

STORAGE NAME: h1713.ft

DATE: April 10, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE & TAXATION
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1713

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) YEAS 8 NAYS 0
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides for a codification of the Northern Palm Beach County Improvement District Act.

This bill repeals all previous legislation relating to the Northern Palm Beach County Improvement District.

This bill additionally provides the following: expands jurisdictional boundaries of the District; removes a six percent interest cap on certain loans; cites Ch. 170, F.S. as authority regarding special assessments; updates obsolete language; removes an assessment percentage limitation for an alternative Plan of Improvements; and provides that this Act controls in the case of a conflict.

According to the Economic Impact Statement, there is no fiscal impact.

The Committee on Community Affairs adopted two amendments that are traveling with the bill. As indicated on the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section, the amendments correct a technical error and remove two parcels from the bill.

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 1959, the Florida Legislature created the Northern Palm Beach County Water Control District (District), through special act (Ch. 59-994). The 1995 Florida Legislature changed the name of the District to the Northern Palm Beach County Improvement District (Ch. 95-489, L.O.F.).

The District Act has been amended fifteen times. To date, since the Act's creation, it has never been contained in a single, inclusive document.

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, F. S., 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, F. S., restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of s. 125.01, F. S., (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by Ch. 298, F. S.

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 public 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, F. S., 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.

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 Ch. 189, F. S. The 1997 Legislature amended Ch. 189, F. S., 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, s. 189.429, F. S., 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 s. 189.429, F. S., by (i) extending the deadline to codify to December 1, 2004, (ii) 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, (iii) removing the prohibition of substantive amendments in a district's

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codification bill, and (iv) 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

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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.

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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.

House Rule 44(b)

This bill seeks several exemptions from general law, as follows:

Section 7

Taxes shall be levied and apportioned as provided for in the General Drainage Laws of Florida (Ch. 298, F. S., and amendments thereto), except that the provisions of s. 298.41, F. S., and amendments thereto, shall not be applicable to the District.

Section 8

Maintenance Tax -- The provisions of s. 298.54, F. S., and amendments thereto, shall not be applicable to the District.

Section 14

(D) The provisions of s. 298.52, F. S., shall not apply to the District.

Section 16

(F) No bonds issued by the District shall be required to be validated under Ch. 75, F. S., or other provision of law.

Section 20

The provisions of s. 298.73, F. S., and amendments and successors thereof, relating to the use of bonds and obligations in payment of drainage taxes, shall not be applicable to said District and its bonds, obligations, and taxes.

House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill."

This bill primarily seeks to accomplish a codification.

C. EFFECT OF PROPOSED CHANGES:

This bill, providing for the codification of all District special acts, creates a single, comprehensive document.

This bill deletes obsolete language.

This bill additionally provides the following: expands jurisdictional boundaries of the District; removes a six percent interest cap on certain loans; cites Ch. 170, F.S. as authority regarding special assessments; removes an assessment percentage limitation for an alternative Plan of Improvements; and provides that this Act controls in the case of a conflict.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Codifies all existing Northern Palm Beach County District (District) special acts, in accordance with Chs. 97-255 and 98-320, L.O.F.

Section 2 -- Codifies, reenacts, amends and repeals the following Laws of Florida: Chapters 59-994, 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.

Section 3 -- Provides that the District's charter reads as follows:

Section 1: Clarifies that the District's purpose is to reclaim and drain lands, provide water control and supply, and protect lands from the impact of water due to construction and maintenance of canals, ditches, levees, etc.; provides description of jurisdictional boundaries.

Section 2: Classifies the District as a public corporation; references Ch. 298, F.S. as authority where it is consistent with this Act.

Section 3: Provides that in addition to powers granted under Ch. 298, F.S., and other laws, the District is further empowered with the abilities to sue and be sued, contract, create a corporate seal, acquire, convey and dispose of property, build drainage and irrigation works and roadways, borrow money and issue bonds, issue negotiable instruments for tax collections, levies and assessments, plan and build water supply, wastewater management, waste collection, street lights, pest control; provides that ch. 163, F.S. controls on the issue of consistency with local government plans, regarding water and sewer planning; precludes District from using eminent domain out of jurisdiction; provides permitting requirements; authorizes District to build and maintain parks, water and sewer facilities, and public preserves, playgrounds and other facilities, and to purchase capital improvements; allows District to include specified information in a Plan of Improvements (Plan); authorizes District to adopt rules relating to public bid or private contract process and caps the cost of works per s. 287.017, F.S.; contains public purpose declaration regarding roads included in a Plan and provides procedure; requires District compliance with Palm Beach County guidelines regarding major thoroughfare development.

