

By Representative Laurent

1 A bill to be entitled
2 An act relating to drainage districts; amending
3 ss. 298.005, 298.11, 298.12, 298.15, 298.16,
4 298.22, 298.23, 298.24, 298.25, 298.26, 298.28,
5 298.59, F.S.; creating ss. 298.225, 298.301,
6 298.305, 298.329, 298.333, 298.337, 298.341,
7 298.345, 298.349, 298.353, F.S.; providing
8 definitions; providing for the water management
9 plan to be renamed the water control plan;
10 providing for the water control plan to serve
11 the functions of the former plan of
12 reclamation; providing for the jurisdictional
13 water management district to provide certain
14 review responsibilities previously provided by
15 the Department of Environmental Protection;
16 providing for the appointment of certain
17 supervisors by the Governor; providing revised
18 water control plan adoption and amendment
19 requirements; providing for assessment of
20 lands; providing duties for district engineer
21 and district attorney; providing for the levy
22 and enforcement of non-ad valorem assessments;
23 authorizing the issuance of bonds; providing
24 for liens; providing for a uniform initial
25 acreage assessment for payment of expenses;
26 authorizing districts to designate financial
27 units; repealing s. 298.07, F.S., which
28 provides for the water management plan;
29 repealing s. 298.27, F.S., which provides for
30 the plan of reclamation; repealing s. 298.29,
31 F.S., which provides for the levy and

1 collection of taxes; repealing s. 298.30, F.S.,
2 which provides for appraisal of lands;
3 repealing s. 298.31, F.S., which provides for
4 appointment of commissioners; repealing s.
5 298.32, F.S., which provides for duties of
6 commissioners, district attorney, and district
7 engineer; repealing s. 298.33, F.S., which
8 provides for notice of report; repealing s.
9 298.34, F.S., which provides for exceptions to
10 report; repealing s. 298.35, F.S., which
11 provides for plan of reclamation; repealing s.
12 298.36, F.S., which provides for assessment of
13 lands; repealing s. 298.467, F.S., which
14 prohibits the Department of Environmental
15 Protection from borrowing money; repealing s.
16 298.55, F.S., which provides for readjustment
17 of assessment of benefits; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 298.005, Florida Statutes, is
23 amended to read:

24 298.005 Definitions ~~The word "owner" defined.--As used~~
25 in this chapter, the term:

26 (1) "District water management plan" means the
27 long-range comprehensive planning document prepared by a
28 chapter 373 water management district for implementation of
29 its water resource management responsibilities, including
30 water supply, flood protection, water quality management, and
31 protection of natural systems. A district water management

1 plan provides general direction and strategies for the
2 activities, programs, and rules of the water management
3 district and may be implemented by program development, water
4 resource projects, land acquisition, funding, technical
5 assistance, facility operations, and rule development. A
6 district water management plan is a planning document and is
7 not self-executing; only those portions adopted through formal
8 administrative rulemaking are binding and enforceable.

9 (2) "Jurisdictional water management district" means
10 the chapter 373 water management district or districts within
11 which the lands encompassed by a water control district are
12 located.

13 (3) "Owner" means the owner of the freehold estate, as
14 appears by the deed record. The term does not include
15 reversioners, remaindermen, or mortgagees, who are not to be
16 counted and need not be notified by publication or served by
17 process, but are to be represented by the present owners of
18 the freehold estate in any proceeding under this chapter.

19 (4) "Water control district" means a special district
20 established in accordance with s. 298.01 and operating under
21 this chapter.

22 (5) "Water control plan" means the comprehensive
23 operational document that describes the activities and
24 improvements to be conducted by a water control district
25 authorized under this chapter. Alternatively described as a
26 "plan of reclamation" or "water management plan" prior to
27 October 1, 1998, a water control plan details the system of
28 water management implemented by a water control district. ~~The~~
29 word "owner," as used in this chapter, shall mean the owner of
30 the freehold estate, as appears by the deed record, and it
31 shall not include reversioners, remaindermen, trustees or

1 ~~mortgagees, who shall not be counted and need not be notified~~
2 ~~by publication, or served by process, but shall be represented~~
3 ~~by the present owners of the freehold estate in any proceeding~~
4 ~~under this chapter.~~

5 Section 2. Section 298.11, Florida Statutes, is
6 amended to read:

7 298.11 Election of board of supervisors; duties of
8 Department of Environmental Protection and Governor duties.--

9 (1) Within 20 days after the effective date of a
10 special act creating a district, notice of a landowners'
11 meeting shall be given as provided in the special act. The
12 notice shall be published ~~any district shall have been~~
13 ~~organized and incorporated under the provisions of this~~
14 ~~chapter, the clerk of the circuit court in which the petition~~
15 ~~has been filed shall, upon giving notice by causing~~
16 ~~publication thereof to be made~~ once a week for 2 consecutive
17 weeks in a some newspaper of general circulation published in
18 each county in which lands of the district are located
19 ~~situate~~, the last publication insertion to be not less than 10
20 nor more than 15 days before the date day of the such meeting.
21 ~~The, call a meeting of the owners of the lands located situate~~
22 in the said district shall be scheduled, at a day and hour
23 specified, at some public place in the county within in which
24 most of the district lands are located ~~was organized~~, for the
25 purpose of electing a board of three supervisors, to be
26 composed of owners of the lands in the said district and
27 residents of the county or counties in which the such district
28 is located situate.

29 (2) The landowners, when assembled, shall organize by
30 the election of a chair and secretary of the meeting, who
31 shall conduct the election. ~~At the such election,~~ each and

1 every acre of land in the district shall represent one share,
2 and each owner shall be entitled to one vote in person or by
3 proxy in writing duly signed, for every acre of land owned by
4 him or her in the ~~such~~ district, and the three persons
5 receiving the highest number of votes shall be declared
6 elected as supervisors. The appointment of proxies shall
7 comply with s. 607.0722. Landowners owning less than 1 acre in
8 the aggregate shall be entitled to one vote. Landowners with
9 more than 1 acre are entitled to one additional vote for any
10 fraction of an acre owned, when all of the landowners' acreage
11 has been aggregated for purposes of voting. The landowners
12 shall at such election determine the length of the terms of
13 office of each supervisor so elected by them, which shall be
14 respectively 1, 2, and 3 years, and they shall serve until
15 their successors shall have been elected and qualified.

16 (3) The Department of Environmental Protection, at any
17 such meeting, may represent the state, and shall have the
18 right to vote for supervisors, or upon any matter that may
19 come properly before said meeting to the extent of the acreage
20 owned by the state in such district, provided such acreage is
21 subject to assessment by the water control district, which
22 vote may be cast by any person designated by said department.
23 Guardians may represent their wards, executors and
24 administrators may represent estates of deceased persons, and
25 private corporations may be represented by their officers or
26 duly authorized agents. The owners of a majority of the
27 acreage included in such district shall be necessary to
28 constitute a quorum for the purpose of holding such election,
29 or any election thereafter, and in case the owners of a
30 majority of the acreage included in such district are not
31 present in person or duly represented, at the time and the

1 place stated in the notice calling such meeting, then no
2 election shall be held, and notice of such failure shall be
3 given in writing by any person interested to the Governor, who
4 ~~department, which~~ shall as soon as practicable appoint three
5 competent persons who own land in such district as such
6 supervisors for the term of 1, 2, and 3 years respectively,
7 and who shall hold their office until their successors are
8 elected or appointed and qualified.

9 (4) Any elected or appointed ~~such~~ supervisor ~~so~~
10 ~~appointed by the department~~ may be removed by the Governor for
11 malfeasance, misfeasance, ~~department for~~ dishonesty,
12 incompetency, or failure to perform the duties imposed upon
13 him or her by this chapter, and any vacancies which may occur
14 in any such office so filled by appointment shall be filled by
15 the Governor ~~said department~~ as soon as practicable.

16 (5) The Melbourne-Tillman Water Control District shall
17 have five supervisors. Three supervisors shall be elected by
18 the landowners pursuant to the applicable provisions of this
19 section. Two supervisors, who are district residents, shall be
20 appointed by the Brevard County Board of County Commissioners
21 by majority vote at a regularly scheduled commission meeting
22 for a term of 3 years. The commission may publish notice of
23 this meeting and may take any public testimony which, in its
24 discretion, it feels might bear upon such appointments. Should
25 the landowners fail to elect a supervisor for any reason, the
26 Governor ~~department~~ shall not have power to appoint; instead,
27 the Brevard County Board of County Commissioners shall appoint
28 a competent person who owns land in said district within 30
29 days. A supervisor so appointed shall hold office until a
30 successor is elected or appointed. Any supervisor appointed by
31 the Brevard County Board of County Commissioners may be

1 removed by the board for dishonesty, incompetency, or failure
2 to perform the duties imposed on him or her by this chapter.

3 Section 3. Subsection (1) of section 298.12, Florida
4 Statutes, is amended to read:

5 298.12 Annual election of supervisors; term of office;
6 vacancy.--

7 (1) Every year in the same month after the time for
8 the election of the first board of supervisors, it shall call
9 a meeting of the landowners in the district in the same manner
10 as is provided for in s. 298.11, and the owners of land in
11 such district shall meet at the stated time and place and
12 elect one supervisor therefor, or in case of their failure to
13 elect, the Governor ~~Department of Environmental Protection~~
14 shall appoint such supervisor, in like manner as prescribed in
15 s. 298.11, who shall hold the supervisor's office for 3 years
16 or until his or her successor is elected and qualified; and in
17 case of a vacancy in any office of supervisor elected by the
18 landowners, the remaining supervisors, or if they fail to act
19 within 30 days, the Governor ~~Department of Environmental~~
20 ~~Protection,~~ may fill such vacancy until the next annual
21 meeting, when a successor shall be elected for the unexpired
22 term.

23 Section 4. Section 298.15, Florida Statutes, is
24 amended to read:

25 298.15 Record of proceedings.--The board of
26 supervisors of any district organized under this chapter shall
27 cause to be kept a well-bound book, entitled "record of board
28 of supervisors of district," in which shall be recorded
29 minutes of all meetings, proceedings, certificates, bonds
30 given by all employees and any and all corporate acts, which
31 record shall at all times be open to the inspection of anyone

1 interested, whether taxpayer or bondholder. Copies of the
2 record of proceedings shall be filed ~~with the clerk of the~~
3 ~~circuit court of the county or counties in which district~~
4 ~~lands are located and~~ with the jurisdictional water management
5 district upon request ~~Department of Environmental Protection.~~
6 Any interested person, whether landowner or not, shall be
7 permitted to inspect the record of proceedings.

8 Section 5. Subsections (2) and (3) of section 298.16,
9 Florida Statutes, are amended to read:

10 298.16 Appointment of chief engineer; engineer's bond
11 and duties.--

12 (2) The chief engineer shall have control of the
13 engineering work in said district and may, whenever he or she
14 deems it necessary, confer with the chief engineer of this
15 state, or the jurisdictional water management district
16 ~~Department of Environmental Protection~~, and he or she may, by
17 and with the consent of the board of supervisors, consult any
18 eminent engineer and obtain his or her opinion and advice
19 concerning the reclamation of lands in said districts. The
20 said engineer shall make all necessary surveys of the lands
21 within the boundary lines of said district, as described in
22 the petition, and of all lands adjacent thereto that will be
23 improved or reclaimed in part or in whole by any system of
24 drainage that may be outlined and adopted.

25 (3) The engineer shall make a report in writing to the
26 board of supervisors, with maps and profiles of said surveys,
27 which report shall contain a full and complete water control
28 plan for draining and reclaiming the lands described in the
29 petition, or adjacent thereto, from overflow or damage by
30 water, with the length, width, and depth of such canals,
31 ditches, dikes or levees, or other works that may be

1 necessary, in conjunction with any canals, drains, ditches,
2 dikes, levees or other works heretofore constructed or built
3 by the Board of Trustees of the Internal Improvement Trust
4 Fund, or any other person, that may now be in process of
5 construction, or which may be hereafter built by them, that
6 may be necessary or which can be advantageously used in such
7 water control plan ~~for reclamation~~; and also, an estimate of
8 the costs of carrying out and completing the water control
9 plan ~~of reclamation~~, including the cost of superintending the
10 same and all incidental expenses in connection therewith. Maps
11 and profiles shall also indicate so far as necessary the
12 physical characteristics of the lands, and location of any
13 public roads, railroads and other rights-of-way, roadways and
14 other property or improvements located on such lands. A copy
15 of the report required by this section shall be filed with the
16 jurisdictional water management district ~~Department of~~
17 ~~Environmental Protection~~.

