

By Senator Dudley

25-860-98

See HB

1                                   A bill to be entitled  
2           An act relating to Lee County Mosquito Control  
3           District; providing for a codified charter of  
4           its special acts in a single act and repealing  
5           all prior special acts relating to the Lee  
6           County Mosquito Control District as required by  
7           chapter 97-255, Laws of Florida; creating and  
8           establishing a mosquito control district in  
9           said county and excepting therefrom certain  
10          territory of said county and fixing the  
11          boundaries of said district; dividing said  
12          district into areas for the purpose of electing  
13          members of the board of commissioners;  
14          providing for the terms of office and  
15          qualifications of the members of the board of  
16          commissioners and providing the method and  
17          times of elections; prescribing the powers and  
18          duties of the board; setting the compensation  
19          of the board; providing for audit of books and  
20          time of meetings; providing procedure for  
21          adopting a budget; giving the board the power  
22          to tax and to levy assessments for special  
23          benefits and providing the methods, procedure,  
24          and limitations thereon; authorizing the board  
25          to contract and cooperate with county, state,  
26          and other governmental agencies in regard to  
27          mosquito control or suppression; charging the  
28          Lee County Health Unit or Health Department  
29          with the responsibility with reference to  
30          mosquito control; determining the status of  
31          employees and providing a method by which such

1 responsibility shall terminate and declaring  
2 the legislative policy with reference thereto;  
3 providing penalty for damage to property;  
4 providing that the records shall be filed in  
5 the public records of Lee County; providing  
6 limitations of actions; granting to the  
7 district created herein such powers as are  
8 provided for mosquito control districts under  
9 the laws of Florida; providing for  
10 severability; providing that such act shall be  
11 construed liberally; providing an effective  
12 date.

13

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

15

16 Section 1. Continuation of a mosquito control  
17 district.--There is hereby provided for the continuation of  
18 the Lee County Mosquito Control District, the boundaries of  
19 which shall include all territory of Lee County except the  
20 following described area:

21

22 DESCRIPTION

23

24 A tract or parcel of land lying in parts of  
25 Township 46 South, Range 24 East and Township  
26 46 South, Range 24 East and part of Township 47  
27 South, Range 24 East, Lee County, Florida,  
28 which tract or parcel, containing 14,615 acres  
29 more or less, is described as follows:

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1 BEGINNING at the southeast corner of Section  
2 24, Township 46 South, Range 24 East, running  
3 westerly along the south line of said section  
4 for 2,700 feet more or less to the waters of  
5 Estero Bay;  
6  
7 THENCE run southwesterly along a northwesterly  
8 line across the waters of Estero Bay for 8,300  
9 feet to a point of intersection;  
10  
11 THENCE run southerly along a westerly line  
12 across said Bay and Starvation Flats for 4,200  
13 feet more or less to a point of intersection;  
14  
15 THENCE run southeasterly, southerly and  
16 southwesterly along a westerly line of said  
17 area running across said Bay and Big Carlos  
18 Pass for 10,000 feet more or less;  
19  
20 THENCE run northwesterly across Big Carlos Pass  
21 and along the shoreline of Estero Island for  
22 6,100 feet more or less to a point of  
23 intersection;  
24  
25 THENCE continue northwesterly along said  
26 shoreline for 3,200 feet more or less to a  
27 point of intersection;  
28  
29 THENCE continue along said shoreline  
30 northwesterly for 22,800 feet more or less to a  
31 point of intersection;

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THENCE run northwesterly along said shoreline  
for 3,900 feet more or less to a point of  
intersection;

THENCE run northwesterly along said shoreline  
and across San Carlos Bay for 8,000 feet more  
or less to the intersection of a westerly  
prolongation of the north line of Section 13,  
Township 46 South, Range 23 East and the waters  
of San Carlos Bay;

THENCE run easterly along said prolongation and  
said north line and the north line of Sections  
18, 17, 16, 15, 14, and 13 to the northeast  
corner of said Section 13, Township 46 South,  
Range 24 East;

THENCE run southerly along the easterly line of  
said Section 13 and Section 24, Township 46  
South, Range 24 East, for 10,600 feet more or  
less to the Point of Beginning.

