

STORAGE NAME: h1711.ca
DATE: March 22, 2000

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

BILL #: HB 1711
RELATING TO: Northern Palm Beach County Improvement District
SPONSOR(S): Representative Merchant
TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides for the annexation of additional lands, consisting of 8 proposed parcels, to be incorporated into the Northern Palm Beach County Improvement District's jurisdictional boundaries.

The intent of the bill is to incorporate lands that currently experience a flood problem, as they are physically located at the edge of a drainage basin.

The Economic Impact Statement indicates that there is no measurable fiscal impact.

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 checked="" type="checkbox"/> | N/A <input 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:

Annexed lands incorporated under this bill are subject to any ad valorem taxes assessed now and in the future against the District.

B. PRESENT SITUATION:

Chapter 59-994, L.O.F. creates the Northern Palm Beach County Improvement District. This special act has been amended fifteen times through the following chapters: 61-2636, 63-1744, 80-570, 81-461, 83-494, 84-498, 87-518, 88-503, 89-462, 91-408, 92-262, 95-489, 95-504, 96-488 and 97-328, L.O.F.

Currently, certain lands bordering the District are subjected to a recurring flood problem.

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:

This bill provides for the annexation of lands into the Northern Palm Beach County Improvement District's jurisdictional boundaries. These parcels of land are subject to recurrent flooding. After annexation, the District can address the flooding issue through seeking installation of an underground apparatus to reroute the floodwater.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends Chapter 59-994, s.1, L.O.F., as amended; extends boundaries of Northern Palm Beach County Improvement District to include certain lands contained in Parcels A through H.

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Section 2 -- Provides for an effective date upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 12, 2000

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the Economic Impact Statement, any costs resulting from this special act can be absorbed by the District's current budget.

Another bill, House Bill 1713, provides for a codification of the Northern Palm Beach Improvement District.

A more detailed description of the parcels contained in the bill follows:

Parcel A

138 acres located in Palm Beach Gardens, adjacent to northern existing lands within jurisdictional boundaries; the owner of the land requested inclusion; part of a preserve of protected wetland

Parcel B

1/4 acre tract located in Jupiter, located adjacent to northern existing lands in another unit of development of Northern Palm Beach; annexed per owner request

Parcel C

Motor vehicle home/condominium park comprised of 146 separate lots; about 20 acres; Juno Beach; included at request of 77 percent of the owners, with 2 percent objection

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Parcel D

Undeveloped parcel of land, added at the request of the owner in Juno Beach, located adjacent to Parcel C

Parcel E

Texaco station; adjacent to Parcel D; Juno Beach; no owner preference regarding annexation; adjacent to Parcel D

Parcel F

The Floridian Mobile Home Park; Juno Beach, one owner and didn't indicate preference; adjacent to Parcel D

Parcel G

Condominium, 74 units; Juno Beach, substantial majority have rejected annexation so requesting deletion from the bill; the board of directors of the homeowner's association sent request to condo owners; 51 ballots returned and all said disapproval; this parcel is at the rim of the basin so not affected by flooding

Parcel H

In front of Parcel G; Juno Beach

All parcels, except for Parcel G, are part of a drainage basin and are subject to recurring flooding; once these lands become part of the District, representatives of these parcels will seek approval for an underground drainage culvert to relieve flooding.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Sponsor proposes an amendment. Amendment one removes Parcels G and H from the bill.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Cindy M. Brown, J.D.

Joan Highsmith-Smith