18 Section 6. Section 298.22, Florida Statutes, is
19 amended to read:

20 298.22 Powers of given supervisors ~~to effect~~
21 ~~reclamation of land in district.~~ --~~In order to effect the~~
22 ~~drainage, protection, and reclamation of the land in the~~
23 ~~district subject to tax,~~The board of supervisors of the
24 district has full power and authority to excavate, construct,
25 and complete any and all works and improvements necessary to
26 execute the water control plan. Subject to the authority
27 granted to water management districts and the Department of
28 Environmental Protection under part IV of chapter 373 and
29 chapter 403, the board of supervisors:

30 (1) May employ persons and purchase machinery to
31 directly supervise, construct, maintain, and operate the works

1 and improvements described in the water control plan, or may
2 contract with others for the supervision, construction,
3 maintenance, and operation of such works and improvements
4 either as a whole or in part. Contracts must be advertised and
5 let to the lowest and best bidder, who shall give a good and
6 approved bond, with ample security, upon the condition that he
7 or she will well and promptly carry out the contract for the
8 described works and improvements. Each contract must be in
9 writing and have attached to it complete plans and
10 specifications for the work to be done and improvements to be
11 made under the contract, which plans and specifications must
12 be prepared by the chief engineer of the district. Each
13 contract shall be prepared by the attorney for the district,
14 approved by the board of supervisors, and executed in
15 duplicate by its president and the contractor. The chief
16 engineer of the district must be the superintendent of all
17 district works and improvements.

18 (2)~~(1)~~ May clean out, straighten, open up, widen, or
19 change the course and flow, alter or deepen any canal, ditch,
20 drain, river, watercourse, or natural stream; and concentrate,
21 divert, or divide the flow of water in or out of said
22 district; construct and maintain main and lateral ditches,
23 canals, levees, dikes, dams, sluices, revetments, reservoirs,
24 holding basins, floodways, pumping stations, and siphons, and
25 may connect same, or any of them, with any canals, drains,
26 ditches, levees, or other works that may have been heretofore,
27 or which may be hereafter constructed by the Department of
28 Environmental Protection or jurisdictional water management
29 district, and with any natural stream, lake, or watercourse in
30 or adjacent to said district.

31

1 (3)~~(2)~~ May build and construct any other works and
2 improvements deemed necessary to preserve and maintain the
3 works in or out of said district; acquire, construct, operate,
4 maintain, use, sell, convey, transfer or otherwise provide for
5 pumping stations, including pumping machinery, motive
6 equipment, electric lines and all appurtenant or auxiliary
7 machines, devices or equipment.

8 (4)~~(3)~~ May contract for the purchase, construction,
9 operation, maintenance, use, sale, conveyance and transfer of
10 the said pumping stations, machinery, motive equipment,
11 electric lines and appurtenant equipment, including the
12 purchase of electric power and energy for the operation of the
13 same.

14 (5)~~(4)~~ May construct or enlarge, or cause to be
15 constructed or enlarged, any and all bridges that may be
16 needed in or out of said district, across any drain, ditch,
17 canal, floodway, holding basin, excavation, public highway,
18 railroad right-of-way, track, grade, fill or cut; construct
19 roadways over levees and embankments; construct any and all of
20 said works and improvements across, through or over any public
21 highway, railroad right-of-way, track, grade, fill or cut, in
22 or out of said district; remove any fence, building or other
23 improvements, in or out of said district.

24 (6)~~(5)~~ Shall have the right to hold, control and
25 acquire by donation or purchase and if need be, condemn any
26 land, easement, railroad right-of-way, sluice, reservoir,
27 holding basin or franchise, in or out of said district, for
28 right-of-way, holding basin for any of the purposes herein
29 provided, or for material to be used in constructing and
30 maintaining said works and improvements for drainage,
31 protecting and reclaiming the lands in said district.

1 ~~(7)(6)~~ May condemn or acquire, by purchase or grant,
2 for the use of the district, any land or property within or
3 without said district not acquired or condemned by the court
4 on the report of the commissioners assessing benefits and
5 damages, and shall follow the procedure set out in chapter 73.
6 Such powers to condemn or acquire any land or property within
7 or without the district shall also be available for
8 implementing requirements imposed on those districts subject
9 to s. 373.4592.

10 ~~(8)(7)~~ May adopt rules to implement the purposes of
11 this chapter.

12 ~~(9)(8)~~ May assess and collect reasonable fees for the
13 connection to and use of the works of the district.

14 ~~(10)(9)~~ May implement and authorize the comprehensive
15 water control activities, including flood protection, water
16 quantity management, and water quality protection and
17 improvement, described ~~construction of only those improvements~~
18 ~~outlined in the water control plan of reclamation.~~

19 Section 7. Section 298.225, Florida Statutes, is
20 created to read:

21 298.225 Water control plan; plan development and
22 amendment.--

23 (1) Effective October 1, 1998, any plan of reclamation
24 or water management plan developed and implemented by a water
25 control district created by this chapter or by special act of
26 the Legislature will be referred to as a "water control plan."

27 (2) By October 1, 2000, the board of supervisors of
28 each water control district must develop or revise the
29 district's water control plan to reflect the minimum
30 requirements set forth in subsection (3). New facilities or
31 modifications to existing facilities described in the water

1 control plan or plan amendment must be consistent with those
2 portions of the district water management plan of the
3 jurisdictional water management district which have been
4 implemented by rule.

5 (3) Each water control plan must contain, at a
6 minimum:

7 (a) Narrative descriptions of the statutory
8 responsibilities and powers of the water control district.

