

By Senator Rossin

35-338A-98

1 A bill to be entitled
2 An act relating to water control districts;
3 amending s. 298.005, F.S.; deleting the
4 definition of the term "water control district"
5 and revising the definition of the term "water
6 control plan"; amending s. 298.11, F.S.;
7 providing for landowner vote of fractional
8 acreage; providing quorum requirements;
9 amending s. 298.12, F.S.; providing for
10 appointment of a supervisor; amending s.
11 298.16, F.S.; eliminating surety bond
12 requirements for district engineers; amending
13 s. 298.22, F.S.; providing criteria for
14 awarding construction contracts; providing
15 clarification of when districts may assess and
16 collect fees for connection to district works;
17 amending s. 298.225, F.S.; revising
18 requirements for the development and amendment
19 of district water control plans; amending s.
20 298.26, F.S.; revising use of the district
21 engineer's annual report; amending s. 298.301,
22 F.S.; providing for the determination of
23 benefits and damages; revising notice and
24 report requirements; providing that the
25 approval of a district water control plan and
26 assessments is final unless court action is
27 brought within 30 days after approval; amending
28 s. 298.329, F.S.; conforming a statutory
29 cross-reference; amending s. 298.337, F.S.;
30 providing for the assessment of land less than
31 an acre; amending s. 298.353, F.S.; revising

1 notice requirements; providing that district
2 bonds may be payable from assessments on more
3 than one unit; amending s. 298.76, F.S.;
4 providing authority for special laws relating
5 to public infrastructure for agricultural or
6 urban development if approved by a three-fifths
7 vote of the membership of the Legislature;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsections (3) and (4) of section 298.005,
13 Florida Statutes, are amended to read:

14 298.005 Definitions.--As used in this chapter, the
15 term:

16 (3) ~~"Water control district" means a special district~~
17 ~~established in accordance with s. 298.01 and operating under~~
18 ~~this chapter.~~

19 (3)(4) "Water control plan" means the comprehensive
20 operational document that describes the activities and
21 improvements to be conducted by a water control district
22 authorized under this chapter and includes any district-
23 ~~Alternatively described as a "plan of reclamation," or "water~~
24 ~~management plan," or "plan of improvement" that prior to~~
25 ~~October 1, 1998, a water control plan~~ details the system of
26 water management improvements implemented by a water control
27 district.

28 Section 2. Subsections (2) and (3) of section 298.11,
29 Florida Statutes, are amended to read:

30
31

1 298.11 Landowners' meetings; election of board of
2 supervisors; duties of Department of Environmental Protection
3 and Governor.--

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

23 (3) The Department of Environmental Protection, at any
24 such meeting, may represent the state, and shall have the
25 right to vote for supervisors, or upon any matter that may
26 come properly before said meeting to the extent of the acreage
27 owned by the state in such district, provided such acreage is
28 subject to assessment by the water control district, which
29 vote may be cast by any person designated by said department.
30 Guardians may represent their wards, executors and
31 administrators may represent estates of deceased persons, and

1 private corporations may be represented by their officers or
2 duly authorized agents. The owners and proxy holders of a
3 majority of district the acreage who are present at a duly
4 noticed landowners' meeting included in such district shall be
5 ~~necessary to constitute a quorum for the purpose of holding~~
6 ~~such election, or any election thereafter, and in case the~~
7 ~~owners of a majority of the acreage included in such district~~
8 ~~are not present in person or duly represented, at the time and~~
9 ~~the place stated in the notice calling such meeting, then no~~
10 ~~election shall be held, and notice of such failure shall be~~
11 ~~given in writing by any person interested to the Governor, who~~
12 ~~shall as soon as practicable appoint three competent persons~~
13 ~~who own land in such district as such supervisors for the term~~
14 ~~of 1, 2, and 3 years respectively, and who shall hold their~~
15 ~~office until their successors are elected or appointed and~~
16 ~~qualified.~~

17 Section 3. Subsection (1) of section 298.12, Florida
18 Statutes, is amended to read:

19 298.12 Annual election of supervisors; term of office;
20 vacancy.--

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

1 supervisors, or if they fail to act within 30 days, the
2 Governor may fill such vacancy until the next annual meeting,
3 when a successor shall be elected for the unexpired term.

4 Section 4. Section 298.16, Florida Statutes, is
5 amended to read:

6 298.16 Appointment of district chief engineer;
7 engineer's ~~bond and~~ duties.--

8 (1) Within 30 days after organizing, the board of
9 supervisors shall appoint a district chief engineer, who may
10 be an individual, copartnership, or corporation, and who shall
11 engage such assistants as the board of supervisors may
12 approve. Such district chief engineer shall ~~enter into a bond~~
13 ~~with good surety, in a sum to be named by said board, and~~
14 ~~which bond and surety shall be approved by said board,~~
15 ~~conditioned that the chief engineer will~~ faithfully and
16 honestly perform all the duties required of him or her by said
17 supervisors, and deliver to his or her successor all
18 instruments, papers, maps, documents, and other things that
19 may have come into the district chief engineer's hands by
20 virtue of his or her employment.

21 (2) The district chief engineer shall have control of
22 the engineering work in said district and may, whenever he or
23 she deems it necessary, confer with the jurisdictional water
24 management district, and he or she may, by and with the
25 consent of the board of supervisors, consult any eminent
26 engineer and obtain his or her opinion and advice concerning
27 the reclamation of lands in said districts. The said engineer
28 shall make all necessary surveys of the lands within the
29 boundary lines of said district, as described in the petition,
30 and of all lands adjacent thereto that will be improved or
31

1 reclaimed in part or in whole by any system of drainage that
2 may be outlined and adopted.

3 (3) The engineer shall make a report in writing to the
4 board of supervisors, with maps and profiles of said surveys,
5 which report shall contain a full and complete water control
6 plan for draining and reclaiming the lands described in the
7 petition, or adjacent thereto, from overflow or damage by
8 water, with the length, width, and depth of such canals,
9 ditches, dikes or levees, or other works that may be
10 necessary, in conjunction with any canals, drains, ditches,
11 dikes, levees or other works heretofore constructed or built
12 by the Board of Trustees of the Internal Improvement Trust
13 Fund, or any other person, that may now be in process of
14 construction, or which may be hereafter built by them, that
15 may be necessary or which can be advantageously used in such
16 water control plan; and also, an estimate of the costs of
17 carrying out and completing the water control plan, including
18 the cost of superintending the same and all incidental
19 expenses in connection therewith. Maps and profiles shall also
20 indicate so far as necessary the physical characteristics of
21 the lands, and location of any public roads, railroads and
22 other rights-of-way, roadways and other property or
23 improvements located on such lands. A copy of the report
24 required by this section shall be filed with the
25 jurisdictional water management district.

26 Section 5. Section 298.22, Florida Statutes, is
27 amended to read:

28 298.22 Powers of supervisors.--The board of
29 supervisors of the district has full power and authority to
30 ~~excavate, construct, and complete, operate, maintain, repair,~~
31 and replace any and all works and improvements necessary to

1 execute the water control plan. Subject to the applicable
2 provisions of chapter 373 or chapter 403, the board of
3 supervisors:

