

By Representative Goode

1                                   A bill to be entitled  
2           An act relating to drainage districts; amending  
3           ss. 298.01, 298.005, 298.11, 298.12, 298.15,  
4           298.16, 298.17, 298.22, 298.23, 298.24, 298.25,  
5           298.26, 298.28, and 298.59, F.S.; requiring  
6           compliance with chapter 189, F.S.; providing  
7           definitions; providing for the water management  
8           plan to be renamed the water control plan;  
9           providing for the water control plan to serve  
10          the functions of the former plan of  
11          reclamation; providing for the jurisdictional  
12          water management district to provide certain  
13          review responsibilities previously provided by  
14          the Department of Environmental Protection;  
15          providing for the appointment of certain  
16          supervisors by the Governor; renaming certain  
17          taxes as assessments; consolidating powers of  
18          supervisors; describing engineer's duties and  
19          reports; creating ss. 298.225, 298.301,  
20          298.305, 298.309, 298.313, 298.317, 298.321,  
21          298.325, 298.329, 298.333, 298.337, 298.341,  
22          298.345, 298.349, 298.353, 298.357, and  
23          298.361, F.S.; providing water control plan  
24          development and amendment requirements;  
25          requiring notice; providing for hearings;  
26          providing for assessment of lands for certain  
27          purposes; providing for proceedings of an  
28          engineer; providing duties of the district  
29          attorney; providing for notice of an engineer's  
30          report; providing procedures for objections to  
31          and hearings on the engineer's report;

1 providing for consistency review by  
2 general-purpose local governments; providing  
3 for recommendations to the Legislature;  
4 providing for consistency determination by  
5 water management district; providing for water  
6 control plan or plan amendment adoption;  
7 providing for administrative hearings;  
8 providing for issuance of final orders by the  
9 Florida Land and Water Adjudicatory Commission;  
10 providing for remedial actions; providing for  
11 mediation; providing for enforcement of  
12 remedial actions; providing for hearings;  
13 providing for condemnation proceedings;  
14 providing for assessing land for certain  
15 purposes; providing for apportionment of  
16 assessment; providing for a new or amended plan  
17 under certain circumstances; providing for  
18 additional levies for certain purposes;  
19 authorizing issuance of bonds; providing  
20 procedures; providing for liens under certain  
21 circumstances; specifying application of  
22 assessments; providing for delinquent  
23 assessments; providing a penalty; providing for  
24 enforcement of non-ad valorem assessments;  
25 providing assessments for certain expenses;  
26 providing for unit development; providing  
27 powers of boards of supervisors; providing for  
28 financing assessments for units; providing for  
29 readjustment of assessments forming basis for  
30 maintenance tax; providing for readjustment of  
31 assessments forming basis for repayment of

1 district indebtedness and maintenance of  
2 drainage system; amending ss. 190.013, 298.365,  
3 298.366, 298.401, 298.41, 298.47, 298.48,  
4 298.49, 298.50, 298.51, 298.52, 298.54, 298.56,  
5 298.65, 298.71, 298.72, 298.73, and 298.76,  
6 F.S.; changing "taxes" to "assessments" and  
7 clarifying additional terms for consistency;  
8 correcting cross references; prohibiting  
9 special laws or general laws of local  
10 application granting exemptions or  
11 modifications to requirements of chapter 298,  
12 F.S.; prohibiting special laws or general laws  
13 of local application creating water control  
14 districts; repealing s. 298.07, F.S., relating  
15 to amending decrees incorporating districts;  
16 repealing s. 298.27, F.S., relating to board of  
17 supervisors making new plans, levying  
18 additional assessments, and issuing bonds;  
19 repealing s. 298.29, F.S., relating to levy and  
20 collection of taxes, borrowing money, and  
21 issuing debt; repealing s. 298.30, F.S.,  
22 relating to appointment of commissioners for  
23 certain purposes; repealing s. 298.31, F.S.,  
24 relating to meetings and organization of  
25 commissioners; repealing s. 298.32, F.S.,  
26 relating to proceedings and duties of  
27 commissioners; repealing s. 298.33, F.S.,  
28 relating to notice; repealing s. 298.34, F.S.,  
29 relating to procedures for filing exceptions to  
30 an engineer's report; repealing s. 298.35,  
31 F.S., relating to powers of supervisors;

1           repealing s. 298.36, F.S., relating to  
2           assessments for certain purposes; repealing s.  
3           298.465, F.S., relating to the collection and  
4           enforcement of taxes; repealing s. 298.467,  
5           F.S., relating to a prohibition against  
6           borrowing; repealing s. 298.55, F.S., relating  
7           to readjustment of assessment benefits;  
8           repealing s. 298.77, F.S., relating to  
9           readjustment of assessments; providing an  
10          effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Section 298.01, Florida Statutes, is  
15 amended to read:

16           298.01 Formation of water control district.--It is the  
17 legislative intent that those water control districts  
18 established prior to July 1, 1980, pursuant to the process  
19 formerly contained in ss. 298.01, 298.02, and 298.03, may  
20 continue to operate as outlined in this chapter. However, on  
21 and after that date, no water control district may be created  
22 except pursuant to s. 125.01 or a special act of the  
23 Legislature. On or after July 1, 1997, no water control  
24 district may be created except pursuant to chapter 189 and the  
25 restriction imposed by s. 298.76. Any water control district  
26 established by a county ordinance shall be a dependent special  
27 district and must have a budget that requires approval through  
28 an affirmative vote or may be vetoed by the governing body of  
29 a single county. Upon formation of a water control district  
30 by a special act of the Legislature, the circuit court of the  
31 county in which a majority of the land within the district is

1 located shall thereafter maintain and have original and  
2 exclusive jurisdiction, coextensive with the boundaries and  
3 limits of the water control district without regard to county  
4 lines, for all purposes of this chapter.

5 Section 2. Section 298.005, Florida Statutes, is  
6 amended to read:

7 298.005 Definitions ~~The word "owner" defined.--~~When  
8 appearing in this chapter, the following terms and phrases  
9 have the meaning ascribed to them in this section:

10 (1) "District water management plan" means the  
11 long-range comprehensive planning document prepared by a  
12 chapter 373 water management district for implementation of  
13 its water resource management responsibilities, including  
14 water supply, flood protection, water quality management, and  
15 protection of natural systems. A district water management  
16 plan provides general direction and strategies for the  
17 activities, programs, and rules of the water management  
18 district and may be implemented by program development, water  
19 resource projects, land acquisition, funding, technical  
20 assistance, facility operations, and rule development. A  
21 district water management plan is a planning document and is  
22 not self-executing; only those portions adopted through formal  
23 administrative rulemaking are binding and enforceable.

24 (2) "Jurisdictional water management district" means  
25 the chapter 373 water management district or districts within  
26 which the lands encompassed by a water control district are  
27 located.

28 (3) "Owner" means the owner of the freehold estate, as  
29 appears by the deed record. It shall not include reversioners,  
30 remaindermen, or mortgagees, who shall not be counted and need  
31 not be notified by publication or served by process, but shall

1 be represented by the present owners of the freehold estate in  
2 any proceeding under this chapter.

3 (4) "Water control district" means a special district  
4 established in accordance with s. 298.01 and operating under  
5 the provisions of this chapter.

6 (5) "Water control plan" means the comprehensive  
7 operational document that describes the activities and  
8 improvements to be conducted by a water control district  
9 authorized under this chapter. Alternatively described as a  
10 "plan of reclamation" or "water management plan" prior to  
11 October 1, 1998, a water control plan details the system of  
12 water management implemented by a water control district. The  
13 ~~word "owner," as used in this chapter, shall mean the owner of~~  
14 ~~the freehold estate, as appears by the deed record, and it~~  
15 ~~shall not include reversioners, remaindermen, trustees or~~  
16 ~~mortgagees, who shall not be counted and need not be notified~~  
17 ~~by publication, or served by process, but shall be represented~~  
18 ~~by the present owners of the freehold estate in any proceeding~~  
19 ~~under this chapter.~~

20 Section 3. Section 298.11, Florida Statutes, is  
21 amended to read:

22 298.11 Election of board of supervisors; duties of  
23 Department of Environmental Protection and Governor duties.--

24 (1) Within 20 days after the effective date of a  
25 special act or a county ordinance creating a district, notice  
26 of a landowners meeting shall be given as provided in the  
27 special act or county ordinance. The notice shall be  
28 published ~~any district shall have been organized and~~  
29 ~~incorporated under the provisions of this chapter, the clerk~~  
30 ~~of the circuit court in which the petition has been filed~~  
31 ~~shall, upon giving notice by causing publication thereof to be~~

1 ~~made~~ once a week for 2 consecutive weeks in a some newspaper  
2 of general circulation ~~published~~ in each county in which lands  
3 of the district are located ~~situate~~, the last publication  
4 ~~insertion~~ to be not less than 10 nor more than 15 days before  
5 the date ~~day~~ of the ~~such~~ meeting. ~~The,~~ ~~call~~ a meeting of the  
6 owners of the lands located ~~situate~~ in the ~~said~~ district shall  
7 be scheduled, at a day and hour specified, at some public  
8 place in the county within ~~in~~ which most of the district lands  
9 are located ~~was organized~~, for the purpose of electing a board  
10 of three supervisors, to be composed of owners of the lands in  
11 the ~~said~~ district and residents of the county or counties in  
12 which the ~~such~~ district is located ~~situate~~.

13 (2) The landowners, when assembled, shall organize by  
14 the election of a chair and secretary of the meeting, who  
15 shall conduct the election. ~~At~~ the ~~such~~ election, each and  
16 every acre of land in the district shall represent one share,  
17 and each owner shall be entitled to one vote in person or by  
18 proxy in writing duly signed, for every acre of land owned by  
19 him or her in the ~~such~~ district, and the three persons  
20 receiving the highest number of votes shall be declared  
21 elected as supervisors. The appointment of proxies shall  
22 comply with s. 607.0722. Landowners owning less than 1 acre  
23 in the aggregate shall be entitled to one vote. Landowners  
24 with more than 1 acre shall be entitled to one additional vote  
25 for any fraction of an acre owned, when all of the landowner's  
26 acreage has been aggregated for purposes of voting. ~~The~~  
27 landowners shall at such election determine the length of the  
28 terms of office of each supervisor so elected by them, which  
29 shall be respectively 1, 2, and 3 years, and they shall serve  
30 until their successors shall have been elected and qualified.

31

1           (3) The Department of Environmental Protection, at any  
2 such meeting, may represent the state, and shall have the  
3 right to vote for supervisors, or upon any matter that may  
4 come properly before said meeting to the extent of the acreage  
5 owned by the state in such district, provided such acreage is  
6 subject to assessment by the water control district, which  
7 vote may be cast by any person designated by said department.  
8 Guardians may represent their wards, executors and  
9 administrators may represent estates of deceased persons, and  
10 private corporations may be represented by their officers or  
11 duly authorized agents. The owners of a majority of the  
12 acreage included in such district shall be necessary to  
13 constitute a quorum for the purpose of holding such election,  
14 or any election thereafter, and in case the owners of a  
15 majority of the acreage included in such district are not  
16 present in person or duly represented, at the time and the  
17 place stated in the notice calling such meeting, then no  
18 election shall be held, and notice of such failure shall be  
19 given in writing by any person interested to the Governor, who  
20 ~~to department, which~~ shall as soon as practicable appoint three  
21 competent persons who own land in such district as such  
22 supervisors for the term of 1, 2, and 3 years respectively,  
23 and such persons ~~who~~ shall hold their office until their  
24 successors are elected or appointed and qualified.

25           (4) Any elected or appointed ~~such~~ supervisor ~~so~~  
26 ~~appointed by the department~~ may be removed by the Governor for  
27 malfeasance, misfeasance, ~~department for~~ dishonesty,  
28 incompetency, or failure to perform the duties imposed upon  
29 him or her by this chapter, and any vacancies which may occur  
30 in any such office so filled by appointment shall be filled by  
31 the Governor ~~said department~~ as soon as practicable.

