

STORAGE NAME: h1305.ca

DATE: April 3, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1305

RELATING TO: St. Lucie County Erosion District

SPONSOR(S): Representative Pruitt

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill updates and modernizes the St. Lucie Erosion District Act to conform with the general law changes that have occurred since 1967. The bill authorizes the St. Lucie County Erosion District (District) Board to amend, modify, consolidate or abolish zones that were established for the levy of ad valorem taxes in 1967, and to tax new zones created by the District. Additionally, the District has been authorized to levy non-ad valorem assessments, and District authority has been modified to allow contracts to be entered and bonds to be issued in a manner consistent with the provisions of general law.

The bill provides that the District is created and established as a body corporate and politic in St. Lucie County, Florida. It establishes a method for governance and operation of the District and provides that meetings be held in accordance with general law. The bill provides that employees of the District shall be considered employees of St. Lucie County, subject to all rules and benefits. Further, the bill incorporates several definitional changes, including: facilities and maintenance as a cost the District may incur; the Clerk of the Circuit Court of St. Lucie County named as the Secretary/Treasurer for the District; bonds are defined in accordance with general law; and, a definition of non-ad valorem assessments is added. The limitation of \$870,000 for all bond issuance has been deleted, and previous sections requiring a referendum for creation of the District have been repealed.

The Economic Impact Statement states that the revisions will not require additional personnel or administrative cost, and that all district funds will be generated by local ad valorem taxes and non-ad valorem assessments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The St. Lucie County Erosion District (District) is a dependent special district created in 1967, by special act of the Legislature. The District was established by referendum approval of the voters.

The District is coincident with the boundaries of St. Lucie County, and covers 581 square miles of land. The purpose of the District is to alleviate soil and beach erosion problems in St. Lucie County by constructing erosion prevention facilities. The District has also laid long guard tubes on the beach to prevent beach erosion and has contracted with the Army Corps of Engineers, which is responsible for dredging the County's channel, for beach material to prevent beach erosion.

The District is supported through ad valorem taxes levied on 4 zones within the District. The zones are distinct geographic areas with legal descriptions within the District's charter. Each zone receives a percentage of the total benefit from the erosion prevention facilities and ad valorem taxes for the payment of debt service on bonds or other obligations are levied in each zone in ratio to the percentage of benefits as follows: Zone A -- 5.9%; Zone B -- 1.3%; Zone C -- 83.4%; and Zone D -- 9.4%. These percentages, as described in the 1967 act, were based on population and land value at that time. There are no limitations on the millage rate and the District is mandatorily obligated to levy and collect ad valorem taxes from the entire taxable property in the District without limit as to rate or amount for the full payment of all debt service and the operation and maintenance of the District. If a deficit occurs in one of the zones, the District may levy and collect sufficient taxes in that zone to make up the deficit.

A separate provision in the District charter provides that, in addition to the ad valorem taxes levied to pay the principal and interest on bonds, the District is authorized to levy a special ad valorem millage tax to pay for the maintenance and operation of the erosion prevention facilities. The special maintenance tax may not annually exceed 1 mill for Zone A, 8/10ths of a mill for Zone B, 6/10ths of a mill for Zone C, and 4/10ths of a mill for Zone D.

The District was established before the Constitution of the State of Florida was revised in 1968. Except for taxes on intangible personal property, Article VII, Section 2 of the Florida Constitution requires that "all ad valorem taxation shall be at a uniform rate within each taxing unit." The District constitutes a taxing unit. Accordingly, the District's current 4 zone scheme for levying ad valorem taxes may be unconstitutional.

B. EFFECT OF PROPOSED CHANGES:

The bill updates and modernizes the St. Lucie Erosion District Act to conform provisions such as contracting, bond issuance, and conduct of meetings, with provisions of Chapter 189, Florida Statutes. All employees of the District will be considered employees of St. Lucie County, subject to all rules and benefits. The District will be able to issue bonds in the amount they believe necessary.

Additionally, the District will have the authority to:

- Amend, modify, consolidate or abolish tax zones;
- Levy taxes on new zones created by the District;
- Levy non-ad valorem assessments; and
- Exercise jurisdiction over District operations and facilities.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 67-2001, Laws of Florida

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Maybe. Employees of the District will be considered employees of St. Lucie County, with all applicable employee benefits.

b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

It may. The District will have the authority to levy non-ad valorem assessments.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

Yes. The District will have the authority to levy non-ad valorem assessments.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

Not applicable.

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends sections 1 through 24 of chapter 67-2001, Laws of Florida, as follows:

Section 1. Provides that the act be known and cited as the St. Lucie County Erosion District Act.

Section 2. Provides that the purpose of the act is to provide means to alleviate the soil and beach erosion problems in St. Lucie County which have resulted from tidal waves, currents, high waters, flood waters, and other causes.

Section 3. Provides that the District is created and established as a body corporate and politic in St. Lucie County, Florida, and sets forth the powers of the District.

