

By Senator Geller

29-1744-00

See HB 1679

1 A bill to be entitled
2 An act relating to the Hendry/Hilliard Water
3 Control District, Hendry County; providing for
4 codification of all special acts relating to
5 the Hendry/Hilliard Water Control District;
6 providing legislative intent; amending,
7 codifying, and reenacting chapter 86-394, Laws
8 of Florida; providing for repeal of all prior
9 special acts related to the Hendry/Hilliard
10 Water Control District; providing for
11 severability; providing for control in the
12 event of a conflict of provisions; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Pursuant to chapter 97-255, Laws of
18 Florida, and chapter 98-320, Laws of Florida, this act
19 constitutes the codification of all special acts relating to
20 the Hendry/Hilliard Water Control District, an independent
21 special district and political subdivision of the State of
22 Florida. It is the intent of the Legislature in enacting this
23 law to provide a single, comprehensive special act charter for
24 the District, including all current legislative authority
25 granted to the District by its several legislative enactments
26 and any additional authority granted by this act. It is
27 further the intent of this act to preserve all District
28 authority.

29 Section 2. Chapter 86-394, Laws of Florida, relating
30 to the Hendry/Hilliard Water Control District of Florida, is
31 codified, reenacted, amended, and repealed as herein provided.

1 Section 3. The Hendry/Hilliard Water Control District
2 is re-created and the charter for such district is re-created
3 and reenacted to read:

4 Section 1. Minimum charter requirements.--In
5 accordance with section 189.404(3), Florida Statutes, the
6 following shall constitute the charter of Hendry/Hilliard
7 Water Control District:

8 (1) The District is organized and exists for all
9 purposes set forth in this act and chapter 298, Florida
10 Statutes, as they may be amended from time to time.

11 (2) The powers, functions, and duties of the District
12 regarding non-ad valorem assessments, bond issuance, other
13 revenue-raising capabilities, budget preparation and approval,
14 liens and foreclosure of liens, use of tax deeds and tax
15 certificates as appropriate for non-ad valorem assessments,
16 and contractual agreements shall be as set forth in chapters
17 189, 197, and 298, Florida Statutes, this act, or any other
18 applicable general or special law, as they may be amended from
19 time to time.

20 (3) The District was created by chapter 86-394, Laws
21 of Florida, 1986, a special legislative act.

22 (4) The District's charter may be amended only by
23 special act of the Legislature.

24 (5) In accordance with chapter 298, Florida Statutes,
25 the District is governed by a Board of Supervisors. The
26 membership and organization of the Board shall be as set forth
27 in this act and chapter 298, Florida Statutes, as they may be
28 amended from time to time.

29 (6) The compensation of Board members shall be
30 governed by this act and chapter 298, Florida Statutes, as
31 they may be amended from time to time.

1 (7) The administrative duties of the Board shall be as
2 set forth in this act and chapter 298, Florida Statutes, as
3 they may be amended from time to time.

4 (8) Requirements for financial disclosure, meeting
5 notices, reporting, public records maintenance, and per diem
6 expenses for officers and employees shall be as set forth in
7 chapters 112, 189, 286, and 298, Florida Statutes, as they may
8 be amended from time to time.

9 (9) The procedures and requirements governing the
10 issuance of bonds, notes, and other evidence of indebtedness
11 by the District shall be as set forth in chapters 189 and 298,
12 Florida Statutes, and applicable general laws, as they may be
13 amended from time to time.

14 (10) The procedures for conducting District elections
15 and for qualification of electors shall be pursuant to
16 chapters 189 and 298, Florida Statutes, and applicable general
17 laws as they may be amended from time to time.

18 (11) The District may be financed by any method
19 established in this action, chapters 189 and 298, Florida
20 Statutes, or any applicable general laws, as they may be
21 amended from time to time.

