

STORAGE NAME: h1443a.ca

DATE: March 23, 2000

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

BILL #: HB 1443

RELATING TO: Central Co. Water Control District

SPONSOR(S): Representative Spratt

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill codifies all prior special acts relating to the Central County Water Control District in Hendry County into a single act and repeals all prior special acts relating to the District's charter.

The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

No fiscal impacts are anticipated for either fiscal year 2000-01 or 2001-02 according to the Economic Impact Statement.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Central County Water Control District (District) in Hendry County was created as the Central County Drainage District pursuant to Chapter 298, Florida Statutes, by judgment of the circuit court on February 6, 1968. The creation of the District and the judgement extending the boundaries of the District were subsequently validated by the Florida Legislature when it recognized the District in 1970, chapter 70-702, Florida Statutes.

Codification

Codification is the process of bringing up-to-date a special act. Special acts are not codified and, after the Legislature passes the initial enabling act, special acts continuously amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments or changes made to the act since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to go to one special act to determine the current charter of a district, instead of two, ten, twenty, or sometimes more special acts.

Codification of special districts' charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes. The 1997 Legislature amended chapter 189, Florida Statutes, 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, Florida Statutes, 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, Florida Statutes, 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 |

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 36 special districts have codified their charters. Following is a list of special districts which have codified pursuant to sections 189.429 and 191.015, Florida Statutes, and the corresponding Laws of Florida:

| | |
|---|---|
| Alachua County Library District | Ch. 98-502 |
| Anastasia Mosquito Control District | Ch. 99-449 |
| Baker County Hospital District | Ch. 99-431 |
| Carrollwood Recreation District | Ch. 98-475, as amended by Ch. 99-418 |
| Cedar Key Water & Sewer District | Ch. 98-473 |
| Central Broward Water Control District | Ch. 98-501 |
| Charlotte County Airport Authority | Ch. 98-508 |
| Citrus County Hospital Board | Ch. 99-442 |
| Citrus County Mosquito Control District | Ch. 99-432 |
| County Line Drainage District | Ch. 99-417 |
| East Charlotte Drainage District | Ch. 99-439 |
| Flagler Estates Road & Water District | Ch. 98-529 |
| Florosa Fire Control District | Ch. 99-479 |

| | |
|---|---|
| Hillsboro Inlet District | Ch. 99-433 |
| Immokalee Water & Sewer District | Ch. 98-495 |
| Joshua Water Control District | Ch. 99-460 |
| Lake Apopka Natural Gas District | Ch. 99-454 |
| Lake Worth Drainage District | Ch. 98-525, as amended by Ch. 99-422 |
| Lee County Bonita Springs Fire Control District | Ch. 98-464 |
| Lee County Hyacinth Control District | Ch. 98-462 |
| Lee County Mosquito Control District | Ch. 98-461 |
| Loxahatchee Groves Water Control District | Ch. 99-425 |
| North Bay Fire Control District | Ch. 98-470 |
| North Naples Fire District | Ch. 99-450 |
| Ocean City-Wright District | Ch. 99-478 |
| Old Plantation Water Control District | Ch. 99-435 |
| Orange County Library District | Ch. 99-486 |
| Panama City-Bay Co. Airport | Ch. 98-527 |
| Ranger Drainage District | Ch. 99-453 |
| South Broward Drainage District | Ch. 98-524 |
| Tindall Hammock Irrigation District | Ch. 98-523 |
| Twelve Oaks Special District | Ch. 99-452 |
| West Coast Inland Navigation District | Ch. 98-526 |

In 1998, the Environmental Protection Commission in Hillsborough County unsuccessfully attempted to codify its charter. The District is scheduled to codify in 2002. In 1999, there were two unsuccessful codifications. Mid-Bay Bridge Authority's codification bill passed the Legislature, but was vetoed by the Governor. The Authority was scheduled to codify its charter in 1999. The South Walton Fire District's codification bill died on the House calendar on April 30, 1999. The District is schedule to codify its charter in 2004.

According to the Schedule of Submissions of Special District Charters and information relating to charters previously codified, there are 94 special districts that should have been codified during the 1999 session but which were not. There are 56 special districts that are scheduled for codification during the 2000 Legislative Session.

Status Statement Language

Section 189.404(5), Florida Statutes, 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.

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, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district. Once a district is organized, the clerk of the circuit court with jurisdiction over the district must announce the first landowners' meeting in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve 3-year rotating terms, with one supervisor elected each year at a required annual meeting. To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located. In the event a quorum is not present, the Department of Environmental Protection (DEP) is required to fill the vacant seat.

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.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Central County Water Control District (District) into a single act and repeals all prior special acts relating to the District's charter.

The bill declares that the District is an independent special water control District and that Chapter 298, Florida Statutes, is applicable to the District except as otherwise provided. The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

The bill does not modify the boundaries of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this is the codification required pursuant to section 189.429, Florida Statutes; states legislative intent and preserves authority granted to the District by general law and its legislative enactments.

