

STORAGE NAME: h4099.ca

DATE: April 13, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 4099

RELATING TO: Central Broward Water Control District

SPONSOR(S): Representative Rayson

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE & TAXATION
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill codifies all prior special acts relating to the Central Broward Water Control District into one special act.

The bill makes some substantive changes to the current charter.

The bill deletes obsolete language.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Codification and Status Statement

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of special districts' charters (including fire control districts), either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation. However, in the 1997 interim, some districts expressed the need to request substantive changes to their charters but because of the number of amendments (special acts) to their charters, they do not have time to codify.

As a result, the Chair of the Committee on Community Affairs issued a Memorandum on October 3, 1997, explaining the policy of the Committee for charter codifications for the 1998 Legislative Session. In part the Memorandum states:

1. Although two bills are preferable (one to codify and one to accomplish the substantive change), the House Committee on Community Affairs will accept one bill (containing the codification and substantive change).
2. The substantive change, if included in the codifying local bill, **must be advertised** clearly and concisely, i.e., "a substantive change to the charter is being sought affecting membership of the Board," or whatever change(s) is applicable.
3. If a substantive change is needed to a District's charter this Session, but codification is too large a task to accomplish at the same time, the Committee will hear bills for any substantive changes that a legislative delegation deems necessary.
4. The Committee will accept voluntary charter codifications from any district for the 1998 Legislative Session. A schedule for submitting the codifying charter is attached and is based on the number of special acts a district currently enjoys. The attached proposed schedule of submittals is based on an extended deadline of 2004, which must be accomplished legislatively. The Committee will have a bill to address this issue during the 1998 Legislative Session. Keep in mind, if they choose to do so, a district may submit its codification earlier than the proposed schedule indicates.

Also, section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

Chapter 298, Florida Statutes

Chapter 298, Florida Statutes, contains provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Creation of Water Control Districts

Section 298.01, Florida Statutes, restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 125.01, Florida Statutes (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by chapter 298, Florida Statutes

Election of Board of Supervisors

Upon the formation of a water control district, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district. Once a district is organized, the clerk of the circuit court with jurisdiction over the district must announce the first landowners' meeting in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve 3-year rotating terms, with one supervisor elected each year at a required annual meeting. In the event a quorum is not present, the Department of Environmental Protection (DEP) is required to fill the vacant seat.

One-Acre One-Vote

Section 298.11, Florida Statutes, provides for every acre of land within a district to represent one share, or vote. Each landowner within a district is entitled to one vote per acre of land they own. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well.

Role of the Circuit Courts

As noted, once a water control district is formed, the circuit court of the county where the majority of the land is located has exclusive jurisdiction within the boundaries of the district. Circuit courts serve several functions in the creation and governance of water control districts. After a board of supervisors adopts a plan of reclamation, it must petition the circuit court to appoint three commissioners to appraise the lands that will be acquired to implement the plan of reclamation. A circuit court may require the report on assessment of benefits and damages to be amended and it must condemn lands described in the report that are needed to construct the district's works. In the event a circuit court determines that the value of land within the district has changed and additional conditions are met, the court is required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

Revenue Sources

The primary funding source for water control district activities is special assessments. Once a circuit court has issued its decree on the report on assessments of benefits and damages, a board of supervisors may levy a tax on the land that will be benefited by the

works. This tax must be "apportioned to, and levied on, each tract of land in said district in proportion to the benefits assessed, and not in excess thereof," as provided for in section 298.50, Florida Statutes. A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of assessments levied. A board of supervisors also may levy an annual maintenance tax on each tract of land in the district to maintain and preserve the district's works once they are completed. This tax also must be apportioned on the basis of the net benefits accruing to the individual parcels.

Limitation on Special Acts

Paragraph (21) of Subsection 11(a), Article III of the State Constitution, prohibits special laws or general laws of local application pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house." Furthermore, "such law may be amended or repealed by like vote."

Section 298.76, Florida Statutes, was adopted pursuant to this authority. The section provides "there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to this chapter." However, this subsection does not prohibit special or local legislation that:

- (a) Amends an existing special act which provides for the levy of an annual maintenance tax of a district;
- (b) Extends the corporate life of a district;
- (c) Consolidates adjacent districts; or
- (d) Authorizes the construction or maintenance of roads for agricultural purposes as outlined in this chapter.

The section also authorizes special or local laws:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

Finally, the section provides that any special or local laws enacted by the Legislature pertaining to any water control district shall prevail as to that district and shall have the same force and effect as though it had been a part of this chapter or any section thereof at the time the district was created and organized.

B. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Central Broward Water Control District into one special act.

The bill makes the following substantive changes to the district's current charter:

- removes the \$100 limitation on board member reimbursement for travel and other board expenses;
- changes the assumption and installation of office for board members elected after the year 2000 from the first Tuesday after the first Monday in January following their election to the first regularly scheduled meeting following their election;
- changes the organization meeting from the first Tuesday after the first Monday in January to the first regularly scheduled meeting following the first Tuesday after the first Monday in November; and
- inserts that the vice chair is subject to the same limitations as the chair when serving as chair.

The bill deletes obsolete language.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 61-1439, Laws of Florida; chapter 65-1006, Laws of Florida; chapter 67-1002, Laws of Florida; chapter 69-528, Laws of Florida; chapter 70-479, Laws of Florida; chapter 71-388, Laws of Florida; chapter 72-486, Laws of Florida; chapter 79-432, Laws of Florida; chapter 80-462, Laws of Florida; chapter 82-268, Laws of Florida; chapter 85-388, Laws of Florida; chapter 86-359, Laws of Florida; chapter 86-363, Laws of Florida; chapter 87-506, Laws of Florida; chapter 88-523, Laws of Florida; chapter 91-350, Laws of Florida; chapter 94-426, Laws of Florida; and chapter 96-536, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Codifies, reenacts, amends, and repeals prior special acts relating to the Central Broward Water Control District.

Section 2: Recreates and reenacts the Central Broward Water Control District's charter.

Section 1 -- Abolishes the Napoleon B. Broward Drainage District; and transfers rights and assets to the Central Broward Water Control District.

Section 2 -- Creates the Central Broward Water Control District; provides purposes; and describes boundaries.

Section 3 -- Grants powers to the District.

Section 4 -- Provides for a board of commissioners; provides for membership; provides for qualifications; describes election zones; provides for terms; provides for compensation; and provides for vacancies.

Section 5 -- Provides for elections and procedures; requires a qualification oath; and provides oath.

Section 6 -- Provides for recall elections and procedures.

Section 7 -- Provides for appointment of chair and vice-chair at first regularly scheduled meeting following the election; provides for terms; provides quorum; provides that the board establishes its own rules and procedures; and requires at least an affirmative majority vote of three members by resolution before any determination or any action.

Section 8 -- Requires the District's principal office be located within the District; requires general business meetings to be held at least once per month; and provides for special meetings.

Section 9 -- Provides for the employment of a secretary; provides duties; provides for salary; provides for execution of a bond; and allows for open inspection of District's books.

Section 10 -- Provides for the employment of a treasurer; requires execution of a bond; and allows for the treasurer to serve as secretary.

Section 11 -- Provides for the employment of a district manager as the chief operating employee of the district; provides duties and purpose; and allows for the manager to act as treasurer and secretary.

Section 12 -- Authorizes the District to levy ad valorem taxes; and provides for levy and collection procedures.

Section 13 -- Authorizes special assessments to be levied against benefited property for local improvements; provides that levy be proportionate to benefit; provides for resolutions; provides for notice and hearings; allows for amending assessment; provides for claims of damages due to improvements; authorizes the district to pay for portion of the improvement costs; provides description of improvement costs; provides for petition for improvements; provides for tax roll; provides that assessment is lien against property; allows for new assessments if assessment is held invalid or irregular; provides for installment payments and penalties; provides for foreclosure and procedures; and authorizes issuance of improvement bonds.

Section 14 -- Requires annual budget which is a complete financial plan; and requires specific items to be in the proposed budget.

Section 15 -- Provides the procedure for the formulation and submission of the annual budget; and requires specific items to be in the budget.

Section 16 -- Provides procedures for adopting budget; requires public hearings on budget; and allows for budget revision after adoption.

Section 17 -- Provides for valuation of property; provides for preparation of tax roll; provides that assessment is a lien; provides for special warrant for collection of taxes; provides for collection and remittance.

Section 18 -- Provides tax due date; authorizes sale of lands for nonpayment; provides for notice; and provides procedures.

Section 19 -- Requires publication of notice of taxes; and requires proof of advertisement.

Section 20 -- States minimum sales price for lands at tax sales; and requires the collector to bid for the District if no other bidders.

Section 21 -- Requires bid at tax sale to be paid within 1 hour or the sale is voided.

Section 22 -- Requires the tax collector to issue a certificate of sale; and lists requirements in certificate.