22 (12) In accordance with chapter 298, Florida Statutes,
23 the District may continue to levy upon all of the real taxable
24 property in the District a special tax each year as
25 maintenance tax.

26 (13) The method for collecting non-ad valorem
27 assessments, fees, or service charges shall be as set forth in
28 chapters 197 and 298, Florida Statutes, as they may be amended
29 from time to time.

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1 (14) The District's planning requirements shall be as
2 set forth in chapters 189 and 298, Florida Statutes, as they
3 may be amended from time to time.

4 (15) That all acts and proceedings done and performed
5 by the Board of Supervisors, agents, and officers of the
6 District, acting for and on behalf of the District, are and
7 each of them is, hereby ratified, validated, confirmed, and
8 declared to be legal, valid, and binding.

9 (16) The geographic boundary limitations are as set
10 forth in section 2.

11 Section 2. District creation and boundaries.--For the
12 purposes of comprehensive water management and control and
13 developing the land hereinafter described and managing said
14 lands and water by means of the construction and maintenance
15 of canals, ditches, levees, dikes, pumping plants, and other
16 water control works and improvements, and for the purpose of
17 making the lands within said District available and habitable
18 for settlement and agriculture, and for the public
19 convenience, welfare, utility, and benefit, and for the other
20 purposes stated in this act, a water control district is
21 hereby created and established in Hendry County, Florida, to
22 be known as the Hendry/Hilliard Water Control District, the
23 territorial boundaries of which shall be as follows, to wit:

24
25 That part of Section 7 south of State Road 80
26 right-of-way and east of the Hilliard Canal;
27 that part of Section 8 south of State Road 80
28 right-of-way; all of Section 17; that part of
29 Section 18 east of Hilliard Canal; and all of
30 Section 20, all in Township 43 South, Range 32
31 East, Hendry County, Florida

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2 All of Sections 1, 2, 3, 10, 11, 12, 13, 14,
3 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, all
4 in Township 44 South, Range 31 East, Hendry
5 County, Florida.

6
7 All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 16,
8 17, 18, 19, 20, 28, 29, 30, 31, 32, 33, and all
9 of Section 21, all in Township 44 South, Range
10 32 East, Hendry County, Florida.

11
12 Fractional Sections 3 and 4; Sections 9, 10,
13 16, 21, 22, 23, 26, 27, 28, 33, 34, and 35; the
14 Southwest one-quarter of Section 15, all in
15 Township 43 South, Range 32 East, Hendry
16 County, Florida.

17
18 Consisting of 33,120 acres more or less.

19
20 It is hereby determined, declared, and enacted that said lands
21 in their present condition require comprehensive water control
22 and management for proper agricultural use, and that water
23 control for the purpose of irrigation, reclamation, and flood
24 protection of said lands, making said lands available for
25 agricultural and settlement purposes, and the creation of the
26 District with the power vested in it by this act, is in the
27 interest of and conducive to public welfare, health, and
28 convenience.

29 Section 3. Provisions of other laws made
30 applicable.--The Hendry/Hilliard Water Control District hereby
31 created shall be a public corporation of this state. The

1 provisions of Florida law applicable to water control
2 districts or subdistricts which are embodied in chapter 298,
3 Florida Statutes, and all of the laws amendatory thereof, now
4 existing or hereafter enacted, so far as not inconsistent with
5 this act, are hereby declared to be applicable to the
6 Hendry/Hilliard Water Control District. The Hendry/Hilliard
7 Water Control District shall have all of the powers and
8 authorities conferred by chapter 298, Florida Statutes, and
9 acts amendatory thereof, except as herein otherwise provided.