1           (5) The Melbourne-Tillman Water Control District shall  
2 have five supervisors. Three supervisors shall be elected by  
3 the landowners pursuant to the applicable provisions of this  
4 section. Two supervisors, who are district residents, shall be  
5 appointed by the Brevard County Board of County Commissioners  
6 by majority vote at a regularly scheduled commission meeting  
7 for a term of 3 years. The commission may publish notice of  
8 this meeting and may take any public testimony which, in its  
9 discretion, it feels might bear upon such appointments. Should  
10 the landowners fail to elect a supervisor for any reason, the  
11 Governor ~~department~~ shall not have power to appoint; instead,  
12 the Brevard County Board of County Commissioners shall appoint  
13 a competent person who owns land in said district within 30  
14 days. A supervisor so appointed shall hold office until a  
15 successor is elected or appointed. Any supervisor appointed by  
16 the Brevard County Board of County Commissioners may be  
17 removed by the board for dishonesty, incompetency, or failure  
18 to perform the duties imposed on him or her by this chapter.

19           Section 4. Subsection (1) of section 298.12, Florida  
20 Statutes, is amended to read:

21           298.12 Annual election of supervisors; term of office;  
22 vacancy.--

23           (1) Every year in the same month after the time for  
24 the election of the first board of supervisors, it shall call  
25 a meeting of the landowners in the district in the same manner  
26 as is provided for in s. 298.11, and the owners of land in  
27 such district shall meet at the stated time and place and  
28 elect one supervisor therefor, or in case of their failure to  
29 elect, the Governor ~~Department of Environmental Protection~~  
30 shall appoint such supervisor, in like manner as prescribed in  
31 s. 298.11, who shall hold the supervisor's office for 3 years

1 or until his or her successor is elected and qualified; and in  
2 case of a vacancy in any office of supervisor elected by the  
3 landowners, the remaining supervisors, or if they fail to act  
4 within 30 days, the Governor ~~Department of Environmental~~  
5 ~~Protection~~, may fill such vacancy until the next annual  
6 meeting, when a successor shall be elected for the unexpired  
7 term.

8 Section 5. Section 298.15, Florida Statutes, is  
9 amended to read:

10 298.15 Record of proceedings.--The board of  
11 supervisors of any district organized under this chapter shall  
12 cause to be kept a well-bound book, entitled "record of board  
13 of supervisors of .... district," in which shall be recorded  
14 minutes of all meetings, proceedings, certificates, bonds  
15 given by all employees and any and all corporate acts, which  
16 record shall at all times be open to the inspection of anyone  
17 interested, whether taxpayer or bondholder. Upon request,  
18 copies of the record of proceedings shall be filed ~~with the~~  
19 ~~clerk of the circuit court of the county or counties in which~~  
20 ~~district lands are located and with the~~ jurisdictional water  
21 management district and with the board of county commissioners  
22 of each county and the governing body of each municipality  
23 within which the district lands are located ~~Department of~~  
24 ~~Environmental Protection~~. Any interested person, whether  
25 landowner or not, shall be permitted to inspect the record of  
26 proceedings.

27 Section 6. Subsections (2) and (3) of section 298.16,  
28 Florida Statutes, are amended to read:

29 298.16 Appointment of chief engineer; engineer's bond  
30 and duties.--

31

1           (2) The chief engineer shall have control of the  
2 engineering work in said district and may, whenever he or she  
3 deems it necessary, confer with the chief engineer of this  
4 state, or the jurisdictional water management district  
5 ~~Department of Environmental Protection~~, and he or she may, by  
6 and with the consent of the board of supervisors, consult any  
7 eminent engineer and obtain his or her opinion and advice  
8 concerning the reclamation of lands in said districts. The  
9 said engineer shall make all necessary surveys of the lands  
10 within the boundary lines of said district, as described in  
11 the petition, and of all lands adjacent thereto that will be  
12 improved or reclaimed in part or in whole by any system of  
13 drainage that may be outlined and adopted.

14           (3) The engineer shall make a report in writing to the  
15 board of supervisors, with maps and profiles of said surveys,  
16 which report shall contain a full and complete water control  
17 plan for draining and reclaiming the lands described in the  
18 petition, or adjacent thereto, from overflow or damage by  
19 water, with the length, width and depth of such canals,  
20 ditches, dikes or levees, or other works that may be  
21 necessary, in conjunction with any canals, drains, ditches,  
22 dikes, levees or other works heretofore constructed or built  
23 by the Board of Trustees of the Internal Improvement Trust  
24 Fund, or any other person, that may now be in process of  
25 construction, or which may be hereafter built by them, that  
26 may be necessary or which can be advantageously used in such  
27 water control plan ~~for reclamation~~; and also, an estimate of  
28 the costs of carrying out and completing the water control  
29 plan ~~of reclamation~~, including the cost of superintending the  
30 same and all incidental expenses in connection therewith. Maps  
31 and profiles shall also indicate so far as necessary the

1 physical characteristics of the lands, and location of any  
2 public roads, railroads and other rights-of-way, roadways and  
3 other property or improvements located on such lands. A copy  
4 of the report required by this section shall be filed with the  
5 jurisdictional water management district and, upon request,  
6 the board of county commissioners and the governing body of  
7 each municipality within which the district lands are located  
8 ~~Department of Environmental Protection.~~

9 Section 7. Section 298.17, Florida Statutes, is  
10 amended to read:

11 298.17 Appointment and duties of treasurer of  
12 district; appointment of deputies; bond of treasurer; audit of  
13 books; disbursements by warrant; form of warrant.--The board  
14 of supervisors in any district shall select and appoint some  
15 competent person, bank or trust company, organized under the  
16 laws of the state, as treasurer of such district, who shall  
17 receive and receipt for all the drainage assessments ~~taxes~~  
18 collected by the county collector or collectors, and the  
19 treasurer shall also receive and receipt for the proceeds of  
20 all delinquent assessment ~~tax~~ sales made under the provisions  
21 of this chapter. Said treasurer shall receive such  
22 compensation as may be fixed by the board of supervisors.  
23 Said board of supervisors shall also have the authority to  
24 employ a fiscal agent, who shall be either a resident of the  
25 state or some corporation organized under the laws of Florida  
26 and authorized by such laws to act as such fiscal agent for  
27 municipal corporations, who shall assist in the keeping of the  
28 ~~<U>~~assessment ~~tax~~ books, collections of assessments ~~taxes~~, the  
29 remitting of funds to pay maturing bonds and coupons, and  
30 perform such other service in the general management of the  
31 fiscal and clerical affairs of the district as may be

1 determined by such board; and said board shall have the right  
2 to define the duties of such fiscal agent and fix its  
3 compensation. Said board of supervisors shall furnish the  
4 secretary and the treasurer with necessary office room,  
5 furniture, stationery, maps, plats, typewriter, and postage.  
6 The secretary and the treasurer, or either of them, may  
7 appoint, by and with the advice and consent of the board of  
8 supervisors, one or more deputies as may be necessary. Said  
9 treasurer shall give bond in such amount as shall be fixed by  
10 the board of supervisors, conditioned that the treasurer will  
11 well and truly account for and pay out, as provided by law,  
12 all moneys received by him or her as assessments ~~taxes~~ from  
13 the county collector, and the proceeds from land ~~tax~~ sales for  
14 delinquent assessments ~~taxes~~, and from any other source  
15 whatever on account or claim of said district, which bond  
16 shall be signed by at least two sureties, or by some surety or  
17 bonding company, approved and accepted by said board of  
18 supervisors, and said bond shall be in addition to the bond  
19 for proceeds of sales of bonds, which is required by s.  
20 298.47. Said bond shall be placed and remain in the custody  
21 of the president of the board of supervisors, and shall be  
22 kept separate from all papers in the custody of the secretary  
23 or treasurer. Said treasurer shall keep all funds received by  
24 him or her from any source whatever deposited at all times in  
25 some bank, banks, or trust company to be designated by the  
26 board of supervisors. All interest accruing on such funds  
27 shall, when paid, be credited to the district. The board of  
28 supervisors shall audit or have audited the books of the said  
29 treasurer of said district at least once each year and make a  
30 report thereof to the landowners at the annual meeting and  
31 publish a statement within 30 days thereafter, showing the

1 amount of money received, the amount paid out during such  
2 year, and the amount in the treasury at the beginning and end  
3 of the year. A certified copy of said annual audit shall be  
4 filed with the state auditor. The treasurer of the district  
5 shall pay out funds of the district only on warrants issued by  
6 the district, said warrants to be signed by the president of  
7 the board of supervisors and attested by the signature of the  
8 secretary. All warrants shall be in the following form:

9  
10 \$.... Fund .... No. of Warrant ....  
11 Treasurer of .... Water Control District, State of Florida.  
12 Pay to .... Dollars out of the money in .... fund of ....  
13 Water Control District. For ....

14 By order of board of supervisors of .... Water Control  
15 District, Florida.

16 .....(President of District.)...  
17 Attest: .....(Secretary of District.)...

18 Section 8. Section 298.22, Florida Statutes, is  
19 amended to read:

20 298.22 Powers of given supervisors to ~~effect~~  
21 ~~reclamation of land in district.~~--Subject to the authority  
22 granted to water management districts and the Department of  
23 Environmental Protection under chapters 373 and 403, the board  
24 of supervisors of the district shall have full power and  
25 authority to excavate, construct, and complete any and all  
26 works and improvements necessary to execute the water control  
27 plan, and:~~In order to effect the drainage, protection, and~~  
28 ~~reclamation of the land in the district subject to tax, the~~  
29 ~~board of supervisors:~~

30 (1) May employ persons and purchase machinery to  
31 directly supervise, construct, maintain, and operate the works

1 and improvements described in the water control plan or may  
2 contract with others for the supervision, construction,  
3 maintenance, and operation of such works and improvements  
4 either as a whole or in part. Contracts shall be advertised  
5 and let to the lowest and best bidder, who shall give a good  
6 and approved bond, with ample security, upon the condition  
7 that he or she will well and promptly carry out the contract  
8 for the described works and improvements. Each contract shall  
9 be in writing and shall have attached to it complete plans and  
10 specifications for the work to be done and improvements to be  
11 made under the contract, which plans and specifications shall  
12 be prepared by the chief engineer of the district. Each  
13 contract shall be prepared by the attorney for the district,  
14 approved by the board of supervisors, and executed in  
15 duplicate by its president and the contractor. The chief  
16 engineer of the district shall be the superintendent of all  
17 district works and improvements.

18       (2)~~(1)~~ May clean out, straighten, open up, widen, or  
19 change the course and flow, alter or deepen any canal, ditch,  
20 drain, river, watercourse, or natural stream; and concentrate,  
21 divert, or divide the flow of water in or out of said  
22 district; construct and maintain main and lateral ditches,  
23 canals, levees, dikes, dams, sluices, revetments, reservoirs,  
24 holding basins, floodways, pumping stations, and siphons, and  
25 may connect same, or any of them, with any canals, drains,  
26 ditches, levees, or other works that may have been heretofore,  
27 or which may be hereafter constructed by the Department of  
28 Environmental Protection or jurisdictional water management  
29 district, and with any natural stream, lake, or watercourse in  
30 or adjacent to said district.

31

1           (3)~~(2)~~ May build and construct any other works and  
2 improvements deemed necessary to preserve and maintain the  
3 works in or out of said district; acquire, construct, operate,  
4 maintain, use, sell, convey, transfer or otherwise provide for  
5 pumping stations, including pumping machinery, motive  
6 equipment, electric lines and all appurtenant or auxiliary  
7 machines, devices or equipment.

8           (4)~~(3)~~ May contract for the purchase, construction,  
9 operation, maintenance, use, sale, conveyance and transfer of  
10 the said pumping stations, machinery, motive equipment,  
11 electric lines and appurtenant equipment, including the  
12 purchase of electric power and energy for the operation of the  
13 same.

14           (5)~~(4)~~ May construct or enlarge, or cause to be  
15 constructed or enlarged, any and all bridges that may be  
16 needed in or out of said district, across any drain, ditch,  
17 canal, floodway, holding basin, excavation, public highway,  
18 railroad right-of-way, track, grade, fill or cut; construct  
19 roadways over levees and embankments; construct any and all of  
20 said works and improvements across, through or over any public  
21 highway, railroad right-of-way, track, grade, fill or cut, in  
22 or out of said district; remove any fence, building or other  
23 improvements, in or out of said district.

