

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1607 South Broward Drainage District
SPONSOR(S): Representative Gottlieb
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	_____	<u>Morris</u>	<u>Cutchins</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The South Broward Drainage District (SBDD) in Broward County is an independent special district with drainage and water control powers derived from chapter 298, Florida Statutes. The six member board of supervisors of the SBDD is elected by landowners of the district at large. The district uses a one-acre/one vote method which entitles one vote, by a landowner, for each acre of land owned within the district boundaries.

The bill revises the election process for the district to:

1. Reduce the number of board members from six to five following the certification of the November 2004 election.

2. Reformat the district boundaries into five single-member districts. However, no additional land is added to district. Any supervisor in office during a change of geographical zoning may complete his or her term.

3. Remove the provision that board members own land within the boundaries of the district.

4. Change the electorate of the district. Qualified electors, instead of land owners, will elect the board members on a nonpartisan basis. The bill also requires such electors to have been qualified by the Broward County Supervisor of Elections in accordance with law and this act. Such electors are defined as persons who have continuously resided within the boundaries of the district and within the respective zone that he or she may represent for 60 days prior to qualifying for office. This language appears to be directed towards the candidates rather than the electors and is confusing.

This bill extends the terms of certain board members in order to stagger the terms for the single-member districts. The bill also requires that the secretary and treasurer be members of the board.

The records of the SBDD shall be available to all electors and the SBDD is required to record a certified copy of this act in the Broward County Public Records.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill. (See Drafting Issues & Other Comments).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" 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 South Broward Drainage District (SBDD) in Broward County is an independent special district with drainage and water control powers derived from chapter 298, Florida Statutes. The six member board of supervisors of the SBDD is elected by landowners of the district at large. The district uses a one-acre/one vote method which entitles one vote, by a landowner, for each acre of land owned within the district boundaries. Any landowner with less than an acre is also entitled to one vote.

The bill revises several methods of the election process for the district to:

1. Reduce the number of board members from six members to five following the certification of the November 2004 election.
2. Reformat the district boundaries into five single-member districts. However, no additional land is added to district. Each supervisor must be a resident of his or her respective district and any supervisor in office during a change of geographical zoning may complete his or her term.
3. Remove the provision that board members own land within the boundaries of the district.
4. Change the electorate of the district. Qualified electors, instead of land owners, will elect the board members on a nonpartisan basis. The bill also requires such electors to have been qualified by the Broward County Supervisor of Elections in accordance with law and this act. Such electors are defined as persons who have continuously resided within the boundaries of the district and within the respective zone that he or she may represent for 60 days prior to qualifying for office. This language appears to be directed towards the candidates rather than the electors and is confusing.
5. Require the secretary and treasurer to be members of the board.

The bill also extends the terms of certain board members which expire in June 2004, until their successors are inducted into office following the November 2004 general election. The board members whose terms expire in June 2006, shall have their terms extended until their successors are inducted into office following the November 2006 general election. Beginning with the November 2004 election, candidates for the board of supervisors must be a qualified elector of the SBDD and qualify with the Broward County Supervisor of Elections.

Any revision to the boundaries of the five single-member zones must result in a population between 19 and 21 percent of the total district population for each zone. The bill provides reasons for the board to review the boundaries of the zones such as:

- The district's geographical area changes by 10 percent or more;
- The district's population changes by 10 percent or more since the determination of the single-member districts;
- Annexation, deannexation, or merger causes the population of the district to change by five percent or more; or
- Ten years has passed since the previous review of the zone boundaries. The bill provides an exemption if the boundaries meet the standards prescribed in subsection (9).

The bill defines a quorum to be a majority of the board and prohibits board members from receiving any benefits including retirement, health, medical, dental, or life insurance except for the compensation provided in section 12 of section 2 of ch. 98-524, L.O.F.¹

The records of the SBDD shall be available to all electors and the SBDD is required to record a certified copy of this act in the Broward County Public Records.

C. SECTION DIRECTORY:

Section 1 amends sections 10 and 14 of section 2 of ch. 98-524, L.O.F., relating to the board of supervisors and treasurer of the South Broward Drainage District.

Subsection (1) of section 10 of section 2 of ch. 98-524, L.O.F., is amended to reduce the number of board members from six members to five following the certification of the November 2004 election. Also, the provisions that the majority of board members be residents of Broward County, the State of Florida, and own land within the boundaries of the district are removed. Instead, qualified electors must qualify with the county supervisor of elections in accordance with the Florida Election Code.