10 Section 4. Powers of the District.--The District shall
11 have the power to sue and be sued in its name in any court of
12 law or in equity; to make contracts; to adopt and use a
13 corporate seal and to alter the same at pleasure; to acquire
14 by purchase, gift, or condemnation real and personal property,
15 either or both, within or without the District, and to convey
16 and dispose of such real and personal property, either or
17 both, as may be necessary or convenient to carry out the
18 purposes, or any of the purposes, of this act, and chapter
19 298, Florida Statutes; to construct, operate, and maintain
20 canals, ditches, drains, levees, and other works for water
21 control purposes; to acquire, purchase, operate, and maintain
22 pumps, plants, and pumping systems for water control purposes;
23 to construct, operate, and maintain irrigation works,
24 machinery, and plants; to borrow money and issue negotiable or
25 other bonds of the District as hereinafter provided; to borrow
26 money, from time to time, and issue negotiable or other notes
27 of the District therefor, in anticipation of the collection of
28 taxes, levies, and assessments or revenues of the District,
29 and to pledge or hypothecate such taxes, levies, assessments,
30 and revenues to secure such bonds, notes, or obligations, and
31 to sell, discount, negotiate, and dispose of the same; and to

1 exercise all other powers necessary, convenient, or proper in
2 connection with any of the powers or duties of the District
3 stated in this act. The powers and duties of the District
4 shall be exercised by and through the Board of Supervisors
5 thereof, which Board shall have the authority to employ
6 engineers, attorneys, agents, employees, and representatives
7 as the Board of Supervisors may from time to time determine,
8 and to fix their compensation and duties. In addition, the
9 District shall have all of the powers provided for in chapter
10 298, Florida Statutes.

11 Section 5. Board of Supervisors; appointment of Board;
12 organization, powers, duties, and terms of office.--There is
13 created a Board of Supervisors of Hendry/Hilliard Water
14 Control District, which shall be the governing body of the
15 District. The Board of Supervisors shall consist of three
16 persons who, except as herein otherwise provided, shall hold
17 office for a term of 3 years and until their successors shall
18 be duly elected and qualified. Each year during the month of
19 June, a supervisor shall be elected, as hereinafter provided,
20 by the landowners of said District to take the place of the
21 retiring supervisor. All vacancies or expirations on the Board
22 shall be filled as required by this act. The supervisors of
23 the Hendry/Hilliard Water Control District need not be
24 residents of the District or of the State of Florida, and they
25 may or may not be owners of lands or property within the
26 District. In case of a vacancy in the office of any
27 supervisor, the remaining supervisors may fill such vacancy
28 until the next annual meeting of the landowners, when his or
29 her successor shall be elected by the landowners for the
30 unexpired term. As soon as practicable after their election,
31 the Board of Supervisors of the District shall organize by

1 choosing one of their number as President of the Board of
2 Supervisors and by electing some suitable person as Secretary,
3 who may or may not be a member of the Board. The Board of
4 Supervisors shall adopt a seal which shall be the seal of the
5 District. At each annual meeting of the landowners of the
6 District, the Board of Supervisors shall report all work
7 undertaken or completed during the preceding year and the
8 financial status of the District. All supervisors shall hold
9 office until their successors shall be elected and qualified.
10 Whenever any election is authorized or required by this act to
11 be held by the landowners at any particular stated time or
12 day, and if for any reason such election shall not or cannot
13 be held at such time or on such day, then in such event and in
14 all and every such event, the power or duty to hold such
15 election shall not cease or lapse, but such election shall be
16 held thereafter as soon as practicable and consistent with
17 this act.

18 Section 6. Compensation of Board.--Each supervisor
19 shall be paid a per diem for his or her services, in an amount
20 to be determined by the landowners at the annual landowners'
21 meeting, for each day actually engaged in work pertaining to
22 the District. The amount shall not exceed that provided for by
23 chapter 298, Florida Statutes, and amendments thereto, except
24 that, in addition to per diem, they shall receive
25 reimbursement for travel and expenses as provided by law.

