

STORAGE NAME: h1583.wrm

DATE: April 19, 1999

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

BILL #: HB 1583

RELATING TO: Indian Trail Improvement District, Palm Beach County

SPONSOR(S): Representative Frankel

COMPANION BILL(S): None.

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

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
 - (2) WATER & RESOURCE MANAGEMENT
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that the Indian Trail Improvement District Board of Supervisors may amend their water control plan, notwithstanding general law to the contrary. Subject to certain conditions, the bill also provides that the circuit court shall approve amendments and changes to the water control plan over which the court has jurisdiction. Furthermore, the bill provides for an alternate procedure by which the board may amend a previously approved water control plan.

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II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Indian Trail Improvement District

The Indian Trail Improvement District (formerly known as the Indian Trail Water Control District) was originally created on June 6, 1957 by chapter 57-646, Laws of Florida. The enabling act has been amended and supplemented, and is subject to the applicable provisions of chapter 298, Florida Statutes.

The district was created to construct and maintain the water control and drainage systems; the roads serving the district; and provide neighborhood community parks. The district has road-paving programs designed to bring a paved road within approximately a ½ mile of every property in the central area of the district. The district is also empowered to acquire property for recreational purposes, construct and maintain recreational facilities, and create and manage recreational programs. The district is supported by a non-ad valorem (benefits) assessment based on each acre or fraction thereof.

The grant of power to the district to amend their water control plan has been granted to other special districts in the past.

However, Chapter 298, Florida Statutes, which governs the formation and operation of water control districts. Section 298.225, Florida Statutes, was amended substantially during the 1998 legislative session. Section 298.225, Florida Statutes, provides effective October 1, 1998, any plan of reclamation, water management plan, or plan of improvement developed and implemented by a water control district created by chapter 298, Florida Statutes, or by special act of the Legislature is considered a "water control plan" and is subject to the provisions of the chapter.

Furthermore by October 1, 2000, the board of supervisors of each water control district must develop or revise the district's water control plan to reflect the minimum applicable requirements set forth in section 298.225, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that the Indian Trail Improvement District Board of Supervisors may amend their water control plan, notwithstanding general law to the contrary. Subject to certain conditions, the bill also provides that the circuit court shall approve amendments and changes to the water control plan over which the court has jurisdiction. Furthermore, the bill provides for an alternate procedure by which the board may amend a previously approved water control plan.

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?

The bill expands the authority of the Indian Trail Improvement District to amend their water control plan without legislative approval.

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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: Provides that the Indian Trail Improvement District may amend its water control plan, in addition and as an alternative, to the provisions of chapter 298, Florida Statutes. Provides the Board of Supervisors may make changes to the water control plan which will result in a benefit to the land and will not increase the cost in excess of the total benefits previously assessed. Provides the district may accept for maintenance additional facilities which are within the boundaries and supplement a water control plan which are donated to the district at no cost. Ratifies all existing water control plans.

Subject to conditions, provides where the circuit court has retained jurisdiction for the purpose of considering any changes, modifications, or amendments to a water control plan required by any other local, state, or federal governmental agency or proposed by the board of supervisors the court shall approve changes or amendments. Provides only those parties appearing or answering the original proceedings for approval of the commissioners' report shall be entitled to receive notice of these supplemental proceedings.

Provides as an alternate procedure, the board of supervisors shall have the power to change, alter, or amend a previously approved water control plan by resolution, subject to conditions.

Section 2: Provides this act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 11, 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:

Community Affairs Staff:

This bill provides only an exemption from general law. As such, under House Rule 44(b) it appears the bill may be subject to re-introduction as a general bill.

Section 298.225, Florida Statutes, was amended during the 1998 legislative session to provide general law provisions to govern special district water control plans.

A representative of the Indian Trail Improvement District asserts that the district wants to utilize the expanded powers authorized in the bill to make minor and insubstantial changes to the district's water control plan. However, this is provided for in paragraph (8) of section 298.225, Florida Statutes.

The bill grants the district broad latitude to amend its water control plan without legislative authorization.

Water and Resource Management Committee staff:

As drafted, HB 1583 would give the Indian Trail Improvement District broad discretion to amend its water control plan outside of the parameters established in s. 298.225(8), F.S., by the Legislature in its 1997-1998 rewrites of Chapter 298. Based on discussions with the district's attorney, the district has a number of projects that constitute, in her opinion, "minor, insubstantial" changes to the existing water control plan. However, HB 1583 has a sweeping impact far beyond what might be described as a way to accommodate minor or insubstantial changes in the Indian Trail district's water control plan.

A strike-everything-after-the-enacting clause amendment, to be offered by the bill's sponsor at the Water and Resource Management Committee meeting, will more narrowly address the immediate issues the Indian Trail district must address, and will give the Legislature an additional year to evaluate the need for a process to deal with minor amendments to water control plans.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Lisa C. Cervenka

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Joyce Pugh

Staff Director:

Joyce Pugh