Section 23 -- Provides for compensation for property appraiser and tax collector.

Section 24 -- Requires a triplicate list of certificates of sales to be filed; and provides for payment of fees to the clerk of the circuit court.

Section 25 -- Allows redemption of tax certificates within 2 years; provides procedures for converting certificate of sale into deed; disallows tax deeds to be set aside for defects unless the property was not liable; and provides reimbursement when deed is held invalid.

Section 26 -- Provides conveyance and foreclosure procedures for property in which the district holds the certificate of sale; and provides requirements for deeds of conveyance by the board.

Section 27 -- Provides that the district's tax certificates be held by the treasurer; and provides that the proceeds are held and disposed in like manner as taxes.

Section 28 -- Authorizes short term indebtedness; allows payment of short term indebtedness from sale of bonds and/or taxes; and provides limitation.

Section 29 -- Authorizes long term indebtedness; provides maximum term of interest; provides purposes the borrowed money can be used for; and authorizes the issuance of negotiable coupon bonds.

Section 30 -- Provides requirements for bonds; provides treasurer duties regarding bonds; and provides for bond to remain valid if officer who signed bond is no longer an officer.

Section 31 -- Provides that bond is payable to bearer of bond only, unless the bond has a conforming registered owner.

Section 32 -- Provides that authorized bonds have all the qualities of negotiable paper; provides that there is an irrevocable contract between the board, district, and bond holders; authorizes bond holder actions to compel performance of duties; provides that all bonds have equal rank; provides for retiring bonds and procedures.

Section 33 -- Grants the board of commissioners the power and authority to execute the district's comprehensive water management plan; allows for work to be performed by contractors; provides for contracts; provides that the district manager is the superintendent of all works and improvements; and requires at least a yearly final report from the manager.

Section 34 -- Authorizes the board to make rules and regulations necessary to administer and enforce the charter; provides that chapter 120, Florida Statutes, applies; and provides specific issues which rules and regulations should be adopted.

Section 35 -- Provides for the board to obtain required permission or consent from the U.S. government when required; and provides that the board may bind the district to conditions that are attached to the permission or consent.

Section 36 -- Provides requirements of surety bonds; provides that all suits be in district's name; and provides that all bonds cover defaults of deputies, clerks, or assistance of the officers appointing them.

Section 37 -- Grants the district the authority to acquire lands; grants the right of eminent domain; and provides procedures as prescribed by chapter 73, Florida Statutes.

Section 38 -- Prohibits obstructions, destruction or damage to drainage works; provides liability; provides civil and criminal penalties; provides notice; provides for hearing upon request; provides for assessment of costs; allows for liens; and provides for foreclosure.

Section 39 -- Provides procedures for expanding the district's boundaries.

Section 40 -- Authorizes the district to adopt regulations regarding plat and subdivisions; provides purpose of regulations; provides prohibitions and requirements; and provides criminal penalty for violations.

Section 41 -- Prohibits board members from directly or indirectly contracting with the district; provides criminal penalties and possible removal from office.

Section 42 -- Authorizes the board to procure contractual services and purchase goods; provides for bid in specific circumstances; provides for bid procedures and acceptance of bid; allows competitive bidding and sealed bids; provides exemption from bid requirements in emergency; and provides for negotiation of contract when no bids are received.

Section 3: Repeals all prior special acts relating to the district.

Section 4: Provides that this charter's provisions control when a conflict arises.

Section 5: Provides a severability clause.

Section 6: Provides effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 9, 1998

WHERE? Fort Lauderdale, Florida; Sun-Sentinel

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

In Florida Attorney General Opinion 95-79, the Attorney General stated that the District was allowed to place a limitation on the amount of travel reimbursement a board member could receive. The opinion stated that charter provisions prevail over section 112.061, Florida Statutes, when there is a conflict regarding travel reimbursement of public officers and employees. With the change in section 4(g) of the charter, the limitation is removed and section 112.061, Florida Statutes, is applicable.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The following amendments have been offered:

Amendments #1, #2, and #4 -- Technical amendments which correct scrivener errors;

Amendments #5 and #6 -- Corrects scrivener errors, provides clarification, and inserts chapter 86-359, Laws of Florida (a special act dealing with the district's charter which failed to be approved by referendum); and

Amendment #3 -- Inserts the language "an independent special district" into section 1 of the bill in compliance with section 189.404(5), Florida Statutes.

The amendments do not affect the notice requirement.

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VI. SIGNATURES:

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