

House Bill No. 1101

An act relating to Escambia County; creating the West Florida Regional Library District, an independent special district; providing for the acquisition, construction, reconstruction, improvement, operation, maintenance, and financing of a public library system for the citizens of Escambia County and the City of Pensacola; providing boundaries; providing for library services beyond district boundaries; providing for a governing board and the manner of appointing and removing its members and for their terms of office; providing that the governing board shall serve without compensation; providing for powers; providing for levy of ad valorem taxes on real and tangible personal property subject to referendum approval of the electors; authorizing the issuance of debt obligations; providing that debt obligations payable by ad valorem taxation and maturing more than 12 months after issuance must be approved by referendum of the electors; providing for referendum; providing prohibition against levy of taxes for library purposes by certain local governments; providing for amendment; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act may be cited as the “West Florida Regional Library District Act.”

Section 2. Creation and purpose; boundaries.—

(1) CREATION AND PURPOSE.—Subject to approval by referendum election held pursuant to section 8 of this act, there is created the West Florida Regional Library District, an independent special taxing district created for the purpose of providing the only library system services and facilities for all citizens of Escambia County and the City of Pensacola, excluding the Escambia County School District library system and any libraries of the University of West Florida and Pensacola Junior College.

(2) BOUNDARIES.—The boundaries of the West Florida Regional Library District shall be the boundaries of Escambia County.

Section 3. Governing board; establishment; composition; appointment of members; terms, removal, and vacancies; compensation; quorum, rules of procedure, and seal; powers.—

(1) ESTABLISHMENT.—The governing body of the West Florida Regional Library District shall be known as the West Florida Regional Library District Governing Board, a public body corporate and politic, hereinafter referred to as the “governing board” or the “board,” which shall exercise all administrative and policymaking functions for the district. The board shall be deemed a public instrumentality, and exercise by the board of the powers conferred by this act shall be deemed the performance of an essential public function.

(2) COMPOSITION AND APPOINTMENT, TERMS, OATH, REMOVAL, AND VACANCIES.—

(a) The governing board shall be composed of three registered voters of Escambia County appointed by the Board of County Commissioners of Escambia County, and three registered voters of the City of Pensacola appointed by the Pensacola City Council. A seventh member, who shall be a registered voter of Escambia County, shall be appointed by a majority vote of the six.

(b) All members of the governing board shall be appointed for an initial term of 3 years. All members shall serve terms of 3 years, except that each member shall hold over in office until a successor is nominated and appointed in the same manner as provided for initial appointments, and the term of the successor shall be reduced by the amount of the predecessor's holdover. No member shall serve more than two consecutive full terms, or more than 6 consecutive years. Any member may be removed for cause by the governing body which appointed such member.

(c) Each member of the board, before entering upon his or her duties, shall take and subscribe to the oath or affirmation required by the State Constitution. A record of each oath shall be filed with the Department of State and with the Clerk of the Circuit Court of Escambia County. Each member of the board shall abide by the same financial disclosure requirements and any other reporting requirements that would be applicable to a member of the Escambia County Board of County Commissioners.

(d) Any member may be removed by majority vote of the other members of the governing board for good cause affecting his or her ability to perform his or her duties as a member, or for misfeasance, malfeasance, or nonfeasance in office, but only after a hearing at which the member is given the right to present evidence on his or her own behalf and only upon a finding by majority vote of the other members of the governing board that good cause for removal affecting the member's ability to perform the duties as a member exists, or upon a finding that the member is guilty of misfeasance, malfeasance, or nonfeasance in office.

(e) Upon the occurrence of a vacancy on the board, by removal or otherwise, the Escambia County Board of County Commissioners, the Pensacola City Council, or the organization representing any other governmental entity within or without the district that is a signatory to an interlocal agreement, as appropriate, shall appoint a member to fill the vacancy. Such appointee shall be a member of the governing body of the entity making the appointment and shall serve the remainder of the term of the member whose departure has created the vacancy.

