

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 4033](#)

**TITLE:** San Carlos Estates Water Control District, Lee County

**SPONSOR(S):** Giallombardo

**COMPANION BILL:** None

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 111 Y's

2 N's

**GOVERNOR'S ACTION:**

Pending

### SUMMARY

#### Effect of the Bill:

The bill changes the status of the San Carlos Estates Water Control District (District) from an independent special district to a dependent special district of the City of Bonita Springs, subject to approval by the landowners of the District and the electors of the City of Bonita Springs.

#### Fiscal or Economic Impact:

The bill may have a positive financial impact on landowners within the District. Landowners within the District pay \$547.03 per acre while individuals in the City of Bonita Springs pay \$50 per equivalent residential unit.

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### ANALYSIS

#### EFFECT OF THE BILL:

Subject to a referendum, the bill changes the status of the [San Carlos Estates Water Control District](#) (District) from an independent [special district](#) to a dependent special district of the City of Bonita Springs (City). The bill also provides that:

- The assets and liabilities of the District remain intact as a dependent district of the City;
- Existing board members of the District remain in office until the City Council assumes office as the board of the District;
- All resolutions and policies of the District that are not inconsistent with City ordinances remain in effect; and
- The City may adopt ordinances necessary to affect the transition. (Section [1](#))

The bill specifies the wording of the referendum question on the ballot and requires the referendum of the District's landowners to use the same one acre/one vote method used to elect the District's governing body. The bill further specifies that the referendum for the City be held concurrently with the 2026 primary election. (Section [2](#))

Subject to the Governor's veto powers, the effective date of this bill is upon approval by a majority vote of landowners within the District held on or before October 1, 2025, and approval by a majority vote of qualified electors in the City held on August 18, 2026, except that sections 2 and 3 take effect upon becoming a law. (Section [3](#))

#### FISCAL OR ECONOMIC IMPACT:

##### PRIVATE SECTOR:

The bill may have a positive financial impact on landowners within the District because landowners will no longer pay the non-ad valorem maintenance tax and instead pay a stormwater fee based on equivalent residential units.<sup>1</sup>

<sup>1</sup> An equivalent residential unit is a standardized unit of measurement used to compare stormwater runoff generated by the impervious area of different sized properties. See, e.g., City of Titusville, [What is an Equivalent Residential Unit or ERU?](#) (last visited Mar. 5, 2025) and City of North Miami Beach, [What is an ERU \(Equivalent Residential Unit\)?](#) (last visited Mar. 5, 2025).

**STORAGE NAME:** h4033z.IAS

**DATE:** 5/9/2025

An equivalent residential unit is a standardized unit of measurement used to compare stormwater runoff generated by the impervious area of different sized properties.<sup>2</sup> Landowners within the District pay \$547.03 per acre while individuals in the City pay \$50 per equivalent residential unit.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### 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.<sup>3</sup> Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>4</sup> 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.<sup>5</sup> Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.<sup>6</sup>

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 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.<sup>7</sup>

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 single municipality.<sup>8</sup>

Special districts are governed generally by the Uniform Special District Accountability Act (USDAA).<sup>9</sup> The USDAA centralizes provisions governing special districts and applies to the formation,<sup>10</sup> governance,<sup>11</sup> administration,<sup>12</sup> supervision,<sup>13</sup> merger,<sup>14</sup> and dissolution<sup>15</sup> of special districts, unless otherwise expressly provided in law.<sup>16</sup> The

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<sup>2</sup> An equivalent residential unit is a standardized unit of measurement used to compare stormwater runoff generated by the impervious area of different sized properties. See, e.g., City of Titusville, [What is an Equivalent Residential Unit or ERU?](#) (last visited Mar. 5, 2025) and City of North Miami Beach, [What is an ERU \(Equivalent Residential Unit\)?](#) (last visited Mar. 5, 2025).

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

<sup>4</sup> See ss. [189.02\(1\)](#), [189.031\(3\)](#), and [190.005\(1\)](#), F.S. See generally [s. 189.012\(6\)](#), F.S.

<sup>5</sup> Intergovernmental Affairs Subcommittee, [Local Government Formation Manual](#), p. 56 (last visited Mar. 5, 2025).

<sup>6</sup> 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. 1\(6\), 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). See also [ch. 2004-397, s. 3\(27\), Laws of Fla.](#) (South Broward Hospital District).

<sup>7</sup> S. [189.012\(2\)](#), F.S.

<sup>8</sup> S. [189.012\(3\)](#), F.S.

<sup>9</sup> 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).

<sup>10</sup> See ss. [189.02](#) (creation of dependent special districts) and [189.031](#), F.S. (creation of independent special districts).

<sup>11</sup> See [s. 189.0311](#), F.S. (charter requirements for independent special districts).

<sup>12</sup> See [s. 189.019](#), F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>13</sup> See [s. 189.0651](#), F.S. (oversight for special districts created by special act of the Legislature).

<sup>14</sup> Ss. [189.071](#) and [189.074](#), F.S.

<sup>15</sup> Ss. [189.071](#) and [189.072](#), F.S.