4 (1) May employ persons and purchase machinery to
5 directly supervise, construct, maintain, and operate the works
6 and improvements described in the water control plan, or may
7 contract with others for the supervision, construction,
8 maintenance, and operation of such works and improvements
9 either as a whole or in part. Contracts for the construction
10 of district facilities must be awarded under s. 255.20 and
11 applicable general law.~~Contracts must be advertised and let~~
12 ~~to the lowest and best bidder, who shall give a good and~~
13 ~~approved bond, with ample security, upon the condition that he~~
14 ~~or she will well and promptly carry out the contract for the~~
15 ~~described works and improvements. Each contract must be in~~
16 ~~writing and have attached to it complete plans and~~
17 ~~specifications for the work to be done and improvements to be~~
18 ~~made under the contract, which plans and specifications must~~
19 ~~be prepared by the chief engineer of the district. Each~~
20 ~~contract shall be prepared by the attorney for the district,~~
21 ~~approved by the board of supervisors, and executed in~~
22 ~~duplicate by its president and the contractor. The chief~~
23 ~~engineer of the district must be the superintendent of all~~
24 ~~district works and improvements.~~

25 (2) May clean out, straighten, open up, widen, or
26 change the course and flow, alter or deepen any canal, ditch,
27 drain, river, watercourse, or natural stream; and concentrate,
28 divert, or divide the flow of water in or out of said
29 district; construct and maintain main and lateral ditches,
30 canals, levees, dikes, dams, sluices, revetments, reservoirs,
31 holding basins, floodways, pumping stations, and siphons, and

1 may connect same, or any of them, with any canals, drains,
2 ditches, levees, or other works that may have been heretofore,
3 or which may be hereafter constructed by the Department of
4 Environmental Protection or jurisdictional water management
5 district, and with any natural stream, lake, or watercourse in
6 or adjacent to said district.

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

14 (4) May contract for the purchase, construction,
15 operation, maintenance, use, sale, conveyance and transfer of
16 the said pumping stations, machinery, motive equipment,
17 electric lines and appurtenant equipment, including the
18 purchase of electric power and energy for the operation of the
19 same.

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

30 (6) Shall have the right to hold, control and acquire
31 by donation or purchase and if need be, condemn any land,

1 easement, railroad right-of-way, sluice, reservoir, holding
2 basin or franchise, in or out of said district, for
3 right-of-way, holding basin for any of the purposes herein
4 provided, or for material to be used in constructing and
5 maintaining said works and improvements for implementation of
6 the drainage, protecting and reclaiming the lands in said
7 district water control plan.

8 (7) May condemn or acquire, by purchase or grant, for
9 the use of the district, any land or property within or
10 without said district not acquired or condemned by the court
11 on the report of the commissioners assessing benefits and
12 damages, and shall follow the procedure set out in chapter 73.
13 Such powers to condemn or acquire any land or property within
14 or without the district shall also be available for
15 implementing requirements imposed on those districts subject
16 to s. 373.4592.

17 (8) May adopt resolutions and policies to implement
18 the purposes of this chapter.

19 (9) May assess and collect reasonable fees for the
20 connection to and use of the works of the district. A
21 landowner within a district whose land is assessed for water
22 control benefits may not be required to pay an additional fee
23 for connection to or use of district works authorized by a
24 water control plan.

25 (10) May implement and authorize the comprehensive
26 water control activities, including flood protection, water
27 quantity management, and water quality protection and
28 improvement, described in the water control plan.

29 Section 6. Section 298.225, Florida Statutes, is
30 amended to read:

31

1 298.225 Water control plan; plan development and
2 amendment.--

3 (1) Effective October 1, 1998, any plan of
4 reclamation,~~or~~ water management plan, or plan of improvement
5 developed and implemented by a water control district created
6 by this chapter or by special act of the Legislature is
7 considered ~~will be referred to as~~ a "water control plan." for
8 purposes of this chapter.

9 (2) By October 1, 2000, the board of supervisors of
10 each water control district must develop or revise the
11 district's water control plan to reflect the minimum
12 applicable requirements set forth in subsection (3).

13 (3) Each water control plan for a district or unit
14 must contain, if applicable ~~at a minimum~~:

15 (a) Narrative descriptions of the statutory
16 responsibilities and powers of the water control district.

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

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

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

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

30
31

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

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

7 (h) A description of the administrative structure of
8 the water control district.