(3) COMPENSATION.—Members shall serve without compensation, except that they may be reimbursed pursuant to section 112.061, Florida Statutes, for reasonable travel and per diem expenses incurred in the course of their duties and responsibilities as members, on behalf of the governing board or otherwise, in engaging in the business of the district. The board shall adopt a travel policy to govern official travel.

(4) QUORUM, RULES OF PROCEDURE, AND SEAL.—A quorum shall consist of a majority of the members of the board, and official action shall be taken only upon majority vote of the members present and voting. The board shall adopt bylaws for election of officers and for the conduct of orderly proceedings and shall adopt a common seal for certification of its actions.

(5) POWERS OF THE BOARD.—The board shall have the power to:

(a) Adopt, implement, and amend rules, regulations, policies, and procedures for the management, operation, and maintenance of library services and facilities in the district, including, but not limited to, lending policies, gift policies, and book selection policies.

(b) Develop, adopt, and implement an annual budget for a fiscal year commencing on October 1 and, further, develop plans and programs for the operation, maintenance, and physical expansion of the facilities and operations of the district.

(c) Set fees, fines, and other charges in connection with the operations and services of the district and establish administrative mechanisms for the collection of those fees and other charges, subject to the provisions of section 6.

(d) Enter into contracts, receive and expend moneys, sue and be sued, and generally perform all other acts necessary or incidental to the express powers and duties granted or imposed by this act or by any instrument of trust.

(e) Lease, grant, sell, or otherwise convey real and personal property.

(f) Receive gifts of money or property to be utilized in providing library facilities, materials, or other library-oriented programs; spend moneys, grants, proceeds, or gifts; and administer any other form of property provided to the district by a gift, trust, deed, or will.

(g) Annually levy, for annual operating and maintenance expenditures and for capital improvements and/or debt service, an ad valorem tax upon real and tangible personal property within the district in the same manner as other county and municipal ad valorem taxes are levied, provided that:

1. The millage allocated to annual operating and maintenance expenses of the district shall not exceed 1 mill, except that for the first 3 years from the effective date of this act such millage shall not exceed 0.5 mill.

2. The millage allocated to capital improvements and/or debt service shall not exceed the amount necessary to pay the principal of, and interest on, bonds issued under paragraph (j) and in any event shall not exceed 0.5 mill. During any year in which the governing body levies ad valorem taxes for the purpose of servicing debt issued pursuant to this paragraph, the maximum annual capital improvement millage authorized by this paragraph shall be reduced by the millage actually levied to service such debt.

(h) Purchase, lease, lease purchase, construct, reconstruct, or otherwise acquire capital projects related to the library services and facilities of the

district. Lease-purchase arrangements may include such contracts and agreements deemed necessary or convenient by the governing board, and any rental or other payments required thereunder may be secured by any lawfully available funds of the district.

(i) Appropriate and expend revenue of the district, subject to the limitations of this act.

(j) Issue from time to time limited tax bonds, notes, any other certificates of indebtedness, or any form of limited tax or bond anticipation notes or certificates payable from all or any portion of the 0.5 mill capital improvement millage provided for in subparagraph (g)2., but only when the proceeds of such bonds, notes, certificates of indebtedness, or tax or bond anticipation notes or certificates are used to finance or refinance capital projects related to library services or facilities of the district. Bonds issued hereunder shall be payable from taxes to be levied on all taxable property in the district, but said taxes shall be limited to a maximum levy of 0.5 mill. In issuing such bonds or other forms of indebtedness, the governing board may pledge the faith and credit of the district for service of the debt to be incurred, up to the 0.5 mill limit.

(k) Issue bonds, notes, certificates of indebtedness, or any form of tax or bond anticipation notes or certificates payable from all or any portion of the ad valorem tax revenues of the district, provided that if such bonds, notes, certificates of indebtedness, or tax anticipation notes or certificates mature more than 12 months after the date of issuance:

1. The issuance thereof shall be approved by a majority of the electors voting in a bond referendum conducted pursuant to law.