24           (6)~~(5)~~ Shall have the right to hold, control and  
25 acquire by donation or purchase and if need be, condemn any  
26 land, easement, railroad right-of-way, sluice, reservoir,  
27 holding basin or franchise, in or out of said district, for  
28 right-of-way, holding basin for any of the purposes herein  
29 provided, or for material to be used in constructing and  
30 maintaining said works and improvements for drainage,  
31 protecting and reclaiming the lands in said district.

1           ~~(7)(6)~~ May condemn or acquire, by purchase or grant,  
2 for the use of the district, any land or property within or  
3 without said district not acquired or condemned after the  
4 initial assessment of ~~by the court on the report of the~~  
5 ~~commissioners assessing~~ benefits and damages, and shall follow  
6 the procedure set out in chapter 73. Such powers to condemn or  
7 acquire any land or property within or without the district  
8 shall also be available for implementing requirements imposed  
9 on those districts subject to s. 373.4592.

10           ~~(8)(7)~~ May adopt rules to implement the purposes of  
11 this chapter.

12           ~~(9)(8)~~ May assess and collect reasonable fees for the  
13 connection to and use of the works of the district.

14           ~~(10)(9)~~ May implement and authorize the comprehensive  
15 water control activities, including flood protection, water  
16 quantity management, and water quality protection and  
17 improvements, described ~~construction of only those~~  
18 ~~improvements outlined in the~~ water control plan of  
19 reclamation.

20           Section 9. Section 298.225, Florida Statutes, is  
21 created to read:

22           298.225 Water control plan; plan development and  
23 amendment.--

24           (1) Effective October 1, 1998, any plan of reclamation  
25 or water management plan developed and implemented by a water  
26 control district created pursuant to this chapter shall be  
27 referred to as a "water control plan."

28           (2) By October 1, 1999, the board of supervisors of  
29 each water control district must develop or revise the  
30 district's water control plan to reflect the minimum  
31 requirements set forth in subsection (3). The water control

1 plan or plan amendment must be consistent with those portions  
2 of the district water management plan of the jurisdictional  
3 water management district that have been implemented by rule,  
4 including, but not limited to, any new facilities and  
5 modifications to existing facilities described in the water  
6 control plan or plan amendment. By October 1, 2001, all  
7 surface water management systems, facilities, works, and  
8 improvements described in the water control plan must be  
9 permitted by the jurisdictional water management district  
10 under chapter 373.

11 (3) Each water control plan must contain, at a  
12 minimum:

13 (a) Narrative descriptions of the statutory and  
14 special act responsibilities and powers of the water control  
15 district.

16 (b) A map delineating the legal boundary of the water  
17 control district and identifying any subdistricts or units  
18 within the district.

19 (c) Narrative descriptions of land use within the  
20 district and all existing district facilities and their  
21 purpose and function, and a map depicting their locations.

22 (d) Engineering drawings and narrative sufficient to  
23 describe each facility's capacity for the management and  
24 storage of surface waters and potable water supply, if  
25 applicable.

26 (e) A description of any environmental or water  
27 quality program that the water control district has  
28 implemented or plans to implement.

29 (f) A map and narrative description of any area  
30 outside the water control district's legal boundary for which  
31 the district provides services.

1       (g) Detailed descriptions of facilities and services  
2 that the water control district plans to provide within 5  
3 years.

4       (h) A description of the administrative structure of  
5 the water control district.

6       (i) Copies of any agreements between the water control  
7 district and other governmental entities.

8       (j) The engineer's report prepared for plan adoption  
9 or revision.

10       (k) The water control district's budget and revenue  
11 sources for the current year.

12       (l) A description of all surface water management  
13 systems, facilities, works, and improvements not permitted by  
14 the jurisdictional water management district under chapter  
15 373, and a schedule for obtaining such permits as required by  
16 subsection (2).

17       (4) The board of supervisors must review the water  
18 control plan at least every 5 years following its initial  
19 development and adoption and, to the extent necessary, amend  
20 the plan in accordance with ss. 298.301-298.317.

21       Section 10. Section 298.23, Florida Statutes, is  
22 amended to read:

23       298.23 Supervisors authorized to take land for  
24 rights-of-way, etc.; payment.--The board of supervisors of a  
25 district organized under this chapter shall not have the right  
26 to enter upon, or appropriate, any land for rights-of-way,  
27 holding basins or other works of the district, until the  
28 prices awarded to the owners of such land shall have been paid  
29 to such owners, or into the hands of the clerks of the circuit  
30 courts of the county or counties within which the respective  
31 lands are located ~~organizing such district~~ for the use of such

1 owners; and if the sums awarded be not so paid within 5 years  
2 from the date of filing the engineer's ~~commissioner's~~ reports,  
3 all proceedings as to the taking of such property for  
4 rights-of-way, holding basins and other works, not so paid  
5 for, shall abate at the cost of said district. Whenever any  
6 land is acquired by any district under the provisions of this  
7 chapter and the price of such property has been paid the owner  
8 by the district, the title, use, possession and enjoyment of  
9 such property shall pass from the owner and be vested in the  
10 district, and subject to its use, profit, employment and final  
11 disposition. The price awarded for all lands acquired by any  
12 district for rights-of-way, holding basins, or other works,  
13 and the amount of damage assessed by the board of supervisors  
14 ~~commissioners and confirmed by the court~~ to any tract or  
15 parcel of land or other property in the district, shall be  
16 paid in cash to the owner thereof or to the clerk of the court  
17 for the use of such owner, and that portion of any tract or  
18 parcel of land not taken for use of the district shall be  
19 assessed for the benefits accruing in accordance with the  
20 provisions in this chapter.

21 Section 11. Section 298.24, Florida Statutes, is  
22 amended to read:

23 298.24 Bridge construction.--All bridges contemplated  
24 by this chapter and all enlargements of bridges already in  
25 existence shall be built and enlarged according to and in  
26 compliance with the plans, specifications and orders made or  
27 approved by the chief engineer of the district. If any such  
28 bridge shall belong to any corporation, or be needed over a  
29 public highway or right-of-way of any corporation, the  
30 secretary of said board of supervisors shall give such  
31 corporation notice by delivering to its agent or officer, in

1 any county wherein said district is situate, a copy of the  
2 order of the board of supervisors of said district declaring  
3 the necessity for the construction or enlargement of said  
4 bridge. A failure to construct or enlarge such bridge, within  
5 the time specified in such order, shall be taken as a refusal  
6 to do said work by said corporation, and thereupon the said  
7 board of supervisors shall proceed to let the work of  
8 constructing or enlarging the same at the expense of the  
9 corporation for the cost thereof, which costs shall be  
10 collected by said board of supervisors from said corporation,  
11 by suit therefor, if necessary. But before said board of  
12 supervisors shall let such work, it shall give some agent or  
13 officer of said corporation, authorized by the laws of this  
14 state to accept service of summons, or upon whom service of  
15 summons for said corporation might be made, at least 20 days'  
16 actual notice of the time and place of letting such work. Any  
17 owner of land, within or without the district, may, at the  
18 owner's expense, and in compliance with the terms and  
19 provisions of this chapter, construct a bridge across any  
20 drain, ditch, canal, or excavation in or out of said district.  
21 Each district shall have full authority to construct and  
22 maintain any ditch or lateral provided in its water control  
23 plan, ~~plan of reclamation~~, across any of the public highways  
24 of this state, without proceedings for the condemnation of the  
25 same, or being liable for damages therefor. Within 10 days  
26 after a dredge boat or any other excavating machine shall have  
27 completed a ditch across any public highway, a bridge shall be  
28 constructed and maintained over such drainage ditch where the  
29 same crosses such highway; provided, however, the word  
30 corporation as used in this section shall not apply to  
31 counties.

1           Section 12. Section 298.25, Florida Statutes, is  
2 amended to read:

3           298.25 Type of bridges over drains in large  
4 counties.--Whenever any district cuts or digs a drain, canal  
5 or ditch across any public highway, in counties having a  
6 population of not less than 130,000, according to the last  
7 preceding state census, the style, type and character of such  
8 bridge shall be determined by the engineer of the county and  
9 the chief engineer of the district, and approved by a majority  
10 of the board of county commissioners ~~as soon as the plan of~~  
11 ~~reclamation, locating such canals, drains or ditches, is filed~~  
12 ~~in the office of the clerk of the circuit court of the county~~  
13 or counties in which the lands within the district are  
14 located; and the cost of the same, as estimated by the chief  
15 engineer of the district, shall be included by ~~the~~  
16 ~~commissioners of the district~~ board of supervisors in the  
17 assessment for the construction of the water control plan ~~of~~  
18 ~~reclamation.~~

19           Section 13. Section 298.26, Florida Statutes, is  
20 amended to read:

21           298.26 Chief engineer to make annual reports to  
22 supervisors; approval of reports; water control management  
23 plan.--The chief engineer shall make a report in writing to  
24 the board of supervisors once every 12 months or as directed  
25 by the board ~~and oftener, if said board shall so require. The~~  
26 report shall describe the progress made and the activities  
27 undertaken in furtherance of the water control plan, and may  
28 include suggestions and recommendations to the board as the  
29 chief engineer deems appropriate. Upon receipt of the final  
30 report of said engineer concerning the surveys made of the  
31 lands contained in the district organized and the lands

1 adjacent thereto and for reclaiming the same, the board of  
2 supervisors shall adopt such report, or any modification  
3 thereof approved by the chief engineer, after consulting with  
4 him or her or someone representing the chief engineer.  
5 Thereafter such adopted report shall be the plan for draining  
6 or reclaiming such lands from overflow or damage by water, and  
7 it shall, after such adoption, be part of ~~known and designated~~  
8 ~~as~~ the water control management plan., ~~which plan shall be~~  
9 ~~filed with the secretary of the board of supervisors and~~  
10 ~~copied by the secretary into the records of the district. A~~  
11 ~~copy of all such annual reports and the water management plan~~  
12 ~~shall be filed with the Department of Environmental~~  
13 ~~Protection. At least once each 5 years the department shall~~  
14 ~~review the water management plan and propose such~~  
15 ~~modifications as it may deem proper.~~

16 Section 14. Section 298.28, Florida Statutes, is  
17 amended to read:

18 298.28 Watercourses to be connected with drainage of  
19 district; connecting drains after completion of plan of  
20 drainage.--At the time of the construction, in any district  
21 incorporated under this chapter, of the water control plan  
22 ~~"the plan of reclamation"~~, all canals, ditches or systems of  
23 drainage already constructed in said district and all  
24 watercourses shall, if necessary to the drainage of any lands  
25 in said district, be connected with and made a part of the  
26 works and improvements of the plan of drainage of said  
27 district, but no canals, ditches, drains, or systems of  
28 drainage constructed in said district, after the completion of  
29 the aforesaid plan of drainage of said district, shall be  
30 connected therewith, unless the consent of the board of  
31 supervisors shall be first had and obtained; which consent

1 shall be in writing and shall particularly describe the  
2 method, terms and conditions of such connection, and shall be  
3 approved by the chief engineer. Said connection, if made,  
4 shall be in strict accord with the method, terms, and  
5 conditions laid down in said consent. If the landowners  
6 wishing to make such connection are refused by the board of  
7 supervisors, or decline to accept the consent granted, the  
8 said landowners may file a petition for such connection in the  
9 circuit court having jurisdiction in said district, and the  
10 matter in dispute shall in a summary manner be decided by said  
11 court, which decision shall be final and binding on the  
12 district and landowners. No connection with the works or  
13 improvements of said plan of drainage of said district, or  
14 with any canal, ditch, drain or artificial drainage, wholly  
15 within said district, shall be made, caused or affected by any  
16 landowners, company or corporation, municipal or private, by  
17 means of, or with, any ditch, drain, cut, fill, roadbed,  
18 levee, embankment or artificial drainage, wholly without the  
19 limits of said district, unless such connection is consented  
20 to by the board of supervisors, or in the manner provided for  
21 in this chapter.

22 Section 15. Section 298.301, Florida Statutes, is  
23 created to read:

24 298.301 Initiation of district water control plan  
25 adoption process; plan amendment process; form of notice;  
26 objections.--

27 (1) District infrastructure and works shall be  
28 implemented pursuant to an adopted water control plan. In the  
29 execution of the powers and authorities granted in this  
30 chapter, the district's action shall be consistent with any  
31 adopted local government comprehensive plan within which the

1 lands of the district are located. The board of supervisors  
2 may, by resolution at a regularly scheduled meeting, consider  
3 the adoption of a district water control plan or plan  
4 amendment. Notice, hearing, and final adoption of any proposed  
5 water control plan or plan amendment must comply with the  
6 provisions of this chapter. Lands may only be added to or  
7 deleted from a district by legislative modification of the  
8 special act that created the district or by amendment of the  
9 county ordinance that created the district.