9 (b) A map delineating the legal boundary of the water
10 control district and identifying any subdistricts or units
11 within the district.

12 (c) Narrative descriptions of land use within the
13 district and all existing district facilities and their
14 purpose and function, and a map depicting their locations.

15 (d) Engineering drawings and narrative sufficient to
16 describe each facility's capacity for the management and
17 storage of surface waters and potable water supply, if
18 applicable.

19 (e) A description of any environmental or water
20 quality program that the water control district has
21 implemented or plans to implement.

22 (f) A map and narrative description of any area
23 outside the water control district's legal boundary for which
24 the district provides services.

25 (g) Detailed descriptions of facilities and services
26 that the water control district plans to provide within 5
27 years.

28 (h) A description of the administrative structure of
29 the water control district.

30 (i) Copies of any agreements between the water control
31 district and other governmental entities.

1 (j) The engineer's report prepared for plan adoption
2 or revision.

3 (k) The water control district's budget and revenue
4 sources for the current year.

5 (4) Before final adoption of the water control plan or
6 plan amendment under s. 298.301, the board of supervisors must
7 submit the plan to the jurisdictional water management
8 district for review. Within 90 days after receipt of the water
9 control plan, the governing board of the jurisdictional water
10 management district must review the plan for consistency with
11 the district water management plan and recommend to the board
12 of supervisors any proposed changes. If the jurisdictional
13 water management district determines that the plan is
14 incomplete, it may notify the water control district and
15 request additional information. Upon such request, the
16 deadline for review may be extended as agreed by the water
17 control district and the jurisdictional water management
18 district. Within 60 days after receipt of the governing
19 board's recommended changes, the board of supervisors shall
20 include the recommendations in the water control plan or plan
21 amendment to the extent practicable. If the recommendations
22 are not incorporated, the board of supervisors must specify
23 its reasons in the water control plan or plan amendment
24 adopted. A copy of the water control plan must be filed with
25 the jurisdictional water management district and each local
26 general purpose government within which all or a portion of
27 the district's lands are located.

28 (5) The board of supervisors must review the water
29 control plan at least every 5 years following its initial
30 development and adoption, and to the extent necessary, amend
31 the plan in accordance with s. 298.301.

1 Section 8. Section 298.23, Florida Statutes, is
2 amended to read:
3 298.23 Supervisors authorized to take land for
4 rights-of-way, etc.; payment.--The board of supervisors of a
5 district organized under this chapter shall not have the right
6 to enter upon, or appropriate, any land for rights-of-way,
7 holding basins or other works of the district, until the
8 prices awarded to the owners of such land shall have been paid
9 to such owners, or into the hands of the clerks of the circuit
10 courts of the county or counties within which the respective
11 lands are located ~~organizing such district~~ for the use of such
12 owners; and if the sums awarded be not so paid within 5 years
13 from the date of filing the engineer's ~~commissioner's~~ reports,
14 all proceedings as to the taking of such property for
15 rights-of-way, holding basins and other works, not so paid
16 for, shall abate at the cost of said district. Whenever any
17 land is acquired by any district under the provisions of this
18 chapter and the price of such property has been paid the owner
19 by the district, the title, use, possession and enjoyment of
20 such property shall pass from the owner and be vested in the
21 district, and subject to its use, profit, employment and final
22 disposition. The price awarded for all lands acquired by any
23 district for rights-of-way, holding basins, or other works,
24 and the amount of damage assessed by the board of supervisors
25 ~~commissioners and confirmed by the court~~ to any tract or
26 parcel of land or other property in the district, shall be
27 paid in cash to the owner thereof or to the clerk of the court
28 for the use of such owner, and that portion of any tract or
29 parcel of land not taken for use of the district shall be
30 assessed for the benefits accruing in accordance with the
31 provisions in this chapter.

1 Section 9. Section 298.24, Florida Statutes, is
2 amended to read:
3 298.24 Bridge construction.--All bridges contemplated
4 by this chapter and all enlargements of bridges already in
5 existence shall be built and enlarged according to and in
6 compliance with the plans, specifications and orders made or
7 approved by the chief engineer of the district. If any such
8 bridge shall belong to any corporation, or be needed over a
9 public highway or right-of-way of any corporation, the
10 secretary of said board of supervisors shall give such
11 corporation notice by delivering to its agent or officer, in
12 any county wherein said district is situate, a copy of the
13 order of the board of supervisors of said district declaring
14 the necessity for the construction or enlargement of said
15 bridge. A failure to construct or enlarge such bridge, within
16 the time specified in such order, shall be taken as a refusal
17 to do said work by said corporation, and thereupon the said
18 board of supervisors shall proceed to let the work of
19 constructing or enlarging the same at the expense of the
20 corporation for the cost thereof, which costs shall be
21 collected by said board of supervisors from said corporation,
22 by suit therefor, if necessary. But before said board of
23 supervisors shall let such work, it shall give some agent or
24 officer of said corporation, authorized by the laws of this
25 state to accept service of summons, or upon whom service of
26 summons for said corporation might be made, at least 20 days'
27 actual notice of the time and place of letting such work. Any
28 owner of land, within or without the district, may, at the
29 owner's expense, and in compliance with the terms and
30 provisions of this chapter, construct a bridge across any
31 drain, ditch, canal, or excavation in or out of said district.

1 Each district shall have full authority to construct and
2 maintain any ditch or lateral provided in its water control
3 plan, ~~plan of reclamation,~~ across any of the public highways
4 of this state, without proceedings for the condemnation of the
5 same, or being liable for damages therefor. Within 10 days
6 after a dredge boat or any other excavating machine shall have
7 completed a ditch across any public highway, a bridge shall be
8 constructed and maintained over such drainage ditch where the
9 same crosses such highway; provided, however, the word
10 corporation as used in this section shall not apply to
11 counties.