Section 2. Division of district into areas.--The Board  
of Commissioners of the Lee County Mosquito Control District  
shall divide the district into seven residential areas for the  
purpose of selecting members of the board of commissioners.  
From the 1990 Federal Census and every 10 years thereafter,  
the board of commissioners shall reestablish area boundaries  
so that all areas are as nearly equal in population as  
practicable based on the most recent decennial census.

1           Section 3. Board of commissioners; qualification;  
2 election; term of office.--

3           (1) The business and affairs of the Lee County  
4 Mosquito Control District shall be governed by a board of  
5 seven commissioners, who shall constitute the Lee County  
6 Mosquito Control Board, hereinafter referred to as the board.

7           (2) Each board member shall be a qualified elector  
8 residing within the area from which elected; shall serve  
9 staggered terms of 4 years, unless removed for cause by the  
10 Governor; and shall be entitled to receive per diem and  
11 mileage as provided by general law for expenses incurred while  
12 performing official duties.

13           (3) One member of the board shall be elected from each  
14 of the seven areas provided in section 2. Each member shall be  
15 elected at large by a plurality vote of the qualified electors  
16 of the district voting in a nonpartisan election to be held on  
17 the date of the general election. Candidates for the office of  
18 commissioner shall qualify in accordance with general law. If  
19 the vote in the general election results in a tie, the outcome  
20 shall be determined by lot. The term of office shall commence  
21 on the second Tuesday following the election, but before  
22 assuming office, each commissioner shall make and execute to  
23 the Governor a good and sufficient surety bond in the amount  
24 of not less than \$2,000 conditioned upon the faithful  
25 performance of the duties of his office, which bond shall be  
26 approved by and filed with the Clerk of the Circuit Court of  
27 Lee County. The expense of the bonds shall be borne by the  
28 district.

29           (4) Vacancies created by resignation, death, or  
30 removal from office shall be filled by appointment of the  
31 Governor for the remainder of the term of office.

1           (5) This act shall not affect the terms of the members  
2 serving on the board when this act takes effect except that  
3 the term of each member shall expire in November of the year  
4 in which his successor is to be elected. Any such members  
5 whose terms do not expire in November 1984 shall serve for the  
6 remainder of their terms, as shortened by this act, and shall  
7 represent the area in which they reside.

8           Section 4. Election; ballots.--The Board of County  
9 Commissioners of Lee County shall make the necessary  
10 arrangements for setting up the elections of the board of  
11 commissioners of the mosquito control district and shall  
12 supply the necessary ballots and do all other things necessary  
13 for said elections. The provisions of section 1(1)(a) of  
14 chapter 81-414, Laws of Florida, relating to elections in  
15 odd-numbered years shall not apply to the Lee County Mosquito  
16 Control District.

17           Section 5. Powers and duties of the board of  
18 commissioners.--

19           (1) The board of commissioners may do any and all  
20 things necessary for the control and elimination of all  
21 species of mosquitoes and other arthropods of public health  
22 importance, either in the district, or in territory not in the  
23 district, but within 5 miles of district boundaries, and so  
24 situated with respect to the district that such mosquitoes or  
25 arthropods from such territory may disperse into the district.  
26 The board is authorized to use any and all mechanical,  
27 physical, chemical, or biological control measures as the  
28 board may deem necessary to accomplish the purposes of this  
29 chapter. Should the owner of record of lands upon which  
30 mosquito or other arthropod breeding occurs advise the board  
31 of commissioners that said owner prefers that the district not