10 (2) As soon as a resolution proposing the adoption or  
11 amendment of the district's water control plan has been filed  
12 with the district secretary, the board of supervisors shall  
13 give notice by causing publication to be made once a week for  
14 3 consecutive weeks in a newspaper of general circulation  
15 published in each county in which lands and other property  
16 described in the resolution are situated. The notice shall be  
17 in substantially the following form:

18  
19 Notice of Hearing  
20

21 To the owners and all persons interested in the lands  
22 corporate and other property in and adjacent to the [name of  
23 district] District:

24 You, and each of you, are hereby notified that the  
25 [name of district] District has filed in the office of the  
26 secretary of the district a resolution to consider adoption of  
27 a water control plan or an amendment to the current water  
28 control plan to provide [here insert a summary of the proposed  
29 water control plan or plan amendment]. At its regularly  
30 scheduled meeting of [date and time], the board of supervisors  
31 will direct the district engineer to prepare and file a report

1 with the secretary of the district that identifies and  
2 appraises property to be taken, assesses benefits and damages,  
3 and estimates the cost of improvements in accordance with s.  
4 298.309. Objections to the resolution and engineer's report  
5 must be filed with the secretary of the district within 20  
6 days after the engineer's report is filed with the secretary  
7 of the district or within 20 days after the last published  
8 notice of the filing of the engineer's report, whichever is  
9 later. The final hearing to approve the engineer's report  
10 shall be noticed as prescribed by law and held at a regularly  
11 scheduled meeting of the board of supervisors within 45 days  
12 after the engineer's report is filed with the secretary of the  
13 district.

14  
15 Date of first publication: ....., 19....  
16 Signed: (Chairman, Board of Supervisors)  
17 ..... County, Florida

18  
19 (3) In addition to the publication of notice, a copy  
20 of the resolution shall be served by first class mail on the  
21 owner of land within the district, on the jurisdictional water  
22 management district, and on the board of county commissioners  
23 of each county and the governing body of each municipality in  
24 which the district lands are situated.

25 (4) Any owner of lands located within the district,  
26 the jurisdictional water management district, or the board of  
27 county commissioners of each county and the governing body of  
28 each municipality in which district lands are situated shall  
29 have the right to file an objection to the engineer's report  
30 and adoption of the proposed water control plan or plan  
31 amendment within the time allowed by law.

1           Section 16. Section 298.305, Florida Statutes, is  
2 created to read:

3           298.305 Assessment of lands for rights-of-way,  
4 etc.--Upon adoption of the resolution to consider the adoption  
5 of the water control plan or plan amendment, the board of  
6 supervisors shall direct the district engineer to identify and  
7 appraise the lands within and outside such district to be  
8 acquired for rights-of-way and other works of the district and  
9 to assess benefits and damages accruing to all lands in the  
10 district by reason of the execution of the water control plan  
11 or plan amendment.

12           Section 17. Section 298.309, Florida Statutes, is  
13 created to read:

14           298.309 Proceedings of engineer; duties of district  
15 attorney; assessment; change of water control plan; property  
16 assessable; compensation; assessment of lands outside  
17 district.--

18           (1) Upon adoption of the resolution to consider the  
19 adoption of the water control plan or plan amendment by the  
20 board of supervisors and at the direction of the board, the  
21 district engineer shall begin his or her duties and may at any  
22 time call upon the attorney of the district for legal advice  
23 and information relative to those duties. The engineer shall  
24 proceed to view the premises and determine the value of all  
25 lands, within or outside the district, to be acquired by  
26 purchase or condemnation and used for rights-of-way or other  
27 works of the district set out in the proposed water control  
28 plan or plan amendment. The engineer shall assess the amount  
29 of benefits, and the amount of damages also, if any, that will  
30 accrue to each subdivision of land, according to ownership,  
31 from the implementation of the proposed water control plan or

1 plan amendment. The engineer shall assess only those benefits  
2 that will be derived from construction of the works and  
3 improvements set out in the proposed water control plan or  
4 plan amendment. The engineer shall have no power to change the  
5 proposed water control plan or plan amendment without approval  
6 by the board of supervisors.

7 (2) The engineer shall prepare a report, arranged in  
8 tabular form, the columns of which shall be headed as follows:  
9 column one, "owner of property assessed"; column two,  
10 "description of property assessed"; column three, "number of  
11 acres assessed"; column four, "amount annual assessment  
12 assessed"; column five, "county property appraiser's  
13 valuation"; column six, "number of acres to be taken for  
14 rights-of-way, district works, etc."; column seven, "value of  
15 property to be taken"; column eight, "estimated increase in  
16 property value from improvement." The engineer shall also, by  
17 and with the advice of other employees of the district,  
18 estimate and tabulate the cost of the works set out in the  
19 water control plan or plan amendment, which estimate shall  
20 include the cost of property required for rights-of-way and  
21 other works, damages, and the probable expense of district  
22 organization and administration as estimated by the board of  
23 supervisors. If the county property appraiser's total  
24 valuation of the assessed property or the engineer's estimate  
25 of increased property value exceeds the total amount of  
26 assessments, benefits shall be deemed to exceed damages. A  
27 maintenance assessment recommendation shall also be included  
28 in the engineer's report and considered by the board, but the  
29 maintenance assessment shall not be considered as part of the  
30 costs of installation or construction specified by the water  
31 control plan or plan amendment in determining whether benefits

1 exceed damages. The report shall be signed by the engineer and  
2 filed in the office of the secretary of the district. The  
3 secretary of the district, or an appropriate designee, shall,  
4 under the advice, supervision, and direction of the district  
5 attorney and district engineer, assist in preparation of the  
6 report.

7 Section 18. Section 298.313, Florida Statutes, is  
8 created to read:

9 298.313 Form of notice upon filing of engineer's  
10 report; publication of notice.--

11 (1) Upon the filing of the engineer's report, the  
12 board of supervisors shall give notice of such report by  
13 causing publication, together with a geographic depiction of  
14 the district, to be made once a week for 2 consecutive weeks  
15 in a newspaper of general circulation in each county in the  
16 district. The last publication shall be made at least 20 days  
17 before a return date, to be named in such notice, by which  
18 objections may be filed. It shall not be necessary to name the  
19 parties interested, but it shall be sufficient to say:

20  
21 Notice of Filing Engineer's Report  
22 for [insert name of district] District

23  
24 Notice is hereby given to all persons interested in the  
25 following described land and property in ..... County  
26 (or Counties), in the State of Florida, viz.: [Here describe  
27 land and property] included within the district, that the  
28 report of the engineer hereto appointed to assess benefits and  
29 damages to the property and lands situated in said district  
30 and to appraise the cash value of the land necessary to be  
31 taken for rights-of-way and other works of the district,

1 within or outside the limits of said district, was filed in  
2 the office of the secretary of the district, located in [name  
3 of county] County, Florida, on the ..... day of .....,  
4 19...., and you and each of you are hereby notified that you  
5 may examine the report and file objection to all, or any part  
6 thereof,  
7 on or before ....., 19.... The report recommends [here  
8 describe the assessment schedule]. If approved, the  
9 assessments will be collected by the county tax collector. A  
10 hearing to consider approval of the report shall be held  
11 [time, place, and date at least 30 days following final  
12 notice].

13  
14 Date of first publication: ....., 19....  
15 Signed: (Chairman, Board of Supervisors)  
16 ..... County, Florida

17  
18 (2) A copy of the notice as published shall be served  
19 by first class mail on each person owning land within the  
20 district, as shown on the current county tax roll, together  
21 with a copy of the portion of the engineer's report that  
22 contains the specific assessment of benefits and damages  
23 accruing to that landowner's property. A copy of the notice  
24 shall be served by first class mail on the jurisdictional  
25 water management district, and on the board of county  
26 commissioners of each county and the governing body of each  
27 municipality within which the district lands are situated,  
28 together with written notice that a copy of the complete  
29 engineer's report is available for inspection at the office of  
30 the district secretary.

31

1           Section 19. Section 298.317, Florida Statutes, is  
2 created to read:

3           298.317 Objections to engineer's report; hearing and  
4 approval by board; consistency review; consistency  
5 determination process; adoption of water control plan or plan  
6 amendment, etc.--

7           (1) A district landowner, the jurisdictional water  
8 management district, and the board of county commissioners of  
9 a county or the governing body of a municipality within which  
10 district lands are located may file objections to any part or  
11 all of the engineer's report within the time specified by law.

12           (2) All objections shall be heard and determined by  
13 the district board of supervisors in a public hearing on the  
14 date and time set forth in the "Notice of Filing Engineer's  
15 Report." If it is shown, upon hearing all objections, that  
16 the estimated cost of construction of improvements  
17 contemplated in the water control plan or plan amendment is  
18 less than the benefits assessed against the lands in the  
19 district, the board of supervisors shall approve and confirm  
20 the engineer's report. However, if the board finds that any or  
21 all of the objections should be sustained, the board shall  
22 order the engineer's report changed to conform with the  
23 board's findings and, when so changed, the board of  
24 supervisors shall approve and confirm the revised engineer's  
25 report. Upon approval, the engineer's report shall be  
26 incorporated in the proposed water control plan or plan  
27 amendment.

28           (3) Prior to the final adoption of the water control  
29 plan or plan amendment, the board of supervisors must submit  
30 the plan or plan amendment to the board of county  
31 commissioners of each county and the governing body of each

1 municipality within which district lands are located for  
2 review.

3 (a) Within 60 days after receipt of the water control  
4 plan, the governing body of each county or municipality may  
5 review the plan for consistency with their local government  
6 comprehensive plan prepared pursuant to part II of chapter  
7 163, and may recommend to the board of supervisors any  
8 proposed changes. Each governing body of a county or  
9 municipality also shall submit its recommendations to the  
10 jurisdictional water management district conducting the  
11 consistency review required by s. 298.225(2). If a governing  
12 body of a county or municipality determines the plan is  
13 incomplete, the governing body of the county or municipality  
14 shall notify the water control district and request additional  
15 information. Upon such request, the deadline for review may be  
16 extended as agreed by the water control district and the  
17 governing body of the county or municipality. Within 60 days  
18 after receipt of a general-purpose local government's  
19 recommended changes, the board of supervisors shall include  
20 the recommendations in the water control plan or plan  
21 amendment to the extent practicable. If the recommendations  
22 are not incorporated, the board of supervisors shall specify  
23 its reasons in the water control plan or plan amendment  
24 adopted. A copy of the water control plan must be filed with  
25 the board of county commissioners of each county and the  
26 governing body of each municipality within which district  
27 lands are located.

28 (b) In conducting the consistency review, each  
29 governing body of a county or municipality may evaluate the  
30 services provided by the water control district to determine  
31 if the delivery of such services by the water control district

1 is the most effective and efficient method to deliver such  
2 services. If a governing body of a county or municipality  
3 determines the delivery of such services by an independent  
4 water control district is not the most effective and efficient  
5 method to deliver such services, it shall recommend to the  
6 Speaker of the House of Representatives and the President of  
7 the Senate the dissolution of the district or other actions  
8 necessary to effectuate the most efficient and effective  
9 delivery of services.

10 (4) Prior to final adoption of the water control plan  
11 or plan amendment, the board of supervisors must submit the  
12 plan or plan amendment to the jurisdictional water management  
13 district for the consistency determination required by s.  
14 298.225(2).

15 (a) Within 60 days after receipt of the water control  
16 plan or plan amendment, the governing board of the  
17 jurisdictional water management district must review the plan  
18 for consistency with those portions of the district water  
19 management plan that have been implemented by rule and  
20 recommend to the board of supervisors any necessary changes.  
21 If the governing board of the jurisdictional water management  
22 district determines the plan is incomplete, it may notify the  
23 water control district and request additional information.  
24 Upon such request, the deadline for review may be extended as  
25 agreed by the water control district and the jurisdictional  
26 water management district.

