

By Senator Geller

29-1756-00

See HB 1793

1 A bill to be entitled
2 An act relating to the Devil's Garden Water
3 Control District, Hendry County; providing for
4 codification of special laws relating to the
5 Devil's Garden Water Control District, a
6 special tax district of the State of Florida;
7 providing legislative intent; codifying,
8 reenacting, and amending chapters 87-473 and
9 99-436, Laws of Florida; providing for minimum
10 charter requirements; providing for supervisor
11 qualifications; providing for provisions of
12 other laws made applicable; providing for
13 ratification of prior actions; repealing
14 chapters 87-473 and 99-436, Laws of Florida,
15 relating to the district, to conform; providing
16 severability; providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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

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1 authority to annually assess and levy taxes and charges
2 against the taxable property in the District.

3 Section 2. Chapters 87-473 and 99-436, Laws of
4 Florida, are codified, reenacted, amended, and repealed as
5 herein provided.

6 Section 3. The Devil's Garden Water Control District
7 is re-created, and the charter for the District is re-created
8 and reenacted to read:

9 Section 1. In accordance with section 189.404(3),
10 Florida Statutes, the following are the minimum requirements
11 for the charter of the Devil's Garden Water Control District:

12 (a) The District is organized and exists for all
13 purposes set forth in this act and chapter 298, Florida
14 Statutes, as they may be amended from time to time, except as
15 otherwise provided in this act.

16 (b) The powers, functions, and duties of the District
17 regarding non-ad valorem assessments, bond issuance, other
18 revenue-raising capabilities, budget preparation and approval,
19 liens and foreclosure of liens, use of tax deeds and tax
20 certificates as appropriate for non-ad valorem assessments,
21 and contractual agreements shall be as set forth in chapters
22 189, 197, and 298, Florida Statutes, this act, or any other
23 applicable general or special law, as they may be amended from
24 time to time.

25 (c) The District was created by the process contained
26 in chapter 298, Florida Statutes.

27 (d) The District's charter may be amended only by
28 special act of the Legislature.

29 (e) In accordance with chapter 298, Florida Statutes,
30 the District is governed by a Board of Supervisors. The
31 membership and organization of the Board shall be as set forth

1 in this act and chapter 298, Florida Statutes, as they may be
2 amended from time to time.

3 (f) The compensation of Board members shall be
4 governed by this act and chapter 298, Florida Statutes, as
5 they may be amended from time to time.

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

9 (h) Requirements for financial disclosure, meeting
10 notices, reporting, public records maintenance, and per diem
11 expenses for officers and employees shall be as set forth in
12 chapters 112, 189, 286, and 298, Florida Statutes, as they may
13 be amended from time to time.

14 (i) The procedures and requirements governing the
15 issuance of bonds, notes, and other evidence of indebtedness
16 by the District shall be as set forth in chapters 189 and 298,
17 Florida Statutes, and applicable general laws, as they may be
18 amended from time to time.

19 (j) The procedures for conducting District elections
20 and for qualification of electors shall be pursuant to
21 chapters 189 and 298, Florida Statutes, and applicable general
22 laws, as they may be amended from time to time.

23 (k) The District may be financed by any method
24 established in this act, chapters 189 and 298, Florida
25 Statutes, or any applicable general laws, as they may be
26 amended from time to time.

27 (l) In accordance with chapter 298, Florida Statutes,
28 the District may continue to levy upon all of the real taxable
29 property in the District a special tax each year as
30 maintenance tax.

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1 (m) The method for collecting non-ad valorem
2 assessments, fees, or service charges shall be as set forth in
3 chapters 197 and 298, Florida Statutes, as they may be amended
4 from time to time.

5 (n) The District's planning requirements shall be as
6 set forth in chapters 189 and 298, Florida Statutes, as they
7 may be amended from time to time.

