

STORAGE NAME: h2273.ca

DATE: April 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 2273

RELATING TO: Lake County/Oklawaha Basin

SPONSOR(S): Representative Johnson

COMPANION BILL(S):

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) ENVIRONMENTAL PROTECTION (RLC)
 - (3) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

The bill makes the following changes:

- Changes the name of the Oklawaha Basin Recreation and Water Conservation Control Authority to the Lake County Water Conservation Authority;
- Increases number of members of governing board from three to five;
- Requires that members be elected in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code;
- Requires that one member reside in each of the county commission districts of Lake County;
- Changes the terms of board members;
- Prohibits any board member from serving as executive director of the Authority;
- Changes the number of board members required to constitute a quorum; and
- Provides for certification of millage to the county property appraiser for assessment.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

RELEVANT BACKGROUND OF THE OKLAWAHA BASIN RECREATION AND WATER CONSERVATION AUTHORITY:

Ch. 29222, Special Acts of Florida, 1953: The Oklawaha Basin Recreation and Water Conservation Control Authority (Authority) is an independent special district created by chapter 29222, Special Acts of Florida, 1953, as amended.

Section 2: The purposes of the Authority are to: (1) control and conserve the freshwater resources of Lake County; (2) foster and improve the tourist business in the county by improvements to the streams, lakes and canals in the county; (3) provide recreational facilities for the tourists and citizens and taxpayers of the county by a more efficient use of the streams, lakes, and canals in the county; and (4) preserve, protect, and improve the fish and wildlife of the county. The Authority is a special taxing district. The territory of the Authority extends throughout the present limits of Lake County, Florida. The Authority's designated name is "The Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County."

[Note: The Authority is commonly known as the "Lake County Water Authority."]

Section 4: The governing body of the Authority (Board) consists of three (3) members, who are residents of Lake County. The members of the Board must be appointed by the Governor and confirmed by the Senate. The term of office for the members is four (4) years.

[Note: This section also provides for the initial appointment of Board members by the Governor to provide for staggered terms.]

In January of each year the members of the Board must meet and select one member as Chairman and one member as Vice Chairman. The Clerk of the Circuit Court of Lake County must act as the Secretary and Treasurer of the Board without any additional compensation. In the event the provision pertaining to the duties of the Clerk of the Circuit Court is for any reason held to be invalid, the Board may select one of its members to serve as its Secretary and Treasurer, or it may appoint a nonmember of the Board as its Secretary and Treasurer. Such member or nonmember must receive compensation commensurate with the duties and responsibilities as determined by the Board. The Board must require a surety bond of any person, including the Clerk of the Circuit Court, who is Secretary and Treasurer of the Board, in an amount to be fixed by the Board. In the case of the appointment of the Clerk of the Circuit Court, the bond must be in addition to the bond furnished by him as Clerk of the Circuit Court or as a member of the Board, and the premium must be paid by the Board.

Section 6: Two members of the Board constitute a quorum for the transaction of business. A majority vote of all members present is necessary in order to authorize any action by the Board. The Chairman is entitled to vote on all questions.

Section 9: Provides for the powers and duties of the Board. Authorizes the Board to have all the powers of a body corporate, including the power to sue and be sued; to make contracts; to adopt and use a common seal and to alter the seal; to buy, acquire by condemnation or eminent domain, sell own, use, control, operate, improve, and lease all land and personal property as the Board may deem necessary; to appoint and employ, and dismiss at pleasure certain employees and other employees and agents as the Board may require; to fix and pay compensation; to establish an office for business in Tavares, Florida; to pay all necessary costs and expenses involved and incurred in the formation, organization, and administration of the Board; to pay all other reasonable costs and expenses; to do any and all other acts and things authorized or required to be done; and to do any and all things, whether or not included in the enumerated powers of this act, necessary to accomplish the purposes of this act.

Chapter 57-1484, Laws of Florida: Section 2 of chapter 57-1484, Laws of Florida, amends section 9 of chapter 29222, Special Acts of Florida, 1953, as amended, authorizing the Authority to: *establish branch offices* anywhere in Lake County; *to police all navigable waterways* in Lake County; to

establish speedlimits and other rules and regulations for the protection of life and limb of persons using the waterways of Lake County; and for the protection of fish and wild life along the waterways.

Chapter 59-1466, Laws of Florida: Section 1 of chapter 59-1466, Laws of Florida, amends section 9 of chapter 29222, Special Acts of Florida, 1953, as amended, authorizing the Authority to: *provide for the granting of licenses or permits for the construction and excavation of canals and ditches connecting with navigable waters; to establish, promulgate and administer rules and regulations governing the construction and excavation of canals and ditches and to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the authority was established.*

Chapter 63-1507, Laws of Florida: Section 1 of chapter 63-1507, Laws of Florida, substantially rewrote section 9 of chapter 29222, Special Acts of Florida, 1953, as amended, as follows:

Newly created subsection 9(a): Authorizes the Authority to have all powers of a body corporate, including the following:

- To sue and be sued;
- To make contracts;
- To adopt and use a common seal and to alter the same as may be deemed expedient;
- To buy, acquire by condemnation or eminent domain in the manner prescribed for use by counties in Florida, sell, own, use, control, operate, improve, and lease all land and personal property as the Authority may deem necessary or proper;
- To appoint and employ, and dismiss at its pleasure engineers, auditors, attorneys, and other employees and agents;
- To establish an office in the City of Tavares or any other municipality, provided that any branch office is furnished without any rental or other charge to the authority for its maintenance or use;
- To pay all necessary costs and expenses incident to administration and operation;
- To pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this act, provided that all bills and expenditures must first be approved by the board of county commissioners.