26 Section 7. Meetings of landowners; election of
27 Supervisors.--Each year during the month of June, a meeting of
28 the landowners of said District shall be held for the purpose
29 of electing Supervisors to take the place of the retiring
30 Supervisors and of hearing reports of the Board of
31 Supervisors. The Board of Supervisors shall have the power to

1 call special meetings of the landowners at any time to receive
2 reports of the Board of Supervisors or consider and act upon
3 any matter upon which the Board of Supervisors may request
4 advice. Notice of all meeting of the landowners shall be given
5 by the Board of Supervisors pursuant to chapters 189 and 298,
6 Florida Statutes. The landowners, when assembled for the
7 annual landowners' meeting, shall organize by electing a chair
8 who shall preside at the meeting. The Secretary of the Board
9 of Supervisors shall be the Secretary of such meeting. At all
10 such annual landowners' meetings, each and every acre of land
11 in the District shall represent one vote, and each owner shall
12 be entitled to one vote in person or by written proxy for
13 every acre of land owned by him or her in the District. The
14 person receiving the highest number of votes for supervisor
15 shall be declared and elected as such supervisor. At any
16 landowners' meeting, a quorum shall constitute those
17 landowners present in person or by proxy. Guardians may
18 represent their wards, personal representatives may represent
19 the estates of deceased persons, trustees may represent lands
20 held by them in trust, and private corporations may be
21 represented by their officers or duly authorized agents.
22 Guardians, personal representatives, trustees, and
23 corporations may vote by proxy.

24 Section 8. Taxes levied and apportioned, and the
25 collection thereof.--

26 (1) INSTALLMENT TAXES.--Taxes shall be levied and
27 apportioned as provided by chapter 298, Florida Statutes, and
28 amendments thereto.

29 (2) MAINTENANCE TAX.--To maintain and preserve
30 improvements made pursuant to this chapter and to repair and
31 restore the same, and for the purpose of defraying the current

1 expenses of the District, the Board of Supervisors may,
2 pursuant to chapter 298, Florida Statutes, upon the completion
3 of said improvements, in whole or in part as may be certified
4 to the said Board by the Chief Engineer, levy annually a tax
5 upon each tract or parcel of land within the District, to be
6 known as a "maintenance tax." Said maintenance tax shall be
7 apportioned upon the basis of the net assessments of benefits
8 assessed or accruing for original construction.

9 (3) TAXES AND COSTS A LIEN ON LAND AGAINST WHICH TAXES
10 LEVIED.--All taxes provided for in this chapter, together with
11 all penalties for default in payment of the same and all costs
12 in collecting the same, shall, from the date of assessment
13 thereof until paid, constitute a lien of equal dignity with
14 the liens for county taxes, and other taxes of equal dignity
15 with county taxes, upon all the lands against which such taxes
16 shall be levied as is provided in this chapter.

17 (4) COMPENSATION OF PROPERTY APPRAISER, TAX COLLECTOR,
18 AND CLERK OF THE CIRCUIT COURT.--The offices of the Property
19 Appraiser, Tax Collector, and Clerk of the Circuit Court of
20 Hendry County shall be entitled to compensation of services
21 performed in connection with taxes of said District as
22 provided by chapter 298, Florida Statutes.

23 (5) LEVIES OF TAXES ON LAND LESS THAN ONE ACRE.--In
24 levying and assessing all taxes, each tract or parcel of land
25 less than 1 acre in area shall be assessed as a full acre, and
26 each tract or parcel of land more than 1 acre in area which
27 contains a fraction of an acre shall be assessed at the
28 nearest whole number of acres, a fraction of one half or more
29 to be assessed as a full acre.

30 Section 9. When unpaid taxes delinquent; penalty.--All
31 taxes provided for in this act shall be and become delinquent

1 and bear penalties on the amount of said taxes in the same
2 manner as county taxes.

