

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1449 w/CS DeSoto County Hospital District
SPONSOR(S): Harrington
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Desoto County Hospital District is an independent special district that was created by chapter 65-1450, Laws of Florida, and which has been amended by subsequent special acts.

The committee substitute only codifies, or reenacts, all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The Desoto County Hospital District (District) is an independent special district that was created by chapter 65-1450, Laws of Florida, and which has been amended by subsequent special acts.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

Charter of District

In recreating and reenacting the charter for the District, the bill provides:

- Section 1: Declares the District to be an independent special district and provides for the creation of the district, for its name, and for its boundaries to include all of DeSoto County in the District.
- Section 2: Provides for the governing board of the District to consist of five members who are not members of the medical profession who shall be elected for terms of four years; permits the Governor to remove for cause and to fill vacancies; permits board members to receive \$120 per year as expense money; requires each board member and the secretary and treasurer, if not from the board, to give a bond to be paid by the District.
- Section 3: Provides for the powers of the District, including: including the power to sue and be sued; to contract and be contracted with; to adopt and use a common seal and to alter the same at pleasure; to acquire, purchase, hold, lease, mortgage, and convey such real and personal property as the board deems proper or expedient to carry out the purposes of this act; to appoint, employ, and remove a superintendent and other agents and employees; to insure the improvements, fixtures, and equipment of the District against loss by fire, windstorm, or other coverage; and to borrow money and to issue evidence of indebtedness for the District.
- Section 4: Requires the chair of the hospital district to be elected annually; permits the board to elect one of its members to serve as secretary and treasurer or it may appoint some person not a member of the board to serve in that capacity; allows warrants may be signed by any other member of the board selected by the members present as chair pro tem in the absence of the chair; provides for three members to constitute a quorum with a vote of at least two members to transact any business; requires a regular meeting of the board annually; permits

additional meetings to be called by a majority of the board with the notice required by section 189.417, Florida Statutes; provides for true and accurate minutes and records to be kept of all business transacted by them and shall keep full, true, and complete books of account and minutes, which minutes, records, and books of account shall at all reasonable times be open and subject to inspection and any person desiring to do so may make or procure copies of the minutes, records, or books of account, or such portions thereof as he or she may desire; prohibits such records from including personnel and medical records of a private and confidential nature; permits the district may establish and charge a reasonable fee for copying the records; allows the district hospital board to destroy any of its records, together with any of the records of the hospitals owned and operated by the board, if the records are photographed or microfilmed prior to their destruction.

- Section 5: Permits the board to establish, construct, lease, operate, and maintain any hospital or related medical care facility; provides the intent for such hospitals or medical care facilities as a public purpose and necessary for the preservation of the public health, for the public use, and for the welfare of the District and inhabitants thereof; allows the board to determine the location of any hospital or related medical care facility; authorizes the board to accept any and all gifts, loans, or advancements for the purchase of property, real or personal.
- Section 6: Authorizes the board to establish and maintain in connection with any hospital a training school for nurses to provide a diploma to nurses who have satisfactorily completed the course; permits the board to adopt all rules necessary for the operation of a nurses' training school and make all necessary expenditures in connection therewith.
- Section 7: Gives the board the power of eminent domain, to be exercised in the same manner as provided by general law.
- Section 8: Allows the board to incur short-term indebtedness on behalf of the district at a rate of interest pursuant to section 215.84, Florida Statutes.
- Section 9: Provides for the board to issue certificates of indebtedness; requires certificates to bear rates of interest at a rate not to exceed 5.5 percent per year, become due not more than 30 years after the date of issuance, and be made redeemable upon such terms and conditions as the district board in its judgment deems appropriate, and be in an aggregate amount not to exceed \$750,000; permits the principal and interest on the certificates authorized in this section shall, up to \$50,000 annually, be payable from racetrack funds accruing annually to DeSoto County and specifically allocated to the hospital district pursuant to chapter 550, Florida Statutes, and chapter 65-1105, Laws of Florida; makes these certificates legal investments.
- Section 10: Prohibits funds of the District from being paid except upon signed warrants with the corporate seal and for authorized purposes; requires warrants against funds of the district to be drawn or issued only after the account or expenditure for which the same is to be given in payment has been ordered and approved by the board; authorizes the chair of the board is authorized to sign checks and warrants of the district by the facsimile signature machines for that purpose, provided that the checks and warrants are countersigned by the treasurer for the district.