9 ~~(i) Copies of any agreements between the water control~~
10 ~~district and other governmental entities.~~

11 ~~(j) The engineer's report prepared for plan adoption~~
12 ~~or revision.~~

13 ~~(k) The water control district's budget and revenue~~
14 ~~sources for the current year.~~

15 (4) Information contained within a district's
16 facilities plan prepared pursuant to s. 189.415 which
17 satisfies any of the provisions of subsection (3) may be used
18 as part of the district water control plan.

19 ~~(5)(4)~~ Before final adoption of the water control plan
20 or plan amendment under s. 298.301, the board of supervisors
21 must submit the proposed plan or amendment to the
22 jurisdictional water management district for review. Within 90
23 days after receipt of the proposed water control plan or
24 amendment, the governing board of the jurisdictional water
25 management district, or the executive director or designee, if
26 delegated, must review the proposed plan or amendment for
27 consistency with the applicable water resource plans and
28 policies and recommend to the board of supervisors any
29 proposed changes. If the jurisdictional water management
30 district determines that the plan or amendment is incomplete,
31 it may notify the water control district and request

1 additional information. Upon such request, the deadline for
2 review may be extended as agreed by the water control district
3 and the jurisdictional water management district. Within 60
4 days after receipt of the applicable water management
5 district's recommended changes, the board of supervisors shall
6 include the recommendations in the water control plan or plan
7 amendment to the extent practicable. If the recommendations
8 are not incorporated, the board of supervisors must specify
9 its reasons in the water control plan or plan amendment
10 adopted. A copy of the water control plan must be filed with
11 the jurisdictional water management district and each local
12 general purpose government within which all or a portion of
13 the district's lands are located.

14 (6)~~(5)~~ The review or approval of the water control
15 plan by the applicable water management district shall not
16 constitute the granting of any permit necessary for the
17 construction or operation of any water control district work
18 and cannot be relied upon as any future agency action on a
19 permit application.

20 (7)~~(6)~~ The board of supervisors must review the water
21 control plan at least every 5 years following its initial
22 development and adoption, and to the extent necessary, amend
23 the plan in accordance with s. 298.301.

24 (8)~~(7)~~ If the preparation of a water control plan or
25 amendment under this section does not result in revision of
26 the district's current plan or require the alteration or
27 increase of any levy of assessments or taxes beyond the
28 maximum amount previously authorized by general law, special
29 law, or judicial proceeding, a change in the use of said
30 assessments or taxes, or substantial change to district
31 facilities, the provisions of s. 298.301(2)-(9) do not apply

1 to the plan adoption process. This section and s.
2 298.301(1)-(9) do not apply to minor, insubstantial amendments
3 to district plans authorized by special law.

4 Section 7. Section 298.26, Florida Statutes, is
5 amended to read:

6 298.26 District ~~Chief~~ engineer to make annual reports
7 to supervisors; approval of reports; water control plan.--The
8 district ~~chief~~ engineer shall make a report in writing to the
9 board of supervisors once every 12 months or as directed by
10 the board. The report shall describe the progress made and
11 activities undertaken in furtherance of the water control
12 plan, and may include suggestions and recommendations to the
13 board as the chief engineer deems appropriate. Upon receipt of
14 the final report of said engineer concerning the surveys made
15 of the lands contained in the district organized and the lands
16 adjacent thereto and for reclaiming the same, the board of
17 supervisors shall adopt such report, or any modification
18 thereof approved by the district ~~chief~~ engineer, after
19 consulting with him or her or someone representing the
20 district ~~chief~~ engineer. ~~Thereafter such adopted report shall~~
21 ~~be the plan for draining or reclaiming such lands from~~
22 ~~overflow or damage by water, and it shall, after such~~
23 ~~adoption, be part of the water control plan.~~

24 Section 8. Subsections (1), (2), (4), (5), (6), (8),
25 and (9) of section 298.301, Florida Statutes, are amended to
26 read:

