

By Representative Livingston

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:

30
31

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;

1
2 THENCE run northwesterly along said shoreline
3 for 3,900 feet more or less to a point of
4 intersection;
5
6 THENCE run northwesterly along said shoreline
7 and across San Carlos Bay for 8,000 feet more
8 or less to the intersection of a westerly
9 prolongation of the north line of Section 13,
10 Township 46 South, Range 23 East and the waters
11 of San Carlos Bay;
12
13 THENCE run easterly along said prolongation and
14 said north line and the north line of Sections
15 18, 17, 16, 15, 14, and 13 to the northeast
16 corner of said Section 13, Township 46 South,
17 Range 24 East;
18
19 THENCE run southerly along the easterly line of
20 said Section 13 and Section 24, Township 46
21 South, Range 24 East, for 10,600 feet more or
22 less to the Point of Beginning.
23
24 Section 2. Division of district into areas.--The Board
25 of Commissioners of the Lee County Mosquito Control District
26 shall divide the district into seven residential areas for the
27 purpose of selecting members of the board of commissioners.
28 From the 1990 Federal Census and every 10 years thereafter,
29 the board of commissioners shall reestablish area boundaries
30 so that all areas are as nearly equal in population as
31 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
31

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.

31

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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