Newly created subsection 9(b): Requires an annual budget to be prepared by the Authority and submitted to the board of county commissioners for final adoption.

Newly created subsection 9(c): Authorizes the Board to do the following:

- Grant licenses or permits for construction and excavation of canals and ditches connecting with navigable waters;
- Establish, promulgate and administer rules and regulations governing the construction and excavation of canals and ditches with the authority to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the Authority was established;
- Do any and all other acts and things authorized or required; and
- Do any and all things necessary to accomplish the purposes of this act.

Newly created subsection 9(d): Provides that the Authority controls all streams, including slow moving streams, flowing from any of the water reservoirs in Lake County, whether natural or constructed, into the system of lakes and streams in or adjacent to Lake County for the protection of the natural water reservoirs and the adjacent and neighboring areas.

Chapter 65-1787, Laws of Florida: Section 1 of chapter 65-1787, Laws of Florida, amends sections 4 and 9 of chapter 29222, Special Acts of Florida, as amended, as follows:

Amended Section 4: Adds that in the event an Authority board member is appointed as the Secretary and Treasurer, the Authority board member is not entitled to receive pay "per diem" as compensation for his "per diem" as compensation for his services except as provided for in section 8 of chapter 29222, Special Acts of Florida, as amended. Section 8 of chapter 29222, Special Acts of Florida, as amended, authorizes payment of actual expenses incurred when

engaged on business of the Authority, however, this section requires that payment must have prior authorization and approval of the Authority board.

Amended Section 9(a): In addition to the powers and duties enumerated in section 1 of chapter 63-1507, Laws of Florida, amending section 9 of chapter 29222, Special Acts of Florida, 1953, authorizing the board to pay all necessary costs and expenses incident to the administration and operation of the Authority's office or branch office.

Chapter 76-244, Laws of Florida: Amended certain sections of chapter 373, Florida Statutes, which, in part, provided for the assumption of certain contractual obligations of the Southwest Florida Water Management District by the St. Johns River Water Management District.

Chapter 84-338, Laws of Florida: Provided a repealer provision relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, subject to a referendum in the general election of 1984. Provided that the question to be resolved was as follows:

Shall the Oklawaha Basin Recreation and Water Conservation and Control Authority and its taxing authority be abolished?

1995 Legislative Session: In the 1995 Regular Session of the Legislature, Representative Bainter sponsored Local Bill H1595 - Oklawaha Water Control Authority. The bill made the following changes:

- Changes name of Oklawaha Basin Recreation and Water Conservation & Control Authority to Lake County Water Authority;
- Increases number of members of governing board from three to five and requires that one member reside in each of county commission districts of Lake County;
- Provides that board members may not serve as director of authority; and
- Provides for a referendum and continued existence of the board

On June 16, 1995, the bill was vetoed by the Governor.

1996 Legislative Session: In the 1996 Regular Session of the Legislature, Representative Bainter sponsored Local Bill 2603 - Lake Co./Oklawaha Basin Authority. The bill made the following changes:

- Changes the name of Authority to Lake County Water Authority;
- Increases number of members of governing board from three to five;
- Requires that one member reside in each of county commission districts of Lake Co.;
- Changes the number of members of governing board required to constitute quorum;
- Provides for referenda re election of board, etc.

On May 4, 1996, the bill died in Senate Messages.

B. EFFECT OF PROPOSED CHANGES:

The bill makes the following changes:

- Changes the name of Authority to Lake County Water Conservation Authority;
- Increases number of members of governing board from three to five;
- Requires that members be elected in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code;
- Requires that one member reside in each county commission district of Lake County;
- Changes the terms of board members;
- Prohibits any board member from serving as executive director of the Authority;
- Changes the number of board members required to constitute a quorum; and
- Provides for certification of millage to the county property appraiser for assessment.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 29222, Special Acts of Florida; chapter 47-1484, Laws of Florida; chapter 59-1466, Laws of Florida; 63-1507, Laws of Florida, 65-1787, Laws of Florida; 76-243, Laws of Florida; and 84-338, 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.

Section 1 of the bill, amending section 4 of chapter 29222, Special Acts of Florida, 1953, as amended, requires a nonpartisan election of Board members be held with the general election in November 2000.

Section 1 of the bill, amending section 9(b) of chapter 29222, Special Acts of Florida, 1953, as amended, requires the Lake County Property Appraiser to assess whether the millage is sufficient to meet the annual budget prepared by the Authority.

(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?