27 298.301 District water control plan adoption; plan
28 amendment; notice forms; objections; hearings; assessments.--

29 (1) District infrastructure and works must be
30 implemented pursuant to a water control plan. In the execution
31 of the powers and authorities granted in this chapter, the

1 district's action must be consistent with any adopted local
2 government comprehensive plan within which the lands of the
3 district are located. The board of supervisors may, by
4 resolution at a regular or special ~~regularly scheduled~~ meeting
5 noticed pursuant to ch. 189, consider the adoption of a
6 district water control plan or plan amendment. Notice,
7 hearing, and final adoption of any proposed water control plan
8 or plan amendment must comply with the provisions of this
9 chapter. After January 1, 1998, lands may be added to or
10 deleted from a district only by legislative modification of
11 the special act or order that contains the charter of the
12 district.

13 (2) Before adopting a water control plan or plan
14 amendment, the board of supervisors must adopt a resolution to
15 consider adoption of the proposed plan or plan amendment. As
16 soon as the resolution proposing the adoption or amendment of
17 the district's water control plan has been filed with the
18 district secretary, the board of supervisors shall give notice
19 of a public hearing on the proposed plan or plan amendment by
20 causing publication to be made once a week for 3 consecutive
21 weeks in a newspaper of general circulation published in each
22 county in which lands and other property described in the
23 resolution are situated. The notice must be in substantially
24 the following form:

25
26 Notice of Hearing

27
28 To the owners and all persons interested in the lands
29 corporate, and other property in and adjacent to the ...name
30 of district... District.

31

1 You are notified that the ...name of district...
2 District has filed in the office of the secretary of the
3 district a resolution to consider approval of a water control
4 plan or an amendment to the current water control plan to
5 provide ...here insert a summary of the proposed water control
6 plan or plan amendment.... On or before its regularly
7 scheduled meeting of ...(date and time)... at the district's
8 offices located at ...(list address of offices)... written
9 objections to the proposed plan or plan amendment may be filed
10 at the district's offices. A public hearing on the proposed
11 plan or plan amendment will be conducted at the regularly
12 scheduled meeting, and written objections will be considered
13 at that time. At the conclusion of the hearing, the board of
14 supervisors may determine to proceed with the process for
15 approval of the proposed plan or plan amendment and direct the
16 district engineer to prepare an engineer's report identifying
17 any property to be taken, determining ~~assessing~~ benefits and
18 damages, and estimating the cost of implementing the
19 improvements ~~improvement~~ associated with the proposed plan or
20 plan amendment. A final hearing on approval of the proposed
21 plan or plan amendment and engineer's report shall be duly
22 noticed and held at a regularly scheduled board of supervisors
23 meeting within 60 days after filing of the engineer's report
24 with the secretary of the district.

25
26 Date of first publication:, 19....
27
28 (Chairman, Board of Supervisors)
29 County, Florida

30 (4) The engineer may at any time call upon the
31 attorney of the district for legal advice and information

1 relative to his duties. The engineer shall proceed to view the
2 premises and identify ~~determine the value of~~ all lands, within
3 or without the district, to be acquired by purchase or
4 condemnation and used for rights-of-way, or other works set
5 out in the proposed plan or plan amendment. The engineer
6 shall, with the advice of the district attorney, staff, and
7 consultants, determine ~~assess~~ the amount of benefits and the
8 amount of damages, if any, that will accrue to each
9 subdivision of land (according to ownership), from carrying
10 out and putting into effect the proposed plan or plan
11 amendment. The engineer shall determine ~~assess~~ only those
12 benefits that are derived from the construction of the works
13 and improvements set out in the proposed plan or plan
14 amendment. The engineer has no power to change the proposed
15 plan or plan amendment without board approval.