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

Section 3: Provides for the recreation of the District and the charter for the District with the following provisions.

Section 1: Provides the purpose of the District; provides the boundaries for the District; provides that the drainage, irrigation, water control, reclamation, and protection of these lands from the effects of water and the creation of the District are in the interest of and conducive to public welfare, health, and convenience; provides that the proceedings creating the District and a judgement extending the boundaries of the District are validated, ratified, approved, and confirmed.

Section 2: Provides that the District is a public corporation of the state; provides that the provisions of the general drainage laws of Florida applicable to drainage districts which are embodied in chapter 298, Laws of Florida, so far as not inconsistent with this act, are applicable to the District; provides that the District

shall have all of the powers and authorities mentioned in or conferred by chapter 298, Florida Statutes.

Section 3: Provides that the District shall have the power to sue and be sued; to make contracts; to adopt and use a corporate seal; to acquire, by purchase, gift, condemnation real and personal property; to construct, operate, and maintain canals, ditches, drains, levees, and other works for drainage purposes; to acquire, purchase, operate, and maintain pumps, plants, and pumping systems for drainage purposes; to construct, operate, and maintain irrigation works, machinery, and plants; to construct, improve, pave, and maintain roadways and roads; to construct, acquire by donation, or purchase recreational facilities and areas, including related facilities, and to construct, operate, and maintain such recreation and related facilities; provides that the powers and duties of the District shall be exercised by and through the board of supervisors which shall have the power to employ engineers, attorneys, agents, employees and representatives; provides that the board may fix their compensation and duties; provides that the District shall have all the powers provided for in chapter 298, Florida Statutes.

Section 4: Provides for the levy, apportionment, and collection of taxes.

Subsection (1) provides that all taxes shall be levied and apportioned as provided for in the general drainage laws of Florida, except that the provisions of section 298.41, Florida Statutes, shall not be applicable to the District; provides, instead, that the board of supervisors shall determine, order, and levy the amount of the annual installments of the total taxes levied under section 298.36, Florida Statutes, which said annual installment and levy shall be evidenced to and certified by the board not later than July 1 to the tax assessor of Hendry County; provides that said tax shall be extended by the county tax assessor on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes with the proceeds being paid to the District.

Subsection (2) provides that section 298.54, Florida Statutes, shall not be applicable to the District; provides, instead, that to maintain and preserve the improvements made pursuant to this act, the board of supervisors may, upon the completion of said improvements, in whole or in part if certified, levy annually a tax upon each tract or parcel of land within the District; this "maintenance tax" shall be apportioned upon the basis of the net assessments of benefits assessed as accruing for the original construction and shall be evidenced to and certified by the board not later than July 1 to the tax assessor of Hendry County; provides that said tax shall be extended by the county tax assessor on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes with the proceeds being paid to the District.

Subsection (3) provides that all taxes provided for in this act together with all penalties for default in payment and all costs in collecting, from the date of assessment until paid, constitute a lien of equal dignity with county taxes upon all the lands against which such taxes shall be levied.

Subsection (4) provides that the tax assessor, tax collector, and clerk of the circuit court of Hendry County shall be entitled to compensation for services performed in connection with taxes of said District the same as now provided by law for special drainage districts.

Subsection (5) provides that in levying and assessing all taxes, each tract or parcel of land less than one (1) acre in area shall be assessed as a full acre, and each tract or parcel of land more than one (1) acre in area which contains a fraction of an acre shall be assessed at the nearest whole number of acres; provides that a fraction of one-half or more shall be assessed as a full acre.

Section 5: Provides that all taxes provided for in this act shall be and become delinquent and bear penalties on the amount of said taxes in the same manner as county taxes.

Section 6: Provides that the collection and enforcement of all taxes levied by said District shall be at the same time and in like manner as county taxes and that the provisions of the Florida Statutes relating to unpaid and delinquent county taxes shall be applicable to said District to the same extent as if said statutory provisions were expressly set forth in this act; provides that all taxes shall be subject to the same discounts as county taxes.

Section 7: Provides that at any landowners' meeting, the owners of land in the District present or otherwise properly voting shall constitute a quorum.

Section 8: Provides that proxy voting is prohibited in elections of the District board of supervisors.

Section 9: Provides that the number of members of the District board of supervisors shall be five; provides that at each annual meeting of the District, two supervisors will be elected for three-year terms, except that in the elections held at the annual meeting in 2000 and every third year thereafter one supervisor will be elected for a three-year term.

Section 10: Provides that in the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 4: Provides that all claims, liens, actions, rights of actions, and other interests existing and valid on the effective date of this act under the provisions of previous special acts shall survive the reenactment and repeal and shall remain in full force and effect and be continued unabated by the recodification of the several acts herein.

Section 5: Repeals all previous special acts.

Section 6: Provides this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? December 8, 1999

WHERE? The Clewiston News in Hendry County, Florida

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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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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