1 implement control measures upon that property, the board is  
2 empowered to enter into an agreement whereby the owner of the  
3 property will eliminate or control such mosquito or other  
4 arthropod breeding, in a manner approved by the board, and at  
5 the expense of the owner. Should the board of commissioners  
6 have reason to believe that mosquito or other arthropod  
7 breeding on such property is not effectively eliminated or  
8 controlled by the owner of the property, the board shall  
9 present information to the Director of the Lee County Health  
10 Department indicating a belief that a mosquito problem exists  
11 on said lands, which, if not eliminated or controlled, would  
12 adversely affect nearby properties or residents. If the  
13 Director of the Lee County Health Department concurs, he shall  
14 issue an order, in writing, authorizing the board of  
15 commissioners to take such action as it may deem necessary.  
16 Upon issuance of any order by the Director of the Lee County  
17 Health Department, the board of commissioners and its agents  
18 or employees are specifically authorized to enter without  
19 hindrance upon such lands for the purpose of inspections to  
20 ascertain whether breeding places of mosquitoes or other  
21 arthropods exist upon such lands; to abate such public  
22 nuisances in accordance with this chapter; or to ascertain if  
23 notices to abate the breeding of mosquitoes or other  
24 arthropods upon such lands have been complied with.

25 (2) The board of commissioners shall have all the  
26 powers of a body corporate including the power to sue and be  
27 sued as a corporation in said name in any court; to contract;  
28 to adopt and use a common seal and alter the same at pleasure;  
29 to purchase, hold, lease, and convey such real estate and  
30 personal property as the board may deem proper to carry out  
31 the purposes of this law; to prescribe rules and regulations

1 for the marking of such property; to secure letters of patent,  
2 copyrights, and trademarks, both foreign and domestic, on any  
3 work products, and to enforce its rights therein; to operate  
4 airports and air navigation facilities within the district's  
5 boundaries in accordance with chapter 332, Florida Statutes;  
6 to employ such experts, agents, and employees as the board may  
7 require; to provide uniforms for district employees; to  
8 participate with employees in a family group insurance plan;  
9 to contract and cooperate with county, state, and other  
10 governmental agencies in regard to mosquito control or  
11 suppression; to borrow money in conformance with  
12 constitutional provisions and general law in an amount not to  
13 exceed \$1 on each \$1,000 of assessed valuation of property in  
14 the district for a period of time not to exceed 1 year, and to  
15 issue negotiable promissory notes and bonds in an amount not  
16 to exceed \$1 on each \$1,000 of assessed valuation of property  
17 in the district, to enable it to carry out the provisions of  
18 this law. The board of commissioners is authorized to loan  
19 moneys to the Lee County Hyacinth Control District by a  
20 transfer of funds between accounts, provided that such loans  
21 or transfers shall be repaid within the fiscal year in which  
22 they are made.

23 Section 6. Organization of the board.--As soon as is  
24 practicable after the commissioners have been appointed or  
25 elected and have qualified, they shall meet and organize by  
26 electing one of their members as chair, one as vice chair, and  
27 one as secretary treasurer. In all meetings four members shall  
28 be necessary to transact business.

29 Section 7. Salary of the board.--The commissioners  
30 under this chapter may receive compensation as authorized by  
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1 s. 388.141, Florida Statutes, for services pertaining to  
2 mosquito control work.

3 Section 8. Audit.--The books and accounts of said  
4 mosquito control district shall be audited annually by the  
5 same officers and in like manner as the books of other county  
6 officers, or, at the discretion of the board, by a certified  
7 public accountant selected by the board.

8 Section 9. Breeding places.--

9 (1) Any breeding place for any species of mosquitoes,  
10 or any other arthropod of public health importance, which  
11 exists by reason of any use made of the land on which it is  
12 found, or of any artificial change in its natural condition,  
13 is hereby declared to be a public nuisance. Such nuisance may  
14 be abated as provided by this chapter or by any other law.

