

STORAGE NAME: h1087z.wrm
DATE: June 23, 1999

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

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
WATER & RESOURCE MANAGEMENT
FINAL ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1087
RELATING TO: Broward County/Old Plantation Water Control District
SPONSOR(S): Representative Wasserman Schultz
COMPANION BILL(S): SB 2688 (s) by Senator Campbell

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) WATER & RESOURCE MANAGEMENT YEAS 9 NAYS 0
(2) COMMUNITY AFFAIRS YEAS 10 NAYS 0
(3) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
(4) FINANCE & TAXATION
(5)

I. FINAL ACTION STATUS:

On April 30, 1999, HB 1087 died in the Committee on Finance & Taxation. The companion bill, SB 2688, passed the House on April 30, 1999 by a vote of 113-0, and was signed by the Governor on May 26, 1999.

II. SUMMARY:

The bill codifies all prior special acts relating to the Old Plantation Water Control District in Broward County into a single act.

It provides for minimum charter requirements and repeals prior special acts, and does not make any substantive changes to current law.

HB 1087 has no adverse economic impact.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The 1997 Legislature amended chapter 189, F.S., to provide for codification of all special districts' charters 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, F.S., requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation and that all prior legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, F.S., by (1) extending the deadline to codify to December 1, 2004; (2) allowing for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the chair of the Committee on Community Affairs; (3) removing the prohibition of substantive amendments in a district's codification bill; and (4) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

| | |
|---|--------------------------|
| Special Districts with 2 special acts (45 districts) | 1999 Legislative Session |
| Special Districts with 3 or 4 special acts (63 districts) | 2000 Legislative Session |
| Special Districts with 5, 6 or 7 special acts (53 districts) | 2001 Legislative Session |
| Special Districts with 8, 9, 10, 11 or 12 special acts (56 districts) | 2002 Legislative Session |
| Special Districts with 13 or more (54 districts) | 2003 Legislative Session |
| Special Fire Control Districts (47 districts) | 2004 Legislative Session |

Also, subsection 189.404(5), F.S., 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. In 1997 the Legislature completed a major rewrite of chapter 298, to bring consistency to the statutes and to eliminate obsolete provisions.

Old Plantation Water Control District

The Old Plantation Water Control District (District) was established by judicial decree on November 19, 1946, in the Fifteenth Judicial Circuit of Broward County, Florida. The Legislature ratified and validated its creation under chapter 298, F.S., by Special Act during the 1947 Legislative Session. Chapter 24416, L.O.F., 1947, provided that the reclamation and protection of district lands for agricultural purposes by drainage and improvement were in the interest of and conducive to the public welfare, health, and convenience.

The District is comprised of approximately 10,000 acres within the City of Plantation; its primary purpose is surface water management for this urban area. The District levies an annual non-ad valorem assessment of \$69.96 per acre for an approximate 1999 budget of \$544,000.

Chapter 298, F.S.

Chapter 298, F.S., 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, F.S., 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, F.S. (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, F.S.

Election of Board of Supervisors

Upon the formation of a water control district, a meeting is held where the landowners elect a chair and secretary of the meeting. Their duty is to organize the election of the board of supervisors. An election is held and the landowners elect supervisors and determine their length of office by designating 1, 2, or 3 years.

Water Control Plan Development and amendments

By October 1, 2000, each water control district must develop or revise its water control plan to reflect requirements listed in section 298.225, F.S. Prior to final adoption, the district's board of supervisors must submit the proposed plan to the jurisdictional water management district for review.

One-Acre One-Vote

Section 298.11, F.S., 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, plus an additional vote for any fraction of an acre. Landowners owning less than one acre in the aggregate are also 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 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, F.S. 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, F.S., 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 Old Plantation Water Control District in Broward County into a single act.
- States the District's minimum charter requirements pursuant to and provided by subsection 189.404(3), F.S., as the information is not provided in the current charter.
- Provides that chapters 170, 189, 197, and 298, F.S., are applicable to the District's charter provisions.
- Removes obsolete language which was preempted by applicable chapters.
- Repeals chapters 24416, L.O.F., 1947; chapter 25710, L.O.F., 1949; chapter 27425, L.O.F. 1951; chapter 28936, L.O.F., 1953; chapter 30638, L.O.F., 1955; sections 2, 3, 4, 5, 6, and 7 of chapter 59-1146, L.O.F.; and chapter 88-468, L.O.F.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 24416, L.O.F., 1947; chapter 25710, L.O.F., 1949; chapter 27425, L.O.F. 1951; chapter 28936, L.O.F., 1953; chapter 30638, L.O.F., 1955; chapter 59-1146, L.O.F.; and chapter 88-468, L.O.F.