8 Section 2. The territorial boundaries of the District
9 include lands in Hendry County, Florida, described as follows:

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11 Beginning at the intersection of the North
12 boundary line of Section 5, Township 45 South,
13 Range 34 East, according to State Survey, and
14 the West boundary line of the Right-of-Way of
15 L-1 Levee of the Central and Southern Florida
16 Flood Control District; thence westerly along
17 the boundary line between Townships 44 South
18 and 45 South to the Southeast corner of Section
19 31, Township 44 South, Range 31 East, thence
20 North along the East boundary line of Sections
21 31, 30 and 19 in said Township 44 South, Range
22 31 East to the Northeast corner of said Section
23 19, Township 44 South, Range 31 East; thence
24 westerly along the North boundary of said
25 Section 19 to the Northwest corner of Section
26 19, thence westerly along the North boundary of
27 Section 24, T. 44 S., R.30 E., to the Northwest
28 corner of said Section 24, thence continuing
29 westerly along the North boundary of Section
30 23, T 44 S, R 30 E to a local Road known as
31 "Twin Mills", thence southerly along a line

1 described in Official Record 581, pages 430
2 thru 439 and Official Record 581, pages 443
3 thru 451 to County Road 832, thence easterly
4 along SR 832 as described in Official Record
5 581, pages 443 thru 451 to a local Road known
6 as "Wild Cow Road", thence southerly along Wild
7 Cow Road, as described in Official Record 581,
8 pages 443 thru 451 to the South boundary of
9 Section 25, T 45 S, R 30 E, thence easterly
10 along the South boundary of said Section 25 and
11 along the South boundary of Section 30, T 44 S,
12 R 31 E to the South 1/4 corner of said Section
13 30, thence southerly along the North-South 1/4
14 Section line of Section 31 to the South
15 boundary of Section 31, T 45 S, R 31 E, thence
16 easterly along the Township line between T 45 S
17 and T 46 S; to the Northwest corner of Section
18 2, Township 46 South, Range 32 East; thence
19 southerly along the West boundary of said
20 Section 2 to the Southwest corner thereof;
21 thence easterly along the South boundary of
22 said Section 2 & 1 to the Southeast corner of
23 Section 1; thence northerly along the easterly
24 boundary of said Section 1 to the Northeast
25 corner thereof; thence easterly along the South
26 boundary of Township 45 South, Range 33 East to
27 the Southeast corner of said Township 45 South,
28 Range 33 East; thence northerly along the East
29 boundary of said Township 45 South, Range 33
30 East to the Northeast corner of Section 12,
31 Township 45 South, Range 33 East; thence

1 easterly along the South boundaries of Section
2 5 and 6, Township 45 South, Range 34 East, to
3 an intersection of the West boundary of the
4 Right-of-Way of Levee L-I of the Central and
5 Southern Florida Flood Control District; thence
6 northerly along said Right-of-Way boundary of
7 L-I along the approximate East boundary of
8 Section 5, Township 45 South, Range 34 East, to
9 the Point-of-Beginning of this description.

10
11 AND ALSO

12
13 TOWNSHIP 46 SOUTH, RANGE 34 EAST:

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15 The West-half, and the West-quarter of the
16 Northeast-quarter, and the West-quarter of the
17 East-half of the West-half of the
18 Northeast-quarter of Section 6, Less Road
19 Right-of-Way. All of Section 7, Less Road
20 Right-of-Way, and all Section 8, and the
21 North-half of Section 17, and the North-half of
22 Section 18, Less Road Right-of-Way.

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24 Containing approximately 85,625 acres.

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26 Section 3. Powers of the District.--In addition to the
27 powers of the District under chapter 298, Florida Statutes,
28 and other general laws, the District shall have the power to
29 construct, finance, and maintain roads for ingress and egress
30 to lands within the District, and to acquire, construct, and
31 maintain pumping stations, water control facilities, levees,

1 ponds, lakes, and other facilities for the retention of water.
2 All power and authority of the District shall extend and apply
3 to the District as a whole and to each unit of improvement as
4 from time to time created.

5 Section 4. Units of improvement; powers of supervisors
6 to designate units of District and adopt system of progressive
7 water control by units; water control plans and financing
8 assessments, etc., for each unit.--The Board of Supervisors of
9 Devil's Garden Water Control District shall have the power and
10 is hereby authorized in its discretion to drain, irrigate, and
11 reclaim or more completely and intensively to drain, irrigate,
12 and reclaim the lands in the District by designated areas or
13 parts of the District to be called "units." The units into
14 which the District may be so divided shall be given
15 appropriate numbers or names by the Board of Supervisors, so
16 that the units may be readily identified and distinguished.
17 The Board of Supervisors shall have the power to fix and
18 determine the location of, area and boundaries of, and lands
19 to be included in each and all such units, the order of
20 improvement thereof, and the method of carrying on the work in
21 each unit. The unit system of water control provided by this
22 section may be conducted and all of the proceedings by this
23 section and this act authorized in respect to such unit or
24 units may be carried on and conducted at the same time as or
25 after the work of improving of the entire District has been or
26 is being or shall be instituted or carried on under the
27 provisions of this act. If the Board of Supervisors shall
28 determine that it is advisable to conduct the work of
29 improving the lands in the District by units, as authorized by
30 this section, the Board shall, by resolution duly adopted and
31 entered upon its minutes, declare its purpose to conduct such