15 (2) Whenever a nuisance specified in this chapter  
16 exists upon any property in the district, the board of  
17 commissioners may notify in writing the owner of the party in  
18 possession, or the agent of either, of the existence of the  
19 nuisance. The notice shall state the finding of the district  
20 that a public nuisance exists on the property and the  
21 approximate location of such nuisance on such property. The  
22 notice shall be served upon the owner of record, or the person  
23 having possession, or upon the agent of either. The notice  
24 shall be served by any person authorized by the board in the  
25 same manner as a summons in a civil action. If the property  
26 belongs to a person who is not a resident of the district, and  
27 is not in charge or possession of any person, and there is no  
28 tenant or agent of the owner upon whom service can be made,  
29 who can after diligent search be found; or if the owner of the  
30 property cannot after diligent search be found, the notice  
31 shall be served by posting a copy in a conspicuous place upon

1 the property for a period of 10 days, and by mailing a copy to  
2 the owner addressed to his address as given on the last  
3 completed assessment roll of the county in which the property  
4 is situated, or, in the absence of an address on the roll, to  
5 his last known address. Before complying with the requirements  
6 of the notice the owner or party in possession may appear at a  
7 hearing before the board at a time and place fixed by the  
8 board and stated in the notice. At the hearing, the district  
9 board shall determine whether the initial finding as set forth  
10 in the notice is correct and shall permit the owner or party  
11 in possession to present testimony in his behalf. If, after  
12 hearing all the facts, the board makes a determination that a  
13 nuisance exists on the property, the board shall order  
14 compliance with the requirements of the notice or with  
15 alternate instructions issued by the board.

16 (3) Any recurrence of the nuisance may be deemed to be  
17 a continuation of the original nuisance.

18 (4) In the event that the nuisance is not abated  
19 within the time specified in the notice or at the hearing, by  
20 appropriate measures to eliminate continuance or to prevent  
21 its recurrence, the board of commissioners may abate the  
22 nuisance by taking any measures it deems appropriate to  
23 prevent the recurrence of further breeding. The cost of  
24 abatement of a nuisance under this section shall be repaid to  
25 the district by the owner of the property.

26 (5) When any nuisance specified in this chapter is  
27 found to exist on any lands or property subject to the control  
28 of any public agency, the district shall notify the public  
29 agency of the existence of the nuisance. The provisions of  
30 this section relating to the contents of the notice, the  
31 manner of serving it, the right of the public agency to a

1 hearing before the board, and the power of the district to  
2 abate the nuisance if it is not abated by the public agency,  
3 shall apply. If the public agency determines that the order to  
4 prevent recurrence of the breeding specified in the notice to  
5 abate the nuisance is excessive or inappropriate for the  
6 intended use of the land, or if the public agency determines  
7 that a public nuisance within the meaning of this chapter does  
8 not exist, such public agency may appeal the decision of the  
9 board in accordance with "The State Agency Dispute Settlement  
10 Act of 1978." If the control of the nuisance is performed by  
11 the district, the cost for such control is a charge against,  
12 and shall be paid from, the maintenance fund or from any other  
13 funds budgeted for the support of the public agency.

14 (6) All sums expended by the district in abating a  
15 nuisance, or preventing its recurrence, shall become a lien  
16 upon the property on which the nuisance is abated, or its  
17 recurrence prevented.

18 Section 10. Meetings.--The board of commissioners of  
19 the district shall hold monthly meetings which shall be open  
20 to the public. Reasonable expenses of members in attending  
21 meetings may be approved for payment by the board of  
22 commissioners.

23 Section 11. Budget; hearings.--The fiscal year of Lee  
24 County Mosquito Control District shall be the 12-month period  
25 extending from October 1 each year through September 30 of the  
26 following year. The board shall prepare a tentative budget for  
27 the district covering its proposed operation and requirements  
28 for the ensuing fiscal year. The proposed budget shall be  
29 advertised, public hearings held, and a final budget adopted  
30 in accordance with the provisions of chapter 189, and ss.  
31 200.065 and 218.34, Florida Statutes.

1           Section 12. Eminent domain.--The board may hold  
2 control and acquire by gift or purchase any real or personal  
3 property for the use of the district and may condemn any land  
4 or easements needed to carry out the purposes of this act. The  
5 board may exercise the right of eminent domain and institute  
6 and maintain condemnation proceedings as provided in chapter  
7 73, Florida Statutes.