16 (5) The engineer shall prepare a report arranged in
17 tabular form, the columns of which are to be headed as
18 follows: column one, "owner of property ~~assessed~~"; column
19 two, "description of property ~~assessed~~"; column three, "number
20 of acres ~~assessed~~"; column four, "amount of determined benefit
21 ~~annual assessment assessed~~"; column five, "amount of
22 determined damages total assessments"; column six, "number of
23 acres to be taken for rights-of-way, district works, etc." ~~+~~
24 ~~column seven, "increased value of property from improvement".~~
25 The engineer shall also, by and with the advice of other
26 employees and consultants of the district, estimate the cost
27 of the works set out in the proposed plan or plan amendment,
28 including the cost of and the probable expense of organization
29 and administration. ~~If the engineer's estimate of increased~~
30 ~~property value exceeds the total amount of assessments to be~~
31 ~~levied against a parcel, benefits are deemed to exceed~~

1 ~~damages~~. A maintenance assessment recommendation must also be
2 included in each engineer's report. However, the maintenance
3 assessment may not be considered as part of the costs of
4 installation or construction specified by the proposed plan or
5 plan amendment in determining whether benefits exceed damages.
6 The report shall be signed by the engineer and filed in the
7 office of the secretary of the district. The secretary of the
8 district, or deputy thereto, shall assist as needed in
9 preparation of the report.

10 (6) Upon the filing of the engineer's report, the
11 board of supervisors shall give notice thereof by arranging
12 the publication of the report together with a geographical
13 depiction of the district once a week for 2 consecutive weeks
14 in a newspaper of general circulation in each county in the
15 district. The notice must be substantially as follows:

16
17 Notice of Filing Engineer's Report for
18 District
19

20 Notice is given to all persons interested in the
21 following described land and property in County (or
22 Counties), Florida, viz.: ...(Here describe land and
23 property)... included within the district that
24 the engineer hereto appointed to determine ~~assess~~ benefits and
25 damages to the property and lands situated in the district and
26 to determine the estimated cost of construction required by
27 the water control plan ~~appraise the cash value of the land~~
28 ~~necessary to be taken for rights-of-way and other works of the~~
29 ~~district~~, within or without the limits of the district, under
30 the proposed water control plan or plan amendment, filed his
31 report in the office of the secretary of the district, located

1 at ...(list address of district offices),... on the
2 day of, 19...., and you may examine the report
3 and file written objections with the secretary of the district
4 to all, or any part thereof, on or before ...(enter date 20
5 days after the last scheduled publication of this notice,
6 which date must be before the date of the final hearing)....
7 The report recommends ...(describe benefits and damages
8 ~~assessment schedule~~).... ~~If approved, the assessment will be~~
9 ~~collected by the county tax collector.~~A final hearing to
10 consider approval of the report and proposed water control
11 plan or plan amendment shall be held ...(time, place, and date
12 at least 30 days but no later than 60 days after the last
13 scheduled publication of this notice, ~~but no later than 60~~
14 ~~days after filing of the engineer's report~~)....

15
16 Date of first publication:, 19....
17
18 (Chairman, Board of Supervisors)
19 County, Florida
20

21 (8) All objections must be heard and determined by the
22 board of supervisors at the public hearing so as to carry out
23 liberally the purposes and needs of the district. If the board
24 of supervisors determines at the final public hearing, upon
25 examination of the engineer's report and upon hearing all of
26 the objections, that the estimated cost of construction of
27 improvements contemplated in the plan or plan amendment is
28 less than the benefits determined for ~~assessed against~~ the
29 lands in the district, the board of supervisors may ~~shall~~
30 approve and confirm the engineer's report; but, if the board
31 of supervisors determines that any of the objections should be

1 sustained, it shall order the report changed to conform with
2 its findings, and when changed, the board of supervisors shall
3 approve and confirm or disapprove, as appropriate, the report
4 and enter its order approving or disapproving, as appropriate,
5 the report and proposed plan or plan amendment. When any land
6 or other property is shown by the engineer's report to be
7 needed for rights-of-way, or other works, the board of
8 supervisors may institute proceedings under chapter 73 or
9 chapter 74 in the circuit court of the proper county to
10 condemn the lands and other property that must be taken or
11 damaged in the making of improvements, with the right and
12 privilege of paying into court a sum to be fixed by the
13 circuit court judge and of proceeding with the work, before
14 the assessment by the jury.