3 Section 10. Enforcement of taxes.--The collection and
4 enforcement of all taxes levied by the District shall be at
5 the same time and in like manner as county taxes, and the
6 provisions of the Florida Statutes relating to the sale of
7 lands for unpaid and delinquent county taxes, the issuance,
8 sale, and delivery of tax certifications for such unpaid and
9 delinquent county taxes, the redemption thereof, the issuance
10 to individuals of tax deeds based thereon; and all other
11 procedures in connection therewith, shall be applicable to the
12 District and the delinquent and unpaid taxes of the District
13 to the same extent as if said statutory provisions were
14 expressly set forth in this act. All taxes shall be subject to
15 the same discounts as county taxes.

16 Section 11. Uniform acreage tax for payment of
17 expenses.--There is hereby levied by the Legislature of the
18 State of Florida upon each and every acre of land within the
19 Hendry/Hilliard Water Control District as defined in this act,
20 a uniform tax to be used by the District, through its Board of
21 Supervisors, for the purpose of paying expenses incurred or to
22 be incurred in making surveys of the lands in the District and
23 assessing benefits and damages, and other expenses necessarily
24 incurred, as may be estimated or determined by the Board of
25 Supervisors, before the Board of Supervisors shall have funds
26 under the subsequent provisions of this act. The tax shall
27 become due and payable on the first day of November, and shall
28 become delinquent 90 days thereafter. The tax shall be a lien
29 upon the lands in the District from the date of the enactment
30 of this act and shall be collected in the same manner as the
31 annual installment of taxes. If it shall appear to the Board

1 of Supervisors to be necessary to obtain funds to pay any
2 expenses incurred or to be incurred in organizing the
3 District, making said surveys, creating a unit, or preparing
4 the water control plan, or any other expenses of the conduct
5 and operation of the District before a sufficient sum can be
6 obtained by the collection of the acreage tax levied by this
7 section, the Board of Supervisors may borrow a sufficient sum
8 of money for any of said purposes, may issue negotiable notes
9 or bonds therefor signed by the members of said Board of
10 Supervisors, and may pledge any and all assessments of said
11 acreage tax levied under the provisions of this section for
12 the repayment therefor. The Board of Supervisors may issue
13 negotiable evidence of debt to any person or persons
14 performing work or services or furnishing anything of value in
15 the organization of the District or making surveys of the same
16 and assessing benefits or damages or preparing said water
17 control plan and for any other expenses necessarily incurred
18 before the receipt of funds arising from assessments or
19 benefits.

20 Section 12. Bonds may be issued under the provisions
21 of chapter 298, Florida Statutes.--The Board of Supervisors
22 may, if in their judgment it seems best, issue bonds under the
23 provisions of chapter 298, Florida Statutes, bearing interest
24 from date, after determining any discount thereon, payable
25 annually or semiannually.

26 Section 13. Water control for public benefit.--It is
27 hereby declared that in said District, surface waters, which
28 shall include rainfall and the overflow of rivers and streams,
29 shall be managed for a public benefit, and the District, and
30 any individual or agency holding a permit to do so from the
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1 District, shall have the right to dike, dam, and construct
2 levees to manage waters within the District.
3 Section 14. Unit development; powers of supervisors to
4 designate units of District and adopt system of progressive
5 drainage by units; water control plan and financing
6 assessments, etc., for each unit.--The Board of Supervisors of
7 Hendry/Hilliard Water Control District shall have the power
8 and is hereby authorized in its discretion to manage water
9 within the District by designating areas or parts of said
10 District to be called "units." The units into which said
11 District may be so divided shall be given appropriate numbers
12 or names by the Board of Supervisors so that the units may be
13 readily identified and distinguished. The Board of Supervisors
14 shall have the power to fix and determine the location, area,
15 and boundaries of and lands to be included in each and all
16 such units, the order of development thereof, and the method
17 of carrying on the work in each unit. The unit system of water
18 control provided by this section may be conducted, and all of
19 the proceedings by this section and this act authorized in
20 respect to such unit or units may be carried on and conducted,
21 at the same time as or after implementation of the District
22 water control plan. If the Board of Supervisors shall
23 determine it is advisable to implement the District water
24 control plan by units, as authorized by this section, the
25 Board shall, by resolution duly adopted and entered upon its
26 minutes, declare its purpose to conduct such work accordingly,
27 and shall at the same time and manner fix the number,
28 location, and boundaries of and description of lands within
29 such unit or units and give them appropriate numbers or names.
30 The Board of Supervisors may adopt a water control plan for,
31 and in respect to, any or all such units, and to have the