1 work accordingly, and shall from time to time fix the number,
2 location, and boundaries of and description of lands within
3 such unit or units and give them appropriate numbers or names.
4 As soon as practicable after the adoption and recording of
5 such resolution, the Board of Supervisors shall publish notice
6 once a week for two consecutive weeks in a newspaper published
7 in Hendry County, Florida, briefly describing the units into
8 which the District has been divided and the lands embraced in
9 each unit, giving the name, number, or other designation of
10 such units, requiring all owners of lands in the District to
11 show cause in writing before the Board of Supervisors at a
12 time and place to be stated in such notice why the division of
13 the District into such units should not be approved, and the
14 system of improvement by units should not be adopted and given
15 effect by the Board, and why the proceedings and powers
16 authorized by this section should not be had, taken, and
17 exercised. At the time and place stated in the notice, the
18 Board of Supervisors shall hear all objections or causes of
19 objection (all of which shall be in writing) of any landowner
20 in the District to the matters mentioned and referred to in
21 such notice, and if no objections are made, or if the
22 objections, if made, shall be overruled by the Board, then the
23 Board shall enter in its minutes its finding an order
24 confirming the resolution, and may thereafter proceed with the
25 improvement of the District by units pursuant to such
26 resolution and to the provisions of this act. If, however, the
27 Board of Supervisors shall find as a result of such
28 objections, or any of them, or the hearing thereon, that the
29 division of the District into such units as aforesaid should
30 not be approved, or that the system of improvement by units
31 should not be adopted and given effect, or that the

1 proceedings and powers authorized by this section should not
2 be had, taken, or exercised, or that any other matter or thing
3 embraced in the resolution would not be in the best interest
4 of the landowners of the District or would be unjust or unfair
5 to any landowner therein or otherwise inconsistent with fair
6 and equal protection and enforcement of the rights of every
7 landowner in the District, then the Board of Supervisors shall
8 not proceed further under such resolution, but the Board of
9 Supervisors may, as a result of such hearing, modify or amend
10 the resolution so as to meet such objections so made, and
11 thereupon the Board may confirm the resolution as so modified
12 or amended and may thereafter proceed accordingly. The
13 sustaining of such objections and the rescinding of such
14 resolutions shall not exhaust the power of the Board under
15 this section; but, at any time not less than 1 year after the
16 date of the hearing upon any such resolution, the Board of
17 Supervisors may adopt other resolutions under this section and
18 thereupon proceed on due notice in like manner as above. If
19 the Board of Supervisors shall overrule or refuse to sustain
20 any such objections in whole or in part made by any landowner
21 in the District, or if any such landowner shall deem himself
22 or herself aggrieved by any action of the Board of Supervisors
23 in respect to any objections so filed, such landowner may,
24 within 10 days after the ruling of the Board, file his or her
25 complaint against the District in a court of competent
26 jurisdiction, praying an injunction or other appropriate
27 relief against the action or any part of such action proposed
28 by such resolution or resolutions of the Board, and such suits
29 shall be conducted like other suits. Upon the hearing of the
30 cause, the court shall have the power to hear the objections
31 and receive the evidence thereon of all parties to such cause

1 and approve or disapprove the resolutions and action of the
2 Board in whole or in part, and to render such decree in such
3 cause as right and justice require. When the resolutions
4 creating the unit system shall be confirmed by the Board of
5 Supervisors (or by the court if such proposed action shall be
6 challenged by a landowner by the judicial proceedings
7 hereinabove authorized), the Board of Supervisors may adopt a
8 water control plan or plans for and in respect to any or all
9 such units, and to have the benefits and damages resulting
10 therefrom assessed and apportioned by the District engineer
11 and the engineer's report considered and confirmed, all in
12 like manner as is provided by law in regard to water control
13 plans for and assessments for benefits and damages of the
14 entire District. With respect to the water control plan,
15 notices, engineer's report, and notice and confirmation
16 thereof, the levy of assessments and taxes, including
17 maintenance taxes, and the issuance of bonds and all other
18 proceedings as to each and all of such units, the Board shall
19 follow and comply with the same procedure as is provided by
20 law with respect to the entire District; and the Board of
21 Supervisors shall have the same powers in respect to each and
22 all of such units as is vested in them with respect to the
23 entire District. All the provisions of this act shall apply to
24 the improvement of each, any, and all of such units, and the
25 enumeration of or reference to specific powers or duties of
26 the supervisors or any other officers or other matters in this
27 act as hereinabove set forth shall not limit or restrict the
28 application of any and all of the proceedings and powers
29 herein to the improvements of such units as fully and
30 completely as if such unit or units were specifically and
31 expressly named in every section and clause of this act where

