

STORAGE NAME: h4505.ca

DATE: April 2, 1998

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

BILL #: HB 4505

RELATING TO: Lake Worth Drainage District, Palm Beach County

SPONSOR(S): Representative Minton

COMPANION BILL(S): None

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

(1) COMMUNITY AFFAIRS

(2)

(3)

(4)

(5)

I. SUMMARY:

The bill codifies all prior special acts relating to the charter of the Lake Worth Drainage District in Palm Beach County into one special act. The bill has no substantive changes.

The bill makes reviser changes and removes 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.

History of Water Control Districts

Water control districts have a long history in Florida. As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Following the passage of several special acts creating drainage districts, the Legislature passed the state's first general drainage law, the General Drainage Act of 1913, to establish one procedure for creating drainage districts--through circuit court decree--and to provide general law provisions governing the operation of these districts.

Between 1913 and 1972, the General Drainage Act remained virtually unchanged. In 1972 and 1979, the Legislature amended the act to change the name of these districts to water management districts and then to water control districts. In neither year did the Legislature enact a major reform of the act, although the 1979 act did repeal provisions authorizing the creation of water control districts by circuit court decree.

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 charter of the Lake Worth Drainage District in Palm Beach County into one special act. The bill has no substantive changes.

The bill makes reviser changes and removes obsolete language.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 6458, Laws of Florida, 1913; chapter 26558 No.79, Laws of Florida, 1951; chapter 28405, Laws of Florida, 1953; chapter 57-574, Laws of Florida; chapter 59-629, Laws of Florida; chapter 61-1747, Laws of Florida; chapter 63-616, Laws of Florida; chapter 63-618, Laws of Florida; chapter 65-2065, Laws of Florida; chapter 67-867, Laws of Florida; chapter 71-830, Laws of Florida; chapter 75-472, Laws of Florida; chapter 81-460, Laws of Florida; chapter 82-353, Laws of Florida; chapter 83-493, Laws of Florida; chapter 84-496, Laws of Florida; chapter 87-521, Laws of Florida; chapter 90-480, Laws of Florida; chapter 96-478, 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 specific special acts relating to the Lake Worth Drainage District.

Section 2: Recreates and reenacts the Lake Worth Drainage District. The District's charter provisions are:

Section 1 -- Creates the Lake Worth Drainage District in Palm Beach County and states purposes of the District; and provides the District's boundaries.

Section 2 -- Provides that chapter 298 provisions are applicable to the District.

Section 3 -- Grants powers and duties to the District; provides that the governing board shall exercise the District's powers; and provides Board powers.

Section 4 -- Creates the Board of Supervisors; provides term, membership and qualifications; provides for vacancies; and provides for single-member subdistrict elections, boundaries of subdistrict, board size, terms, and qualifications, if voters request a referendum on adoption of the subdistrict election procedures.

Section 5 -- Provides the date, time and place of monthly meetings; provides for waiver of regular meetings; and provides for special meetings.

Section 6 -- Provides for compensation of Board.

Section 7 -- Provides for election of supervisors at a meeting of the landowners; provides for special meetings of landowners; provides for notice of landowners meeting; provides for the election of a chair of

landowners; provides for vote; provides for quorum; and provides qualifications.

Section 8 -- Provides for the levying of installment taxes; provides for apportionment as provided by chapter 298, Florida Statutes; and provides for the collection of installment taxes.

Section 9 -- Provides that section 298.54, Florida Statutes, is not applicable; and provides for the assessment and collection of maintenance tax.

Section 10 -- Grants the authority to engage in irrigation; provides definition of irrigation; provides for the assessment and collection of an irrigation tax on those properties benefited by the irrigation; and provides for irrigation fund.

Section 11 -- Provides for special improvements; provides for assessments and collection against specially improved property; provides assessment for maintenance of special improvements; provides for resolutions; provides for report of costs; and provides for liens.

Section 12 -- Provides for a lien on land against which taxes are assessed.

Section 13 -- Provides that taxes become delinquent and bear penalties in the same manner as county taxes.

Section 14 -- Provides compensation for services performed in connection with taxes.

Section 15 -- Provides for the issuance of bonds; provides for refunding bonds; and provides for procedures.

Section 16 -- Provides that this act is the full authority for the issuance and sale of authorized bonds; provides for irrevocable contract; and provides for the recording and storing of retired bonds and coupons.

Section 17 -- Provides for the issuance of other indebtedness; provides for payment; and provides for the pledging of taxes and bond revenues.

Section 18 -- Prohibits the usage of bonds and interest coupons as payment of District taxes.

Section 19 -- Grants the right of eminent domain.

Section 20 -- Declares the urgent need for the expansion of facilities and District improvements; provides that water is a common enemy; and allows the District, and any permitted individual or agency to take action to protect the District and any property within.

Section 21 -- Provides for annexation of new territory; and provides annexation procedures.

Section 22 -- Provides for the division and creation of units within the District; provides for more completed drainage and reclaim of board determined units; provides procedures for objecting the division into units; and provides appeal procedures; provides for the continuation of the District's and Board's powers within the units; and provides for the changing of unit boundaries.

Section 3: Provides that the act's provisions control in the event of a conflict with any other act.

Section 4: Provides for liberal construction.

Section 5: Repeals all prior special acts relating to the District's charter.

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

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 14, 1998

WHERE? West Palm Beach, Florida; The Palm Beach Post

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:

The boundaries of the bill are larger than the boundaries under the current charter. The difference is due to the annexation procedures allowed under the charter which allows for annexation without a special act. The bill does not change the current boundaries of the District. Please see attached letter relating to the boundaries.

In addition to the special acts relating to the District's charter, there are additional special acts which relate to the District. They are chapters:

17-7556, 19-7970, 19-7971, 21-8889, 21-8890, 23-9992, 23-9994, 25-10232, 25-11002, 27-12071, 27-12072, 33-16065, 39-19065, 39-19083, 39-19084, 39-19102, 39-19185, 39-19186, 41-20707, 41-21020, 43-21859, 43-22198, 45-22811, 47-23655, 47-23707, 55-30149, 55-30379, & 94-473, Laws of Florida.

After review by the District's attorney, these special acts are not being repealed at this time.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to the following technical amendments:

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

Amendment #2 -- The amendment inserts a provision relating to the District's continued compliance with chapters 253, 369, 373, and 403, Florida Statutes. This language is being added due to a request by DEP. The amendment also corrects the numbering scheme which orders the provisions of section 2 as the provisions of the charter. It appears as though 2 provisions of the charter were placed as sections of the bill. Section 2 of the bill has 25 sections. The bill has 4 sections.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Laura L. Jacobs

Joan Highsmith-Smith