Section 4. Defines the territorial boundaries of the District.

Section 5. Defines the membership, powers, and duties of the governing body of the District. Provides that meetings be held in accordance with chapter 189, Florida Statutes.

Section 6. Revises definitions used throughout this act.

Section 7. Delineates additional powers of the District board. It adds governmental powers that are already implied, such as the power to rent, lease, sell or exchange real or personal property, to execute financing, lease-purchase agreements and to acquire insurance for District operations and facilities. It further provides that all employees of the District be considered employees of St. Lucie County, and subject to all rules and benefits of St. Lucie County employees. Salaries and all other costs of employment shall be paid by St. Lucie County from funds held on behalf of the District.

Section 8. Provides that all lands within the district will be benefited by the erosion prevention facilities authorized by the act, the full faith and credit and ad valorem taxing power of the District without limitation for the payment of principal and interest on any bonds issued by the District. Provides for the classification of lands and real estate into four zones, and provides for the boundaries of each zone.

Section 9. Authorizes the District board to assess, levy, and collect non-ad valorem assessments for the District facilities authorized by this act, and provides that such assessments shall be levied only on benefited real property at a rate based upon the special benefit accruing to such property. Delineates the terms upon which such special assessments may be imposed.

Section 10. Authorizes the District board to issue various types of bonds and other obligations, and the terms upon which they may be issued.

Section 11. Authorizes the District board, in its discretion, to secure issued bonds by trust agreement between the District and a corporate trustee. Provides the terms upon which such trust agreement may be entered.

Section 12. Provides the District board with the discretion to publish notice, in a newspaper published in St. Lucie County, prior to the issuance of any bonds. Provides for the contents of such published notice.

Section 13. Provides that all bonds issued by negotiable instruments, subject to the negotiable instruments laws of Florida. Provides that the provisions of this act constitute an irrevocable contract between the District and the holders of such bonds. Any holder of bonds may fore and compel the duties of the District to honor the bonds either at law or in equity.

Section 14. Provides that the exercise of the powers conferred by this act constitutes the performance of essential public functions, and all erosion prevention facilities under this act constitute public property used for public purposes.

Section 15. Provides that all bonds issued shall constitute legal investments for state, county, municipal, and other fiduciaries. Further, the bonds shall constitute securities eligible as collateral security for all state, county, municipal, or other public funds.

Section 16. Provides the District with the authority to enter into agreements for the delivery of bonds as full or partial payment for the services of any engineer or work done by contractor. Provides the bonds issued must be authorized and issued in the manner provided in this act.

Section 17. Provides that the District, in exercising powers to purchase or procure commodities or services, the board shall exercise such power in accordance with the purchasing and procurement rules and procedures of St. Lucie County.

Section 18. Authorizes the District to levy special ad valorem maintenance taxes, in addition to the ad valorem taxes authorized to pay the principal and interest on issued bonds, to pay for the maintenance and operation of erosion prevention facilities and other corporate purposes of the District. Provides ceilings for such special maintenance tax for each zone. Further authorizes the District to levy an ad valorem maintenance tax within new, amended or consolidated zones established pursuant to section 8(4). Provides terms for determining each zones millage rate.

Section 19. Provides that any contract entered into by the District is deemed to have been made for the benefit of the holders of bonds issued pursuant to this act. It further provides that the terms of such contract are enforceable by such bondholders in any appropriate legal proceeding.

Section 20. Authorizes the St. Lucie County or any municipality or other political subdivision to sell, lease, grant or convey any real or personal property to said District without formal consideration. It further authorizes St. Lucie County to advance any moneys available to the district to pay preliminary expenses of the District. Such moneys so advanced shall be repaid to the County.

Section 21. Authorizes the District to establish departments, boards or other agencies it deems necessary or desirable. Provides the District may delegate to such departments, boards or other agencies such administrative duties and powers deemed necessary and desirable. Provides that the issuance of bonds, levy of taxes and authorization with regards to erosion prevention facilities shall be authorized by resolution adopted by the District board.

Section 22. Provides that all District property be exempt from levy and sale by virtue of an execution. Provides that no judgment against a district will be a charge or lien on its property, taxes, or other revenue. Provides that nothing in the act will apply to limit the rights of bondholders to pursue any remedy for the enforcement and collection of any taxes pledged for any issued bonds.

Section 23. Provides that the State of Florida covenants with the holders of any bonds issued pursuant to this act, not to limit or alter the authority of the District or the terms of this act.

STORAGE NAME: h1305.ca

DATE: April 3, 1997

PAGE 8

Section 24. Provides that the provisions of this act be liberally construed to effect its purposes. Provides that the issuance of bonds shall not be subject to the limitations or provisions of any other law except as expressly provided herein.

Section 25. Provides a severability clause.

Section 2. Repeals chapters 25 and 26 of chapter 67-2001, Laws of Florida.

Section 3. Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 20, 1996

WHERE? The Tribune, Fort Pierce, St. Lucie County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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