

STORAGE NAME: h1595z.ca
DATE: May 8, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 00-435, Laws of Florida

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

BILL #: HB 1595
RELATING TO: South Indian River Water Control District
SPONSOR(S): Representative Merchant
TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill gives the District the power to receive and maintain real and personal property for recreational purposes on certain lands within the District.

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. Less Government | 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 South Indian River Water Control District (District) was originally the South Indian River Drainage District. The District was created by decree of the circuit court and has been repeatedly validated by the Legislature. Since 1971 and chapter 71-820, Laws of Florida, the Legislature has not only validated the District and its actions, but has modified its powers through special act.

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 would allow the District to receive and maintain real and personal property for recreational purposes for land within the eastern ½ of the District. According to a memorandum provided by District General Counsel, dated March 13, 2000, residents within the affected area support the bill:

The residents of Palm Beach Country Estates, one of two large single family residential developments in unincorporated Palm Beach County which constitute the bulk of the District, strongly support extending parks authority to the District. Passage of this legislation will allow the District to accept the donation of a 2.8-acre parcel from a developer for use as a passive park which will primarily serve the residents of the Palm Beach County Estates subdivision.

Similarly, in a letter dated March 15, 2000, the President of the Palm Beach Country Estates Landowners Association, expresses the Association's support for the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 6 of chapter 71-820, Laws of Florida, to authorize the Board of Supervisors of the District to receive and maintain real and personal property for recreational purposes on certain lands within the District, the cost of which shall be borne by the landowners in those areas.

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Section 2: Provides that the act shall take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 30, 2000

WHERE? Jupiter Courier, Palm Beach County, Florida

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Kyle V. Mitchell

Staff Director:

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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