

STORAGE NAME: h1417.ca
DATE: March 11, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1417
RELATING TO: Twelve Oaks Special District, Hillsborough County
SPONSOR(S): Representative Henriquez & others
COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE & TAXATION
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill codifies all prior special acts relating to the Twelve Oaks Special District in Hillsborough County into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district.

The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter law language.

The bill provides a definition section.

The bill provides for nonpartisan, biennial elections and a transition schedule to biennial elections.

The bill provides for appointment of trustees, members of the District's governing board, under certain circumstances.

The bill provides general law requirements for liability and immunity for members of the District's governing board.

The bill organizes the District's powers into a single section and identifies standard business practices not previously enumerated.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Twelve Oaks Special District is currently governed by chapter 82-305, Laws of Florida, as amended by Chapter 84-438, Laws of Florida. The District is a recreation district in the Town and Country area of Hillsborough County.

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of all special districts' charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation and that all prior Legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, Florida Statutes, by (i) extending the deadline to codify to December 1, 2004, (ii) allowing for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs, (iii) removing the prohibition of substantive amendments in a district's codification bill, and (iv) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

Special Districts with 2 special acts (45 districts)	1999 Legislative Session
Special Districts with 3 or 4 special acts (63 districts)	2000 Legislative Session
Special Districts with 5, 6 or 7 special acts (53 districts)	2001 Legislative Session
Special Districts with 8, 9, 10, 11 or 12 special acts (56 districts)	2002 Legislative Session
Special Districts with 13 or more (54 districts)	2003 Legislative Session
Special Fire Control Districts (47 districts)	2004 Legislative Session

Also, section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

B. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Twelve Oaks Special District in Hillsborough County into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special district.

The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter law language.

The bill provides definitions in order to clarify the current charter.

The bill provides for nonpartisan, biennial elections and a transition schedule. The District currently has annual elections with specific election dates depending on whether its an even or odd numbered election year. By moving to biennial elections which are conducted during the general elections, the District will increase voter turnout and decrease the expense associated with an election. The bill provides for organization of Board and one-year terms for Board officers. The bill now requires the candidate to pay a qualifying fee if a written petition with more than fifteen signatures is not submitted.

The bill clarifies that all residents of the District, even non-property owners, vote on non-ad valorem assessments. Although this is the current practice in the District, the charter only provides for residents to vote on non-ad valorem assessments.

The bill provides for appointment of Trustees under certain circumstances. The bill provides that the Governor shall immediately appoint the number of trustees necessary to obtain quorum (6 members) when the number of trustees drops below 6. The appointed trustees must be qualified electors of the District and serve until a successor is elected or appointed. If there are any additional vacant seats after the Governor's appointments, then the Board has the authority to fill the vacancies. In addition, the bill provides that if there are vacancies due to less than six trustees being elected during that year's election cycle, the Board is authorized to appoint the number of trustees necessary to obtain quorum. Trustees appointed by the Board under this section shall serve a term as if they were elected.

The bill provides general law requirements for liability and immunity for members of the District's governing board pursuant to sections 768.1355 and 768.28, Florida Statutes. The District's board members are not civilly liable and are immune from suit for acts or omissions relating to conduct of official duties.

The bill requires the Board to conduct its business as a public body which subjects the Board to open government, financial disclosure, avoidance of conflict of interest, and ethics laws.

The bill provides for the investment and expenditure of District funds. The District, by resolution, may invest any surplus and reserve funds in accordance with general law. The District is authorized to maintain a petty cash fund and reserve fund and provides for the expenditure of those funds. The bill authorizes the District to transfer funds among line items up to 20 percent each fiscal year for unforeseen contingencies.

The bill organizes the District's powers into a single section and identifies standard business practices of the District in instances when those practices have not previously been enumerated as a power or duty of the District. These powers include:

- the authority to enter into contracts and agreements, including those for professional services;
- the authority to operate, supervise, and maintain recreational facilities or contract for such services;
- the authority to establish, charge, and collect fees for admissions to and for use of the District's facilities;
- the ability to call meetings which are not the regularly established meetings;
- the authorization to employ personnel necessary for the operation and maintenance of the District's facilities and to expend funds for a surety bond for each employee required to be bonded; and
- directing the supervisor of election to place certain referenda on the ballot.