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: Sections 2, 4, 6, and 9(b) of chapter 29222, Special Acts of Florida, 1953, as amended, amending the following:

Section 2 of chapter 29222, Special Acts of Florida, 1953, as amended: Changing the name of "The Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County" to "The Lake County Water Conservation Authority."

Section 4 of chapter 29222, Special Acts of Florida, 1953, as amended: Making the following changes:

- Increasing the number of members on the governing board of the Authority from three (3) to five (5) members;
- Requiring members to reside in each of the county commission districts and prohibiting any member from residing in the county commission district of another member;
- Changing the name of the governing board from the "Board of the Oklawaha Basin Recreation and Water Conservation Authority" to the "Board of Trustees of the Lake County Water Conservation Authority";
- Providing for the election of the Board of Trustees by the voters of Lake County in nonpartisan elections pursuant to and in accordance with general law;
- Providing for terms of 4 years, beginning on the second Tuesday following the general election in which the member is elected;
- Providing for staggering terms by authorizing the two additional Board members to be elected to initial terms of two years and must reside in the geographic areas identical to County Commission Districts in which current Board members do not reside;
- Providing for current Board members to serve until the expiration of their terms or until their successors are elected, whichever occurs sooner;
- Providing that subsequent terms for Board members will be four years;
- Providing for, in the period of transition from appointed members, the Governor may appoint a member to fill any vacancy on the Board resulting from the term of any of the three current appointees expiring if that seat would be vacant for more than 2 months prior the November 2000 general election;
- Providing that at the first meeting in December the Board must elect one of their number as Chairman, and one of their number as Vice Chairman;
- Deleting the authorization of the Governor to appoint members to the board and of the Senate to confirm the members appointed by the Governor;
- Deleting the authorization to compensate a member of the board who serves as the Secretary and Treasurer;

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- Requiring the Board to select a non-member as an Executive Director for the Authority and changes the title of the Director to "Executive Director";
- Deleting language relating to payment of "per diem" to a member of the board serving as Director; and
- Making certain clarifying language changes to the section.

Section 6 of chapter 29222, Special Acts of Florida, 1953, as amended: Amending quorum requirements from two members to three members (reflecting the increase from Board membership from three members to five members).

Section 9(b) of chapter 29222, Special Acts of Florida, 1953, as amended: Clarifying that an annual budget must be prepared by the Authority. Changing the certification of millage sufficiency from the Board of County Commissioners to the Lake County Property Appraiser for assessment.

Section 2: Provides a severability clause.

Section 3: Provides that the act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 21, 1999

WHERE? **The Orlando Sentinel**, Tavares, Lake County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

[Note: The vote of the delegation was not unanimous.]

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

Oklawaha Basin Recreation and Water Conservation and Control Authority: Dr. Robert W. Taylor, Executive Director of the Authority provided the following statement:

The Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County (commonly known as the Lake County Water Authority) was created in 1953 for the purposes of:

- Conserving and controlling Lake County's water resources;
- Protecting habitat for fish and wildlife;
- Providing water-based recreational opportunities;
- Promoting water-based tourism.

Since its creation forty-six years ago, the Authority has operated under the control of a three-member Board of Trustees that is appointed by the Governor.

In December 1998, the Authority asked the Lake County Legislative Delegation to make two changes to chapter 29222, Special Acts of Florida, 1953, as amended (our enabling legislation):

1. To increase from three (3) to five (5) the numbers of members of our Board of Trustees; and
2. To change our official name to "**Lake County Water Authority**", which is the name we go by, and which is the name by which we are known.

The Delegation agreed that the change from three to five Board Members was a good idea.

They also agreed that changing our name to a less cumbersome one was desirable; however, **they** [the Delegation] **modified our request and inserted the word "Conservation" into our well-known and accepted common name. The Authority feels that that change would imply a much narrower mission, and therefore, inappropriate and misleading to the public.**

The Delegation also inserted an additional provision that would change the selection of Board Members from appointment by the Governor to election. This change was advanced from the philosophical position that taxing authorities should be elected, not appointed. The Delegation Members made several comments that the Authority was doing a good job in accomplishing its legislative purposes, but that its structure should be changed anyway. Several audience members who spoke as residents of Lake County opposed the change to elected Board Members.

The Authority has been a strong advocate for the protection of Lake County's water resources, and has actively fought to protect those resources. Our stance on issues is strongly based on scientific evidence and principles of resource management. Just as the recent Water Management District Review Commission concluded that the Boards of those five Water Management Districts should remain appointed, we feel that the Authority will be more able to remain independent, and able to make its decisions in the best interest of all the citizens by remaining separate from the political influences of an election process.

The Delegation's vote to change to an elected Board was not unanimous.

We would appreciate the Legislature's action to make the changes that were requested by the Authority. The language of the current bill, however, would change the basic structure of an almost-50-year-old agency that has received good marks for its efforts on behalf of the citizens of Lake County.

Committee on Community Affairs: Dr. Taylor's requested changes exceed the scope of proposed changes as contained in the public notice of the delegation's meeting.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Tonya Sue Chavis, Esq.

Joan Highsmith-Smith