1 benefits and damages resulting therefrom assessed and
2 apportioned by the District engineer, and the engineer's
3 report considered and confirmed, all in like manner as is
4 provided by law in regard to water control plan for and
5 assessments of benefits and damages of the entire District.
6 With respect to the water control plan; notices; engineer's
7 report and notice and confirmation thereof; the levy of
8 assessments and taxes, including maintenance taxes and the
9 issuance of bonds; and all other proceedings as to each and
10 all of such units, said Board shall follow and comply with the
11 same procedure as is provided by law with respect to the
12 entire District. All the provisions of this act shall apply to
13 the water management and control within all of such units, and
14 the enumeration of or reference to specific powers or duties
15 of the supervisors, or any other officers or other matters in
16 this act as hereinabove set forth, shall not limit or restrict
17 the application of any and all of the proceedings and powers
18 herein to such units. All assessments, levies, taxes, bonds,
19 and other obligations made, levied, assessed, or issued, or
20 issued for or in respect to any such unit or units shall be a
21 lien and charge solely and only upon the lands in such unit or
22 units, respectively, for the benefit of which the same shall
23 be levied, made, or issued, and not upon the remaining units
24 or lands in said District. The Board of Supervisors may at any
25 time amend its resolutions by changing the location and
26 description of lands in any such unit or units; and provided,
27 further, that if the location of or description of lands
28 located in any such unit or units is so changed, proceedings
29 shall be had and one in that regard as are provided in this
30 section for the original creation of such unit or units,
31 provided, however, no lands against which benefits shall have

1 been assessed may be detached from any such unit after the
2 confirmation of the engineer's report of benefits in such unit
3 or units or the issuance of bonds or other obligations which
4 are payable from taxes or assessments for benefits levied upon
5 the land within such unit or units. Provided, however, that
6 if, after the confirmation of the engineer's report of
7 benefits in such unit or units, or the issuance of bonds or
8 other obligations which are payable from taxes or assessments
9 for benefits levied upon lands within such unit or units, the
10 Board of Supervisors finds the water control plan for any such
11 unit or units insufficient or inadequate for efficient
12 development, the water control plan may be amended or changed
13 as provided in chapter 298, Florida Statutes, and the unit or
14 units may be amended or changed as provided in this section by
15 changing the location and description of lands in any such
16 unit or units, by detaching lands therefrom, or by adding
17 lands thereto. In such event all assessments, levies, taxes,
18 bonds, and other obligations made, levied, assessed, incurred,
19 or issued for or in respect to any such unit or units may be
20 allocated and apportioned to the amended unit or units in
21 proportion to the benefits assessed by the engineer's report
22 for the amended water control plan, and said report shall
23 specifically provide for such allocation and apportionment.
24 However, a change or amendment to a designated unit is not
25 authorized if it has the effect of impairing a debt or other
26 obligation of the unit or District.

27 Section 4. Chapter 86-394, Laws of Florida, is
28 repealed.

29 Section 5. If any provision of this act or the
30 application thereof to any person or circumstance is held
31 invalid, the invalidity shall not affect other provisions or

1 applications of the act which can be given effect without the
2 invalid provision or application, and to this end the
3 provisions of this act are declared severable.

4 Section 6. In the event of a conflict between the
5 provisions of this act and the provisions of any other act,
6 the provisions of this act shall control to the extent of such
7 conflict.

8 Section 7. This act shall take effect upon becoming a
9 law.

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