

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 for 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; amending s.
15 298.225, F.S.; revising requirements for the
16 development and amendment of district water
17 control plans; amending s. 298.26, F.S.;
18 revising use of the district engineer's annual
19 report; amending s. 298.301, F.S.; providing
20 authority for modification of district
21 boundaries; providing for the determination of
22 benefits and damages; revising notice and
23 report requirements; providing that the
24 approval of a district water control plan and
25 assessments is final unless court action is
26 brought within 30 days after approval; amending
27 s. 298.329, F.S.; conforming a statutory cross
28 reference; amending s. 298.353, F.S.; revising
29 notice requirements; providing that district
30 bonds may be payable from assessments on more
31 than one unit; repealing s. 298.337, F.S.,

1 relating to levies of assessments on land less
2 than 1 acre; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsections (3) and (4) of section 298.005,
7 Florida Statutes, are amended to read:

8 298.005 Definitions.--As used in this chapter, the
9 term:

10 ~~(3) "Water control district" means a special district~~
11 ~~established in accordance with s. 298.01 and operating under~~
12 ~~this chapter.~~

13 (3)(4) "Water control plan" means the comprehensive
14 operational document that describes the activities and
15 improvements to be conducted by a water control district
16 authorized under this chapter and includes any district-
17 ~~Alternatively described as a "plan of reclamation," or "water~~
18 ~~management plan," or "plan of improvement" that prior to~~
19 ~~October 1, 1998, a water control plan details the system of~~
20 water management improvements implemented by a water control
21 district.

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

24 298.11 Landowners' meetings; election of board of
25 supervisors; duties of Department of Environmental Protection
26 ~~and Governor.--~~

27 (2) The landowners, when assembled, shall organize by
28 the election of a chair and secretary of the meeting, who
29 shall conduct the election. At the election, each and every
30 acre of land in the district shall represent one share, and
31 each owner shall be entitled to one vote in person or by proxy

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

15 (3) The Department of Environmental Protection, at any
16 such meeting, may represent the state, and shall have the
17 right to vote for supervisors, or upon any matter that may
18 come properly before said meeting to the extent of the acreage
19 owned by the state in such district, provided such acreage is
20 subject to assessment by the water control district, which
21 vote may be cast by any person designated by said department.
22 Guardians may represent their wards, executors and
23 administrators may represent estates of deceased persons, and
24 private corporations may be represented by their officers or
25 duly authorized agents. The owners and proxy holders ~~of a~~
26 majority of district the acreage who are present at a duly
27 noticed landowners' meeting included in such district shall be
28 ~~necessary to~~ constitute a quorum for the purpose of holding
29 such election, ~~or any election thereafter,~~ and in case the
30 ~~owners of a majority of the acreage included in such district~~
31 ~~are not present in person or duly represented, at the time and~~

1 ~~the place stated in the notice calling such meeting, then no~~
2 ~~election shall be held, and notice of such failure shall be~~
3 ~~given in writing by any person interested to the Governor, who~~
4 ~~shall as soon as practicable appoint three competent persons~~
5 ~~who own land in such district as such supervisors for the term~~
6 ~~of 1, 2, and 3 years respectively, and who shall hold their~~
7 ~~office until their successors are elected or appointed and~~
8 ~~qualified.~~

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

11 298.12 Annual election of supervisors; term of office;
12 vacancy.--

13 (1) Every year in the same month after the time for
14 the election of the first board of supervisors, it shall call
15 a meeting of the landowners in the district in the same manner
16 as is provided for in s. 298.11, and the owners of land in
17 such district shall meet at the stated time and place and
18 elect one supervisor therefor, or in case of their failure to
19 elect, the Governor shall appoint such supervisor, ~~in like~~
20 ~~manner as prescribed in s. 298.11,~~ who shall hold the
21 supervisor's office for 3 years or until his or her successor
22 is elected and qualified; and in case of a vacancy in any
23 office of supervisor elected by the landowners, the remaining
24 supervisors, or if they fail to act within 30 days, the
25 Governor may fill such vacancy until the next annual meeting,
26 when a successor shall be elected for the unexpired term.

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

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

31

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

14 (2) The district chief engineer shall have control of
15 the engineering work in said district and may, whenever he or
16 she deems it necessary, confer with the jurisdictional water
17 management district, and he or she may, by and with the
18 consent of the board of supervisors, consult any eminent
19 engineer and obtain his or her opinion and advice concerning
20 the reclamation of lands in said districts. The said engineer
21 shall make all necessary surveys of the lands within the
22 boundary lines of said district, as described in the petition,
23 and of all lands adjacent thereto that will be improved or
24 reclaimed in part or in whole by any system of drainage that
25 may be outlined and adopted.

