

STORAGE NAME: h1553.ca

DATE: March 31, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1553

RELATING TO: South Shore Drainage District, Palm Beach County

SPONSOR(S): Representative Greene

COMPANION BILL(S): SB 2614 (s)

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

- (1) COMMUNITY AFFAIRS
 - (2) WATER & RESOURCE MANAGEMENT
 - (3) FINANCE & TAXATION
 - (4)
 - (5)
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I. SUMMARY:

This bill revises the South Shore Drainage District's boundaries to include additional lands. The area to be annexed is approximately 600 acres of land continuous to the City of South Bay and South Shore Drainage District.

The bill amends the District's Plan of Reclamation to include facilities transferred to the District which will serve the additional lands.

The bill provides for the equal assessment of benefits for all lands within the District.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

South Shore Drainage District, in Palm Beach County, was created in 1935 to replace the existing drainage district created in 1925. The purpose of the District is to reclaim and drain lands located within the District by constructing canals and ditches and making the lands inhabitable. In addition, the District maintains such canals, ditches, dikes, and reservoirs to protect them from the effect of excess water.

The area being annexed is currently being served by a drainage pump known as Rabbit Island Pump.

History of Water Control Districts

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

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

Chapter 298, Florida Statutes

Chapter 298, Florida Statutes, contains provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Creation of Water Control Districts

Section 298.01, Florida Statutes, restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 125.01, Florida Statutes (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by chapter 298, Florida Statutes

Election of Board of Supervisors

Upon the formation of a water control district, 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 the district's water control plan to reflect requirements listed in section 298.225, Florida Statutes. Prior to final adoption, the Board must submit the proposed plan to the jurisdictional water management district for review.

One-Acre One-Vote

Section 298.11, Florida Statutes, provides for every acre of land within a district to represent one share, or vote. Each landowner within a district is entitled to one vote per acre of land they own. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well.

Role of the Circuit Courts

As noted, once a water control district is formed, the circuit court of the county where the majority of the land is located has exclusive jurisdiction within the boundaries of the district. Circuit courts serve several functions in the creation and governance of water control districts. After a board of supervisors adopts a plan of reclamation, it must petition the circuit court to appoint three commissioners to appraise the lands that will be acquired to implement the plan of reclamation. A circuit court may require the report on assessment of benefits and damages to be amended and it must condemn lands described in the report that are needed to construct the district's works. In the event a circuit court determines that the value of land within the district has changed and additional conditions are met, the court is required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

Revenue Sources

The primary funding source for water control district activities is special assessments. Once a circuit court has issued its decree on the report on assessments of benefits and damages, a board of supervisors may levy a tax on the land that will be benefited by the works. This tax must be "apportioned to, and levied on, each tract of land in said district in proportion to the benefits assessed, and not in excess thereof," as provided for in section 298.50, Florida Statutes. A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of assessments levied. A board of supervisors also may levy an annual maintenance tax on each tract of land in the district to maintain and preserve the district's works once they are completed. This tax also must be apportioned on the basis of the net benefits accruing to the individual parcels.

Limitation on Special Acts

Paragraph (21) of Subsection 11(a), Article III of the State Constitution, prohibits special laws or general laws of local application pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house." Furthermore, "such law may be amended or repealed by like vote."

Section 298.76, Florida Statutes, was adopted pursuant to this authority. The section provides "there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to this chapter." However, this subsection does not prohibit special or local legislation that:

- (a) Amends an existing special act which provides for the levy of an annual maintenance tax of a district;
- (b) Extends the corporate life of a district;
- (c) Consolidates adjacent districts; or
- (d) Authorizes the construction or maintenance of roads for agricultural purposes as outlined in this chapter.

The section also authorizes special or local laws:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

Finally, the section provides that any special or local laws enacted by the Legislature pertaining to any water control district shall prevail as to that district and shall have the same force and effect as though it had been a part of this chapter or any section thereof at the time the district was created and organized.

B. EFFECT OF PROPOSED CHANGES:

This bill revises the South Shore Drainage District's boundaries to include additional lands. The area to be annexed is approximately 600 acres of land continuous to the City of South Bay and South Shore Drainage District. The 600 acres consists of mostly agricultural land, except for approximately 35 acres located on the shores of Lake Okeechobee which is a County-owned RV park.

The bill amends the District's Plan of Reclamation to include facilities transferred to the District which will serve the additional lands.

The bill provides for the equal assessment of benefits for all lands within the District.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 17259, Laws of Florida, 1935, as amended by chapter 71-819, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

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

Yes. The District is responsible for maintaining and servicing canals for the 600 acres of annexed property.

Palm Beach County will no longer have to provide drainage services and continue its water quality monitoring for the County-owned RV park.

(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?

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?

Yes. The annexed property will be assessed approximately \$15 an acre a year for drainage services.

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?

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends the South Shore Drainage District's charter by revising the District's legal boundaries.

Section 2: Revises the District's Plan of Reclamation to include facilities to serve the annexed land.

Section 3: Provides for the equal assessment of benefits for all land within the District.

Section 4: Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

- A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 1999

WHERE? The Palm Beach Post

- B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

- C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

- D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

The area to be annexed consists of approximately 600 acres in Palm Beach County which is contiguous to the City of South Bay. The 600 acres is owned by a limited number of landowners, including 230.58 acres owned by SBG Farms, Inc. (U.S. Sugar) and 194.48 acres owned by the City of South Bay. The land is currently being served by the drainage pump known as Rabbit Island Pump.

U.S. Sugar Growers is donating and transferring to South Shore Drainage District, the Rabbit Island Pump and related infrastructure, including the pump station, the monitoring station, and a canal located south of Villa Lago, an area of property being annexed. By transferring the pump station and drainage service

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responsibilities, the annexed lands will be provided with long-term maintenance and operation by the District.

The limited landowners (six landowners) involved with the proposed boundary change were notified by mail of the District's intent to annex the land and provide drainage services. The notification letter indicated that there would be an assessment and stated their pro-rata share of the cost, approximately \$15 an acre. Notices were sent to the landowners and the District received *no* objections.

In addition, Palm Beach County will benefit from the inclusion of its 35 acres RV park. Palm Beach County has an existing agreement with U.S. Sugar which provides for drainage services. This bill will eliminate the County's need to continue its current contract with U.S. Sugar and would eliminate the County's necessity to continue water quality monitoring of the RV park's discharges.

Attached is a map of the District which indicates the proposed annexation.

Attached are letters from the City of South Bay, Palm Beach County, and U.S. Sugar, in support of the annexations

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Greene has offered an amendment which inserts language from section 2 of chapter 17259, Laws of Florida, 1935 (the District's boundary description) into the revised legal description. The language sets out the District's purpose and is needed to avoid repeal of the current charter language by implication. This amendment conforms this bill to its Senate companion and does not affect the bill's legal notice.

VI. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

Staff Director:

Laura L. Jacobs

Joan Highsmith-Smith