27 (b) Upon receipt of the governing board's recommended  
28 changes, the board of supervisors shall give notice of the  
29 final hearing during which the water control plan or plan  
30 amendment will be adopted. The notice shall be published once  
31 a week for 2 consecutive weeks in a newspaper of general

1 circulation in each county in which district lands are  
2 located, and the adoption hearing must be held within 21 days  
3 after the final publication. A copy of the notice as  
4 published shall be served by first class mail on each person  
5 owning land within the district, as shown on the current  
6 county tax roll, on the jurisdictional water management  
7 district, and on the board of county commissioners of each  
8 county and the governing body of each municipality within  
9 which district lands are situated.

10 (c) At the adoption hearing, the board of supervisors  
11 shall adopt the water control plan or plan amendment, which  
12 shall be filed immediately with the secretary of the board of  
13 supervisors and copied into the records of the water control  
14 district. Upon filing, the secretary shall transmit a copy of  
15 the adopted water control plan or plan amendment to the  
16 jurisdictional water management district and to the board of  
17 county commissioners of each county and the governing body of  
18 each municipality within which district lands are situated.  
19 Within 45 days after receipt of the adopted plan or plan  
20 amendment, the governing board must issue a written  
21 determination that the water control plan or plan amendment is  
22 consistent or inconsistent with those portions of the district  
23 water management plan that have been implemented by rule. If  
24 the governing board issues an inconsistency determination, the  
25 board of supervisors must either proceed to amend the water  
26 control plan to incorporate the changes recommended by the  
27 governing board or file with the jurisdictional water  
28 management district a petition for an administrative hearing  
29 under s. 120.57. In that proceeding, the water control  
30 district's determination that the water control plan or plan  
31 amendment is consistent with those portions of the district

1 water management plan that have been implemented by rule is  
2 presumed to be correct and shall be sustained, unless it is  
3 shown by a preponderance of the evidence that the water  
4 control plan or plan amendment is not consistent.

5 (d) The hearing shall be conducted by an  
6 administrative law judge of the Division of Administrative  
7 Hearings of the Department of Management Services, who shall  
8 hold the hearing in the county of and convenient to the  
9 affected water control district and submit a recommended order  
10 to the Florida Land and Water Adjudicatory Commission. The  
11 commission shall allow 10 days for the filing of exceptions to  
12 the recommended order and shall issue a final order within 30  
13 days after receipt of the recommended order; a copy of the  
14 commission's final order shall be filed with the water control  
15 plan or plan amendment in the records of the water control  
16 district. If the commission determines that the water control  
17 plan or plan amendment is not consistent with those portions  
18 of the district water management plan that have been  
19 implemented by rule, the commission shall specify in the final  
20 order the remedial actions to be undertaken by the board of  
21 supervisors to make the water control plan or plan amendment  
22 consistent.

23 (e) Prior to the administrative hearing, the  
24 jurisdictional water management district shall afford an  
25 opportunity to mediate or otherwise resolve the consistency  
26 dispute. If a party to the proceeding requests mediation or  
27 other alternative dispute resolution, the hearing may not be  
28 held until the jurisdictional water management district  
29 advises the administrative law judge in writing of the results  
30 of the mediation or other alternative dispute resolution. The  
31 costs of the mediation or other alternative dispute resolution

1 shall be borne equally by all of the parties to the  
2 proceeding.

3 (f) If the board of supervisors fails to implement the  
4 remedial actions specified by the Florida Land and Water  
5 Adjudicatory Commission to make the water control plan or plan  
6 amendment consistent with those portions of the district water  
7 management plan that have been implemented by rule, and the  
8 jurisdictional water management district determines that such  
9 failure is the result of the volitional refusal of the members  
10 of the board of supervisors, it shall seek an injunction or  
11 writ of mandamus from the circuit court to compel compliance.

12 (5) Any party affected by the adopted water control  
13 plan or plan amendment may challenge the decision of the board  
14 in the manner and within the time limitations provided by the  
15 Florida Rules of Civil and Appellate Procedure. If it is  
16 determined that any tract or lot of land, or any part of such  
17 tract or lot of land, upon which a non-ad valorem assessment  
18 is authorized and levied will not be benefited by or receive  
19 any benefit from the completion of the improvements or will be  
20 burdened disproportionately to other similarly benefited  
21 landowners, the non-ad valorem assessment shall not be levied  
22 against that land.

23 Section 20. Section 298.321, Florida Statutes, is  
24 created to read:

25 298.321 Condemnation proceedings.--When any land or  
26 other property is shown by the engineer's report to be needed  
27 for rights-of-way or other works, the board may institute  
28 proceedings pursuant to chapter 73 or chapter 74 in the  
29 circuit court of the proper county to condemn the lands and  
30 other property that must be taken or damaged in the making of  
31 improvements, with the right and privilege of paying into the

1 court registry a sum to be fixed by the circuit court judge  
2 and proceeding with the work, before final assessment by the  
3 jury.

4 Section 21. Section 298.325, Florida Statutes, is  
5 created to read:

6 298.325 Assessing land for development; apportionment  
7 of assessment.--

8 (1) After the engineer's report has been approved by  
9 the board of supervisors, the water control plan or plan  
10 amendment has been adopted by resolution of the board, and the  
11 lists of lands and benefits assessed have been filed in the  
12 office of the district secretary, the board of supervisors  
13 shall levy a non-ad valorem assessment on all lands in the  
14 district to which benefits have been assessed to pay the costs  
15 of completing the proposed works and improvements described in  
16 the water control plan, plus an additional 10 percent of such  
17 total amount for contingencies. The assessment shall be  
18 apportioned to, and levied on, each assessable tract of land  
19 in the district. Under s. 298.54, the board of supervisors may  
20 also levy a maintenance assessment on all lands in the  
21 district to which benefits have been assessed, as necessary to  
22 operate and maintain the district works and activities. A  
23 maintenance assessment recommendation shall be included in  
24 each engineer's report considered by the board.

25 (2) The board of supervisors may decide to issue bonds  
26 in accordance with s. 298.47 to pay the cost of the works and  
27 improvements described in the water control plan. Upon such  
28 determination, the board of supervisors shall levy a tax in a  
29 sum not less than an amount, 90 percent of which shall be  
30 equal to the principal of said bonds. In no event shall the  
31 total amount of all bonds to be issued by the district exceed

1 90 percent of the benefits assessed upon the lands of the  
2 district. Bonds issued under this section shall draw interest  
3 at a rate provided by general law and shall be made payable at  
4 such time and place as the board of supervisors may determine.  
5 The amount of the interest that will accrue on the bonds, as  
6 estimated by the board of supervisors, shall be included and  
7 added to the tax, but the interest to accrue on the bonds  
8 shall not be included as part of the cost of construction in  
9 determining whether or not the expenses and costs of making  
10 the improvements shown in the water control plan are equal to,  
11 or in excess of, the benefits assessed.

12 (3) The benefits accruing to all lands in the district  
13 belonging to the state shall be assessed to, and the taxes on  
14 such land shall be paid by, the state out of funds on hand, or  
15 which may hereafter be obtained, derived from the sale of  
16 lands belonging to the state. This provision applies to all  
17 taxes in any district, including maintenance and ad valorem  
18 taxes levied under this or any other law, and to taxes  
19 assessed for preliminary work and expenses, as provided in s.  
20 298.349.

21 (4) As soon as the total tax is levied, the secretary  
22 of the district shall prepare a list of all taxes levied in  
23 the form of a well-bound book, which shall be endorsed and  
24 named "DRAINAGE TAX RECORD OF \_\_\_\_\_ WATER CONTROL  
25 DISTRICT, \_\_\_\_\_ COUNTY, FLORIDA," which endorsement  
26 shall be printed or written at the top of each page in the  
27 book. The list of taxes contained in the book shall be  
28 prepared at the expense of the district, signed and certified  
29 by the president and secretary of the board of supervisors,  
30 and attested by the seal of the district. Thereafter, the book  
31

1 shall become a permanent record in the office of the district  
2 secretary.

3 Section 22. Section 298.329, Florida Statutes, is  
4 created to read:

5 298.329 Works insufficient; supervisors' power to make  
6 new or amended plan; additional levy; issuance of bonds;  
7 procedure.--

8 (1) If the works set out in the district water control  
9 plan are found insufficient to develop, in whole or in part,  
10 any or all of the lands of the district, the board of  
11 supervisors shall have the right to formulate a new or amended  
12 water control plan containing new or modified public  
13 infrastructure or other works authorized by s. 298.22, and  
14 additional assessments may be made in conformity with s.  
15 298.325, in proportion to the increased benefits accruing to  
16 the lands because of the additional works.

17 (2) If the board of supervisors determines, at any  
18 time, that the amount of total assessments levied under this  
19 chapter, or that the funds derived from the sale of bonds, are  
20 insufficient to pay the cost of works set out in the water  
21 control plan, the board of supervisors may make an additional  
22 levy to provide funds to complete the works and, in addition  
23 to such levy, up to 10 percent of the total amount for  
24 contingencies. If, in the judgment of the board, it seems  
25 best, the board may issue bonds to finance the increased cost  
26 of completing the works described in the water control plan,  
27 provided the principal amount of the additional bonds and the  
28 principal amount of any bonds previously issued to finance the  
29 works shall not, in the aggregate, exceed 90 percent of the  
30 benefits assessed.

31

1       (3) If the board of supervisors should determine, at  
2 any time, that the water control plan requires modification  
3 and that the amount of the total assessments levied under the  
4 provisions of this chapter, or that the funds derived from the  
5 sale of bonds, are not sufficient to carry out the water  
6 control plan with the proposed modification, the board of  
7 supervisors may initiate plan amendment proceedings.

8       (4) After the engineer's report has been approved and  
9 the resolution amending the water control plan adopted by the  
10 board of supervisors, the board shall have the power to levy a  
11 non-ad valorem assessment on all lands in the district to  
12 which benefits have been assessed to pay the increased cost of  
13 completing the works and improvements described in the water  
14 control plan, as amended. The assessment may include the cost  
15 of maintaining and operating the facilities and all incidental  
16 expenses in connection with such operation, plus an additional  
17 10 percent of such total amount for contingencies. The  
18 additional assessments authorized to be levied under this  
19 section shall be levied and collected in the same manner as  
20 the original assessments.

21       (5) The issuance of bonds under this section shall  
22 comply with s. 298.47. Any additional tax authorized to be  
23 levied for completion of the works and improvements described  
24 in the water control plan shall be apportioned to, and levied  
25 upon, each tract of land in such district in proportion to the  
26 benefits assessed against it and not in excess of such  
27 proportion, and if bonds are issued as provided in this  
28 section, the amount of the interest that will accrue on the  
29 bonds, as estimated by the board of supervisors, shall be  
30 included and added to the additional levy. The interest to  
31 accrue on the bonds shall not be included as part of the cost

1 of construction in determining whether or not the expenses and  
2 costs of making the improvements shown in the water control  
3 plan are equal to, or in excess of, the benefits assessed.

4 Section 23. Section 298.333, Florida Statutes, is  
5 created to read:

6 298.333 Assessments and costs a lien on land against  
7 which levied.--All non-ad valorem assessments provided for in  
8 this chapter, together with all penalties for default in  
9 payment of such assessments and all costs in collecting such  
10 assessments, shall, from the date of such assessment until  
11 paid, constitute a lien of equal dignity with the liens for  
12 county taxes, and other taxes of equal dignity with county  
13 taxes, upon all the lands against which such assessments shall  
14 be levied, assessed, and collected pursuant to s. 197.3632.

15 Section 24. Section 298.337, Florida Statutes, is  
16 created to read:

17 298.337 Levies of assessments on land less than 1  
18 acre.--In levying assessments based upon acreage, each tract  
19 or parcel of land less than 1 acre shall be assessed as a full  
20 acre.

21 Section 25. Section 298.341, Florida Statutes, is  
22 created to read:

23 298.341 Delinquent assessments; penalty.--All non-ad  
24 valorem assessments provided for in this chapter shall be, and  
25 shall become, delinquent and bear penalties on the amount of  
26 such assessments in the same manner as county taxes. The  
27 assessments shall be a lien until paid on the property against  
28 which assessed and enforceable in the same manner as county  
29 taxes.