Section 4: Authorizes creation of a Board of Supervisors (Board), to consist of five members each serving a three year term; provides for staggering of terms; requires noticed public meeting for elections; provides for one vote per acre; provides criteria for

members; provides for appointment of officers of Board by Board members; requires continuous holding of office.

Section 5: Provides member travel compensation.

Section 6: Provides for landowner meetings; authorizes representation by guardians and personal representatives.

Section 7: Provides for tax levy and apportionment, consistent with all of Ch. 298, F.S. except s. 298.41, F.S., and provides alternate procedure relating to taxing and assessment power.

Section 8: Precludes applicability of s. 298.54, F.S., and substitutes alternate maintenance tax procedure.

Section 9: Provides that taxes constitute a lien of equal dignity.

Section 10: Provides that tax collection and enforcement is the same as for County taxes.

Section 11: Provides that unpaid taxes are delinquent in the same manner as County taxes.

Section 12: Provides for compensation of Property Appraiser, Tax Collector, and Clerk of the Circuit Court.

Section 13: Imposes a uniform acreage tax of twenty-five cents per acre for surveying lands, and provides that under this section the Board may borrow money with interest not to exceed six percent.

Section 14: Provides procedure for bond issuance, to include the ratio of bonds to aggregate taxes allowed, interest rate, redemption process, refunding bonds; additional levies; renders s. 298.52, F.S., inapplicable to this section.

Section 15: Provides that this Act constitutes full authority for issue and sale of bonds authorized and that this Act creates an "irrepealable contract" between the Board, the District and the holders of any bonds and coupons.

Section 16: Provides for the Board to borrow money for the issuance of bonds and to issue revenue bonds; allows for security by trust agreement; provides criteria for bonds issued; provides that Ch. 75, F.S., does not apply to bonds issued by the District.

Subsection 17: Authorizes Board to issue bonds without concurrence from the State Board of Drainage Commissioners.

Section 18: Authorizes floating indebtedness as applies to warrants or other negotiable instruments.

Section 19: Clarifies that bonds issued are not required to be validated, but may be per the Board.

Section 20: Stipulates that s. 298.73, F.S., does not apply to bonds, obligations, and taxes.

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Section 21: Empowers Board with eminent domain authority.

Section 22: Authorizes District control of surface waters.

Section 23: Provides for District authority and procedure for unit development, as relates to draining and reclaiming, setting of boundaries, creating a Plan of Improvements, imposing assessments, levies and taxes, and consent of owners requirement.

Section 24: Provides that territorial limit of a unit may be extended through agreement between the District and all landowners of the additional land in question.

Section 25: Defines 51 percent or 75 percent of acreage, where consent is required.

Section 26: Authorizes Board to amend the Plan.

Section 27: Provides that the City of West Palm Beach has a public health interest in certain land included in the District, as it serves as a water catchment area for the public water supply, and provides description of such land.

Section 28: Clarifies that this Act shall not impede powers of Fish and Wildlife Commission over the J.W. Management Area.

Section 4 -- Repeals Chs. 59-994, 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.

Section 5 -- Contains a severability clause.

Section 6 -- Provides that this Act controls where there is a conflict with another act.

Section 7 -- 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:

In 1992, the Florida Supreme Court reviewed the applicability of Article VII, section 10 of the Florida Constitution, to a Palm Beach County bond issuance in Northern Palm Beach County Water Control District v. State, 604 So.2d 440 (Fla. S.Ct. 1992). Article VII, section 10, precludes the District from benefiting private enterprise through its taxing authority. Here, the District sought to issue water control and improvement bonds to finance on-site road improvements and landscaping for a private housing community. The Court narrowed the Taylor test to two requirements: that the District has satisfied existing enabling legislation and that the bond proceeds will be used for a valid public purpose. Taylor v. Lee County, 498 So.2d 424 (Fla.1986). Pivotal to the Court's determination that the District met the requisite showing of public purpose was the fact that the District retained ownership over the roadway at issue.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

House Bill 1711 provides for the annexation of additional parcels of land, to be included in the jurisdictional boundaries of the Northern Palm Beach County Improvement District.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs met on March 30, 2000 and adopted two amendments. Amendment one corrects a numbering error. Amendment two removes Parcels V and W from the bill.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

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AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

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