

STORAGE NAME: h0927z.ca
DATE: May 8, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 00-399, Laws of Florida

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

BILL #: HB 927

RELATING TO: Captiva Erosion Prevention District

SPONSOR(S): Representative C. Green

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 7 NAYS 0
 - (2) FINANCE & TAXATION (FRC) (W/D)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Captiva Erosion Prevention District in Lee County into a single act and repeals all prior special acts relating to the District's charter.

This bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

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

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:

The Captiva Erosion Prevention District was created by special act, chapter 71-730, Laws of Florida. The District was recreated and reestablished pursuant to section 161.32, Florida Statutes, by chapter 81-413. The District's charter was amended again in 1988 by chapter 88-449, Laws of Florida.

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, 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 been 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; the District is scheduled to codify its charter in 2004.

According to the Schedule of Submittals of Special Districts' 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.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies chapters 71-730, 76-403, 81-413, and 88-449, Laws of Florida, relating to the Captiva Erosion Prevention District (District) into a single act.

The bill is primarily a restatement of existing charter language. This bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

The bill adds the fact that the District is an independent special district to the legislative findings.

The bill provides that the power of the District to contract for services must be done in accordance with the competitive bidding process requirements for beach and shore preservation authorities created under chapter, 161, Florida Statutes. The current charter provides that the contract for services must be done in accordance with the competitive bidding requirements of general law.

The bill provides that the District, pursuant to section 161.36, Florida Statutes, may enter upon private property for purposes of making surveys, soundings, drillings, and examinations, and such entry shall not be deemed a trespass.

The bill provides that the terms of members whose current terms expire in November 2000 shall serve until November 2001. Members whose current terms expire in November 2001 shall serve until November 2002. Provides that subsequent elections of District board members under this act shall be on the first Tuesday next succeeding the first Monday in November of even-number years. This is a change from odd-numbered years in the current charter.

The bill provides that candidates seeking election to the District board shall qualify *between noon of the 50th day and noon of the 46th day prior to the election*. This is a change from the 63rd day and the 49th day. The bill also allows candidates to qualify by paying a filing fee of \$25. Currently a candidate can only qualify by obtaining the signatures of at least 3 percent of the qualified electors residing within the District.

The bill provides that if a vacancy occurs on the board due to the resignation, death, or removal of a board member, *the remaining members may appoint a qualified person to fill out the remainder of the unexpired term*. Currently, the governor fills any vacancies that occur on the District board.

The bill provides that the Lee County Supervisor of Elections may conduct any referendum or election, if authorized by resolution of the board.

In performing the economic analysis of a reasonably final plan of improvement, the bill provides that the board may follow "such other method as may be deemed suitable for the purposes of this act" rather than being required to allocate benefits to their proper recipients by categories or zones of comparable benefit and place areas of equal benefit in the same zone.

Provides that the District board shall have the power to levy and assess ad valorem taxes rather than have to request that the Board of County Commissioners of Lee County levy and assess ad valorem taxes on behalf of the District.

Changes the total cumulative indebtedness the District may not exceed from \$15,000,000 to \$27,500,000.

Provides that the name of the owner of record of each lot or parcel may be given on the preliminary assessment roll at the discretion of the District rather than the engineer.

The bill details the bonding power of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification of all special acts relating to the Captiva Erosion Prevention District pursuant to chapter 97-255, Laws of Florida. States the intent of the Legislature to have a comprehensive special act charter and the intent to preserve all powers granted by this and previous acts.

Section 2: Codifies, reenacts, amends, and repeals all special acts relating to the District's charter.

Section 3: Provides for the recreation and reenactment of the charter of the District:

Section 1: Declares the District to be a valid and existing beach and shore preservation district recreated and reestablished under the provisions of section 161.32, Florida Statutes, and shall exercise all powers and duties of a beach and shore preservation authority and independent special district.

Section 2: Provides definitions.

Section 3: Provides boundaries for the District.

Section 4: Provides for the powers of the District.

Section 5: Provides for the election of the District board.

Section 6: Provides that the District shall develop and adopt a comprehensive beach and shore preservation program for the area within its jurisdiction.

Section 7: Provides that the District, upon adoption of a reasonably final plan of improvement for beach and shore preservation, shall conduct an economic analysis of the proposed program. Provides that a new economic analysis shall be conducted from

time to time to better determine and allocate actual or expected benefits.

Section 8: Provides that the District board shall have the power to levy and assess an ad valorem tax not exceeding 10 mills on all taxable property in the District.

Section 9: Provides that the District board is authorized to issue bonds if approved by the voters of the District in a referendum.

Section 10: Provides that the District may levy special assessments upon benefitted property and sets forth the process for such assessment.

Section 11: Provides that the District may issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidence of indebtedness to finance all or a part of any authorized proposed improvement.

Section 12: Provides that the District may issue bonds to refund any or all of the then outstanding bond indebtedness of the District.

Section 13: Provides that the District Board may contract with the County or any county contiguous to the county or municipality or district in such county to aid, assist, supervise, or direct an erosion prevention program, although the funds of the District shall not be used in connection with the performance of such services.

Section 4: Provides for the repeal of all prior special acts.

Section 5: Provides for the validity of remaining portions of the act should any part of the act be held invalid or unenforceable.

Section 6: Provides that the provisions of this act shall control in the event of a conflict with the provisions of any other act.

Section 7: Provides that the act shall take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 11, 1999

WHERE? News-Press

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

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C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Kyle V. Mitchell

Staff Director:

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

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