2. The proceeds thereof shall be used only to finance or refinance capital projects related to library services or facilities of the system. Bonds or other forms of indebtedness issued pursuant to this subsection shall be payable from ad valorem taxes to be levied on all taxable property in the district without limitation as to rate or amount. In issuing such bonds or other forms of indebtedness, the governing board may pledge the full faith and credit of the district for service of the debt to be incurred.

(l) Issue revenue bonds, notes, including bond anticipation notes, or other certificates of indebtedness payable from the proceeds of any fees, charges, fines, rentals, grants, or other sources of revenue, except ad valorem taxes, which may be or may become available to the district and, in connection therewith, to:

1. Pledge such revenues to the payment of such revenue bonds, notes, or other certificates of indebtedness.

2. Make all customary or necessary covenants for the security of such revenue bonds, notes, or other certificates of indebtedness, including covenants to ensure the adequacy of such revenues and the proper collection, holding, and disposition thereof.

3. Agree to pay some or all expenses of maintenance and operation from sources other than pledged revenues, and not to diminish the rate of taxation available therefor.

4. Capitalize interest and reserves in such amounts as the governing board may deem necessary.

5. Pay all or any portion of the costs of issuance of such bonds, notes, or other certificates of indebtedness, including fiscal, legal, bond insurance, and printing expenses, from the proceeds of such bonds, notes, or other certificates of indebtedness or from other sources.

6. Apply the proceeds of said revenue bonds, notes, or other certificates of indebtedness to the payment of the cost of any or all facilities or property, real or personal, including books, which said district is empowered to acquire, including all architectural, legal, engineering, and other professional costs incurred in connection therewith, or to the refunding of previously issued bonds, notes, or other certificates of indebtedness.

(m) Issue such bonds, revenue bonds, tax or bond anticipation notes, or other forms of indebtedness at such interest rate or rates as the governing board may determine appropriate, not exceeding the maximum rates permitted by general law.

(n) Provide for the management, administration, operation, supervision, oversight, and maintenance of all library facilities, and the services, programs, and functions thereof, for the benefit of the residents of Escambia County and the City of Pensacola and for any other jurisdiction which may become a member of the district by entering into an agreement with the library board.

(o) Purchase, lease, or otherwise acquire real and personal property, and generally take all other actions regarding such property as may be necessary in the prudent management, operation, and maintenance of library district services and facilities. All property, real or personal, acquired by the governing board from whatever source or by whatever means shall be deemed to be held in trust for the benefit of the residents of the district for library purposes. In the event that the district is dissolved, all of the assets of the district shall be evenly divided between the Pensacola City Council and the Escambia County Board of County Commissioners irrespective of the geographical location of the assets. The specific disposition of the assets shall be determined by negotiations and mutual agreement between the two parties.

(p) Dispose of real or personal property as necessary for the prudent management, operation, and maintenance of library services and facilities.

(q) Provide for the employment of personnel and all matters relative thereto through the contractual agreement with the City of Pensacola referred to in subsection (1) of section 5.

(r) Retain attorneys, accountants, architects, engineers, and other consultants and professionals, pursuant to applicable general law.

(s) Contract with the City of Pensacola for the provision of library services and personnel and the administration of those services and personnel within or outside the district, provided that library services outside the district shall not be subsidized by the ad valorem tax revenues of the district. The costs of providing library services pursuant to paragraph (v) within any jurisdiction outside the district boundaries shall be borne by such jurisdiction.

(t) Apply for and accept any grant of money or property from any governmental body or private organization and enter into contracts incidental thereto.

(u) Adopt rules for the regulation of its affairs and the conduct of its business and perform all other acts necessary to enable the governing board to properly carry out the purposes of this act.