A new ss. (2) is added to section 10 of section 2 of ch. 98-524, L.O.F., relating to qualified electors and candidates of the SBDD. Beginning with the November 2004 election, candidates for the board of supervisors must be a qualified elector of the SBDD and qualify with the Broward County Supervisor of Elections. Qualified electors must have continuously resided within the boundaries of the district and within the respective zone that he or she may represent for 60 days prior to qualifying for office. This language appears to be directed towards the candidates rather than the electors and is confusing. Any supervisor in office during a change of geographical zoning may complete his or her term.

Subsections (3) and (9), relating to the meeting and timing of landowners to elect board supervisors, are removed from this charter. Subsequent subsections are renumbered and recreated.

Subsection (3) extends the terms of certain board members which expire in June 2004, until their successors are inducted into office following the November 2004 general election. The board members whose terms expire in June 2006, shall have their terms extended until their successors are inducted into office following the November 2006 general election.

Subsection (4) requires all supervisors to be elected by the qualified electors of the district on a nonpartisan basis. The district is divided into five single-member districts.

Subsection (5) provides the boundaries of the district's five zones.

Subsection (6) provides for the composition of the five board members following the November 2004 general election. This subsection also provides a method to gradually incorporate the

¹ Each supervisor shall be entitled to receive for his or her services an amount approved by resolution of the board not to exceed \$400 per month.

staggered terms of supervisors in the election process through the respective zone boundaries. Newly elected supervisors shall be inducted at the first regular meeting following the certification of the election.

Subsection (7) provides that the election of supervisors shall be in conformity with the Florida Election Code except as provided in this section.²

Subsection (8) provides reasons for the board to review the boundaries of zones:

- The district's geographical area changes by 10 percent or more;
- The district's population changes by 10 percent or more since the determination of the single-member districts;
- Annexation, deannexation, or merger causes the population of the district to change by five percent or more; or
- Ten years has passed since the previous review of the zone boundaries. This subsection also provides an exemption if the boundaries meet the standards prescribed in subsection (9).

Subsection (9) requires revisions to the boundaries of the five single-member zones to result in a population between 19 and 21 percent of the total district population for each zone.

Subsection (12) requires the board to elect from its membership, a president, secretary, and treasurer at the first regular meeting following the certification of the 2004 general election and every election year thereafter.

Subsection (13) defines a quorum to be a majority of the board. The board members shall not receive any benefits including retirement, health, medical, dental, or life insurance except for the compensation provided in section 12 of section 2 of ch. 98-524, L.O.F.

Subsection (15) requires the records of the SBDD to be available to all electors.

Section 14 of section 2 of ch. 98-524, L.O.F., removes a provision that designates a non-elected official as treasurer of the district because board members will serve in this capacity as provided in s. 10(12). This section forbids the treasurer from holding any other office that is provided for in this act.

Section 2 requires the SBDD to record a certified copy of this act in the Broward County Public Records.

Section 3 provides for the severability of any invalid provision.

Section 4 provides that this act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 5, 2004.

² Section 189.405(2)(a) authorizes independent special districts located entirely within a single county to provide for the conduct of district elections through the supervisor of elections of said county. The election procedures shall be consistent with the Florida Election Code. The bill provides an exemption from this requirement.

WHERE?

The Sun-Sentinel published daily and distributed in Broward, Palm Beach, and Miami-Dade Counties.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

The bill requires a referendum but there is no language provided. (See DRAFTING ISSUES OR OTHER COMMENTS)

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the economic impact statement, candidates for supervisor will be required to pay a filing fee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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

B. RULE-MAKING AUTHORITY:

This bill does not appear to effect rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As an independent special district, the SBDD must comply with the provisions of ch. 189, F.S. Subsection 189.4051(2), F.S., requires a referendum to be held when a board that is elected on a one-acre/one-vote basis wants to change to an election of qualified electors. The bill does not provide any referendum language, which violates ss. 189.4051(2), F.S.

Subsection (7) of section 10 of this bill provides that the election of supervisors shall be in conformity with the Florida Election Code **except** as provided in this section. Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

Qualified electors, instead of land owners, will elect the board members on a nonpartisan basis. The bill also requires such electors to have been qualified by the Broward County Supervisor of Elections in accordance with law and this act. Such electors are defined as persons who have continuously resided within the boundaries of the district and within the respective zone that he or she may represent for 60 days prior to qualifying for office. This language appears to be directed towards the candidates rather than the electors and is confusing.

According to Douglas R. Bell, counsel to the SBDD, no additional land is added to district in the reforming to single member districts.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

NA