12 Section 10. Section 298.25, Florida Statutes, is
13 amended to read:

14 298.25 Type of bridges over drains in large
15 counties.--Whenever any district cuts or digs a drain, canal
16 or ditch across any public highway, in counties having a
17 population of not less than 130,000, according to the last
18 preceding state census, the style, type and character of such
19 bridge shall be determined by the engineer of the county and
20 the chief engineer of the district, and approved by a majority
21 of the board of county commissioners ~~as soon as the plan of~~
22 ~~reclamation, locating such canals, drains or ditches, is filed~~
23 ~~in the office of the clerk of the circuit court~~ of the county
24 or counties in which the lands within the district are
25 located; and the cost of the same, as estimated by the chief
26 engineer of the district, shall be included by ~~the~~
27 ~~commissioners of the district~~ board of supervisors in the
28 assessment for the construction of the water control plan ~~of~~
29 ~~reclamation~~.

30 Section 11. Section 298.26, Florida Statutes, is
31 amended to read:

1 298.26 Chief engineer to make annual reports to
2 supervisors; approval of reports; water control management
3 plan.--The chief engineer shall make a report in writing to
4 the board of supervisors once every 12 months or as directed
5 by the board ~~and oftener, if said board shall so require.~~ The
6 report shall describe the progress made and activities
7 undertaken in furtherance of the water control plan, and may
8 include suggestions and recommendations to the board as the
9 chief engineer deems appropriate. Upon receipt of the final
10 report of said engineer concerning the surveys made of the
11 lands contained in the district organized and the lands
12 adjacent thereto and for reclaiming the same, the board of
13 supervisors shall adopt such report, or any modification
14 thereof approved by the chief engineer, after consulting with
15 him or her or someone representing the chief engineer.
16 Thereafter such adopted report shall be the plan for draining
17 or reclaiming such lands from overflow or damage by water, and
18 it shall, after such adoption, be part of known and designated
19 ~~as the water control management plan, which plan shall be~~
20 ~~filed with the secretary of the board of supervisors and~~
21 ~~copied by the secretary into the records of the district. A~~
22 ~~copy of all such annual reports and the water management plan~~
23 ~~shall be filed with the Department of Environmental~~
24 ~~Protection. At least once each 5 years the department shall~~
25 ~~review the water management plan and propose such~~
26 ~~modifications as it may deem proper.~~

27 Section 12. Section 298.28, Florida Statutes, is
28 amended to read:

29 298.28 Watercourses to be connected with drainage of
30 district; connecting drains after completion of plan of
31 drainage.--At the time of the construction, in any district

1 incorporated under this chapter, of the water control plan
2 ~~"the plan of reclamation"~~, all canals, ditches or systems of
3 drainage already constructed in said district and all
4 watercourses shall, if necessary to the drainage of any lands
5 in said district, be connected with and made a part of the
6 works and improvements of the plan of drainage of said
7 district, but no canals, ditches, drains, or systems of
8 drainage constructed in said district, after the completion of
9 the aforesaid plan of drainage of said district, shall be
10 connected therewith, unless the consent of the board of
11 supervisors shall be first had and obtained; which consent
12 shall be in writing and shall particularly describe the
13 method, terms and conditions of such connection, and shall be
14 approved by the chief engineer. Said connection, if made,
15 shall be in strict accord with the method, terms, and
16 conditions laid down in said consent. If the landowners
17 wishing to make such connection are refused by the board of
18 supervisors, or decline to accept the consent granted, the
19 said landowners may file a petition for such connection in the
20 circuit court having jurisdiction in said district, and the
21 matter in dispute shall in a summary manner be decided by said
22 court, which decision shall be final and binding on the
23 district and landowners. No connection with the works or
24 improvements of said plan of drainage of said district, or
25 with any canal, ditch, drain or artificial drainage, wholly
26 within said district, shall be made, caused or affected by any
27 landowners, company or corporation, municipal or private, by
28 means of, or with, any ditch, drain, cut, fill, roadbed,
29 levee, embankment or artificial drainage, wholly without the
30 limits of said district, unless such connection is consented
31

1 to by the board of supervisors, or in the manner provided for
2 in this chapter.

3 Section 13. Section 298.301, Florida Statutes, is
4 created to read:

5 298.301 District water control plan adoption; plan
6 amendment; notice forms; objections; hearings; assessments.--

7 (1) District infrastructure and works must be
8 implemented pursuant to a water control plan. In the execution
9 of the powers and authorities granted in this chapter, the
10 district's action must be consistent with any adopted local
11 government comprehensive plan within which the lands of the
12 district are located. The board of supervisors may, by
13 resolution at a regularly scheduled meeting, consider the
14 adoption of a district water control plan or plan amendment.
15 Notice, hearing, and final adoption of any proposed water
16 control plan or plan amendment must comply with the provisions
17 of this chapter. Lands may be added to or deleted from a
18 district only by legislative modification of the special act
19 that contains the charter of the district.

20 (2) Before adopting a water control plan or plan
21 amendment, the board of supervisors must adopt a resolution to
22 consider adoption of the proposed plan or plan amendment. As
23 soon as the resolution proposing the adoption or amendment of
24 the district's water control plan has been filed with the
25 district secretary, the board of supervisors shall give notice
26 of a public hearing on the proposed plan or plan amendment by
27 causing publication to be made once a week for 3 consecutive
28 weeks in a newspaper of general circulation published in each
29 county in which lands and other property described in the
30 resolution are situated. The notice must be in substantially
31 the following form:

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Notice of Hearing

To the owners and all persons interested in the lands corporate, and other property in and adjacent to the Gname of district5 District.

You are notified that the Gname of district5 District has filed in the office of the secretary of the district a resolution to consider approval of a water control plan or an amendment to the current water control plan to provide Ghere insert a summary of the proposed water control plan or plan amendment5. On or before its regularly scheduled meeting of ...(date and time)... at the district's offices located at ...(list address of offices)... written objections to the proposed plan or plan amendment may be filed at the district's offices. A public hearing on the proposed plan or plan amendment will be conducted at the regularly scheduled meeting and written objections will be considered at that time. At the conclusion of the hearing the board of supervisors may determine to proceed with the process for approval of the proposed plan or plan amendment and direct the district engineer to prepare an engineer's report identifying property to be taken, assessing benefits and damages, and estimating the cost of improvement associated with the proposed plan or plan amendment. A final hearing on approval of the proposed plan or plan amendment and engineer's report shall be duly noticed and held at a regularly scheduled board of supervisors meeting within 60 days after filing of the engineer's report with the secretary of the district.