(v) Enter into agreements with any public agency as defined in section 163.01, Florida Statutes, to provide library services within the jurisdiction of such public agency.

(w) Plan and coordinate with Escambia County and the City of Pensacola to ensure that library system facilities comply with applicable elements of local comprehensive plans.

(x) Comply with all applicable provisions of law, including without limitation those provisions of chapter 189, Florida Statutes, applicable to independent special districts and applicable provisions of chapter 218, Florida Statutes.

Section 4. Use of tax revenues; supplemental appropriations and in-kind services.—

(1) Ad valorem tax revenue of the district shall be used for the following purposes only:

(a) Operation and maintenance expenses of library district services and facilities.

(b) Capital expenditures related to library district services and facilities within the district.

(c) Servicing debt incurred pursuant to this act.

(2) Notwithstanding any other provision of this act, any county or city may appropriate, and the governing board may accept and expend, funds for library facilities, services, programs, and operations which are supplemental to ad valorem tax revenues otherwise collected pursuant to this act. Further, any county or city may provide to the board services and in-kind contributions of any nature whatsoever in support of library facilities, services, programs, and operations.

Section 5. Support services.—

(1) The governing board shall arrange for the provision of budgeting, building and grounds maintenance, personnel, purchasing, legal, accounting and treasury services, and all general government services to the library district through a contract for such services with the City of Pensacola. All employees, with the exception of members of the board, shall be considered employees of the City of Pensacola for purposes of this act. Such contract shall provide for the reimbursement of all administrative costs to the City of Pensacola, both direct and indirect. Indirect costs shall be calculated based upon a formula approved by the board and the City of Pensacola.

(2) The City Attorney of the City of Pensacola shall provide legal services to the library district through the contractual relationship provided for in subsection (1).

Section 6. Entitlement of district residents to library services.—For as long as the governing board levies an ad valorem tax pursuant to paragraph (5)(g) of section 3 for the operation and maintenance of library services and facilities, all residents of the district shall be entitled to use of the general library services and facilities without charge. However, nothing in this section shall be construed as prohibiting the board from imposing fines for delinquent library materials or establishing charges for library services and facilities which are specialized and of a type not typically used by the general public and which the board would otherwise not be able to make available without such user charges. Further, such entitlement shall cease and shall not apply if and when ad valorem tax revenues are used solely for servicing debt incurred in the acquisition or refinancing of capital projects.

Section 7. Prohibition against other taxation for libraries.—As long as the governing board levies the ad valorem tax authorized by this act, the Escambia County Board of County Commissioners, the Pensacola City Council, and any other taxing authorities within the boundaries of the district are hereby prohibited from levying any tax for library facilities, services, or other library purposes, excluding the library facilities, services, and other library purposes of the school library system.

Section 8. Referendum authority to levy ad valorem taxes and to issue debt obligations payable from ad valorem taxes; dissolution of district upon nonapproval.—A referendum of the electors of Escambia County shall be held prior to December 31, 2003, to authorize the creation of the West Florida Regional Library District and its power to levy ad valorem taxes on real and tangible personal property within the limitations and for the purposes provided in paragraph (5)(g) of section 3. The Pensacola City Council shall, by resolution, prepare the referendum ballot language and fix the date of the referendum election, and shall provide for such notices as may be required by the Florida Election Code.

Section 9. This act may be amended by law.

Section 10. If any portion of this act is held invalid or unconstitutional by any court of law, all remaining portions of the act shall remain in full force and effect if, and only if, the intent of the Legislature can continue to be effected.

Section 11. This act shall take effect only upon its approval by a majority vote of those qualified electors of Escambia County voting in a referendum to be held by the Pensacola City Council in conjunction with a primary, general, special, or other election to be held in Escambia County prior to December 31, 2003, except that this section shall take effect upon becoming a law.

Approved by the Governor April 23, 2002.

Filed in Office Secretary of State April 23, 2002.