

STORAGE NAME: h1667.ca

DATE: April 3, 2000

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

BILL #: HB 1667

RELATING TO: Palm Beach Co./Pahokee Water District

SPONSOR(S): Representative A. Greene

TIED BILL(S): None

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

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

The bill codifies all prior special acts relating to the Pahokee Water Control District in Palm Beach 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 general law language.

The bill provides for minimum charter requirements.

The law firm representing the District has submitted a boundary letter which states that the bill's legal description does not modify or alter the current boundaries of the District.

The bill amends the District's Maintenance Tax cap from \$20 per acre per annum to \$40 per acre per annum.

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

This bill does not make any substantive changes to current law.

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:

In 1923, the Florida Legislature created the Pahokee Drainage District, through special act (Chapter 10002, Laws of Florida, 1923). The 1977 Florida Legislature changed the name of the District to the Pahokee Water Control District (Chapter 77-618, L.O.F.). It has been amended since 1923, 16 times by the Legislature. The District exists to provide comprehensive water management and control and development and management of lands and water within the District for the purpose of making the lands within the District available and habitable for settlement and agriculture, for the public convenience, welfare, utility, and benefit.

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.

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 Pahokee 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 general law language.

The bill amends the District's Maintenance Tax cap from \$20 per acre per annum to \$40 per acre per annum.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this is the codification required pursuant to chapters 97-255 and 98-320, Laws of Florida; Declares the District an independent special district and political subdivision of the State of Florida; States legislative intent and preserves authority granted to the District by general law and its legislative enactments; Grants authority to preserve all of the District's authority; Grants authority to annually assess and levy against the taxable property in the District.

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 minimum charter requirements under section 189.404(3), Florida Statutes; Provides that the District is organized and exists pursuant to Chapter 298, Florida Statutes; Provides for the District's powers, functions, and duties relating to non-ad valorem assessments, bond issuance, other revenue-raising capabilities, budget, liens, use of tax deeds and tax certificates as appropriate

for non-ad valorem assessments, and contractual agreements; Provides the District was created by a special legislative act; Requires that the District's charter is amended only by special act of the Legislature; Provides that the District is governed by a Board of Supervisors; Provides for the membership and organization of the District's Board; Provides for the compensation of board members; Provides for the administrative duties of the District's governing board; Provides for financial disclosure, meeting notices, reporting, public records, and per diem for officers and employees; Provides for the procedure and requirements governing bond and other indebtedness issuance; Provides for the procedures for conducting District elections and elector qualifications; Provides the methods for District financing; Authorizes the District to levy upon all of the real taxable property in the District a special tax each year as maintenance tax; Provides for the methods of collecting non-ad valorem assessments, fees, or service charges; Provides for the District's planning requirements.

- Section 2: Ratifies, validates, and confirms the creations and organization of the District, as created and organized by the Circuit Court of Palm Beach County under the provisions of former Article I, Chapter III, Title VII, First Division of the Revised General Statutes of Florida, 1920.
- Section 3: Provides for ratification, validation, and confirmation of the District's boundaries; Describes the District boundaries.
- Section 4: Provides for a outlet for the drainage of the East Beach Water Control District and a disposal of the same by gravity into the West Palm Beach Canal; Authorizes the District to acquire and maintain a right-of-way 100 feet wide for the canal and spoil bank, to constitute an outlet, and to commence at a point where the north line of the District intersects the eastern shore of the Pelican lake and to run eastwardly along the northerly line of the District to a point where the same intersects and will empty into the West Palm Beach Canal, and to provide in connection with the outlet drainage canal whatever flood gates may be necessary, sluices, and other works pertinent to the District and as may be necessary to accomplish the objective and purpose for which it is constructed.
- Section 5: Provides for a three-member board who are residents.
- Section 6: Authorizes, empowers, and directs the Board to levy and impose on all lands a tax of not to exceed the sum of \$40.00 per acre per annum, designated as the Maintenance Tax; Provides that the proceeds of the Maintenance Tax are used for purposes for which the tax is authorized to be levied by the provisions of chapter 298, F.S.
- Section 7: Ratifies, validates, and confirms each and every one, and each and every part of all other acts and proceedings of the Circuit Court of Palm Beach County taken by, for, and on behalf of the District and all of the acts and proceedings of the Board, the Commissioners, and all other officers and agents of the District, and of Palm Beach County, acting for and on behalf of the District, and any and all tax levies and assessments which have been made by the Board for and on the behalf of the District.

Section 8: Ratifies, confirms, validates, and declares to be legal, valid, and binding the acceptance of bonds, interest coupons, and other obligations of the district, and each unit thereof, in the payment of taxes and assessments, and all compromises, adjustments, and settlements of delinquent taxes or assessments made by the Board of Supervisors, officers, and receivers of the District and of the Tax Collector of the County.

Section 9: Provides for the Board to employ a General Manager of the District and to delegate to him or her the performance duties and to provide compensation; Requires the General Manager to furnish a surety bond.

Section 10: Authorizes and empowers the Board to enter into arrangements with other drainage or water control districts for the pooling of insurance coverage, purchase, rental, and use of supplies, equipment, buildings, and facilities and for services of employees.

Section 4: Repeals all previous special acts.

Section 5: Provides that in the event of a conflict with a provision of this act or any other act this act shall control.

Section 6: Provides that in the event a section or provision of this act or the application of the sections or provisions to any situation, circumstance, or person is held unconstitutional it shall not affect any other section or provision of this Act or the application of the sections or provisions to any other situation, circumstance, or person, and such section or provision shall be construed and applied as if the section or provision had not been included.

Section 7: Provides this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 4, 2000

WHERE? The Palm Beach Post in West Palm Beach, 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:

The law firm representing the District has submitted a boundary letter which states that the legal description includes the District as originally constituted plus previous modifications. The bill's legal description does not modify or alter the current boundaries of the District.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One technical amendment, by the sponsor, conforms the bill to the Senate bill.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith