

STORAGE NAME: h0571a.ca
DATE: March 12, 1997

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

BILL #: HB 571

RELATING TO: Indian Trail Water Control District (Palm Beach County)

SPONSOR(S): Representative Frankel

COMPANION BILL(S): None.

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

- (1) COMMUNITY AFFAIRS YEAS 6 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill changes the name of Indian Trail Water Control District to Indian Trail Improvement District. The current authority to construct, improve, pave and maintain roadways and roads is expanded to authorize as a component of roads in the District's water management plan: parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system.

The bill requires the District to obtain authorization from the appropriate state or local government prior to expending funds relating to traffic signals.

The bill also directs the District to adopt by resolution rules, policies, guidelines, and procedures that allow the District to use either a public bid or private negotiation process for contracts and purchase orders of the District in amounts not exceeding \$15,000.

The attached Economic Impact Statement indicates the bill will have no effect on District expenditures or revenues during the next two fiscal years.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Indian River Water Control District (District) is an independent district created as a drainage district by special act chapter 57-646, Laws of Florida. As subsequently amended, chapter 57-646, Laws of Florida, provides for the District to be governed by an elected seven member board of supervisors.

Chapter 57-646, Laws of Florida, declares all existing and future provisions of chapter 298, Florida Statutes, relating to water control or drainage districts, not inconsistent with the provisions of chapter 57-646, Laws of Florida, to be applicable to the District. Chapter 57-646, Laws of Florida, also applies to the District the provisions of chapter 153, Florida Statutes, relating to water and sewer systems. In addition to these general law powers, through special act the District is authorized to provide the following services: irrigation management, road construction and maintenance, and natural gas provision. Chapter 92-261, Laws of Florida, authorizes the District to construct and maintain recreational areas and facilities.

Section 298.35, Florida Statutes, grants the board of supervisors of a water control district the power to build, construct, excavate, and complete any and all works and improvements which may be needed to carry out, maintain, and protect "the plan of reclamation." At their discretion, a board of supervisors may let contracts for works and improvements. When such contracts are let, the section requires they be advertised and let to the lowest and best bidder.

In Attorney General Opinion 96-28, the Attorney General stated that section 298.35, Florida Statutes, "appears to represent a minimum procedure to which supplementary requirements may be added by the special district." The Attorney General also noted that section 255.20, Florida Statutes, requires counties, municipalities, special districts as defined in chapter 189, Florida Statutes, or other political subdivisions of the state that are seeking to construct or improve public construction works to competitively award these projects. Such projects must be competitively awarded to a licensed contractor when the project is estimated to have construction costs of more than \$200,000. Section 255.20, Florida Statutes, contains more specific provisions relating to competitive bids for public construction contracts undertaken by special districts than does section 298.35, Florida Statutes. The Attorney General concludes that when the two statutes are read together, section 255.20, Florida Statutes, adds depth to the requirements of section 298.35, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

The bill changes the name of Indian Trail Water Control District to Indian Trail Improvement District. The current authority to construct, improve, pave and maintain roadways and roads is expanded to authorize as a component of roads in the District's water management plan: parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system. The bill requires the District to obtain authorization from the appropriate state or local government prior to expending funds relating to traffic signals. The bill also directs the District to adopt by resolution rules, policies, guidelines, and procedures that allow the District to use either a public bid or private negotiation process

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for contracts and purchase orders of the District in amounts not exceeding the Category 2 amount (\$15,000) set forth in 287.017, Florida Statutes.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 57-646, Laws of Florida, as amended.

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?

No.

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

No.

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

No.

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?

Not applicable.

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

Not applicable.

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

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

Yes, improvements authorized by this bill will be funded through special assessments paid by landowners benefited by the improvements.

4. Individual Freedom:

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

No.

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

No.

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

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

No.

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?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. The name of Indian Trail Water Control District is changed to Indian Trail Improvement District.

Section 2. This section provides for the component of roads in a water management plan to include: parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a

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modern road system. The section requires the District to obtain authorization from the appropriate state or local government prior to expending funds relating to traffic signals.

Section 3. This section provides for the adoption by resolution rules, policies, guidelines, and procedures that will authorize the District, at its discretion, to use either a public bid or private negotiation process for contracts and purchase orders of the District in amounts not exceeding the Category 2 amount (\$15,000) set forth in 287.017, Florida Statutes.

Section 4. An effective date of upon becoming law is provided.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 15, 1997

WHERE? The Palm Beach Post, Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

Paragraph (21) of Subsection 11(a), Article II of the Florida 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, "[s]uch law may be amended or repealed by like vote." Pursuant to this provision of the Florida Constitution, subsection 298.76(1), Florida Statutes, prohibits the enactment of special laws that grant additional authority, powers, rights, or privileges to any water control district formed pursuant to chapter 298, Florida Statutes. As explained in the "Effects of Proposed Changes" section, this bill grants additional powers to the District.

A representative of the District stated subsection 298.76(1), Florida Statutes, does not apply to the District since the District was created by special act with additional powers beyond those authorized in chapter 298, Florida Statutes.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 12, 1997, the Committee on Community Affairs considered and passed HB 571 with two amendments.

Amendment 1

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Amendment 1 was requested by the District and approved by the Palm Beach County Legislative Delegation on March 11, 1997. The amendment reads: on page 2, between lines 8 and 9, insert a new section 4. The amendment provides that notwithstanding the provisions of sections 298.07(2), 298.27(4), and 298.33, Florida Statutes, and chapter 57-646, Laws of Florida, as amended, the following notice provisions shall apply to the District:

The amendment states Legislative intent to give the District's board of supervisors the latitude to make additional and other improvements to the water management plan so long as they meet specified requirements, including not increasing cost in excess of the total benefits assessed by the District.

The amendment authorizes the District to accept for maintenance additional facilities within its boundaries which are donated to the District at no cost.

The amendment ratifies, as amended and constructed, all existing water management plans as of the effective date of this act.

The amendment provides that the circuit court may retain jurisdiction to consider changes, modifications, or amendments to a water management plan required by any local, state, or federal agency or proposed by the board of supervisors, provided the change meets the following conditions:

The district engineer certifies all the lands effected receive the same or greater benefits as determined by the commissioners and the estimated costs do not exceed the benefits assessed and any existing bonds outstanding do not exceed 90 percent of the total benefits assessed.

Amendments or changes meeting such requirements must be approved by the court. Only parties appearing or answering the original proceedings of approval of the commissioners' report will be entitled to receive notice of these proceedings.

As an alternative to the circuit court approval process described above, the amendment authorizes the board of supervisors to change, alter, or amend a previously approved water management plan by resolution, provided the change meets the following requirements:

The district engineer certifies all land subject to the original plan receives the same or greater benefits as previously assessed and the estimated costs do not exceed 90 percent of the total benefits assessed.

Amendment 2

Amendment 2 is a title amendment that corrects a bill drafting error. On page 1, line 7, after the word "component", the amendment inserts the word "of".

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VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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