<sup>16</sup> See, e.g., [s. 190.004](#), F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

USDAA requires notice and publication of tentative budgets and final budgets.<sup>17</sup> Certain budget amendments are allowed up to 60 days following the end of the fiscal year.<sup>18</sup>

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.<sup>19</sup>

### 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.<sup>20</sup> A WCD may build and construct any other works and improvements deemed 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.<sup>21</sup>

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.<sup>22</sup> A landowner meeting to elect the initial board must be noticed within 20 days after the effective date of the special act creating the district. The notice must be published at least once a week for two consecutive weeks in a newspaper of general circulation in each county in which the district is located and the last publication must be no less than 10 and no more than 15 days before the date of the meeting.

Landowners vote for the governing board of the district on a one-acre/one-vote basis, with the three people receiving the highest number of votes elected in the initial election.<sup>23</sup> Landowners may vote in person or by a signed proxy that complies with the requirements of [s. 607.0722, F.S.](#) 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.<sup>24</sup>

### [San Carlos Estates Water Control District](#)

The San Carlos Estates Water Control District (District) is a WCD in Lee County, created by a circuit court decree in 1969.<sup>25</sup> The District covers approximately 1,000 acres and more than 600 single family homes.<sup>26</sup> The District maintains drainage infrastructure and roads within its boundaries in accordance with ch. 298, F.S., and works to improve water quality in accordance with Florida Department of Environmental Protection regulations and the U.S. Environmental Protection Agency’s National Pollutant Discharge Elimination System Permit.<sup>27</sup> The District’s proposed Fiscal Year 2024-25 budget includes \$824,296 in expenditures, \$748,481 in revenues, and \$1.1 million in carryforward revenues.<sup>28</sup> The majority of the District’s revenues (89 percent) come from a non-ad valorem

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<sup>17</sup> S. [189.016\(4\), F.S.](#)

<sup>18</sup> S. [189.016\(6\), F.S.](#)

<sup>19</sup> See, e.g., [ch. 2006-354, Laws of Fla.](#), Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

<sup>20</sup> S. [298.22, F.S.](#)

<sup>21</sup> S. [298.22\(3\), F.S.](#)

<sup>22</sup> S. [298.11\(1\), F.S.](#)

<sup>23</sup> S. [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.

<sup>24</sup> S. [298.12\(1\), F.S.](#)

<sup>25</sup> San Carlos Estates Water Control District, [About the District](#) (last visited Mar. 5, 2025).

<sup>26</sup> San Carlos Estates Water Control District, [History & Mission Statement](#) (last visited Mar. 5, 2025).

<sup>27</sup> *Id.*

<sup>28</sup> San Carlos Estates Water Control District, [2024-2025 Budget Summary](#) (last visited Mar. 5, 2025).

assessment maintenance tax.<sup>29</sup> In 2023, the District levied a maintenance tax of \$547.03 per acre of land within the District.<sup>30</sup>

A board of three elected supervisors governs the District.<sup>31</sup> Section [298.11\(2\), F.S.](#), authorizes qualified landowners in the District to annually elect one member of the Board of Supervisors (Board).<sup>32</sup> Qualified landowners within the District may nominate themselves or any other qualified landowner for the Board. Landowners within the District may cast one vote for each acre of land owned and one additional vote for any fraction of an acre of land greater than one half.

### Local Bill Forms

The Florida Constitution prohibits the passage of any special act unless a notice of intention to seek enactment of the bill has been published as provided by general law or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.<sup>33</sup> A legal advertisement of the proposed bill must be placed in a newspaper of general circulation or published on a publicly accessible website<sup>34</sup> at least 30 days prior to the introduction of the local bill in the House or Senate.<sup>35</sup> The bill takes effect only upon its approval by the landowners of the District voting in a referendum held on or before October 1, 2025, and approval by the electors of the City of Bonita Springs voting in a referendum on August 18, 2026.

The House local bill policy requires a completed and signed Local Bill Certification Form and Economic Impact Statement Form be filed with the Clerk of the House at the time the local bill is filed or as soon thereafter as possible.<sup>36</sup> Under the policy, a committee or subcommittee may not consider a local bill unless these forms have been filed. The following forms have been submitted for the bill:

- [Local Bill Certification Form](#)
- [Economic Impact Statement Form](#)

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<sup>29</sup> San Carlos Estates Water Control District, [2023 Year End Financials](#), p. 25 (last visited Mar. 5, 2025).

<sup>30</sup> *Id.* at 27.

<sup>31</sup> *Id.* at 32.

<sup>32</sup> San Carlos Estates Water Control District, [Voting by Landowners](#) (last visited Mar. 5, 2025).

<sup>33</sup> [Art. III, s. 10, Fla. Const.](#)

<sup>34</sup> [S. 50.0311\(2\), F.S.](#)

<sup>35</sup> [S. 11.02, F.S.](#) If there is no newspaper circulated throughout or published in the county and no publicly accessible website has been designated, notice must be posted for at least 30 days in at least three public places in the county, one of which must be at the courthouse.

<sup>36</sup> Intergovernmental Affairs Subcommittee, [Local Bill Policies and Procedures Manual](#), p. 11 (last visited Mar. 5, 2025).