30 Section 26. Section 298.345, Florida Statutes, is  
31 created to read:

1           298.345 Enforcement of non-ad valorem  
2 assessments.--The collection and enforcement of all non-ad  
3 valorem assessments levied by the district shall be at the  
4 same time and in the same manner as county taxes, and  
5 provisions of law relating to sale of lands for unpaid and  
6 delinquent county taxes, issuance, sale, and delivery of tax  
7 certificates for such unpaid and delinquent county taxes,  
8 redemption of such certificates, issuance to individuals of  
9 tax deeds based on such certificates, and all other procedures  
10 in connection with such provisions of law shall apply to the  
11 district and to the delinquent and unpaid assessments of the  
12 district to the same extent as if such provisions of law were  
13 expressly set forth in this chapter. All non-ad valorem  
14 assessments shall be subject to the same discounts as county  
15 taxes.

16           Section 27. Section 298.349, Florida Statutes, is  
17 created to read:

18           298.349 Uniform initial acreage assessment for payment  
19 of expenses.--There is hereby levied upon each and every acre  
20 of land within a water control district created on or after  
21 July 1, 1997, a uniform initial assessment of \$50 per acre for  
22 the year in which the district is created, to be used by the  
23 district, through its board of supervisors, for the purpose of  
24 district administration, paying expenses incurred or to be  
25 incurred in making surveys of the lands in the district,  
26 assessing benefits and damages, and other expenses necessarily  
27 incurred, as may be estimated or determined by the board of  
28 supervisors, before the board collects or receives funds under  
29 the remaining provisions of this chapter. The assessment shall  
30 be a lien upon the lands in the district from the effective  
31 date of the special act creating the district and shall be

1 collected by the district. If the board of supervisors  
2 determines that it is necessary to obtain funds to pay any  
3 expenses incurred or to be incurred in organizing the  
4 district, or any other expenses relating to the conduct and  
5 operation of the district, before a sufficient sum can be  
6 obtained by collecting the acreage assessment levied by this  
7 section, the board may borrow a sufficient sum of money for  
8 any of such purposes, may issue notes or bonds for such  
9 amounts, and may pledge any and all assessments of such  
10 initial acreage assessment levied under this section for the  
11 repayment of such loans or bonds. The board of supervisors may  
12 issue notes or bonds to any person or persons performing work  
13 or services or furnishing anything of value in the  
14 organization of the district and for any other expenses  
15 necessarily incurred before the receipt of funds arising from  
16 assessments or benefits.

17 Section 28. Section 298.353, Florida Statutes, is  
18 created to read:

19 298.353 Unit development; powers of board of  
20 supervisors to designate units of district; financing  
21 assessments for each unit.--The board of supervisors of the  
22 district shall have the power and is hereby authorized in its  
23 discretion to designate areas or parts of the district as  
24 separate administrative and financial units. Units shall be  
25 created or modified as a part of and through the adoption of a  
26 water control plan or plan amendment as provided in this  
27 chapter. The units into which the district may be divided  
28 shall be given appropriate numbers or names by the board of  
29 supervisors so that the units may be readily identified and  
30 distinguished. The board shall have the power to fix and  
31 determine the location, area, and boundaries of the lands to

1 be included in each unit, the type and amount of work required  
2 in the unit and the order of development, and the method of  
3 carrying on the work in each unit. The unit system provided by  
4 this section may be conducted, and all the proceedings by this  
5 section and this chapter authorized in respect to such unit or  
6 units may be carried on and conducted, at any time the board  
7 of supervisors in its discretion determines to be appropriate.  
8 If the board determines it is advisable to implement the  
9 district infrastructure and service plans by units, as  
10 authorized by this section, the board shall, by resolution  
11 adopted and entered upon the board's minutes, declare the  
12 board's purpose to conduct the work accordingly and shall  
13 proceed through the water control plan adoption or amendment  
14 process described in ss. 298.301-298.317 to fix the number,  
15 location, boundaries, and description of lands within each  
16 unit or units and give them appropriate numbers or names. All  
17 provisions of this chapter shall apply within all units and  
18 the enumeration of or reference in this section to specific  
19 powers or duties of the board of supervisors shall not limit  
20 or restrict the application of any and all of the proceedings  
21 and powers in this chapter within all units. For water control  
22 plans applicable to one or more units, but to less than the  
23 entire district, the notices to district landowners required  
24 under ss. 298.301, 298.313, and 298.317 need be provided only  
25 to owners of lands within the affected unit or units and  
26 immediately contiguous properties within the district. All  
27 assessments, levies, taxes, bonds, and other obligations made,  
28 levied, assessed, or issued for or in respect to any unit or  
29 units shall be a lien and charge solely and only upon the  
30 lands in the unit or units, respectively, for the benefit of  
31 which such assessments, levies, taxes, bonds, or other

1 obligations shall be levied, made, or issued and not upon the  
2 remaining units or lands in such district. The board of  
3 supervisors may at any time amend the location and description  
4 of lands in any unit or units by proceeding in accordance with  
5 this section for the original creation of the unit or units.  
6 If, after the approval of the engineer's report of benefits in  
7 any unit or units or the issuance of bonds or other  
8 obligations which are payable from taxes or assessments for  
9 benefits levied upon lands within any unit or units, the board  
10 of supervisors finds that the infrastructure or service plan  
11 for the unit or units is insufficient or inadequate for  
12 efficient development, the plan may be amended or changed and  
13 the unit or units may be amended or changed as provided in  
14 this section, by changing the location and description of  
15 lands in the unit or units, by detaching lands from such unit  
16 or units, or by adding lands to such unit or units pursuant to  
17 this chapter, provided no change or amendment to a designated  
18 unit shall be authorized which has the effect of impairing a  
19 debt or other obligation of the unit or the district.

20 Section 29. Section 298.357, Florida Statutes, is  
21 created to read:

22 298.357 Readjustment of assessments forming basis for  
23 maintenance assessment; petitions by landowners or  
24 jurisdictional water management district.--

25 (1) Whenever the owners of 25 percent or more of the  
26 acreage of the lands in the district shall file a petition  
27 with the district board of supervisors, stating that there has  
28 been a material change in the values of the property in the  
29 district since the last previous assessment of benefits and  
30 seeking a readjustment of the assessment of benefits for the  
31 purpose of making a more equitable basis for the levy of the

1 maintenance assessment, the board of supervisors shall pass a  
2 resolution to consider the petition at its next regularly  
3 scheduled meeting. As soon as the resolution is filed with  
4 the district secretary, the board of supervisors shall give  
5 notice of the filing and hearing of the petition by causing  
6 publication to be made once a week for 3 consecutive weeks in  
7 a newspaper of general circulation published in each county in  
8 which lands and other property described in the resolution are  
9 situated. The notice shall be in substantially the following  
10 form:

11  
12 Notice of Hearing

13  
14 Notice is hereby given to all persons interested in the  
15 lands included within the [name of district] Water Control  
16 District that a petition has been filed with the district  
17 board of supervisors seeking a readjustment of the assessment  
18 of benefits for the purpose of making a more equitable basis  
19 for the levy of the maintenance assessment in said district,  
20 and that said petition will be considered by the district  
21 board of supervisors at its next regularly scheduled meeting  
22 to be held on [date of meeting].

23  
24 Date of first publication: ....., 19....

25 Signed: (Chairman, Board of Supervisors)

26 ..... County, Florida

27  
28 (2) Upon consideration of the petition, if the  
29 district board of supervisors finds that there has been a  
30 material change in the values of the lands in the district  
31 since the last previous assessment of benefits, the board

1 shall resolve that there be made a readjustment of the  
2 assessment of benefits for the purpose of providing a basis  
3 upon which to levy the maintenance assessment of the district.  
4 The board of supervisors shall then direct the district  
5 engineer to make such readjustment of assessments in the  
6 manner provided in s. 298.309. The district engineer shall  
7 make a report, and the same proceedings shall be convened for  
8 the board of supervisors' consideration of the report as  
9 provided for the assessment of benefits accruing for original  
10 construction, except that in making the readjustment of the  
11 assessment of benefits, the district board of supervisors  
12 shall not be limited to the aggregate amount of the original  
13 or any previous assessment of benefits.

14 (3) If there has been no readjustment of benefits for  
15 a period of 5 years, the jurisdictional water management  
16 district may file a petition seeking a readjustment of the  
17 assessment of benefits with the district board of supervisors,  
18 who shall notice and consider the petition in the same manner  
19 as provided in this section for petitions filed by owners  
20 within the district.

21 (4) Any party affected by a readjustment of the  
22 assessment of benefits may challenge the decision of the  
23 district board of supervisors in the manner and within the  
24 time limitations provided by the Florida Rules of Civil and  
25 Appellate Procedure.

26 Section 30. Section 298.361, Florida Statutes, is  
27 created to read:

28 298.361 Readjustment of assessments forming basis for  
29 repayment of district indebtedness and maintenance of drainage  
30 system.--

31

1       (1) Whenever the owners of 25 percent or more of the  
2 acreage of the land of any district situated wholly in a  
3 single county, joined by the holders of not less than 95  
4 percent of the indebtedness outstanding against the district,  
5 shall file a petition with the district board of supervisors,  
6 stating that there has been a material change in the value of  
7 the property in the district since the last previous  
8 assessment of benefits, contributed to by the drainage system;  
9 that a relatively large portion or portions of the district  
10 have become nontaxable for the purpose of paying the  
11 indebtedness of the district; that a named person,  
12 corporation, or agency has purchased the obligations of the  
13 district at a discount and under circumstances whereby the  
14 district is expected to pay in discharge of its obligations a  
15 sum greatly less than the par value of such obligations; that  
16 improvements within the district made possible or practicable  
17 by the drainage effected have been such as to enhance values  
18 in a portion of portions thereof more than in other portions  
19 of the district; and that developments in all parts of the  
20 district are believed to have been retarded by the inability  
21 of property owners to pay the lien of the drainage assessment;  
22 and seeking a readjustment of the assessment of benefits for  
23 the purpose of making a more equitable basis for the levy of  
24 assessments to pay the indebtedness of the district and to  
25 maintain its drainage system, the board of supervisors shall  
26 pass a resolution to consider the petition at its next  
27 regularly scheduled meeting.

28       (2) As soon as the resolution is filed with the  
29 district secretary, the board of supervisors shall give notice  
30 of the filing and hearing of the petition by causing  
31 publication to be made once a week for 3 consecutive weeks in

1 a newspaper of general circulation published in the county in  
2 which lands and other property described in the resolution are  
3 situated. The notice shall be in substantially the following  
4 form:

5  
6 Notice of Hearing  
7

8 Notice is hereby given to all persons interested in the  
9 lands included within the [name of district] Water Control  
10 District that a petition has been filed with the district  
11 board of supervisors, seeking a readjustment of the assessment  
12 of benefits for the purpose of making a more equitable basis  
13 for the levy of assessments against the various pieces and  
14 parcels of land in said district to pay its indebtedness and  
15 maintain its drainage system, and that said petition will be  
16 considered by the board of supervisors at its next regularly  
17 scheduled meeting to be held on [date of meeting].

18  
19 Date of first publication: ....., 19....

20 Signed: (Chairman Board of Supervisors)

21 ..... County, Florida  
22

23 (3) Upon consideration of the petition, if the  
24 district board of supervisors finds that there has been a  
25 material change in the values of the lands in the district  
26 since the last previous assessment of benefits, contributed to  
27 by the drainage system, and that the other material  
28 allegations of the petition required to be set forth are  
29 substantially true, the board shall resolve that there be made  
30 a readjustment of the assessment of benefits for the purpose  
31 of providing a basis upon which to levy further and future

1 assessments for the payment of the obligations of, and  
2 maintaining the drainage system in, the district. The board of  
3 supervisors shall then direct the district engineer to make  
4 such readjustment of the assessment of benefits to each parcel  
5 of land which has accrued or will accrue as a result of the  
6 drainage system in the manner provided in s. 298.309, and the  
7 district engineer shall make a report, and the same  
8 proceedings shall be convened for the board of supervisors'  
9 consideration of the report as provided for the assessment of  
10 benefits accruing for original construction; provided, in  
11 making the readjustment of the assessment of benefits, the  
12 district engineer shall not increase the existing assessment,  
13 or unpaid portion thereof, on any piece or parcel of land;  
14 provided, further, that after the making of such readjustment,  
15 the limitation of 10 percent of the annual maintenance  
16 assessment which may be levied shall apply to the amount of  
17 benefits as readjusted.