- Section 11: Authorizes the board to pay all expenses, including the fees and expenses of an attorney.
- Section 12: Provides authority for the board to enter into contracts with the Government of the United States or any agency or instrumentality thereof, or with the state or any county, municipality, district, authority, or political subdivision of the state, private corporation, partnership, association, or individual; allows the board to receive and accept from any federal agency, state agency, or other public body grants or loans for or in aid of such purposes and receive and accept aid or contributions or loans from any other source of either money, property, labor, or other thing of value to be held, used, and applied only for the purpose for which such grants, contributions, or loans are made.
- Section 13: Requires the district board to publish, once a year in some newspaper published in the District, a complete detailed annual statement of all moneys received and disbursed by the board.
- Section 14: Declares that the hospital or related medical facilities are for the use and benefit of the residents of the District, but subject to the rules and charges prescribed by the board; provides that medical care and treatment for the indigent in the district shall be and remain the primary responsibility of DeSoto County; authorizes the board to refuse admission of indigents when found by such board not to be financially practicable with due regard to the general financial condition of the district; empowers the board to enter into and fulfill agreements with the Board of County Commissioners of DeSoto County for the admission and treatment of indigents; allows the board to accept money from any welfare funds provided for DeSoto County or moneys available to the indigent patients from a federal, state, or county agency or moneys available to DeSoto County from such governmental agencies for welfare and hospital purposes, for the payment of costs of treatment and care of indigent residents of the district as are admitted; permits the board to collect from patients who are financially able such charges as the board from time to time establishes; provides for the board to extend the privileges and use of the hospital or clinic to nonresidents of the district who shall pay the rates established by the district board, provided that residents of the district wherein the hospital or clinic is located have first claim to admission; gives the board the power to furnish and extend the benefits of the hospital and clinic services and treatment to the homes of indigent residents of the district; provides that each municipal corporation situated within the district and the law enforcement agencies of DeSoto County are liable to the board for the occupancy, care, medicine, and treatment of prisoners in the custody of the municipal corporation or county officers who are admitted to any hospital operated by the board.
- Section 15: Permits the board to adopt rules and bylaws for the operation of the hospital and the hospital staff; empowers the board to grant or revoke licenses and privileges of staff members for practice in and about any hospital or other medical care facility maintained under the charter; allows privileges of staff membership and appointments to be authorized or granted by the board; provides for the board to adopt rules for the control of all professional and nonprofessional employees of any hospital or other medical care facility, and all parties in the facility either as employees or in any manner in attendance of patients.
- Section 16: Authorizes the District to secure liability insurance covering vehicles, premises, and malpractice; provides for the policy contract between the district hospital board and the insurer that the company shall not be entitled to the benefit of the

defense of governmental immunity for the insured by reason of exercising a governmental function on any suit brought against the insured.

Section 17: Provides for liberal construction of the charter; provides that the bill is not deemed to repeal or supersede any other laws but is supplemental authority to carry out the purposes of the bill.

Section 18: Allows the District to create an employee's pension fund so as to provide for life, disability, or medical insurance for all or any of its employees or officers on a group insurance or other acceptable plan; permits the District to establish an employee's pension, hospitalization and health plan, annuity plan, or retirement plan; authorizes the District to pay all or such portion of the cost of any such plan.

C. SECTION DIRECTORY:

Section 1: Provides that the bill constitutes the codification of all special acts relating to the District; provides legislative intent.

Section 2: Codifies, reenacts, amends and repeals chapters 65-1450, 69-1011, 71-605, 73-443, 78-498, 82-288, and 89-493, Laws of Florida.

Section 3: Recreates and reenacts the charter of the District.

Section 4: Repeals chapters 65-1450, 69-1011, 71-605, 73-443, 78-498, 82-288, and 89-493, Laws of Florida.

Section 5: Provides for the bill to take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in the Desoto Sun on December 23, 2004.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

The provision permitting the District to reinstitute an ad valorem tax of up to 3 mills, subject to the approval of a majority of the qualified electors voting in a referendum election to be called by the Board of County Commissioners of DeSoto County within 45 days after the date that a resolution calling for such election is duly adopted by a majority of the board of the District, has been removed from the bill.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

The charter permits the board to adopt all rules:

- necessary for the operation of a nurses' training school;¹
- for the use and benefit of the residents of this district to be in effect as of the date of admission of a patient or patients to a hospital or related medical facility which is established;²
- for the operation of the hospital and hospital staff;³ and
- for the control of all professional and nonprofessional employees of any hospital or other medical care facility, which terms shall include nurses on general duty or on private duty attending patients, and all parties in the facility either as employees or in any manner in attendance of patients.⁴

C. DRAFTING ISSUES OR OTHER COMMENTS:

There are no drafting issues or other comments.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On April 1, 2004, the Committee on Local Government & Veterans' Affairs adopted, without objection, a strike everything amendment.

The amendment removed numerous provisions of the bill which did not simply codify existing law, but changed the power of the District. The amendment also removed language currently in the charter: (1) which restricted public records and notice for public meetings; (2) that may have constituted a "supremacy clause;" and (3) which provided for waiving the immunity of the board and required the courts to take certain actions. These changes were made to effectuate the approval provided by the legislative delegation and to resolve any potential constitutional issues, drafting issues, or exemptions from general law which would have required passage of the bill by three-fifths vote of the membership of each house.

The bill, as amended, only codifies all prior special acts of the district into a single act and was reported favorably with committee substitute.

¹ HB 1449 § 3, § 6 of the charter (2004).

² HB 1449 § 3, § 14 of the charter (2004).

³ HB 1449 § 3, § 15 of the charter (2004).

⁴ *Id.*