Date of first publication:, 19....

.....

(Chairman, Board of Supervisors)

1 County, Florida

2
3 (3) In addition to the publication of notice, a copy
4 of the notice shall be served by first class mail on any owner
5 of land within the district as shown on the current tax rolls,
6 the water management district created under chapter 373 within
7 which the district is located, the board of county
8 commissioners of the county, and the governing body of any
9 municipality within which the district is located.

10 (4) The engineer may at any time call upon the
11 attorney of the district for legal advice and information
12 relative to his duties. The engineer shall proceed to view the
13 premises and determine the value of all lands, within or
14 without the district, to be acquired by purchase or
15 condemnation and used for rights-of-way, or other works set
16 out in the proposed plan or plan amendment. The engineer shall
17 assess the amount of benefits and the amount of damages, if
18 any, that will accrue to each subdivision of land (according
19 to ownership), from carrying out and putting into effect the
20 proposed plan or plan amendment. The engineer shall assess
21 only those benefits that are derived from the construction of
22 the works and improvements set out in the proposed plan or
23 plan amendment. The engineer has no power to change the
24 proposed plan or plan amendment without board approval.

25 (5) The engineer shall prepare a report arranged in
26 tabular form, the columns of which are to be headed as
27 follows: column one, "owner of property assessed"; column
28 two, "description of property assessed"; column three, "number
29 of acres assessed"; column four, "amount annual assessment
30 assessed"; column five, "total assessments"; column six,
31 "number of acres to be taken for rights-of-way, district

1 works, etc."; column seven, "increased value of property from
2 improvement." The engineer shall also, by and with the advice
3 of other employees and consultants of the district, estimate
4 the cost of the works set out in the proposed plan or plan
5 amendment, including the cost of and the probable expense of
6 organization and administration. If the engineer's estimate of
7 increased property value exceeds the total amount of
8 assessments to be levied against a parcel, benefits are deemed
9 to exceed damages. A maintenance assessment recommendation
10 must also be included in each engineer's report. However, the
11 maintenance assessment may not be considered as part of the
12 costs of installation or construction specified by the
13 proposed plan or plan amendment in determining whether
14 benefits exceed damages. The report shall be signed by the
15 engineer and filed in the office of the secretary of the
16 district. The secretary of the district, or deputy thereto,
17 shall assist as needed in preparation of the report.

18 (6) Upon the filing of the engineer's report, the
19 board of supervisors shall give notice thereof by arranging
20 the publication of the report together with a geographical
21 depiction of the district once a week for 2 consecutive weeks
22 in a news paper of general circulation in each county in the
23 district. The notice must be substantially as follows:

24
25 Notice of Filing Engineer's Report for
26 District

27
28 Notice is given to all persons interested in the
29 following described land and property in County (or
30 Counties), Florida, viz.: ...(Here describe land and
31 property)... included within the district that

1 the engineer hereto appointed to assess benefits and damages
2 to the property and lands situated in the district and to
3 appraise the cash value of the land necessary to be taken for
4 rights-of-way and other works of the district, within or
5 without the limits of the district, under the proposed water
6 control plan or plan amendment, filed his report in the office
7 of the secretary of the district, located at ...(list address
8 of district offices),... on the day of,
9 19...., and you may examine the report and file written
10 objections with the secretary of the district to all, or any
11 part thereof, on or before ...(enter date 20 days after the
12 last scheduled publication of this notice, which date must be
13 before the date of the final hearing).... The report
14 recommends ...(describe assessment schedule).... If approved,
15 the assessment will be collected by the county tax collector.
16 A final hearing to consider approval of the report and
17 proposed water control plan or plan amendment shall be held
18 ...(time, place, and date at least 30 days after the last
19 scheduled publication of this notice, but no later than 60
20 days after filing of the engineer's report)....

21
22 Date of first publication:, 19....
23
24 (Chairman, Board of Supervisors)
25 County, Florida

26
27 (7) Any party identified in subsection (3) may file
28 written objections with the secretary of the district to any
29 part or all of the engineer's report and the proposed plan or
30 plan amendment, within 20 days after the last published notice
31 of filing of the engineer's report.

1 (8) All objections must be heard and determined by the
2 board of supervisors at the public hearing so as to carry out
3 liberally the purposes and needs of the district. If the board
4 of supervisors determines at the final public hearing, upon
5 examination of the engineer's report and upon hearing all of
6 the objections, that the estimated cost of construction of
7 improvements contemplated in the plan or plan amendment is
8 less than the benefits assessed against the lands in the
9 district, the board of supervisors shall approve and confirm
10 the engineer's report; but, if the board of supervisors
11 determines that any of the objections should be sustained, it
12 shall order the report changed to conform with its findings,
13 and when changed the board of supervisors shall approve and
14 confirm or disapprove, as appropriate, the report and enter
15 its order approving or disapproving, as appropriate, the
16 report and proposed plan or plan amendment. When any land or
17 other property is shown by the engineer's report to be needed
18 for rights-of-way, or other works, the board of supervisors
19 may institute proceedings under chapter 73 or chapter 74 in
20 the circuit court of the proper county to condemn the lands
21 and other property that must be taken or damaged in the making
22 of improvements, with the right and privilege of paying into
23 court a sum to be fixed by the circuit court judge and of
24 proceeding with the work, before the assessment by the jury.

25 (9) Any party identified in subsection (3) may
26 challenge the decision of the board in the manner and time
27 provided by the Florida Rules of Civil and Appellate
28 Procedure. If it is determined by court order that any tract
29 or lot of land or parts thereof, upon which a non-ad valorem
30 assessment is authorized and levied, will not be benefitted by
31 or receive any benefit from the completion of the plan or plan

1 amendment, or will be burdened disproportionately to other
2 similarly benefitted land, then the non-ad valorem assessment
3 may not be levied against that land.