8           Section 13. Tax levy.--

9           (1) The board of commissioners of the mosquito control  
10 district may levy upon all of the taxable property in the  
11 district a special tax not exceeding 1 mill on the dollar  
12 during each year solely for the purposes authorized and  
13 prescribed by this act. The levy shall be made each year in  
14 accordance with chapter 200, Florida Statutes. The board of  
15 county commissioners shall order the property appraiser of the  
16 county to assess and the tax collector of the county to  
17 collect the amount of taxes so assessed and levied by the  
18 board of commissioners of said mosquito control district upon  
19 all of the taxable property in the district at the rate of  
20 taxation adopted by the board for the year and included in the  
21 resolution, and the levy shall be included in the warrants of  
22 the property appraiser, and attached to the assessment roll of  
23 taxes for the county each year. Fees shall be paid to the  
24 property appraiser and to the tax collector in accordance with  
25 law. The tax collector shall collect such taxes so levied by  
26 the board in the same manner as other taxes are collected and  
27 shall pay the same within the time and in the manner  
28 prescribed by law to the treasurer of the board. The  
29 Department of Revenue shall assess and levy on all the  
30 railroad lines and railroad property and telegraph and  
31 telephone lines and telegraph and telephone property situated

1 in the county in the amount of each such levy as in the case  
2 of other state and county taxes, and collect the taxes thereon  
3 in the same manner as the department is required by law to  
4 assess and collect taxes for state and county purposes, and  
5 remit the same to the treasurer of the board. All such taxes  
6 shall be held by the treasurer for the credit of the board and  
7 paid out as ordered by the board.

8 (2) The Legislature does determine that the  
9 eradication and control of mosquitoes within the district is  
10 of special benefit and constitutes a special improvement for  
11 the benefit of the district and the property located therein,  
12 and is therefore subject to assessment for special benefits  
13 and the board of commissioners of the district is authorized  
14 to levy upon all of the property in the district assessments  
15 for special benefits. However, the total amount of any such  
16 assessment levied under this subsection shall not exceed an  
17 amount equal to 1 mill on the dollar of the total valuation of  
18 the property so assessed and the total on any tax that might  
19 be levied under subsection (1) and the assessment for special  
20 benefits levied under this section shall not amount to a sum  
21 which would be in excess of an amount equal to 1 mill of the  
22 value of any such property.

23 Section 14. Qualifications of director; advertisement  
24 of contracts.--All work done under the provisions of this act,  
25 both in construction and maintenance, shall be carried on  
26 under the supervision of an individual determined by the board  
27 to be well qualified to administer the programs authorized by  
28 this act. The board may have all work performed by contract  
29 with or without advertisement, or without contract, by  
30 machinery, equipment and labor employed directly by the board.

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1           Section 15. Penalty for damage to property.--Whoever  
2 shall willfully damage any of the property of the mosquito  
3 control district created under this act or any works  
4 constructed, maintained, or controlled by the mosquito control  
5 district or who shall obstruct or cause to be obstructed any  
6 of the operations of the mosquito control district taken under  
7 this chapter, shall be punished as provided by general law.

8           Section 16. Dissolution of districts.--Three mosquito  
9 control districts in Lee County created under the provisions  
10 of chapters 388, 389, and 390, Florida Statutes, and known as  
11 Boca Grande District, the Sanibel-Captiva District, and the  
12 Fort Myers District have heretofore been abolished and  
13 dissolved, and are no longer in existence.

14           Section 17. Transfer of assets and liabilities.--All  
15 assets, including equipment, moneys on hand, easements, and  
16 rights of any kind and nature belonging to the three above  
17 named districts, or the district created under chapter  
18 65-1820, chapter 57-2059, and chapter 61-2394, Laws of  
19 Florida, together with all of the liabilities incurred by said  
20 districts are hereby assigned to and made property and  
21 obligations of the Lee County Mosquito Control District,  
22 provided that after the lapse of 6 months from May 15, 1961,  
23 no action shall be brought or instituted upon any bond,  
24 interest coupon, bond credit, certificate of indebtedness,  
25 note or any other debt, claim or liability outstanding, due,  
26 or owing by the Fort Myers Mosquito Control District, Boca  
27 Grande Mosquito Control District, and Sanibel-Captiva Mosquito  
28 Control District.