The bill provides that the repeal of prior special acts does not affect the prosecution of any cause or action that accrued before the effective date of the bill.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 82-305, Laws of Florida; Chapter 84-438, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

This bill does not increase the District's authority to make rules. It does, however, insert new language regarding standard business practices which the District currently practices.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?
N/A
- (2) service providers?
N/A
- (3) government employees/agencies?
N/A

E. SECTION-BY-SECTION ANALYSIS:

- Section 1: Provides that this act is the District's charter codification required under section 189.429, Florida Statutes (1998); Describes other changes the codification accomplishes; Provides intent to conform to specific applicable general law chapters.
- Section 2: Declares the District an independent district which was approved by referendum and called the Twelve Oaks Special District; States that property within the District is uniformly benefitted and that an equal non-ad valorem assessment shall be assessed; Limits the use of the District's facilities and property.
- Section 3: Describes the boundaries of the District; Includes as District property any property and structures acquired by the District.
- Section 4: Provides definitions.
- Section 5: Provides for governing board of District; Provides number of trustees and length of terms; Provides election procedures and requirements; Provides inclusion of campaign finance laws if money is collected.
- Section 6: Provides the organization and operating procedures of the governing board; Provides for appointment of trustees in specific circumstances; Provides for open meetings and records; Authorizes reimbursement of expenses; Requires bond for those members who have authority to sign checks; Provides that members are not civilly liable and are immune from suit for acts or omissions relating to their duties.
- Section 7: Grants powers and duties to the District; Authorizes an organizational meeting and election of board officers; Requires public record of meetings and conduct; Allows the Board to fill specific vacancies; Authorizes the establishment of an account for tax revenues and provides requirements; Requires an annual financial statement; Requires adoption of an itemized budget and provides budget requirements and adoption procedures; Authorizes the District to pay for any required surety bonds; Requires the District to pay expenses associated with elections or referendums; Authorizes the District to insure its property, operations, and its trustees; Authorizes the District to transact the business of the District; Authorizes the adoption of bylaws; Authorizes the levying of a non-ad valorem assessment; Allows the District to receive gifts; Allows the District to enter into contracts and agreements; Authorizes the District to incur debt and other obligations; Restricts amount of total debt obligations to maximum amount; Limits the issuance of bonds to specific purposes; Provides bond issuance procedures; Allows the District to use its assessments as security for obligations; Authorizes purchase money notes and mortgages; Authorizes the District to install and maintain facilities and lighting; Allows the disposition of District property; Authorizes the District to purchase, sell, or lease real and personal property; Authorizes the operation of recreational facilities; Authorizes the establishment, charge and collection of admission fees; Allows the employment of personnel; Allows the District to expend funds to maintain non-District property; Provides for removal of trustees; Allows for the District to sue or be sued; Authorizes the District to transfer funds among line and includes limits; Authorizes the creation of a petty cash fund and reserve fund and provides procedures; Authorizes the investment of any surplus and reserve funds; Provides for establishment of bylaws

STORAGE NAME: h1417.ca

DATE: March 11, 1999

PAGE 7

for calling non-regular meetings; Provides procedures for directing the Supervisor of Elections to hold elections or referendum; Provides additional duties required under Chapter 198, Florida Statutes; Authorizes the District to perform other functions necessary to carry out act.

Section 8: Provides for collection procedures of the District's non-ad valorem assessment.

Section 9: Provides that the District's non-ad valorem assessment is a valid lien upon each improved residential parcel; Provides that the lien is a part of the Hillsborough County's non-ad valorem assessment; Provides for collection of lien.

Section 10: In accordance with Chapter 198, Florida Statutes, the District may be dissolved by an act of the Legislature.

Section 11: Provides severability clause.

Section 12: Provides for liberal construction of act's provisions.

Section 13: Repeals all prior special acts of the District; Provides savings clause for any current prosecution, contract, agreement, and bylaws.

Section 14: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 1999

WHERE? The Times; Tampa, Hillsborough County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

Although Chapter 106, Florida Statutes, is applicable to the elections of trustees in this District, the District's charter provides an exemption from this chapter. The charter provides that any candidate who collects or expends campaign contributions shall do so in accordance with the campaign finance chapter of the Florida Statutes. However, a candidate is exempt from this if the candidate declares in writing that he or she will not collect or expend any contributions except for the expenditure of funds for the payment of the qualifying fee or the cost of verification of signatures on petitions.

The changes in the District's charter regarding biennial elections was reviewed by Hillsborough County's Supervisor of Elections Pam Iorio. The changes were endorsed as they will save tax dollars and they bring the act into compliance with general law.

The changes in the District's charter regarding the reserve and surplus funds were reviewed by the State Board of Administration. The SBA made recommendations of appropriate language for the charter's provisions. However, its recommendations of draft language does not constitute an endorsement of the legislation.

STORAGE NAME: h1417.ca

DATE: March 11, 1999

PAGE 8

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

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