

STORAGE NAME: h4469z.ca
DATE: May 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

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

BILL #: 1ST ENG/HB 4469
RELATING TO: South Broward Drainage District, Broward County
SPONSOR(S): Representative Rayson
COMPANION BILL(S): SB 2708 (s)

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

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 4469 was passed by the House Committee on Community Affairs on April 21, 1998, with 1 amendment. The bill passed the House on April 24, 1998, by a vote of 120 YEAS and 0 NAYS, and was ordered engrossed. The engrossed bill was received by the Senate on April 29, 1998 and was referred to the Senate Committee on Rules and Calendar. It was withdrawn from the Senate Committee on Rules and Calendar on May 1, 1998, and placed on the Senate Local Calendar. The Senate passed 1ST ENG/HB 4469 on May 1, 1998, by a vote of 40 YEAS and 0 NAYS. The bill became chapter 98-524, Laws of Florida.

II. SUMMARY:

The bill codifies all prior special acts relating to the South Broward Drainage District into one special act.

The bill changes the title of District Manager to District Director.

The bill requires that a certified copy of the act be filed with the Broward County Public records.

The bill inserts language relating to the transfer to the South Broward Drainage District of boundaries, rights, assets, liabilities, contracts, and other provisions relating to the abolishment of the Bailey Drainage District in 1992.

The bill deletes a provision which authorized the assessment of a tax on lands within the district which belong to county, school district, or other political subdivisions.

The bill removes conflicting language regarding the maximum amount district's bonds may bear.

The bill removes obsolete language.

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III. 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 South Broward Drainage District into one special act.

The bill changes the title of District Manager to District Director.

The bill requires that a certified copy of the act be filed with the Broward County Public records.

The bill inserts language relating to the transfer to the South Broward Drainage District of all boundaries, rights, assets, liabilities, contracts, and other provisions relating to the abolishment of the Bailey Drainage District in 1992 by chapter 92-244, Laws of Florida.

The bill deletes a provision which authorized the assessment of a tax on lands within the district which belong to county, school district, or other political subdivisions. Currently, the lands of county, school district, and other political subdivisions in the district is being taxed and subject to the powers of the district as though they were private owners of real estate.

The bill removes conflicting language regarding the maximum amount district's bonds may bear.

The bill removes obsolete language.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 12049, Laws of Florida, 1927; chapter 13657, Laws of Florida, 1929; chapter 13658, Laws of Florida, 1929; chapter 14734, Laws of Florida, 1931; chapter 16038, Laws of Florida, 1933; chapter 16039, Laws of Florida, 1933; chapter 16040, Laws of Florida, 1933; chapter 30420, Laws of Florida, 1955; chapter 59-650, Laws of Florida; chapter 63-1191, Laws of Florida; chapter 65-1326, Laws of Florida; chapter 67-904, Laws of Florida; chapter 70-484, Laws of Florida; chapter 70-550, Laws of Florida; chapter 86-357, Laws of Florida; chapter 86-362, Laws of Florida; chapter 89-430, Laws of Florida; chapter 92-244, Laws of Florida; chapter 93-369, Laws of Florida; and chapter 96-540, 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 special acts relating to the South Broward Drainage District.

Section 2: Recreates and reenacts the South Broward Drainage District. The charter provisions are:

Section 1 -- Provides that the South Broward Drainage District continue to be a public corporation and an independent special district; provides that the Hollywood Reclamation District, renamed the South Broward Drainage District, continue to be a public corporation, an independent special district, and have perpetual existence; provides validation of certain actions of these districts.

Section 2 -- Provides for title to property to be vested in the South Broward Drainage District.

Section 3 -- Provides for the transfer of all contracts and financial obligations.

Section 4 -- Names the district.

Section 5 -- Provides for the holdover of all officers and employees.

Section 6 -- Provides for the continuation of all existing rules, resolutions and regulations.

Section 7 -- Renames the charter.

Section 8 -- Provides a legal description of the boundaries of the district.

Section 9 -- Provides definitions.

Section 10 -- Establishes the board of supervisors as the governing body of the district; provides for the election of the board and establishes terms of office; provides that a majority of members shall constitute a quorum; requires meeting records to be kept.

