

STORAGE NAME: h0977a.ca

DATE: April 4, 1997

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

BILL #: HB 977

RELATING TO: Polk County

SPONSOR(S): Representative Laurent

COMPANION BILL(S): None

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

(1) COMMUNITY AFFAIRS YEAS 7 NAYS 0

(2)

(3)

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(5)

I. SUMMARY:

The bill dissolves the Wahneta Drainage District of Polk County (Wahneta), and provides for the use of the Wahneta's assets to be used to pay its debts. If the assets are insufficient to pay off the debt, the bill authorizes Polk County to levy any tax or taxes on the property within the limits of Wahneta. The bill also provides that, after payment of debt, the remainder of Wahneta's property or assets shall revert to Polk County.

The bill provides clarifying language to explicitly delineate the duties and activities currently being carried out by the Lake Region Lakes Management District.

The Economic Impact Statement states that people living in the watershed will benefit because there will be less flooding. This should increase property values in the area, because flooding in the past has been a serious problem.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Wahneta Drainage District (Wahneta) was created by special act, chapter 14580, Laws of Florida, 1929. An additional special act, chapter 13899, Laws of Florida, 1929, authorized Wahneta to levy an annual installment of drainage taxes and maintenance taxes upon all of the lands within its boundaries.

The Winter Haven Lake Region Boat Course District was created as a public corporation by special act, chapter 8378, Laws of Florida, 1919. The name of the district was changed to the Lake Region Lakes Management District (Lake Region Lakes) and was established an independent special district by chapter 90-499, Laws of Florida.

Lake Region Lakes controls a chain of 16 lakes hooked together through navigable canals. They also control 36 independent lakes which are hooked together with drainage systems. Lake Region Lakes operates 9 water control structures (dams and pipes with sluice gates). They have the authority to acquire, construct, operate, maintain and protect a system of boat canals, dams, locks and other proper and necessary works, in connection therewith, for the purpose of protecting, maintaining and improving the water quality in the lakes and canals, and promoting access to the lakes and the public convenience, utility and welfare.

Wahneta lies downhill from Lake Region Lakes. The drainage ditches located in Wahneta were designed to handle drainage and stormwater runoff from the District. Currently, many of the drainage ditches in Wahneta have been filled in or have fences built across them. Thus, they are not able to handle stormwater runoff, and properties within Wahneta become flooded during heavy rains.

No elections have been held to elect board members to Wahneta, and officers currently serving in those positions were not elected.

Section 189.4044, Florida Statutes, provides that a special district may be found inactive upon a finding "[t]hat the special district has not had appointed or elected a governing body within the 4 years immediately preceding or as otherwise provided by law or has not operated within the 2 years immediately preceding." The statute further states that "[a]fter payment of all debts of the inactive special district, the remainder of its property or assets shall escheat to the county or municipality wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed by the county property appraiser and collected by the county tax collector."

B. EFFECT OF PROPOSED CHANGES:

The bill authorizes Polk County (Polk) to dissolve Wahneta, for all assets and property of Wahneta to escheat to Polk, and for Polk to use the assets of Wahneta for the purpose of paying of Wahneta's debts. If assets are insufficient to pay off debts, the bill authorizes Polk to levy any tax, or tax on the property located within the limits of Wahneta to pay those debts.

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The bill provides clarifying language to delineate those activities and duties the District is currently performing.

The bill will also grant the Lake Region Lakes, its agents and employees immunity from liability for recovery of damages caused by partial or total failure of any water management structure by virtue of its control, operation or regulation.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 14580, Laws of Florida, 1929
Chapter 13899, Laws of Florida, 1929
Chapter 8378, Laws of Florida, 1919, 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?

Yes. It places the duties and responsibilities of the Wahneta Drainage District on Polk County.

(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?

The costs, duties and responsibilities of maintaining the ditches in the Wahneta Drainage District will be passed on to Polk County.

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

Polk County will be receiving Wahneta's assets as well as their costs to maintain the ditches. Thus, the costs accruing to Polk for ditch maintenance will be paid from the assets or the tax base of Wahneta.

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

Unknown.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

It may. It gives the Polk County Board of County Commissioners the authority to levy any tax or taxes on the property within the limits of Wahneta in order to pay any debts currently owed by Wahneta.

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?

Yes. It authorizes Polk County to levy any tax or taxes on the property within Wahneta, to pay any debt currently owed by Wahneta.

3. Personal Responsibility:

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

Not applicable.

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

Maybe. Any tax or taxes on the property may be levied on the property owners in Wahneta to pay for any debt currently owed by Wahneta. However, repair and maintenance of the drainage ditches located in Wahneta will reduce flooding on properties located in Wahneta, which could possibly increase property values.

4. Individual Freedom:

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

Not applicable.

- 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:

Not applicable.

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

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

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

- 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:

Not applicable.

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Repeals chapter 14580, Laws of Florida, 1929, and chapter 13899, Laws of Florida, 1929. The repeal of chapter law dissolves Wahnetta and provides for the use of Wahnetta's assets to be used to pay its debts. If the assets are insufficient to pay off the debt, Polk County is authorized to levy any tax or taxes on the property within the limits of Wahnetta. After payment of debts, the remainder of Wahnetta's property or assets shall revert to Polk County.

Section 2. Amends section 1 of chapter 8378, Laws of Florida, 1919, as amended, to include clarifying language which more explicitly delineates the current duties and activities of Lake Region Lakes.

Section 3. Amends paragraphs (c), (d) and (f) of subsection (1) and subsection (2) of section 3 of chapter 8378, Laws of Florida, 1919, as amended, to include clarifying language which more explicitly delineates the current duties and activities of Lake Region Lakes.

Section 4. Amends section 18 of chapter 8378, Laws of Florida, 1919, as amended, to include clarifying language which more explicitly delineates the current duties and activities of Lake Region Lakes.

Section 5. Amends section 19 of chapter 8378, Laws of Florida, 1919, as amended, include clarifying language which more explicitly delineates the current duties and activities of Lake Region Lakes.

Section 6. Creates section 24 of chapter 8378, Laws of Florida, 1919, to provide Lake Region Lakes, its agents and employees with immunity from liability for recovery of damages caused by partial or total failure of any water management structure by virtue of its control, operation or regulation.

Section 7. Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? February 3, 1997 and February 4, 1997

WHERE? The Ledger, Lakeland, Polk County, Florida; and
Winter Haven News Chief, Polk County, Florida, Respectively

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

Lake Region Lakes representative stated that water runoff leaving their district goes through Wahnetta. Wahnetta is supposed to maintain a system of ditches to control and divert the runoff. Lake Region Lakes representatives have met with members of Wahnetta frequently over the past ten years, to express concern about ditches having been filled and fenced. However, nothing has been done to improve the ditches. After every rain the ditches overflow, and property is flooded.

Upon passage of the bill, property owned by Wahnetta will escheat to Polk County. Polk County will then own the ditches and will be responsible for their maintenance and repair. Polk County and the Southwest Florida Water Management District (SWFWMD) have entered into an interlocal agreement to make necessary improvements to the ditches. Upon passage of the bill, Polk County and Lake Region Lakes plan to enter into an interlocal agreement to have Lake Region Lakes take over Wahnetta's ditch repair and maintenance duties.

The language of this bill was created with the cooperation of DEP, Polk County, SWFWMD, and the District.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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