26 (3) The engineer shall make a report in writing to the
27 board of supervisors, with maps and profiles of said surveys,
28 which report shall contain a full and complete water control
29 plan for draining and reclaiming the lands described in the
30 petition, or adjacent thereto, from overflow or damage by
31 water, with the length, width, and depth of such canals,

1 ditches, dikes or levees, or other works that may be
2 necessary, in conjunction with any canals, drains, ditches,
3 dikes, levees or other works heretofore constructed or built
4 by the Board of Trustees of the Internal Improvement Trust
5 Fund, or any other person, that may now be in process of
6 construction, or which may be hereafter built by them, that
7 may be necessary or which can be advantageously used in such
8 water control plan; and also, an estimate of the costs of
9 carrying out and completing the water control plan, including
10 the cost of superintending the same and all incidental
11 expenses in connection therewith. Maps and profiles shall also
12 indicate so far as necessary the physical characteristics of
13 the lands, and location of any public roads, railroads and
14 other rights-of-way, roadways and other property or
15 improvements located on such lands. A copy of the report
16 required by this section shall be filed with the
17 jurisdictional water management district.

18 Section 5. Section 298.22, Florida Statutes, is
19 amended to read:

20 298.22 Powers of supervisors.--The board of
21 supervisors of the district has full power and authority to
22 ~~excavate, construct, and complete, operate, maintain, repair,~~
23 and replace any and all works and improvements necessary to
24 execute the water control plan. Subject to the applicable
25 provisions of chapter 373 or chapter 403, the board of
26 supervisors:

27 (1) May employ persons and purchase machinery to
28 directly supervise, construct, maintain, and operate the works
29 and improvements described in the water control plan, or may
30 contract with others for the supervision, construction,
31 maintenance, and operation of such works and improvements

1 either as a whole or in part. Contracts for the construction
2 of district facilities must be awarded under s. 255.20 and
3 applicable general law.~~Contracts must be advertised and let~~
4 ~~to the lowest and best bidder, who shall give a good and~~
5 ~~approved bond, with ample security, upon the condition that he~~
6 ~~or she will well and promptly carry out the contract for the~~
7 ~~described works and improvements. Each contract must be in~~
8 ~~writing and have attached to it complete plans and~~
9 ~~specifications for the work to be done and improvements to be~~
10 ~~made under the contract, which plans and specifications must~~
11 ~~be prepared by the chief engineer of the district. Each~~
12 ~~contract shall be prepared by the attorney for the district,~~
13 ~~approved by the board of supervisors, and executed in~~
14 ~~duplicate by its president and the contractor. The chief~~
15 ~~engineer of the district must be the superintendent of all~~
16 ~~district works and improvements.~~

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

30 (3) May build and construct any other works and
31 improvements deemed necessary to preserve and maintain the

1 works in or out of said district; acquire, construct, operate,
2 maintain, use, sell, convey, transfer or otherwise provide for
3 pumping stations, including pumping machinery, motive
4 equipment, electric lines and all appurtenant or auxiliary
5 machines, devices or equipment.

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

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

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

31

1 (7) May condemn or acquire, by purchase or grant, for
2 the use of the district, any land or property within or
3 without said district not acquired or condemned by the court
4 as identified in the engineer's report ~~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) May adopt resolutions and policies to implement
11 the purposes of this chapter.

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

14 (10) May implement and authorize the comprehensive
15 water control activities, including flood protection, water
16 quantity management, and water quality protection and
17 improvement, described in the water control plan.

18 Section 6. Section 298.225, Florida Statutes, is
19 amended to read:

20 298.225 Water control plan; plan development and
21 amendment.--

22 (1) Effective October 1, 1998, any plan of
23 reclamation, or water management plan, or plan of improvement
24 developed and implemented by a water control district created
25 by this chapter or by special act of the Legislature is
26 considered ~~will be referred to as~~ a "water control plan-" for
27 purposes of this chapter.

28 (2) By October 1, 2000, 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 applicable requirements set forth in subsection (3).

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

3 (a) Narrative descriptions of the statutory
4 responsibilities and powers of the water control district.

5 (b) A map delineating the legal boundary of the water
6 control district and identifying any subdistricts or units
7 within the district.

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

11 (d) Engineering drawings and narrative sufficient to
12 describe each facility's capacity for the management and
13 storage of surface waters and potable water supply, if
14 applicable.

15 (e) A description of any environmental or water
16 quality program that the water control district has
17 implemented or plans to implement.

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

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

24 (h) A description of the administrative structure of
25 the water control district.

