). See *also*, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S.

⁷ S. 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts), ch. 298, F.S. (water control districts), ch. 388, F.S. (mosquito control districts), and ch. 582, F.S. (soil and water conservation districts).

⁸ See ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

⁹ See s. 189.0311, F.S. (charter requirements for independent special districts).

¹⁰ See s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹¹ See s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

¹² Ss. 189.071 and 189.074, F.S.

¹³ Ss. 189.071 and 189.072, F.S.

¹⁴ See, e.g., s. 190.004, F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

¹⁵ S. 189.016(4), F.S.

¹⁶ S. 189.016(6), F.S.

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.¹⁷

Mosquito Control Districts

Mosquito control districts (MCDs) are created to protect health and safety, improve quality of life, promote economic development, and allow for the enjoyment of natural attractions of the state by reducing the number of insects that transmit disease within their boundaries.¹⁸ An MCD may contain part or all of a county or municipality.¹⁹ As of January 27, 2024, there were 18 mosquito control districts: 15 independent districts and three dependent districts.²⁰

The creation of new MCDs has been prohibited since July 1, 1980.²¹ In counties without a district, the board of county commissioners may exercise the rights, powers, and duties authorized by statute for an MCD or may direct the county health department to do so.²² For MCDs formed prior to July 1, 1980, the district board of commissioners may request the board of county commissioners for the county in which the district lies to approve a change in the boundaries of the district.²³

MCDs may levy an ad valorem tax of up to 10 mills on real and personal property within the district.²⁴

The Department of Agriculture and Consumer Services (DACS) is responsible for coordinating the activities of MCDs receiving state funds.²⁵ To be eligible to receive state funds for arthropod control during a local government fiscal year, each MCD must submit a tentative work plan and detailed work plan budget to DACS by July 15 of the preceding fiscal year. The work plan and budget may be amended by the district with DACS approval.²⁶ Each district is also required to submit an expenditure report for the preceding month within 30 days after the end of that month.²⁷

Lee County MCD

The Lee County MCD is a mosquito control district created by special act in 1958.²⁸ The charter of the district was re-codified in 1998.²⁹ The district provides services to all of Lee County, except for the area that is serviced by the Fort Myers Beach MCD.³⁰ The district is also authorized to take actions for the control and elimination of all species of mosquitoes and other arthropods of public health importance in a five-mile radius outside the boundaries of the district.³¹

The district is governed by a seven-member board elected to serve staggered four-term years.³² Members of the board receive \$4,800 a year as compensation.³³

¹⁷ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

¹⁸ Ss. 388.0101 and 388.011(5), F.S.

¹⁹ S. 388.021(1), F.S.

²⁰ Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Jan. 27, 2024).

²¹ S. 388.021(2), F.S.

²² Ss. 388.241 and 388.251, F.S. The county health department must keep the books and make all reports required under ch. 388, F.S., and all purchases, whether by bid or otherwise, must be made in accordance with the procedures allowed by the board of county commissioners. The health department must also submit to the board of county commissioners itemized monthly statements of expenses incurred in carrying out the control program in the county.

²³ S. 388.211(1), F.S.

²⁴ S. 388.221(1), F.S.

²⁵ S. 388.271(1), F.S.

²⁶ S. 288.281, F.S.

²⁷ S. 388.341, F.S. The reports must detail activities and accomplishments as may be required by DACS.

²⁸ Ch. 57-2060, s. 22, Laws of Fla.

²⁹ Ch. 98-461, Laws of Fla.

³⁰ Ch. 98-461, s. 1, Laws of Fla. See also ch. 2001-335, s. 3(2), Laws of Fla.

³¹ Ch. 98-461, s. 5, Laws of Fla.

³² Ch. 98-461, s. 3, Laws of Fla.

³³ Ch. 98-461, s. 7, Laws of Fla. See also s. 388.141, F.S.

The district’s charter authorizes an ad valorem tax levy of up to 1 mill.³⁴ The district levies an ad valorem tax of 0.23 mills for the current fiscal year,³⁵ generating approximately \$25.9 million in revenue.³⁶

Fort Myers Beach MCD

The Fort Myers Beach MCD is a mosquito control district created by county resolution in 1949.³⁷ The charter of the district was re-codified by special act in 2001.³⁸ The district is authorized to exercise all powers and authority granted to MCDs under ch. 388, F.S. and by special acts relating to the district.³⁹ The district provides services to a 25 square mile area.⁴⁰ The district is governed by a three-member board elected to serve four-term years.⁴¹

The district’s charter authorizes an ad valorem tax levy of up to 1 mill.⁴² The district levies an ad valorem tax of 0.1123 mills for the current fiscal year, generating \$320,370 in revenue.⁴³

Effect of Proposed Changes

Subject to approval by the electors of Lee County voting in a referendum to be held during the 2024 general election, the bill repeals the charter of the Fort Myers Beach MCD and expands the boundaries of the Lee County MCD to include all of Lee County. The bill provides that the districts are merged as of the effective date of the act and all assets and liabilities of the Fort Myers Beach Mosquito Control District as of the effective date of the act shall be transferred to the Lee County Mosquito Control District.

According to the Economic Impact Statement (EIS), the Fort Myers Beach MCD currently pays \$60,000 to the Lee County MCD for aerial spraying and inspection services. The EIS states that a merger would result in more equitable sharing of the cost of mosquito control services and most taxpayers would see a reduction in their millage rate.

B. SECTION DIRECTORY:

- Section 1: Amends ch. 98-461, Laws of Fla., to amend the boundaries of the Lee County MCD.
- Section 2: Repeals ch. 2001-335, Laws of Fla., the charter of the Fort Myers Beach MCD.
- Section 3: Provides for the merger of the districts and transfers all assets and liabilities of the Fort Myers Beach MCD to the Lee County MCD.
- Section 4: Provides for a referendum to be held during the 2024 general election and provides a ballot title and question.
- Section 5: Provides that the bill shall take effect upon approval by a majority vote of the qualified electors of Lee County voting in a referendum, except that sections 4 and 5 shall take effect upon becoming a law.

³⁴ Ch. 98-461, s. 13, Laws of Fla.
³⁵ See Lee County Property Appraiser, *Property Information*, <https://www.leepa.org/search/propertysearch.aspx> (last visited Jan. 27, 2024)
³⁶ Lee County Mosquito Control District, *Lee County Mosquito Control District 2024 Budget*, <https://lcmcd.com/wp-content/uploads/2023/09/2023-24-Adopted-Budget.pdf> (last visited Jan. 27, 2024)
³⁷ Ch. 2001-335, s. 2, Laws of Fla.
³⁸ Ch. 2001-335, Laws of Fla.
³⁹ Ch. 2001-335, s. 5, Laws of Fla.
⁴⁰ Fort Myers Beach Mosquito Control, *About Us*, <http://www.fmbmc.org/about-us/> (last visited Jan. 27, 2024). See also ch. 2001-335, s. 2, Laws of Fla.
⁴¹ Ch. 2001-335, s. 3, Laws of Fla.
⁴² Ch. 2001-335, s. 7(1), Laws of Fla.
⁴³ Fort Myers Beach Mosquito Control District, *Budget Summary Fort Myers Beach Mosquito Control District Year 2023-2024*, <http://www.fmbmc.org/wp-content/uploads/2023/09/2023-2024-Budget-Summary.pdf> (last visited Jan. 27, 2024)

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 5, 2024.

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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.