

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

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

16  
17 Be It Enacted by the Legislature of the State of Florida:

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

24  
25 DESCRIPTION

26  
27 A tract or parcel of land lying in parts of  
28 Township 46 South, Range 24 East and Township  
29 46 South, Range 24 East and part of Township 47  
30 South, Range 24 East, Lee County, Florida,  
31

1 which tract or parcel, containing 14,615 acres  
2 more or less, is described as follows:

3  
4 BEGINNING at the southeast corner of Section  
5 24, Township 46 South, Range 24 East, running  
6 westerly along the south line of said section  
7 for 2,700 feet more or less to the waters of  
8 Estero Bay;

9  
10 THENCE run southwesterly along a northwesterly  
11 line across the waters of Estero Bay for 8,300  
12 feet to a point of intersection;

13  
14 THENCE run southerly along a westerly line  
15 across said Bay and Starvation Flats for 4,200  
16 feet more or less to a point of intersection;

17  
18 THENCE run southeasterly, southerly and  
19 southwesterly along a westerly line of said  
20 area running across said Bay and Big Carlos  
21 Pass for 10,000 feet more or less;

22  
23 THENCE run northwesterly across Big Carlos Pass  
24 and along the shoreline of Estero Island for  
25 6,100 feet more or less to a point of  
26 intersection;

27  
28 THENCE continue northwesterly along said  
29 shoreline for 3,200 feet more or less to a  
30 point of intersection;

31

1        THENCE continue along said shoreline  
2        northwesterly for 22,800 feet more or less to a  
3        point of intersection;

4  
5        THENCE run northwesterly along said shoreline  
6        for 3,900 feet more or less to a point of  
7        intersection;

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

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

21  
22       THENCE run southerly along the easterly line of  
23       said Section 13 and Section 24, Township 46  
24       South, Range 24 East, for 10,600 feet more or  
25       less to the Point of Beginning.

26  
27       Section 2. Division of district into areas.--The Board  
28       of Commissioners of the Lee County Mosquito Control District  
29       shall divide the district into seven residential areas for the  
30       purpose of selecting members of the board of commissioners.  
31       From the 1990 Federal Census and every 10 years thereafter,

1 the board of commissioners shall reestablish area boundaries  
2 so that all areas are as nearly equal in population as  
3 practicable based on the most recent decennial census.

4 Section 3. Board of commissioners; qualification;  
5 election; term of office.--

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

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

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

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

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

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

20           Section 5. Powers and duties of the board of  
21 commissioners.--

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

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

28 (2) The board of commissioners shall have all the  
 29 powers of a body corporate including the power to sue and be  
 30 sued as a corporation in said name in any court; to contract;  
 31 to adopt and use a common seal and alter the same at pleasure;

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

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



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

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

10           Section 9. Breeding places.--

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

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

1 property cannot after diligent search be found, the notice  
 2 shall be served by posting a copy in a conspicuous place upon  
 3 the property for a period of 10 days, and by mailing a copy to  
 4 the owner addressed to his address as given on the last  
 5 completed assessment roll of the county in which the property  
 6 is situated, or, in the absence of an address on the roll, to  
 7 his last known address. Before complying with the requirements  
 8 of the notice the owner or party in possession may appear at a  
 9 hearing before the board at a time and place fixed by the  
 10 board and stated in the notice. At the hearing, the district  
 11 board shall determine whether the initial finding as set forth  
 12 in the notice is correct and shall permit the owner or party  
 13 in possession to present testimony in his behalf. If, after  
 14 hearing all the facts, the board makes a determination that a  
 15 nuisance exists on the property, the board shall order  
 16 compliance with the requirements of the notice or with  
 17 alternate instructions issued by the board.

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

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

28 (5) When any nuisance specified in this chapter is  
 29 found to exist on any lands or property subject to the control  
 30 of any public agency, the district shall notify the public  
 31 agency of the existence of the nuisance. The provisions of

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

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

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

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

1 in accordance with the provisions of chapter 189, and ss.  
2 200.065 and 218.34, Florida Statutes.

3 Section 12. Eminent domain.--The board may hold  
4 control and acquire by gift or purchase any real or personal  
5 property for the use of the district and may condemn any land  
6 or easements needed to carry out the purposes of this act. The  
7 board may exercise the right of eminent domain and institute  
8 and maintain condemnation proceedings as provided in chapter  
9 73, Florida Statutes.

10 Section 13. Tax levy.--

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

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

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

25       Section 14. Qualifications of director; advertisement  
 26 of contracts.--All work done under the provisions of this act,  
 27 both in construction and maintenance, shall be carried on  
 28 under the supervision of an individual determined by the board  
 29 to be well qualified to administer the programs authorized by  
 30 this act. The board may have all work performed by contract  
 31

1 with or without advertisement, or without contract, by  
2 machinery, equipment and labor employed directly by the board.

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

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

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

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1           Section 18. Books and records.--All books and records  
2 of the district shall become a part of the records of the  
3 district continued by this act.

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

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

29           Section 21. Alternate plan.--The purpose of section  
30 20, is to coordinate certain activities between the Lee County  
31 Health Unit or Health Department and the Lee County Mosquito

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

25 Section 22. All prior special acts relating to the Lee  
 26 County Mosquito Control District are hereby repealed. They are  
 27 chapters 57-1520, 57-2059, 61-2394, 63-1542, 65-1820, 65-1831,  
 28 67-1630, 72-598, 79-493, 82-316, 83-442, and 95-517, Laws of  
 29 Florida. It is the intent that this act shall be the single  
 30 act that codifies all prior special acts related to the Lee  
 31 County Mosquito Control District upon this act becoming a law.



1           Section 23. The district created by this act and the  
2 board of commissioners shall have the right to use any and all  
3 privileges or powers which are granted to mosquito control  
4 districts under the general laws of this state.

5           Section 24. It is declared to be the legislative  
6 intent that this act shall be construed liberally.

7           Section 25. It is declared to be the legislative  
8 intent that if any section, subsection, sentence, clause, or  
9 provision or part thereof of this act is held invalid,  
10 unenforceable or unconstitutional it shall not affect the  
11 remainder of the act and the remainder of the act shall remain  
12 in force and effect as if the invalid portion of the act had  
13 not been enacted.

14           Nothing in this act shall change existing law as to  
15 whether or the extent to which the provisions of Chapters 253,  
16 369, 373, 388, 403, Florida Statutes, shall apply.

17           Section 26. This act shall take effect upon becoming a  
18 law.

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