18 (4) Any party affected by a readjustment of the  
19 assessment of benefits may challenge the decision of the  
20 district board of supervisors in the manner and within the  
21 time limitations provided by the Florida Rules of Civil and  
22 Appellate Procedure.

23 Section 31. Section 298.59, Florida Statutes, is  
24 amended to read:

25 298.59 Supervisors authorized to obtain consent of  
26 United States.--In case the water control plan ~~of reclamation~~  
27 of any district organized and incorporated under this chapter  
28 and the improvement provided thereunder be of such nature as  
29 requires the permission or consent of the Government of the  
30 United States, or any department or officer of the Government  
31 of the United States, the board of supervisors of the district

1 may obtain the required permission or consent of the  
2 Government of the United States or any proper officer or  
3 department thereof; and to that end the board of supervisors  
4 may bind the district to comply with any conditions that may  
5 be attached to such permission or consent, including the  
6 giving of any bond or other obligation for the faithful  
7 performance of such conditions.

8 Section 32. Subsection (6) of section 190.013, Florida  
9 Statutes, is amended to read:

10 190.013 Water management and control plan.--In the  
11 event that the board assumes the responsibility for providing  
12 water management and control for the district as provided in  
13 s. 190.012(1)(a) which is to be financed by benefit special  
14 assessments, the board shall proceed to adopt water management  
15 and control plans, assess for benefits, and apportion and levy  
16 special assessments, as follows:

17 (6) Within 20 days after the final adoption of the  
18 plan by the board, the board shall proceed pursuant to ss.  
19 298.301-298.317 ~~298.30-298.34~~.

20 Section 33. Section 298.365, Florida Statutes, is  
21 amended to read:

22 298.365 Collection of annual installment tax;  
23 lien.--Annual installment taxes levied under s. 298.325 ~~298.36~~  
24 shall become due and be collected during each year at the same  
25 time that county taxes are due and collected, and said annual  
26 installment and levy shall be evidenced to and certified by  
27 the board of supervisors not later than June 1 of each year to  
28 the property appraisers of counties in which lands of the  
29 district are situated. Said tax shall be extended by the  
30 county property appraisers on the county tax rolls and shall  
31 be collected by the tax collectors in the same manner and time

1 as county taxes and the proceeds thereof paid to said  
2 district. Said tax shall be a lien until paid on the property  
3 against which assessed and enforceable in like manner as  
4 county taxes.

5 Section 34. Section 298.366, Florida Statutes, is  
6 amended to read:

7 298.366 Delinquent assessments ~~taxes~~; penalties.--All  
8 non-ad valorem assessments ~~taxes~~ provided for in this chapter  
9 shall be and become delinquent and bear penalties on the  
10 amount of said assessments ~~taxes~~ in the same manner as county  
11 taxes.

12 Section 35. Subsections (1) and (2) of section  
13 298.401, Florida Statutes, are amended to read:

14 298.401 Property appraisers and tax collectors;  
15 compensation; characterization of services.--

16 (1) In any district or subdistrict whose area shall  
17 extend into not more than two counties, the property  
18 appraisers of each county containing lands within such  
19 districts where drainage assessments ~~taxes~~ are assessed on the  
20 county tax roll by the county property appraiser shall be paid  
21 an amount equal to 1 percent of the total assessments ~~of taxes~~  
22 of the district, by each assessed within his or her county,  
23 except errors, and 1 percent on delinquent assessments ~~taxes~~  
24 when redeemed. The tax collectors of each county containing  
25 lands within the district shall be paid an amount equal to 1  
26 percent of the total assessments ~~of taxes~~ of the district by  
27 each collected, and 1 percent upon delinquent assessments  
28 ~~taxes~~ when collected.

29 (2) The services of the property appraisers and tax  
30 collectors in assessing and collecting such district  
31 assessments ~~taxes~~ are hereby declared to be special services

1 performed directly for these districts, and any payment  
2 therefor shall not be considered a part of the general income  
3 of the official's office nor come under the provisions of s.  
4 116.03. The personnel required to do said special work shall  
5 be paid for such special services from the receipts provided  
6 in subsection (1).

7 Section 36. Subsections (1) and (2) of section 298.41,  
8 Florida Statutes, are amended to read:

9 298.41 Assessment ~~Taxes~~ and costs a lien on land  
10 against which assessments ~~taxes~~ levied; subdistricts.--

11 (1) All drainage assessments ~~taxes~~ provided for in  
12 this chapter, together with all penalties for default in  
13 payment of the same, all costs in collecting the same,  
14 including a reasonable attorney's fee fixed by the court and  
15 taxed as costs in the action brought to enforce payment,  
16 shall, from the date of assessment thereof until paid,  
17 constitute a lien of equal dignity with the liens for state  
18 and county taxes, and other taxes of equal dignity with state  
19 and county taxes, upon all the lands against which such  
20 assessments ~~taxes~~ shall be levied as is provided in this  
21 chapter.

22 (2) If any district, organized or established under  
23 the provisions of this chapter, shall be within the boundaries  
24 of a district theretofore established under the laws of this  
25 state, the district last organized and established shall be  
26 designated as a subdistrict, and the lien for the non-ad  
27 valorem assessments ~~taxes~~ assessed or levied for the purpose  
28 of such subdistrict, with the penalties for default in the  
29 payment thereof and all costs incurred, shall be a lien of  
30 equal dignity with the lien for drainage assessments ~~taxes~~  
31 assessed or levied for the district first established. A sale

1 of any of the lands within a district for state and county or  
2 other taxes shall not operate to relieve or release the lands  
3 so sold from the lien for subsequent installments of drainage  
4 assessments ~~taxes~~, which lien may be enforced as against such  
5 lands as though no such sale thereof had been made.

6 Section 37. Subsection (1) of section 298.47, Florida  
7 Statutes, is amended to read:

8 298.47 Supervisors may issue bonds.--

9 (1) The board of supervisors may, if in their judgment  
10 it seems best, issue bonds not to exceed 90 percent of the  
11 total amount of the non-ad valorem assessment ~~taxes~~, exclusive  
12 of the amount for interest, levied under the provisions of s.  
13 298.325 ~~298.36~~, in denominations of not less than \$100,  
14 bearing interest from date at rate as provided by general law,  
15 payable semiannually, to mature at annual intervals within 30  
16 years, commencing after a period of years not later than 10  
17 years, to be determined by the board of supervisors, both  
18 principal and interest payable at some convenient banking  
19 house or trust company's office to be named in said bonds,  
20 which said bonds shall be signed by the president of the board  
21 of supervisors, attested with the seal of said district and by  
22 the signature of the secretary of the said board. Section 12,  
23 Art. VII of the State Constitution shall be complied with as  
24 to all such bonds as are within its purview. All of said  
25 bonds shall be executed and delivered to the treasurer of said  
26 district, who shall sell the same in such quantities and at  
27 such dates as the board of supervisors may deem necessary to  
28 meet the payments for the works and improvements in the  
29 district. Said treasurer shall, at the time of the receipt by  
30 him or her of said bonds, execute and deliver to the president  
31 of the board of said district, a bond with good and sufficient

1 sureties to be approved by the said board of supervisors,  
2 conditioned that the treasurer shall account for and pay over,  
3 as required by law and as ordered to do by said board of  
4 supervisors, any and all money received by him or her on the  
5 sale of such bonds, or any of them, and that the treasurer  
6 will only sell and deliver such bonds to the purchaser or  
7 purchasers thereof, under and according to the terms herein  
8 prescribed, and that the treasurer will return, duly canceled,  
9 any and all bonds not sold to the board of supervisors when  
10 ordered by said board so to do, which said surety bond shall  
11 remain in the custody of the said president of said board of  
12 supervisors, who shall produce the same for inspection or for  
13 use as evidence whenever and wherever legally requested so to  
14 do.

15 Section 38. Section 298.48, Florida Statutes, is  
16 amended to read:

17 298.48 Sale of bonds and disposition of proceeds.--The  
18 bonds shall not be sold for less than 95 cents on the dollar,  
19 with accrued interest, shall show on their face the purpose  
20 for which they are issued, and shall be payable out of money  
21 derived from the aforesaid non-ad valorem assessments ~~taxes~~.  
22 The said treasurer shall promptly report all sales of bonds to  
23 the board of supervisors, which board shall at reasonable  
24 times thereafter, prepare and issue warrants in substantially  
25 the forms provided in s. 298.17 for the payment of the  
26 maturing bonds so sold and the interest payments coming due on  
27 all bonds sold. Each of said warrants shall specify what  
28 bonds and accruing interest it is to pay, and the said  
29 treasurer shall place sufficient funds at the place of payment  
30 to pay the maturing bonds and coupons when due, as well as a  
31 reasonable compensation to the bank or trust company for

1 paying same. The successor in office of any such treasurer  
2 shall not be entitled to said bonds or the proceeds thereof  
3 until the successor shall have complied with all the foregoing  
4 provisions applicable to his or her predecessor in office.  
5 The funds derived from the sale of said bonds or any of them  
6 shall be used for the purpose of paying the cost of the  
7 drainage works and improvements and such costs, expenses,  
8 fees, and salaries as may be authorized by law and used for no  
9 other purpose.

10 Section 39. Section 298.49, Florida Statutes, is  
11 amended to read:

12 298.49 Interest upon matured bonds.--All bonds and  
13 coupons not paid at maturity shall bear interest at the rate  
14 of 6 percent per annum from maturity until paid, or until  
15 sufficient funds have been deposited at the place of payment,  
16 and the said interest shall be appropriated by the board of  
17 supervisors out of the penalties and interest collected on  
18 delinquent assessments ~~taxes~~ or any other available funds of  
19 the district. Any expense incurred in paying said bonds and  
20 interest thereon, and a reasonable compensation to the bank or  
21 trust company for paying same, shall be paid out of other  
22 funds in the hands of the treasurer and collected for the  
23 purpose of meeting the expenses of administration.

24 Section 40. Subsection (1) of section 298.50, Florida  
25 Statutes, is amended to read:

26 298.50 Levy of tax to pay bonds, sinking fund.--

27 (1) The board of supervisors in making the annual tax  
28 levy, as provided in this chapter, shall take into account the  
29 maturing bonds and interest on all bonds, and make provisions  
30 in advance for the payment thereof. In case the proceeds of  
31 the original tax levy made under the provisions of s. 298.325

1 ~~298.36~~ are not sufficient to pay the principal and interest on  
2 all bonds issued, then the board of supervisors shall make  
3 such additional levies upon the benefits assessed as are  
4 necessary for this purpose, and under no circumstances shall  
5 any tax levies be made that will in any manner or to any  
6 extent impair the security of said bonds or the fund available  
7 for the payment of the principal and interest of the same.

8 Section 41. Section 298.51, Florida Statutes, is  
9 amended to read:

10 298.51 Defaults, receivership for district.--If any  
11 bond or interest coupon on any bond issued by said district is  
12 not paid within 60 days after its maturity, a court of  
13 competent jurisdiction, on the application of any holder of  
14 such bond or interest coupon so overdue, may appoint a  
15 receiver for the district; said receiver shall be a resident  
16 of the state or some corporation organized under the laws of  
17 Florida and authorized by such laws to act as receiver; such  
18 appointment by such court shall not be made except upon  
19 reasonable notice of such application for such appointment  
20 having been given to the board of supervisors of said  
21 district; and the proceeds of assessments ~~taxes~~ collected by  
22 the receiver shall be applied after payment of costs, first to  
23 overdue interest, and then to payment pro rata of all bonds  
24 issued by the said district which are then due and payable;  
25 and the said receiver may be directed to foreclose, by suit,  
26 as provided in this chapter, the lien of said assessments  
27 ~~taxes~~ of said lands, and said suits so brought by the receiver  
28 shall be conducted as, and governed by, the provisions  
29 applicable to suits by the said district as provided, and with  
30 like effect; and the decrees, deeds and all other acts herein  
31 shall have the same presumptions in their favor; provided,

1 however, that when all costs, overdue interest and bonds which  
2 are then due and payable, as provided in this chapter have  
3 been paid, the receiver shall be discharged and the affairs of  
4 the district conducted by a board of supervisors of said  
5 district as provided by law.