4 Section 14. Section 298.305, Florida Statutes, is
5 created to read:

6 298.305 Assessing land for development; apportionment
7 of assessment.--After the engineer's report has been approved
8 by the board of supervisors, the proposed water control plan
9 or plan amendment has been finally adopted, and the lists of
10 lands with the assessed benefits have been filed in the office
11 of the secretary of the district, then the board of
12 supervisors shall levy a non-ad valorem assessment as approved
13 by the board on all lands in the district to which benefits
14 have been assessed, to pay the costs of the completion of the
15 proposed works and improvements, as shown in the adopted plan
16 or plan amendment and in carrying out the objectives of the
17 district; and, in addition thereto, 10 percent of the total
18 amount for contingencies. The assessment must be apportioned
19 to and levied on each assessable tract of land in the
20 district. Land owned by entities of government are not subject
21 to assessment under this section. Under s. 298.54, the board
22 of supervisors may also levy a maintenance assessment on all
23 lands in the district to which benefits have been assessed as
24 may be necessary to operate and maintain the district works
25 and activities and to defray the current expenses of the
26 district. A maintenance assessment recommendation for the
27 operation and maintenance of the district works and activities
28 must be included in each engineer's report considered by the
29 board.

30 Section 15. Section 298.329, Florida Statutes, is
31 created to read:

1 298.329 When works insufficient, supervisors have
2 power to make a new or amended plan; additional levy; issuance
3 of bonds; procedure.--

4 (1) If the works set out in the district water control
5 plan are found insufficient to develop, in whole or in part,
6 any or all of the lands of the district, the board of
7 supervisors shall have the right to formulate a new or amended
8 water control plan, containing new or modified public
9 infrastructure or other authorized works, and additional
10 assessments may be made in conformity with s. 298.305, the
11 same to be made in proportion to the increased benefits
12 accruing to the lands because of the additional works.

13 (2) If the board of supervisors determines at any time
14 that the amount of total assessments levied under this chapter
15 or the funds derived from the sale of bonds are insufficient
16 to pay the cost of works set out in the water control plan,
17 the board of supervisors may make an additional levy to
18 provide funds to complete the works and, in addition, up to 10
19 percent of the total amount for contingencies; and, may issue
20 bonds to finance the increased cost of completing the works
21 described in the water control plan; however, the principal
22 amount of the additional bonds and the principal amount of any
23 bonds previously issued to finance the works must not, in the
24 aggregate, exceed 90 percent of the benefits assessed.

25 (3) If the board of supervisors determines at any time
26 that the water control plan requires modification and that the
27 amount of the total assessments levied under this chapter or
28 the funds derived from the sale of bonds are insufficient to
29 carry out the water control plan with the proposed
30 modification, the board of supervisors may initiate plan
31 amendment proceedings.

1 (4) After the engineer's report has been approved and
2 the resolution amending the water control plan adopted by the
3 board of supervisors, the board may levy a non-ad valorem
4 assessment on all lands in the district to which benefits have
5 been assessed to pay the increased cost of completing the
6 works and improvements described in the water control plan as
7 amended. The assessment may include the cost of maintaining
8 and operating the facilities and all incidental expenses in
9 connection therewith, plus an additional 10 percent of the
10 total amount for contingencies. The additional assessments
11 authorized to be levied under this section must be levied and
12 collected in the same manner as the original assessments.

13 (5) The issuance of bonds under the provisions of this
14 section must comply with the provisions of s. 298.47. Any
15 additional tax authorized to be levied for completion of the
16 works and improvements described in the water control plan
17 must be apportioned to and levied upon each tract of land in
18 the district in proportion to the benefits assessed against it
19 and not in excess thereof; and, if bonds are issued, the
20 amount of the interest that will accrue on the bonds, as
21 estimated by the board of supervisors, must be included and
22 added to the additional levy. The interest to accrue on the
23 bonds must not be included as part of the cost of construction
24 in the determination of whether or not the expenses and costs
25 of making the improvements shown in the water control plan are
26 equal to or in excess of the benefits assessed.

27 Section 16. Section 298.333, Florida Statutes, is
28 created to read:

29 298.333 Assessments and costs; a lien on land against
30 which levied.--All non-ad valorem assessments provided for in
31 this chapter, together with all penalties for default in

1 payment of the same and all costs in collecting the same,
2 constitutes, from the date of assessment thereof until paid, a
3 lien of equal dignity with the liens for county taxes and
4 other taxes of equal dignity with county taxes upon all the
5 lands against which such assessments have been levied and
6 assessed, pursuant to s. 197.3632.

7 Section 17. Section 298.337, Florida Statutes, is
8 created to read:

9 298.337 Levies of assessments on land less than 1
10 acre.--In levying assessments based upon acreage, each tract
11 or parcel of land less than 1 acre in area is to be assessed
12 as a full acre.

13 Section 18. Section 298.341, Florida Statutes, is
14 created to read:

15 298.341 When unpaid assessments delinquent;
16 penalty.--All non-ad valorem assessments provided for in this
17 chapter become delinquent and bear penalties on the amount of
18 the assessments in the same manner as county taxes. The
19 assessments constitute a lien until paid on the property
20 against which assessed and are enforceable in the same manner
21 as county taxes.

22 Section 19. Section 298.345, Florida Statutes, is
23 created to read:

24 298.345 Enforcement of non-ad valorem
25 assessments.--The collection and enforcement of all non-ad
26 valorem assessments levied by the district shall be at the
27 same time and in like manner as county taxes, and the
28 provisions of the Florida Statutes relating to the sale of
29 lands for unpaid and delinquent county taxes, the issuance,
30 sale, and delivery of tax certificates for such unpaid and
31 delinquent county taxes, the redemption thereof, the issuance

1 to individuals of tax deeds based thereon, and all other
2 procedures in connection therewith, apply to the district and
3 the delinquent and unpaid assessments and taxes of the
4 district to the same extent as if the statutory provisions
5 were expressly set forth in this chapter. All non-ad valorem
6 assessments are subject to the same discounts as county taxes.