1 the entire District is mentioned or referred to. All
2 assessments, levies, taxes, bonds, and other obligations made,
3 levied, assessed, or issued for or in respect to any such unit
4 or units shall be a lien and charge solely and only upon the
5 lands in such unit or units, respectively, for the benefit of
6 which the same shall be levied, made, or issued, and not upon
7 the remaining units or lands in the District. The Board of
8 Supervisors may at any time amend its resolutions by changing
9 the location and description of lands in any such unit or
10 units; and provided, further, that if the location of or
11 description of lands located in any such unit or units are so
12 changed, notice of such change shall be published as
13 hereinabove required in this section for notice of the
14 formation or organization of such unit or units, and all
15 proceedings shall be had and done in that regard as are
16 provided in this section for the original creation of such
17 unit or units, provided, however, that no lands against which
18 benefits shall have been assessed may be detached from any
19 such unit after the confirmation of the engineer's report of
20 benefits in such unit or units or the issuance of bonds or
21 other obligations which are payable from taxes or assessments
22 for benefits levied upon the lands within each unit or units.
23 However, if, after confirmation of the engineer's report of
24 benefits in such unit or units, or the issuance of bonds or
25 other obligations which are payable from taxes or assessments
26 for benefits levied upon lands within such unit or units, the
27 Board of Supervisors finds the water control plan for any such
28 unit or units insufficient or inadequate for efficient
29 improvement, the plan may be amended or changed as provided in
30 chapter 298, Florida Statutes, as the unit or units may be
31 amended or changed as provided in this section, by changing

1 the location and description of lands in any such unit or
2 units, by detaching lands therefrom, or by adding lands
3 thereto; and in such event, all assessments, levies, taxes,
4 bonds, and other obligations made, levied, assessed, incurred,
5 or issued for or in respect to any such unit or units may be
6 allocated and apportioned to the amended unit or units in
7 proportion to the benefits assessed by the engineer's report
8 for the amended water control plan, and the report shall
9 specifically provide for such allocation and apportionment.
10 However, a change or amendment to a designated unit is not
11 authorized if it has the effect of impairing a debt or other
12 obligation of the unit or District.

13 Section 5. Providing for District taxes.--All lands in
14 the District receiving benefits shall be subject to District
15 taxes notwithstanding any previous provisions of law or court
16 order.

17 Section 6. The governing Board of the District shall
18 be designated the "Board of Supervisors of Devil's Garden
19 Water Control District" and shall be composed of three
20 persons, who shall be resident freeholders of the State of
21 Florida.

22 Section 7. All acts and proceedings of the circuit
23 court taken by, for, and on behalf of the District since the
24 creation thereof, and all of the acts and proceedings of the
25 Board of Supervisors, the Commissioners, and all other
26 officers and agents of the District, and of the county, acting
27 for and on behalf of the District, and any and all tax levies
28 and assessments which have been made by the Board of
29 Supervisors for and on behalf of the District, are each and
30 every one of them, and each and every part thereof, hereby
31 ratified, validated, and confirmed.

1 Section 4. Chapters 87-473 and 99-436, Laws of
2 Florida, are repealed.

3 Section 5. In case any one or more of the sections or
4 provisions of this act or the application of such sections or
5 provisions to any situation, circumstances, or person shall
6 for any reason be held to be unconstitutional, such
7 unconstitutionality shall not affect any other sections or
8 provisions of this act or the application of such sections or
9 provisions to any other situation, circumstances, or person,
10 and it is intended that this act shall be construed and
11 applied as if such section or provision had not been included
12 in this act for any unconstitutional application.

13 Section 6. This act shall take effect upon becoming a
14 law.

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