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

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

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

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

5 ~~(5)(4)~~ Before final adoption of the water control plan
6 or plan amendment under s. 298.301, the board of supervisors
7 must submit the proposed plan or amendment to the
8 jurisdictional water management district for review. Within 90
9 days after receipt of the proposed water control plan or
10 amendment, the governing board of the jurisdictional water
11 management district, or the executive director or designee, if
12 delegated, must review the proposed plan or amendment for
13 consistency with the applicable water resource plans and
14 policies and recommend to the board of supervisors any
15 proposed changes. If the jurisdictional water management
16 district determines that the proposed plan or amendment is
17 incomplete, it may notify the water control district and
18 request additional information. Upon such request, the
19 deadline for review may be extended as agreed by the water
20 control district and the jurisdictional water management
21 district. Within 60 days after receipt of the applicable water
22 management district's recommended changes, the board of
23 supervisors shall include the recommendations in the water
24 control plan or plan amendment to the extent practicable. If
25 the recommendations are not incorporated, the board of
26 supervisors must specify its reasons in the water control plan
27 or plan amendment adopted. A copy of the water control plan
28 must be filed with the jurisdictional water management
29 district and each local general purpose government within
30 which all or a portion of the district's lands are located.

31

1 ~~(6)~~~~(5)~~ The review or approval of the water control
2 plan by the applicable water management district shall not
3 constitute the granting of any permit necessary for the
4 construction or operation of any water control district work
5 and cannot be relied upon as any future agency action on a
6 permit application.

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

11 ~~(8)~~~~(7)~~ If the preparation of a water control plan or
12 amendment under this section does not result in revision of
13 the district's current plan or require the alteration or
14 increase of any levy of assessments or taxes beyond the
15 maximum amount previously authorized by general law, special
16 law, or judicial proceeding, a change in the use of said
17 assessments or taxes, or substantial change to district
18 facilities, the provisions of s. 298.301(2)-(9) do not apply
19 to the plan adoption process. This section and s.
20 298.301(1)-(9) do not apply to minor, insubstantial amendments
21 to district plans authorized by special law.

22 Section 7. Section 298.26, Florida Statutes, is
23 amended to read:

24 298.26 District ~~Chief~~ engineer to make annual reports
25 to supervisors; approval of reports; water control plan.--The
26 district ~~chief~~ engineer shall make a report in writing to the
27 board of supervisors once every 12 months or as directed by
28 the board. The report shall describe the progress made and
29 activities undertaken in furtherance of the water control
30 plan, and may include suggestions and recommendations to the
31 board as the district ~~chief~~ engineer deems appropriate. Upon

1 receipt of the final report of said engineer concerning the
 2 surveys made of the lands contained in the district organized
 3 and the lands adjacent thereto and for reclaiming the same,
 4 the board of supervisors shall adopt such report, or any
 5 modification thereof approved by the district chief engineer,
 6 after consulting with him or her or someone representing the
 7 district chief engineer. ~~Thereafter such adopted report shall~~
 8 ~~be the plan for draining or reclaiming such lands from~~
 9 ~~overflow or damage by water, and it shall, after such~~
 10 ~~adoption, be part of the water control plan.~~

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

14 298.301 District water control plan adoption; district
 15 boundary modification; plan amendment; notice forms;
 16 objections; hearings; assessments.--

17 (1) District infrastructure and works must be
 18 implemented pursuant to a water control plan. In the execution
 19 of the powers and authorities granted in this chapter, the
 20 district's action must be consistent with any adopted local
 21 government comprehensive plan within which the lands of the
 22 district are located. The board of supervisors may, by
 23 resolution at a regular or special ~~regularly scheduled~~ meeting
 24 noticed pursuant to chapter 189, consider the adoption of a
 25 district water control plan or plan amendment. Notice,
 26 hearing, and final adoption of any proposed water control plan
 27 or plan amendment must comply with the provisions of this
 28 chapter. For any district that was created or whose
 29 authorities or boundaries have been amended by special act,
 30 lands may be added to or deleted ~~from a district~~ only through
 31 legislative modification of the special act ~~that contains the~~

1 ~~charter of the district.~~ For those districts existing solely
2 by judicial decree, lands may be added to or deleted from such
3 districts by decree of the circuit court of the county in
4 which the majority of the land within the district is located.

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

17
18 Notice of Hearing
19

20 To the owners and all persons interested in the lands
21 corporate, and other property in and adjacent to the ...name
22 of district... District.