7 Section 20. Section 298.349, Florida Statutes, is
8 created to read:

9 298.349 Uniform initial acreage assessment for payment
10 of expenses.--There is levied upon each acre of land within a
11 water control district created on or after July 1, 1997, a
12 uniform initial assessment of \$50 per acre for the year in
13 which the district is created, to be used by the district,
14 through its board of supervisors, for the purpose of district
15 administration, paying expenses incurred or to be incurred in
16 making surveys of the lands in the district, assessing
17 benefits and damages, and other expenses necessarily incurred,
18 as estimated or determined by the board of supervisors, before
19 the board collects or receives funds under the remaining
20 provisions of this chapter. The assessment constitutes a lien
21 upon the lands in the district from the effective date of the
22 special act creating the district and must be collected by the
23 district. If the board of supervisors determines that it is
24 necessary to obtain funds to pay any expenses incurred or to
25 be incurred in organizing the district, or any other expenses
26 relating to the conduct and operation of the district, before
27 a sufficient sum can be obtained by collecting the acreage
28 assessment levied by this section, the board may borrow a
29 sufficient sum of money for any of those purposes, may issue
30 notes or bonds therefor, and may pledge any and all
31 assessments of the initial acreage assessment levied under the

1 provisions of this section for the repayment thereof. The
2 board of supervisors may issue notes or bonds to any person or
3 persons performing work or services or furnishing anything of
4 value in the organization of the district or for any other
5 expenses necessarily incurred before the receipt of funds
6 arising from assessments or benefits.

7 Section 21. Section 298.353, Florida Statutes, is
8 created to read:

9 298.353 Unit development; powers of board of
10 supervisors to designate units of district; financing
11 assessments for each unit.--The board of supervisors of the
12 district may designate areas of parts of the district as
13 separate administrative and financial "units." Units must be
14 created or modified as a part of and through the adoption of a
15 water control plan or plan amendment as provided in this
16 chapter. The units into which the district is divided must be
17 given appropriate numbers or names by the board of supervisors
18 so that the units can be readily identified and distinguished.
19 The board may fix and determine the location, area, and
20 boundaries of the lands to be included in each unit, the type
21 and amount of work required in the unit and the order of
22 development, and the method of carrying on the work in each
23 unit. The unit system provided by this section may be
24 conducted, and all the proceedings by this section and this
25 chapter authorized in respect to such unit or units may be
26 carried on and conducted, whenever the board of supervisors
27 finds that it is appropriate. If the board finds that it is
28 advisable to implement the district infrastructure and service
29 plans by units, as authorized by this section, the board
30 shall, by resolution duly adopted and entered upon its
31 minutes, declare its purpose to conduct the work accordingly,

1 and shall proceed through the water control plan adoption or
2 amendment process described in s. 298.301 to fix the number,
3 location, boundaries, and description of lands within each
4 unit or units and give them appropriate numbers or names. All
5 provisions of this chapter shall apply within all units, and
6 the enumeration of or reference in this section to specific
7 powers or duties of the supervisors does not limit or restrict
8 the application of any and all of the proceedings and powers
9 in this chapter within all units. For water control plans
10 applicable to one or more units, but to less than the entire
11 district, the notices to district landowners required under s.
12 298.301 need be provided only to owners of lands within the
13 affected unit or units and immediately contiguous properties
14 within the district. All assessments, levies, taxes, bonds,
15 and other obligations made, levied, assessed, or issued for or
16 in respect to any unit or units constitute a lien and charge
17 solely and only upon the lands in the unit or units,
18 respectively, for the benefit of which the same have been
19 levied, made, or issued, and not upon the remaining units or
20 lands in the district. The board of supervisors may at any
21 time amend the location and description of lands in any unit
22 or units by proceeding in accordance with the provisions of
23 this section for the original creation of the unit or units.
24 If, after the approval of the engineer's report of benefits in
25 any unit or units or the issuance of bonds or other
26 obligations that are payable from taxes or assessments for
27 benefits levied upon lands within any unit or units, the board
28 of supervisors finds that the infrastructure or service plan
29 for the unit or units is insufficient or inadequate for
30 efficient development, the plan may be amended or changed and
31 the unit or units may be amended or changed as provided in

1 this section, by changing the location and description of
2 lands in the unit or units, by detaching lands therefrom, or
3 by adding lands thereto pursuant to this chapter. However, a
4 change or amendment to a designated unit is not authorized if
5 it has the effect of impairing a debt or other obligation of
6 the unit or the district.

7 Section 22. Section 298.59, Florida Statutes, is
8 amended to read:

9 298.59 Supervisors authorized to obtain consent of
10 United States.--In case the water control plan ~~of reclamation~~
11 of any district organized and incorporated under this chapter
12 and the improvement provided thereunder be of such nature as
13 requires the permission or consent of the Government of the
14 United States, or any department or officer of the Government
15 of the United States, the board of supervisors of the district
16 may obtain the required permission or consent of the
17 Government of the United States or any proper officer or
18 department thereof; and to that end the board of supervisors
19 may bind the district to comply with any conditions that may
20 be attached to such permission or consent, including the
21 giving of any bond or other obligation for the faithful
22 performance of such conditions.

23 Section 23. Sections 298.07, 298.27, 298.29, 298.30,
24 298.31, 298.32, 298.33, 298.34, 298.35, 298.36, 298.467, and
25 298.55, Florida Statutes, are repealed.

26 Section 24. This act shall take effect upon becoming a
27 law.

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SENATE SUMMARY

Amends and creates pertinent sections of chapter 298, Florida Statutes, relating to drainage districts to provide for: definitions; the water management plan to be renamed the water control plan; the water control plan to serve the functions of the former plan of reclamation; the jurisdictional water management district to provide review responsibilities previously provided by the Department of Environmental Protection; the appointment of supervisors by the Governor; water control plan adoption and revision requirements; assessment of lands; duties of district engineer and district attorney; the levy and enforcement of non-ad valorem assessments; the issuance of bonds; liens; a uniform initial acreage assessment for payment of expenses; and the designation of financial units. Repeals various other sections of chapter 298, Florida Statutes, for consistency with the amended and created sections.