Section 11 -- Authorizes board to employ a district director to supervise the works of the district.

Section 12 -- Provides compensation for board members.

Section 13 -- Grants powers to the board.

Section 14 -- Authorizes the board to designate a treasurer, select depositories for board funds; and to employ a fiscal agent.

Section 15 -- Authorizes the board to establish district projects, including all drainage and reclamation facilities, and provides that the district is not required to obtain any license or permit from other governmental entities in Broward County.

Section 16 -- Permits district to exercise its powers in certain municipalities.

Section 17 -- Provides for a district seal.

Section 18 -- Provides for the board to establish the fiscal year for the district.

Section 19 -- Requires the district to annually prepare and publicly notice a proposed budget and to adopt, by resolution, the final budget.

Section 20 -- Provides for public notice of all meetings of landowners and provides criteria for such meetings.

Section 21 -- Authorizes the district's current plan for the drainage and reclamation of lands.

Section 22 -- Authorizes board to adopt, revise or revoke any plan for the drainage and reclamation of lands and to modify assessments made or taxes levied.

Section 23 -- Authorizes board to levy taxes; limits the amount of bonds issued to 90 percent of the benefits assessed; requires board to prepare a list of all taxes levied.

Section 24 -- Authorizes the prepayment of taxes or assessments.

Section 25 -- Provides that taxes levied by the district shall constitute a lien upon all property subject to taxation by the district.

Section 26 -- Authorizes the district to issue bond anticipation notes and prescribes standards for such notes.

Section 27 -- Enables the district to obtain loans with certain restrictions.

Section 28 -- Provides that any issue of bonds may be secured by a trust agreement.

Section 29 -- Prescribes the manner in which the district may sell bonds.

Section 30 -- Provides that the district may authorize the issuance of bonds by adoption of a resolution.

Section 31 -- Specifies the maximum allowable interest on district bonds, assessments, or obligations.

Section 32 -- Authorizes the board to issue interim certificates and replacement certificates under certain circumstances.

Section 33 -- Provides that bonds issued by the district shall be negotiable unless expressly deemed nonnegotiable.

Section 34 -- Provides a defeasance clause.

Section 35 -- Provides that bonds issued by the district constitute legal investments or security.

Section 36 -- Enables the board to include certain covenants in any resolution authorizing the issuance of bonds.

Section 37 -- Provides procedure for establishing the validity of bonds.

Section 38 -- Declares that this act provides full and complete authority for the issuance of bonds by the district.

Section 39 -- Provides that the state will not interfere with the rights of district bondholders or agreements between the district and the federal government.

Section 40 -- Authorizes the board to annually determine and levy taxes and provides that such taxes will be collected by the Broward County revenue collector.

Section 41 -- Authorizes the board to levy an operation and administrative tax.

Section 42 -- Authorizes the board to levy a maintenance tax on those lands within the district which benefited from maintenance performed by the district.

Section 43 -- Prescribes method for the collection and enforcement of taxes levied by the district.

Section 44 -- Provides a penalty for delinquent taxes.

Section 45 -- Authorizes the board to construct assessable improvements and to levy special assessments upon benefited property; provides methods for the levy of special assessments; authorizes the board to issue assessment bonds; authorizes the board to request sealed bids to construct such improvements; and provides a method for the levy and collection of special assessments.

Section 46 -- Authorizes the board to issue certificates of indebtedness based upon assessments of improvements made by the district; provides that the district may issue assessment bonds; provides that the district may make covenants to secure the holders of such assessment bonds; provides criteria for assessment bonds.

Section 47 -- Authorizes the district to foreclose on liens in certain circumstances and prescribes the manner for foreclosure proceedings.

Section 48 -- Provides for the payment of taxes and redemption of tax liens by the district; provides that the district shall share in the proceeds of tax sale under s. 197.542, Florida Statutes.

Section 49 -- Outlines procedures necessary for the board to change the boundary lines of the district; prescribes the manner by which land may be annexed to or excluded from the district.

Section 50 -- Provides that the board may designate areas of the district as units; authorizes the board to adopt a system of progressive drainage by units; provides for public comment on board decisions; authorizes the board to adopt a plan of reclamation for such units and to levy assessments for the benefits therefrom; and provides that the board may amend its unit plan.