23 You are notified that the ...name of district...
24 District has filed in the office of the secretary of the
25 district a resolution to consider approval of a water control
26 plan or an amendment to the current water control plan to
27 provide ...here insert a summary of the proposed water control
28 plan or plan amendment.... On or before its ~~regularly~~
29 scheduled meeting of ...(date and time)... at the district's
30 offices located at ...(list address of offices)... written
31 objections to the proposed plan or plan amendment may be filed

1 at the district's offices. A public hearing on the proposed
 2 plan or plan amendment will be conducted at the ~~regularly~~
 3 scheduled meeting, and written objections will be considered
 4 at that time. At the conclusion of the hearing, the board of
 5 supervisors may determine to proceed with the process for
 6 approval of the proposed plan or plan amendment and direct the
 7 district engineer to prepare an engineer's report identifying
 8 any property to be taken, determining ~~assessing~~ benefits and
 9 damages, and estimating the cost of implementing the
 10 improvements ~~improvement~~ associated with the proposed plan or
 11 plan amendment. A final hearing on approval of the proposed
 12 plan or plan amendment and engineer's report shall be duly
 13 noticed and held at a regularly scheduled board of supervisors
 14 meeting within 60 days after filing of the engineer's report
 15 with the secretary of the district.

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

21
 22 (4) The engineer may at any time call upon the
 23 attorney of the district for legal advice and information
 24 relative to his duties. The engineer shall proceed to view the
 25 premises and identify ~~determine the value of~~ all lands, within
 26 or without the district, to be acquired by purchase or
 27 condemnation and used for rights-of-way, or other works set
 28 out in the proposed plan or plan amendment. The engineer
 29 shall, with the advice of the district attorney, staff, and
 30 consultants, determine ~~assess~~ the amount of benefits and the
 31 amount of damages, if any, that will accrue to each

1 subdivision of land (according to ownership), from carrying
 2 out and putting into effect the proposed plan or plan
 3 amendment. The engineer shall determine ~~assess~~ only those
 4 benefits that are derived from the construction of the works
 5 and improvements set out in the proposed plan or plan
 6 amendment. The engineer has no power to change the proposed
 7 plan or plan amendment without board approval.

8 (5) The engineer shall prepare a report arranged in
 9 tabular form, the columns of which are to be headed as
 10 follows: column one, "owner of property ~~assessed~~"; column
 11 two, "description of property ~~assessed~~"; column three, "number
 12 of acres ~~assessed~~"; column four, "amount of determined benefit
 13 ~~annual assessment assessed~~"; column five, "amount of
 14 determined damages ~~total assessments~~"; column six, "number of
 15 acres to be taken for rights-of-way, district works, etc." +
 16 ~~column seven, "increased value of property from improvement".~~
 17 The engineer shall also, by and with the advice of other
 18 employees and consultants of the district, estimate the cost
 19 of the works set out in the proposed plan or plan amendment,
 20 including the cost of and the probable expense of organization
 21 and administration. ~~If the engineer's estimate of increased~~
 22 ~~property value exceeds the total amount of assessments to be~~
 23 ~~levied against a parcel, benefits are deemed to exceed~~
 24 ~~damages.~~ A maintenance assessment recommendation must also be
 25 included in each engineer's report. However, the maintenance
 26 assessment may not be considered as part of the costs of
 27 installation or construction specified by the proposed plan or
 28 plan amendment in determining whether benefits exceed damages.
 29 The report shall be signed by the engineer and filed in the
 30 office of the secretary of the district. The secretary of the

31

1 district, or deputy thereto, shall assist as needed in
2 preparation of the report.

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

9

10 Notice of Filing Engineer's Report for
11 District

12

13 Notice is given to all persons interested in the
14 following described land and property in County (or
15 Counties), Florida, viz.: ...(Here describe land and
16 property)... included within the district that
17 the engineer hereto appointed to determine ~~assess~~ benefits and
18 damages to the property and lands situated in the district and
19 to determine the estimated cost of construction required by
20 the water control plan ~~appraise the cash value of the land~~
21 ~~necessary to be taken for rights-of-way and other works of the~~
22 ~~district~~, within or without the limits of the district, under
23 the proposed water control plan or plan amendment, filed his
24 report in the office of the secretary of the district, located
25 at ...(list address of district offices),... on the
26 day of, 19...., and you may examine the report
27 and file written objections with the secretary of the district
28 to all, or any part thereof, on or before ...(enter date 20
29 days after the last scheduled publication of this notice,
30 which date must be before the date of the final hearing)....
31 The report recommends ...(describe benefits and damages

1 ~~assessment schedule).... If approved, the assessment will be~~
2 ~~collected by the county tax collector.~~A final hearing to
3 consider approval of the report and proposed water control
4 plan or plan amendment shall be held ...(time, place, and date
5 at least 30 days but no later than 60 days after the last
6 scheduled publication of this notice, ~~but no later than 60~~
7 ~~days after filing of the engineer's report)....~~

8
9 Date of first publication:, 19....

