

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: CS/CS/SB 1078

INTRODUCER: Ethics and Elections Committee; Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Soil and Water Conservation Districts

DATE: February 8, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Rey</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1078 provides that new soil and water conservation districts (SWCDs) must be subdivided into five numbered subdivisions that match, as practicable, the boundaries of either the five county commission districts or five school board districts within the county. If neither the county commission nor the school board is subdivided into five districts, the Department of Agriculture and Consumer Services shall subdivided the SWCD into five numbered subdivisions as nearly equal in area as practicable.

The bill allows one SWCD supervisor to be elected from each of the five numbered subdivisions, and provides for staggered terms for supervisors.

The bill requires SWCD supervisors to be eligible voters who reside within the numbered subdivision from which they are elected and be actively engaged or retired after fifteen years of being engaged in, agriculture as defined by s. 570.02, F.S., or be employed by an agricultural producer. Candidates will be required to file a statement affirming they meet the qualifications to serve as a supervisor. If a subdivision does not have a qualified candidate one week before the qualifying period, any eligible candidate within a district may seek to be elected in that subdivision.

The bill provides that each supervisor shall be elected at the 2022 general election. The bill provides that by January 1, 2023, an SWCD in existence on July 1, 2022, which was not initially subdivided, must be subdivided in the manner provided by the bill.

II. 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.¹ Special districts are created by general law, special act, local ordinance, or by rule of the governor and cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.³ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁴ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁵

A dependent special district is a special district where:

- The membership of the governing body is identical to the governing body of a single county or municipality,
- All members of the governing body are appointed by the governing body of a single county or municipality,
- Members of the district's governing body are removable at will by the governing body of a single county or municipality, or
- The district's budget is subject to the approval of the governing body of a single county or municipality.⁶

An independent special district is any district that is not a dependent special district.⁷

According to the Department of Economic Opportunity's (DEO's) Special District Accountability Program Official List of Special Districts, as of January 18, 2022, the state had 1,835 special districts.⁸ There were 1,217 independent special districts and 618 dependent districts.⁹ Special districts are governed generally by the Uniform Special District Accountability

¹ Florida Assoc. of Special Districts, *What Districts Do*, <https://fasd.com/what-districts-do/> (last visited Jan. 17, 2022).

² See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

³ 2020 – 2022 *Local Gov't Formation Manual*, 64, available at

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Jan. 17, 2022).

⁴ *Id.*

⁵ *Id.* at 70-73.

⁶ Section 189.012(2), F.S.

⁷ Section 189.012(3), F.S.

⁸ DEO, Special District Accountability Program, *Official List of Special Districts*, specialdistrictreports.floridajobs.org/webreports/StateTotals.aspx (last visited Jan. 18, 2022).

⁹ *Id.*

Act (Act).¹⁰ The Act centralizes provisions governing special districts and applies to the formation,¹¹ governance,¹² administration,¹³ supervision,¹⁴ merger,¹⁵ and dissolution¹⁶ of special districts, unless otherwise expressly provided in law.¹⁷

Soil and Water Conservation Districts

There are 56 active soil and water conservation districts (SWCDs).¹⁸ All SWCDs are created by the Department of Agriculture and Consumer Services (DACS) upon petition by landowners in the proposed district.¹⁹ DACS must provide for an annual audit of the accounts of receipts and disbursements for each district.²⁰

SWCDs' stated purpose is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.²¹ In order to do this, SWCDs partner with a variety of entities, including DACS and its Office of Agricultural Policy, the U.S. Department of Agriculture, the Natural Resources Conservation Service, the National Association of Conservation Districts, the Association of Florida Conservation Districts, the Florida Conservation District Employees Association, the University of Florida's Institute of Food and Agricultural Sciences, the Florida Department of Environmental Protection (DEP), the water management districts, Florida Farm Bureau, DEO, and counties.²²

The authority of SWCDs overlaps significantly with other land and water resource management agencies, such as DEP,²³ DEO,²⁴ and the water management districts.²⁵ Due to this jurisdictional overlap, SWCDs today primarily focus on working with private and public landowners to provide technical and financial assistance for conservation, execute lease agreements, and manage publicly owned land.²⁶ Some other activities of SWCDs include:

- Cooperative programs like best management practices projects and Farm Bill programs like the Environmental Quality Incentives Program, the Conservation Security Program, the

¹⁰ Section 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).

¹¹ *See* ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

¹² *See* s. 189.0311, F.S. (charter requirements for independent special districts).

¹³ *See* s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹⁴ *See* s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

¹⁵ Sections 189.071 and 189.074, F.S.

¹⁶ Sections 189.071 and 189.072, F.S.

¹⁷ *See, e.g.*, s. 190.004, F.S. (Ch. 190, F.S. as "sole authorization" for creation of community development districts).

¹⁸ DEO, Special District Accountability Program, *Official List of Special Districts*, <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Jan. 17, 2022).

¹⁹ Sections 582.10-582.15, F.S.

²⁰ Section 582.055(3), F.S.

²¹ Section 582.02(4), F.S.

²² DACS, *Soil and Water Conservation District Supervisor Handbook*, 17-20, *available at* <https://www.fdac.gov/content/download/96781/file/florida-soil-and-water-conservation-district-supervisor-handbook.pdf> (last visited Jan. 17, 2022).

²³ *See, e.g.*, ch. 408, F.S.

²⁴ *See, e.g.*, ch. 380, F.S.