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:

An agency or program is not 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?

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?

No.

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:

The bill does not purport to give 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?

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:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?
N/A
- (2) service providers?
N/A
- (3) government employees/agencies?
N/A

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification required under section 189.429, F.S.

Section 2: Codifies, reenacts, amends, and repeals special acts relating to the District's charter.

Section 3: Ratifies, confirms, and restates the District's formation by the Fifteenth Judicial Circuit.

Section 4: Describes the District's boundaries.

Section 5: Provides that bonds issued by the District, and interest thereon, shall be exempt from taxation by the State of Florida, or any county, municipality, or political subdivision thereof.

Section 6: Provides that the Board of Supervisors has the authority to establish administrative and financial "units" within the District, as described in and governed by section 298.353, F.S.

Section 7: Provides the minimum charter requirements pursuant to subsection 189.404(3), F.S., by providing for:

- The District's purpose;
- The District's powers, functions, and duties relating to ad valorem taxation, bond issuance, other revenue raising capabilities, liens, and budget;
- The District's creation by a judicial decree from the Fifteenth Judicial Circuit;
- Charter amendments by special acts of the Legislature;
- The election and organization of the District's three-member board;
- The compensation of board members;
- The administrative duties of the board;
- Financial disclosure, meeting notices, public records, and per diem for officers and employees;
- Procedure and requirements governing the issuing of bonds and other indebtedness;
- Procedures for conducting District elections and elector qualifications;
- Methods by which the District may be financed;
- Methods for assessing and collecting no-ad valorem assessments and fees;
- The District's planning requirements; and
- The District's geographic boundaries.

Section 8: Provides for compensation of board members.

Section 9: Provides for act's control if there are conflicting provisions.

Section 10: Provides for severability of any provision determined to be invalid or unenforceable.

Section 11: Repeals chapter 24416, L.O.F., 1947; chapter 25710, L.O.F., 1949; chapter 27425, L.O.F., 1951; chapter 28936, L.O.F., 1953; chapter 30638, L.O.F., 1955; sections 2, 3, 4, 5, 6, and 7 of chapter 59-1146, L.O.F.; and chapter 88-468, L.O.F.

Section 12: Provides that this act shall take effect upon becoming a law.

IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? January 31, 1999

WHERE? *The Miami Herald*

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 []

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment by the Committee on Water & Resource Management

On March 17, 1999, the Committee on Water & Resource Management unanimously adopted one strike everything amendment to HB 1087. The amendment removes all coding, previously inserted for research purposes, and allows the charter to become law in a reader-friendly form. In keeping with the purpose of the District's codification effort, the amendment will produce an up-to-date and reader-friendly document.

As filed, HB 1087 has a separate section and subsections addressing minimum charter requirements. The amendment renumbers the section and subsections dealing with charter provisions, and incorporates additional sections of HB 1087 which should also be included as charter provisions. The amendment provides for the inclusion of a status statement declaring the District an independent special district as required by subsection 189.404(4), F.S. Finally, the amendment deletes the term "drainage" and inserts the term "water control" to remain consistent with other amendment language.

The amendment was not incorporated and is traveling separately with HB 1087.

Amendments by the Committee on Community Affairs

At its March 30, 1999 meeting, the House Committee on Community Affairs adopted the following amendments to the traveling amendment:

Amendment #1 - a technical amendment to correct a scrivener's error.

Amendment #2 - an amendment to correct the repealer provision in section 11 of the strike everything amendment.

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Karon A. Molloy

Joyce Pugh

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AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by: Staff Director:

Aimee Diaz

Joan Highsmith-Smith

AS FURTHER REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:
Prepared by: Staff Director:

Jen Girgen

Jimmy O. Helms

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:
Prepared by: Staff Director:

Karon A. Molloy

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