10
11

12 (Chairman, Board of Supervisors)

13 County, Florida

14 (8) All objections must be heard and determined by the
15 board of supervisors at the public hearing so as to carry out
16 liberally the purposes and needs of the district. If the board
17 of supervisors determines at the final public hearing, upon
18 examination of the engineer's report and upon hearing all of
19 the objections, that the estimated cost of construction of
20 improvements contemplated in the plan or plan amendment is
21 less than the benefits determined for ~~assessed against~~ the
22 lands in the district, the board of supervisors may ~~shall~~
23 approve and confirm the engineer's report; but, if the board
24 of supervisors determines that any of the objections should be
25 sustained, it shall order the report changed to conform with
26 its findings, and when changed, the board of supervisors shall
27 approve and confirm or disapprove, as appropriate, the report
28 and enter its order approving or disapproving, as appropriate,
29 the report and proposed plan or plan amendment. When any land
30 or other property is shown by the engineer's report to be
31 needed for rights-of-way, or other works, the board of

1 supervisors may institute proceedings under chapter 73 or
2 chapter 74 in the circuit court of the proper county to
3 condemn the lands and other property that must be taken or
4 damaged in the making of improvements, with the right and
5 privilege of paying into court a sum to be fixed by the
6 circuit court judge and of proceeding with the work, before
7 the assessment by the jury.

8 (9) The approval and confirmation of the engineer's
9 report by the board of supervisors establishes the amount and
10 apportionment of assessments contained therein. The
11 assessments so established are final and conclusive as to all
12 land assessed, unless within 30 days after approval and
13 confirmation of the engineer's report an action for relief is
14 brought in a court of competent jurisdiction. If the
15 assessment against any land is reduced or abated by the court,
16 the board of supervisors shall cause the engineer's report to
17 be amended accordingly. Unless such an action is commenced
18 within the 30-day period, the assessment set forth in the
19 engineer's report is final and nonappealable as to such land.

20 ~~Any party identified in subsection (3) may challenge the~~
21 ~~decision of the board in the manner and time provided by the~~
22 ~~Florida Rules of Civil and Appellate Procedure. If it is~~
23 ~~determined by court order that any tract or lot of land or~~
24 ~~parts thereof, upon which a non-ad valorem assessment is~~
25 ~~authorized and levied, will not be benefited by or receive any~~
26 ~~benefit from the completion of the plan or plan amendment, or~~
27 ~~will be burdened disproportionately to other similarly~~
28 ~~benefited land, then the non-ad valorem assessment may not be~~
29 ~~levied against that land.~~

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

1 298.329 When works insufficient, supervisors have
2 power to make a new or amended plan; additional levy; issuance
3 of bonds; procedure.--

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

16 Section 10. Section 298.353, Florida Statutes, is
17 amended to read:

18 298.353 Unit development; powers of board of
19 supervisors to designate units of district; financing
20 assessments for each unit.--The board of supervisors of the
21 district may designate areas or ~~of~~ parts of the district as
22 separate administrative and financial "units." Units must be
23 created or modified as a part of and through the adoption of a
24 water control plan or plan amendment as provided in this
25 chapter. The units into which the district is divided must be
26 given appropriate numbers or names by the board of supervisors
27 so that the units can be readily identified and distinguished.
28 The board may fix and determine the location, area, and
29 boundaries of the lands to be included in each unit, the type
30 and amount of work required in the unit and the order of
31 development, and the method of carrying on the work in each

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

1 board of supervisors may at any time amend the location and
2 description of lands in any unit or units by proceeding in
3 accordance with the provisions of this section for the
4 original creation of the unit or units. If, after the approval
5 of the engineer's report of benefits in any unit or units or
6 the issuance of bonds or other obligations that are payable
7 from taxes or assessments for benefits levied upon lands
8 within any unit or units, the board of supervisors finds that
9 the infrastructure or service plan for the unit or units is
10 insufficient or inadequate for efficient development, the plan
11 may be amended or changed and the unit or units may be amended
12 or changed as provided in this section, by changing the
13 location and description of lands in the unit or units, by
14 detaching lands therefrom, or by adding lands thereto pursuant
15 to this chapter. However, a change or amendment to a
16 designated unit is not authorized if it has the effect of
17 impairing a debt or other obligation of the unit or the
18 district.

19 Section 11. Section 298.337, Florida Statutes, is
20 repealed.

21 Section 12. This act shall take effect upon becoming a
22 law.

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