15 (9) The approval and confirmation of the engineer's
16 report by the board of supervisors establishes the amount and
17 apportionment or assessments contained therein. The
18 assessments so established are final and conclusive as to all
19 land assessed, unless within 30 days after approval and
20 confirmation of the engineer's report an action for relief is
21 brought in a court of competent jurisdiction. If the
22 assessment against any land is reduced or abated by the court,
23 the board of supervisors shall cause the engineer's report to
24 be amended accordingly. Unless such an action is commenced
25 within the 30-day period, the assessment set forth in the
26 engineer's report is final and nonappealable as to such land.
27 ~~Any party identified in subsection (3) may challenge the~~
28 ~~decision of the board in the manner and time provided by the~~
29 ~~Florida Rules of Civil and Appellate Procedure. If it is~~
30 ~~determined by court order that any tract or lot of land or~~
31 ~~parts thereof, upon which a non-ad valorem assessment is~~

1 ~~authorized and levied, will not be benefited by or receive any~~
2 ~~benefit from the completion of the plan or plan amendment, or~~
3 ~~will be burdened disproportionately to other similarly~~
4 ~~benefited land, then the non-ad valorem assessment may not be~~
5 ~~levied against that land.~~

6 Section 9. Subsection (1) of section 298.329, Florida
7 Statutes, is amended to read:

8 298.329 When works insufficient, supervisors have
9 power to make a new or amended plan; additional levy; issuance
10 of bonds; procedure.--

11 (1) If the works set out in the district water control
12 plan are found insufficient to develop, in whole or in part,
13 any or all of the lands of the district, the board of
14 supervisors shall have the right to formulate a new or amended
15 water control plan, containing new or modified public
16 infrastructure or other authorized works, and additional
17 assessments may be made in conformity with s. 298.305, the
18 same to be made in proportion to the increased benefits
19 accruing to the lands because of the additional works. Such
20 new or amended plan shall be subject to review by the
21 applicable water management district in accordance with s.
22 298.225 ~~s. 298.225(4)~~.

23 Section 10. Section 298.337, Florida Statutes, is
24 amended to read:

25 298.337 Levies of assessments on land less than 1
26 acre.--In levying assessments based upon acreage, each tract
27 or parcel of land less than 1 acre in area may ~~is to~~ be
28 assessed as a full acre.

29 Section 11. Section 298.353, Florida Statutes, is
30 amended to read:

31

1 298.353 Unit development; powers of board of
2 supervisors to designate units of district; financing
3 assessments for each unit.--The board of supervisors of the
4 district may designate areas or ~~of~~ parts of the district as
5 separate administrative and financial "units." Units must be
6 created or modified as a part of and through the adoption of a
7 water control plan or plan amendment as provided in this
8 chapter. The units into which the district is divided must be
9 given appropriate numbers or names by the board of supervisors
10 so that the units can be readily identified and distinguished.
11 The board may fix and determine the location, area, and
12 boundaries of the lands to be included in each unit, the type
13 and amount of work required in the unit and the order of
14 development, and the method of carrying on the work in each
15 unit. The unit system provided by this section may be
16 conducted, and all the proceedings by this section and this
17 chapter authorized in respect to such unit or units may be
18 carried on and conducted, whenever the board of supervisors
19 finds that it is appropriate. If the board finds that it is
20 advisable to implement the district infrastructure and service
21 plans by units, as authorized by this section, the board
22 shall, by resolution duly adopted and entered upon its
23 minutes, declare its purpose to conduct the work accordingly,
24 and shall proceed through the water control plan adoption or
25 amendment process described in s. 298.301 to fix the number,
26 location, boundaries, and description of lands within each
27 unit or units and give them appropriate numbers or names. All
28 provisions of this chapter shall apply within all units, and
29 the enumeration of or reference in this section to specific
30 powers or duties of the supervisors does not limit or restrict
31 the application of any and all of the proceedings and powers