29           Section 18. Books and records.--All books and records  
30 of the district shall become a part of the records of the  
31 district continued by this act.

1           Section 19. Purpose.--The abatement and control of  
2 mosquitoes within Lee County is advisable and necessary for  
3 the maintenance and improvement of the health, comfort,  
4 welfare, and prosperity of the people thereof; and is found  
5 and declared to be for public health and other public  
6 purposes.

7           Section 20. Responsibility; duties.--The Lee County  
8 Health Unit, also referred to and known as the Lee County  
9 Health Department, established by the board of county  
10 commissioners on June 7, 1950, is charged with the  
11 responsibility of abating or suppressing mosquitoes in Lee  
12 County. The director of said health unit or health department  
13 shall cause to be done any and all work and all things  
14 necessary for the control and elimination of mosquitoes in the  
15 county wherever such work is necessary and he is empowered to  
16 use such means, physical or chemical, as may be necessary to  
17 accomplish the objects of this act. All employees engaged in  
18 such work shall be considered employees of the Lee County  
19 Health Unit regardless of the fact that their salaries or  
20 wages are paid by the Board of Commissioners of the Lee County  
21 Mosquito Control District, and regardless of the fact that the  
22 determination as to who is to be employed and the wages or  
23 salaries to be paid is made by the Board of Commissioners of  
24 the Lee County Mosquito Control District, and the records are  
25 kept by said board.

26           Section 21. Alternate plan.--The purpose of section  
27 20, is to coordinate certain activities between the Lee County  
28 Health Unit or Health Department and the Lee County Mosquito  
29 Control District in an effort to best serve the interest and  
30 welfare of the Lee County Mosquito Control District and the  
31 property owners and residents thereof. If the Board of

1 Commissioners of the Lee County Mosquito Control District  
2 should make a study or, by reason of the experience in  
3 handling the affairs of said district, determine that it is  
4 not in the best interest of the Lee County Mosquito Control  
5 District and the property owners and residents thereof to  
6 continue in the Lee County Health Unit or Health Department  
7 the responsibilities, powers, duties, and authority and that  
8 the continuation of the responsibilities, powers, duties, and  
9 authority in such unit or department is not advantageous to  
10 the Lee County Mosquito Control District, it is declared to be  
11 the legislative intent that the Board of Commissioners of the  
12 Lee County Mosquito Control District may pass a resolution so  
13 determining and finding and, upon the passage of such  
14 resolution, any and all such powers, duties, responsibilities,  
15 and authority given to the Lee County Health Unit or Health  
16 Department shall immediately vest in the Lee County Mosquito  
17 Control District and the employees shall become the employees  
18 of the Lee County Mosquito Control District and the provisions  
19 of section 20 shall, insofar as they or any of them relate to  
20 Lee County Health Unit or Health Department, be of no further  
21 force and effect.

22 Section 22. All prior special acts relating to the Lee  
23 County Mosquito Control District are hereby repealed; such  
24 special acts include, but are not limited to, chapters  
25 57-1520, 57-2059, 61-2394, 63-1542, 65-1820, 65-1831, 67-1630,  
26 72-598, 79-493, 82-316, 83-442, and 95-517, Laws of Florida.  
27 It is the intent that this act shall be the single act that  
28 codifies all prior special acts related to the Lee County  
29 Mosquito Control District upon this act becoming a law.

30 Section 23. The district created by this act and the  
31 board of commissioners shall have the right to use any and all



1 privileges or powers which are granted to mosquito control  
2 districts under the general laws of this state.  
3 Section 24. It is declared to be the legislative  
4 intent that this act shall be construed liberally.  
5 Section 25. It is declared to be the legislative  
6 intent that if any section, subsection, sentence, clause, or  
7 provision or part thereof of this act is held invalid,  
8 unenforceable or unconstitutional it shall not affect the  
9 remainder of the act and the remainder of the act shall remain  
10 in force and effect as if the invalid portion of the act had  
11 not been enacted.  
12 Section 26. This act shall take effect upon becoming a  
13 law.  
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