Section 51 -- Authorizes the board to divide the district into subdistricts.

Section 52 -- Authorizes the board to require all lands and building thereon to use the district's drainage and reclamation facilities; prohibits the construction or operation of other drainage or reclamation facilities without consent of the board.

Section 53 -- Requires the district to competitively bid certain projects; provides exceptions.

Section 54 -- Authorizes the district to provide services and construct facilities within and outside of the district boundaries.

Section 55 -- Provides the district with authority to maintain projects across rights-of-ways within and outside of district boundaries.

Section 56 -- Provides that the board may enter into agreements with fiscal agents, financial advisers, engineers and other consultants regarding the issuance and sale of bonds.

Section 57 -- Authorizes the board to enter into agreements with the governing bodies of municipalities located wholly or partly within district boundaries for the purpose of discharging their common duties in rendering services.

Section 58 -- Authorizes the district to prescribe fees and other charges.

Section 59 -- Authorizes the district to regulate and establish standards for subdivisions.

Section 60 -- Governs actions taken on consent of landowners.

Section 61 -- Exempts district property from execution.

Section 62 -- Describes mechanisms for enforcement and penalties for violation of this act.

Section 63 -- Provides a legal description of additional land boundaries for the district, effective October 1, 1992.

Section 64 -- Provides that the Bailey Drainage District was abolished and its assets were transferred to the South Broward Drainage District, effective October 1, 1992.

Section 65 -- Provides that the powers, duties, indebtedness, and liabilities of the Bailey Drainage District were transferred to the South Broward Drainage District, effective October 1, 1992.

Section 66 -- Provides that the contracts of the Bailey Drainage District were transferred to the South Broward Drainage District, effective October 1, 1992.

Section 67 -- Provides that contracts entered into by the Bailey Drainage District are invalid unless approved by a majority of the board of supervisors of the South Broward Drainage District, beginning March 12, 1992.

Section 68 -- Transfers the Bailey Drainage District road right-of-way and responsibility for roadways to the Board of Commissioners of Broward County, effective October 1, 1992.

Section 69 -- Provides that Bailey Drainage District road rights-of-way were transferred to Broward County, effective October 1, 1992; provides a legal description.

Section 70 -- Provides that Broward County shall be the governmental entity responsible for the operation and maintenance of roadways within lands described in Sections 63 and 69, effective October 1, 1992.

Section 71 -- Provides that all rules and regulations of the Bailey Drainage District shall remain in effect until repealed by the South Broward Drainage District.

Section 72 -- Provides that the South Broward Drainage District shall have authority and jurisdiction over all lands described in Section 63, effective October 1, 1992.

Section 73 -- Provides that the rights of parties under contract with the Bailey Drainage District prior to October 1, 1992 shall not be abrogated by this act.

Section 74 -- Requires the South Broward Drainage District to record a certified copy of this act in the Broward County Public Records.

Section 3: Repeals specific Laws of Florida chapters.

Section 4: Provides that this act shall control in the event of a conflict of provisions of this act with the provisions of any other act.

Section 5: Provides that if any provision of this act is deemed invalid or unenforceable, that determination shall not affect the validity or enforceability of any other provision of this act.

IV. 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

V. COMMENTS:

In Attorney General opinion 95-22, the question was raised regarding South Broward's Drainage district's authority to review plats and paving and drainage plans for compatibility with the district's criteria and whether this authority is a quasi-judicial function. It was determined that this power is not quasi-judicial and thus does not need increased procedural protections.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs adopted on April 21, 1998, a technical amendment which clarifies repealer language and repeals the following chapter laws:

Chapter 12049, Laws of Florida, 1927; chapter 13657, Laws of Florida, 1929; chapter 13658, Laws of Florida, 1929; chapter 14734, Laws of Florida, 1931; chapter 16038, Laws of Florida, 1933; chapter 16039, Laws of Florida, 1933; chapter 16040, Laws of Florida, 1933; chapter 30420, Laws of Florida, 1955; chapter 59-650, Laws of Florida; chapter 63-1191, Laws of Florida; and chapter 65-1326, Laws of Florida.

This amendment expressly repeals special acts which were repealed in 1967 but were not specifically listed, and thus are not shown as repealed.

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VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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