6 Section 42. Section 298.52, Florida Statutes, is  
7 amended to read:

8 298.52 Refunding and extending bonds.--

9 (1) Any district now or hereafter created or organized  
10 under any general or special law heretofore or hereafter  
11 enacted by the state may, whenever in the judgment of the  
12 ~~governing~~ board of supervisors thereof it is advisable and for  
13 the best interests of the landowners in the district, refund  
14 any or all of the then-outstanding bonded indebtedness of such  
15 district by taking up and canceling any or all of its  
16 outstanding bonds as and when they become due, or before they  
17 are due, if the holders thereof will surrender them, and  
18 issuing in lieu thereof new bonds of such district payable in  
19 such longer time, not to exceed 50 years from their date, as  
20 said ~~governing~~ board of supervisors may determine.

21 (2) Such refunding bonds shall not exceed in the  
22 aggregate the amount of the bonds refunded thereby, and shall  
23 bear interest at a rate not exceeding 8 percent per annum,  
24 payable semiannually, and may be exchanged for the outstanding  
25 bonds at par or sold for not less than 95 cents on the dollar  
26 and accrued interest, and the proceeds used solely in the  
27 payment of outstanding bonds. Any discount or expense of such  
28 sale of the refunding bonds shall be paid out of the  
29 maintenance fund of the district, if any, or out of surplus in  
30 the sinking fund, if any.

31

1           (3) Any landowner shall have the right at any time  
2 within 30 days after the adoption of the resolution providing  
3 for the issuance of the refunding bonds, to pay the full  
4 amount of uncollected principal or assessment chargeable to  
5 his or her land for the payment of the bonds proposed to be  
6 refunded, and his or her lands shall thereby be released from  
7 any ~~tax or~~ assessment for the payment of said bonds. The  
8 landowner's land shall remain liable, subject to the  
9 limitations prescribed in the law under which the original  
10 bonds were issued and the original or revised benefits  
11 assessed against said land, for any additional assessment tax  
12 which may be required to pay said bonds by reason of other  
13 lands in the district not paying the ~~tax or~~ assessment.

14           (4) Unless and until refunding bonds shall have been  
15 authorized and issued, the ~~governing~~ board of supervisors  
16 shall continue the levy of annual non-ad valorem assessments  
17 ~~taxes~~ sufficient to pay the outstanding bonds and interest  
18 thereon as they fall due. When any bonds of such district are  
19 refunded pursuant to the authority hereby conferred, the  
20 collection of corresponding installments of assessments tax or  
21 ~~assessment~~ shall likewise be deferred. The ~~governing~~ board of  
22 supervisors shall make proper provision for the payment of the  
23 principal and interest of said refunding bonds in like manner  
24 as was required in the case of the issuance of original bonds  
25 by the law under which such district is or may have been  
26 incorporated; and the holders of such refunding bonds shall  
27 have the same rights as are given the holders of bonds under  
28 the law under which such district is or may have been  
29 incorporated.

30           (5) Any landowner failing to avail himself or herself  
31 of the privilege conferred by this section of paying in full

1 the unpaid principal non-ad valorem ~~tax or~~ assessment against  
2 his or her land shall not be heard to complain by reason of  
3 additional interest to be collected from his or her lands by  
4 reason of the extension of the bonds.

5 (6) Non-ad valorem ~~Taxes or~~ assessments levied for the  
6 payment of refunding bonds and the interest thereon shall be  
7 secured by the same lien as other assessments ~~taxes~~ of such  
8 district levied for the payment of the original bonds, and the  
9 additional interest which will accrue on account of such  
10 refunding bonds shall be included and added to the original  
11 drainage assessment ~~tax~~ and shall be secured by the same lien;  
12 but the interest to accrue shall not be considered as a part  
13 of the cost of construction in determining whether the  
14 assessment ~~tax~~ exceeds the benefits assessed.

15 (7) No proceedings shall be required for the issuance  
16 of refunding bonds other than those provided by this section;  
17 provided, however, that the validity of all bonds issued under  
18 this chapter and the validity of all proceedings had incident  
19 to and culminating in the issuance of such bonds shall, prior  
20 to the sale or delivery of such bonds, be determined and  
21 established in the manner now or hereafter provided by law for  
22 the validation of bonds issued by counties, municipalities,  
23 taxing districts or other political districts or subdivisions  
24 of this state.

25 Section 43. Section 298.54, Florida Statutes, is  
26 amended to read:

27 298.54 Maintenance assessment ~~tax~~.--To maintain and  
28 preserve the ditches, drains, or other improvements made  
29 pursuant to this chapter and to repair and restore the same,  
30 when needed, and for the purpose of defraying the current  
31 expenses of the district, including any sum which may be

1 required to pay state and county taxes on any lands which may  
2 have been purchased and which are held by the district under  
3 the provisions of this chapter, the board of supervisors may,  
4 upon the completion of the said improvements, in whole or in  
5 part as may be certified to the board by the chief engineer,  
6 levy annually a non-ad valorem assessment ~~tax~~ upon each tract  
7 or parcel of land within the district, to be known as a  
8 "maintenance assessment ~~tax~~." ~~The~~ ~~Said~~ maintenance assessment  
9 ~~tax~~ shall be apportioned upon the basis of the net assessments  
10 of benefits assessed as accruing from original construction,  
11 shall be evidenced to and certified by the board of  
12 supervisors not later than June 1 of each year to the property  
13 appraisers of counties in which lands of the district are  
14 situated, and shall be extended by the county property  
15 appraisers on the county tax rolls and collected by the tax  
16 collectors in the same manner and time as county taxes, and  
17 the proceeds therefrom shall be paid to said district. ~~The~~  
18 maintenance assessment ~~Said tax~~ shall be a lien until paid on  
19 the property against which assessed and enforceable in like  
20 manner as county taxes.

21 Section 44. Section 298.56, Florida Statutes, is  
22 amended to read:

23 298.56 Bonds issued secured by lien on lands  
24 benefited; assessment and collection of assessments ~~taxes~~ may  
25 be enforced.--All bonds issued by any board of supervisors  
26 under the provisions of this chapter shall be secured by a  
27 lien on all lands and other property benefited in the  
28 district, and the board of supervisors shall see to it that an  
29 assessment ~~a tax~~ is levied annually and collected under the  
30 provisions of this chapter, so long as it may be necessary to  
31 pay any bond issued or obligation contracted under its

1 authority; and the making of said assessment and collection  
2 may be enforced by mandamus.

3 Section 45. Section 298.65, Florida Statutes, is  
4 amended to read:

5 298.65 Auditing of district records by Auditor  
6 General, powers; penalties.--

7 (1) The Governor may, when requested by a resolution  
8 adopted by the local governing authority of any district or  
9 subdistrict, direct an audit to be made by the Auditor General  
10 of the accounts, books and records of any district or  
11 subdistrict; and every officer and employee thereof shall  
12 furnish to the Auditor General or his or her assistants all  
13 books, records, information or any and all documents  
14 pertaining to the financial affairs of any such district. The  
15 district shall not be required to pay any of the costs of such  
16 examination. Upon the completion of the audit of any  
17 district, as herein provided, the Auditor General shall  
18 deliver one copy of the same to the Governor of the state and  
19 one copy to the board of supervisors ~~commissioners~~, trustees,  
20 or other governing body of the district so audited.

21 (2) The Auditor General or his or her assistants may  
22 summon witnesses and administer oaths to them and inquire of  
23 them under oath as to any and all affairs concerning any such  
24 water control ~~taxing~~ district or its financial affairs;  
25 provided, that if any witness or person summoned fails to  
26 appear, or having appeared refuses to testify, or having  
27 testified, testifies falsely, the witness or person shall be  
28 guilty of a misdemeanor of the first degree, punishable as  
29 provided in s. 775.082 or s. 775.083. Each and every officer,  
30 employee or agent of any such water control ~~taxing~~ district in  
31 the state, who refuses to furnish any information or to

1 disclose any records requested and desired by the Auditor  
2 General, or his or her assistants, in auditing and checking  
3 the affairs of any such water control ~~taxing~~ district in the  
4 state, shall be guilty of a misdemeanor of the first degree,  
5 punishable as provided in s. 775.082 or s. 775.083.

6 Section 46. Section 298.71, Florida Statutes, is  
7 amended to read:

8 298.71 Department may issue notes; suit by holder;  
9 judgment.--The Department of Environmental Protection may  
10 issue its promissory note or notes, or other written  
11 obligations, or evidence of indebtedness, for the repayment of  
12 such loans at such times and upon such terms and at such rates  
13 of interest as the said department may deem advisable; and if  
14 upon the maturity of such promissory notes, or written  
15 obligations, or other evidences of indebtedness, the same are  
16 not redeemed or paid, the said department may be sued by the  
17 holder or holders thereof, and any judgment obtained thereon  
18 shall be satisfied out of the proceeds of the drainage  
19 assessment tax provided by law to be assessed on the lands  
20 embraced in the district.

21 Section 47. Section 298.72, Florida Statutes, is  
22 amended to read:

23 298.72 Department may use proceeds of drainage  
24 assessments tax to pay loans.--Any drainage assessment tax  
25 provided by law to be assessed on the lands embraced in the  
26 district shall be available, and be used by the Department of  
27 Environmental Protection for the repayment of any loan or  
28 loans obtained by said department under the provisions of this  
29 chapter.

30 Section 48. Section 298.73, Florida Statutes, is  
31 amended to read:

1           298.73 Matured written obligations receivable in  
2 payment of assessments ~~taxes~~.--The promissory notes, or  
3 written obligations, or other evidences of indebtedness that  
4 may be issued by the Department of Environmental Protection  
5 under the provisions of this chapter, may be used on or after  
6 maturity in the payment of drainage assessments ~~taxes~~ on any  
7 lands in said district by whomsoever such lands may be owned,  
8 and the tax collectors of the several counties embraced in  
9 said district, in whole or in part, shall receive such notes,  
10 written obligations, or other evidences of indebtedness of  
11 said Department of Environmental Protection on or after  
12 maturity in payment of such drainage assessments ~~taxes~~  
13 whenever the same may be tendered to such tax collectors to  
14 the extent of the principal and unpaid interest of such  
15 promissory notes, written obligations, or other evidences of  
16 indebtedness.

17           Section 49. Subsections (1) and (4) of section 298.76,  
18 Florida Statutes, are amended to read:

19           298.76 Special or local legislation; effect.--

20           (1) This chapter is amended to provide that, pursuant  
21 to the authority granted the Legislature in s. 11(a)(21), Art.  
22 III of the State Constitution, there shall be no special law  
23 or general law of local application granting additional  
24 authority, powers, rights, or privileges to any water control  
25 district formed pursuant to this chapter. This chapter is  
26 further amended to provide that, pursuant to the authority  
27 granted the Legislature in s. 11(a)(21), Art. III of the State  
28 Constitution, there shall be no special law or general law of  
29 local application creating a water control district or  
30 granting an exemption to or modification of any requirement  
31 imposed on a water control district by this chapter. However,

1 this subsection shall not prohibit special or local  
2 legislation which:  
3 (a) Amends an existing special act which provides for  
4 the levy of an annual maintenance assessment ~~tax~~ of a  
5 district;  
6 (b) Extends the corporate life of a district;  
7 (c) Consolidates adjacent districts; or  
8 (d) Authorizes the construction or maintenance of  
9 roads for agricultural purposes as outlined in this chapter.  
10 (4) Special or local legislation may be enacted by the  
11 Legislature, changing the ~~governing~~ authority or governing  
12 board of supervisors of any district heretofore or hereafter  
13 organized and created as provided for by this chapter, or any  
14 section thereof.

15 Section 50. Sections 298.07, 298.27, 298.29, 298.30,  
16 298.31, 298.32, 298.33, 298.34, 298.35, 298.36, 298.465,  
17 298.467, 298.55, and 298.77, Florida Statutes, are repealed.

18 Section 51. This act shall take effect July 1, 1997.

19 \*\*\*\*\*

20 \*\*\*\*\*  
21 HOUSE SUMMARY

22 Revises various provisions of ch. 298, F.S., relating to  
23 the formation, operation, and financing of water control  
24 districts, and the powers and duties of the district  
25 boards of supervisors, Department of Environmental  
26 Protection, Governor, and water management districts with  
27 respect thereto. See bill for details.  
28  
29  
30  
31