

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 819 Lehigh Acres Municipal Services Improvement District, Hendry and Lee Counties  
**SPONSOR(S):** Esposito  
**TIED BILLS:** **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Local Administration, Federal Affairs & Special Districts Subcommittee	12 Y, 0 N	Roy	Darden
2) State Affairs Committee	20 Y, 0 N	Roy	Williamson

**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 Lehigh Acres Municipal Services Improvement District (District) lies primarily in the unincorporated area of eastern Lee County, with portions in Hendry County. The District is an independent special district created in 2015 to replace the East County Water Control District. The District provides drainage and water control, public improvements and community facilities, water and wastewater services, local streets and sidewalks, streetlights, and certain authority over outdoor signage and monuments. The District also preserves and protects water reserves through drainage, conservation, mitigation, navigational, and water management practices in 70,000 acres of land in Lehigh Acres in eastern Lee County and in the western portion of Hendry County. The District is authorized to raise funds as provided in general law but is prohibited from imposing or collecting ad valorem taxes.

The bill expands the boundaries of the District by adding a parcel owned by a single landowner who requested annexation into the district.

The Economic Impact Statement indicates the bill will increase District revenues by the amount of annual non-ad valorem assessments paid by the property owner.

# 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.<sup>1</sup> Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.<sup>2</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>3</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>4</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>5</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 a single municipality.<sup>6</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>7</sup>

##### Lehigh Acres Municipal Services Improvement District

The Lehigh Acres Municipal Services Improvement District (District) lies primarily in the unincorporated area of eastern Lee County, and partially in Hendry County. The District is an independent special district created in 2015 to replace the East County Water Control District. When the District replaced the East County Water Control District, it assumed all rights, title, and possession of property, and all obligations and liabilities of the water control district.<sup>8</sup>

The District provides drainage and water control, public improvements and community facilities, water and wastewater services, local streets and sidewalks, streetlights, and certain authority over outdoor

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

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

<sup>3</sup> Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Jan. 8, 2024).

<sup>4</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. 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).

<sup>5</sup> S. 189.012(2), F.S.

<sup>6</sup> S. 189.012(3), F.S.

<sup>7</sup> See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

<sup>8</sup> Ch. 2015-202, ss. 1(8) and 7, Laws of Fla.

signage and monuments.<sup>9</sup> The District also preserves and protects water reserves through drainage, conservation, mitigation, navigational, and water management practices in 70,000 acres of land in Lehigh Acres in eastern Lee County and in the western portion of Hendry County.<sup>10</sup>

The District maintains a 311-mile canal system containing 3,260 culvert crossings, 22 bridges, and 66 water control structures.<sup>11</sup> The canals, as well as 20 lakes, flow into the Caloosahatchee River via four outfalls: Orange River, Bedman Creek, Hickeys Creek, and Carlos Waterway.<sup>12</sup> Additionally, the District maintains 1,298 preserve acres,<sup>13</sup> as well as 578-acre Harns Marsh, which is an active stormwater facility that is also used for passive recreation and public exploration.<sup>14</sup>

The District is authorized to raise funds as provided in general law but is prohibited from imposing or collecting ad valorem taxes.<sup>15</sup>

### Effect of Proposed Change

The bill expands the boundaries of the District by adding a parcel owned by a single landowner who requested annexation into the District.<sup>16</sup>

The Economic Impact Statement indicates the bill will increase District revenues by the amount of annual non-ad valorem assessments paid by the property owner.

#### B. SECTION DIRECTORY:

Section 1: Amends ch. 2015-202, Laws of Florida, as amended, expanding the boundaries of the Lehigh Acres Municipal Services Improvement District Lee County.

Section 2: Provides an effective date of October 1, 2024.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? October 27, 2023.

WHERE? *News-Press*, a daily newspaper published at Fort Myers in Lee County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes  No

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<sup>9</sup> Ch. 2015-202, Laws of Fla.

<sup>10</sup> Lehigh Acres Municipal Services Improvement District, *Culvert Replacement Project*, <https://la-msid.com/la-msid/page/culvert-replacement-project> (last visited Jan. 16, 2024).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Lehigh Acres Municipal Services Improvement District, *Harns Marsh*, <https://la-msid.com/community/page/harns-marsh> (last visited Jan 16, 2024).

<sup>15</sup> Ch. 2012-202, s. 5(1) and (2), Laws of Fla.

<sup>16</sup> Landowner Agreement Between Lehigh Acres Municipal Services Improvement District and Rocklyn Homes, Inc. (Aug. 8, 2023) (on file with the Local Administration, Federal Affairs & Special Districts Subcommittee).

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.