²⁵ *See, e.g.*, ch. 373, F.S.

²⁶ DACS, *Soil and Water Conservation District Supervisor Handbook* at 4.

Agricultural Conservation Easement Program, and Regional Conservation Partnership Programs;

- Conservation projects focusing on water quality improvement, habitat restoration, and administering cost-share funds to help farmers and other landowners implement conservation practices;
- Demonstration projects focusing on irrigation, drainage, tailwater recovery, erosion control, and waste management;
- Educational Workshops on topics like water quality and quantity, pesticide and fertilizer management, watershed engineering, wetlands, soil characteristics, soil tillage techniques, plan identification, invasive plant control, farm ponds, and agricultural production;
- Mobile Irrigation Labs to evaluate agricultural irrigation systems; and
- Planning and rulemaking at the county, regional, state, and federal levels.²⁷

Soil and Water Conservation District Supervisors

Supervisors are members of the governing bodies of SWCDs.²⁸ An SWCD supervisor election is held every two years at the same time as the general election.²⁹ In the case of a newly created SWCD participating in a regular election for the first time, three groups of candidates are elected for terms of four years, and two groups are elected for initial terms of two years.³⁰

III. Effect of Proposed Changes:

Section 1 amends s. 582.15, F.S., to provide that new soil and water conservation districts (SWCDs) must be subdivided into five numbered subdivisions that match, as practicable, the boundaries of either the five county commission districts or five school board districts within the county. If neither the county commission nor the school board is subdivided into five districts, the Department of Agriculture and Consumer Services (DACS) shall subdivide the district into five numbered subdivisions as nearly equal in area as practicable to ensure geographical representation within the SWCD's governing body.

Section 2 amends s. 582.18, F.S., to allow one SWCD supervisor to be elected from each of the five numbered subdivisions created by DACS. The bill provides that, in the case of the first regular election for a new SWCD, candidates shall be elected from district subdivisions 1, 3, and 5 for terms of four years and candidates shall be elected from district subdivisions 2 and 4 for initial terms of 2 years.

Section 3 amends s. 582.19, F.S., to require SWCD supervisors to be eligible voters who reside within the numbered subdivision from which they are elected and be actively engaged or retired after fifteen years of being engaged in, agriculture as defined by s. 570.02, F.S., or be employed by an agricultural producer. Candidates will be required to file a statement affirming they meet the qualifications to serve as a supervisor. If a subdivision does not have a qualified candidate one week before the qualifying period, any eligible candidate within a district may seek to be elected in that subdivision.

²⁷ *Id.* at 5.

²⁸ Section 582.01, F.S.

²⁹ Section 582.18, F.S.

³⁰ *Id.*

Section 4 provides that supervisors of SWCDs must seek to be elected in the 2022 general election. The bill provides that by January 1, 2023, a district in existence on July 1, 2022, which was not subdivided in its initial creation, must be subdivided into five numbered subdivisions that match, as practicable, the boundaries of either the five county commission districts or five school board districts in the county. If neither the county commission nor the school board is subdivided into five districts, DACS shall subdivide the district into five numbered subdivisions as nearly equal in area as practicable.

The bill adds that the following procedures apply to the election of supervisors of SWCDs subdivided by DACS pursuant to the above paragraph:

- SWCD governing body seats 1, 3, and 5, which have terms that initially expired in January 2025 or 2027, as applicable, shall represent district subdivisions 1, 3, and 5, respectively. Such seats shall be filled for a four-year term.
- SWCD governing body seats 2 and 4, which have terms that initially expired in January 2025 or 2027, as applicable, shall represent district subdivisions 2 and 4, respectively. Such seats shall be filled for a two-year term to achieve staggered terms; thereafter the seats shall be filled for four-year terms.

Section 5 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 582.15, 582.18, and 582.19 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on January 24, 2022:

- Provides that new soil and water conservation districts (SWCD) must be subdivided into five numbered subdivisions that match, as practicable, the boundaries of either the five county commission districts or five school board districts within the county. If neither the county commission nor the school board is subdivided into five districts, the Department of Agriculture and Consumer Services shall subdivide the SWCD into five numbered subdivisions as nearly equal in area as practicable to ensure geographical representation within the SWCD's governing body.
- Allows one SWCD supervisor to be elected from each of the five numbered subdivisions.
- Provides for staggered terms for SWCD supervisors.
- Requires SWCD supervisors to be eligible voters who reside within the numbered subdivision from which they are elected and to be actively engaged in the business of farming or animal husbandry.
- Provides that the term of a supervisor serving on an SWCD governing body at the time the amended bill becomes a law expires on January 10, 2023.
- Provides that by January 1, 2023, an SWCD in existence on July 1, 2022, which was not subdivided in its initial creation, must be subdivided into five numbered subdivisions in the manner previously stated and provides for staggered terms of the SWCD supervisors.

CS/CS by Ethics and Elections on February 8, 2022:

- Clarifies that candidates for supervisor of Soil and Water Conservation Districts must be eligible voters of the subdivision they will be elected from, and actively engaged in, or retired after 15 years being engaged in, agriculture per s. 570.02, F.S., or employed by agricultural producer.
- Provides that if a subdivision does not have a qualified candidate one week before the qualifying period, any qualified candidate in the district can seek to be elected in that subdivision.
- Requires candidates for supervisors to submit a statement affirming they meet the requirements per statute.
- Requires all supervisors to seek election in the 2022 general election.

B. Amendments:

None.