1 in this chapter within all units. For water control plans
2 applicable to one or more units, but to less than the entire
3 district, the notices to district landowners or municipalities
4 required under s. 298.301 need be provided only to owners of
5 lands within the affected unit or units and municipalities
6 within whose boundaries unit lands are located ~~and immediately~~
7 ~~contiguous properties within the district~~. All assessments,
8 levies, taxes, bonds, and other obligations made, levied,
9 assessed, or issued for or in respect to any unit or units
10 constitute a lien and charge solely and only upon the lands in
11 the unit or units, respectively, for the benefit of which the
12 same have been levied, made, or issued, and not upon the
13 remaining units or lands in the district. However, bonds may
14 be payable from assessments imposed on more than one unit.The
15 board of supervisors may at any time amend the location and
16 description of lands in any unit or units by proceeding in
17 accordance with the provisions of this section for the
18 original creation of the unit or units. If, after the approval
19 of the engineer's report of benefits in any unit or units or
20 the issuance of bonds or other obligations that are payable
21 from taxes or assessments for benefits levied upon lands
22 within any unit or units, the board of supervisors finds that
23 the infrastructure or service plan for the unit or units is
24 insufficient or inadequate for efficient development, the plan
25 may be amended or changed and the unit or units may be amended
26 or changed as provided in this section, by changing the
27 location and description of lands in the unit or units, by
28 detaching lands therefrom, or by adding lands thereto pursuant
29 to this chapter. However, a change or amendment to a
30 designated unit is not authorized if it has the effect of
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1 impairing a debt or other obligation of the unit or the
2 district.

3 Section 12. Subsection (1) of section 298.76, Florida
4 Statutes, is amended to read:

5 298.76 Special or local legislation; effect.--

6 (1) This chapter is amended to provide that, pursuant
7 to the authority granted the Legislature in s. 11(a)(21), Art.
8 III of the State Constitution, there shall be no special law
9 or general law of local application granting additional
10 authority, powers, rights, or privileges to any water control
11 district formed pursuant to this chapter. However, this
12 subsection does ~~shall~~ not prohibit special or local
13 legislation that ~~which~~:

14 (a) Amends an existing special act that ~~which~~ provides
15 for the levy of an annual maintenance tax of a district;

16 (b) Extends the corporate life of a district;

17 (c) Consolidates adjacent districts; or

18 (d) Authorizes the construction or maintenance of
19 public infrastructure for agricultural or urban development
20 which is not provided by a local general-purpose government
21 and pursuant to s. 298.301 is otherwise consistent with any
22 adopted local government comprehensive plan of a local
23 general-purpose government within which the infrastructure is
24 located ~~roads for agricultural purposes as outlined in this~~
25 ~~chapter.~~

26 Section 13. Section 12 of this act shall not take
27 effect unless it is enacted by a three-fifths vote of the
28 membership of each house of the Legislature.

29 Section 14. This act shall take effect upon becoming a
30 law.

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SENATE SUMMARY

Amends various sections of chapter 298, F.S., regulating water control districts by revising the powers and duties of boards of supervisors and district engineers which affect water control plans. Revises voting, notice, and land assessment requirements. Provides for the determination of benefits and damages. Provides that the approval of a plan is final unless court action is initiated within 30 days after approval. Authorizes special laws relating to public infrastructure for agricultural or urban development if approved by a three-fifths vote of the membership of the Legislature.