

By Representative Green

1                                   A bill to be entitled  
2           An act relating to the Fort Myers Beach  
3           Mosquito Control District, Lee County;  
4           providing legislative intent; providing for  
5           codification of the special acts relating to  
6           the District pursuant to s. 189.429, F.S.;  
7           codifying, reenacting, and amending all prior  
8           special acts relating to the District;  
9           codifying the several county resolutions  
10          relating to the District; providing a District  
11          charter; repealing all prior special acts  
12          relating to the District; providing an  
13          effective date.

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

16  
17           Section 1. Pursuant to section 189.429, Florida  
18 Statutes, this act constitutes the codification of all special  
19 acts relating to the Fort Myers Beach Mosquito Control  
20 District. This act also constitutes the codification of all  
21 resolutions relating to the Fort Myers Beach Mosquito Control  
22 District. 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.

27           Section 2. Chapters 67-1630, 79-493, 81-414, 82-316,  
28 83-442, and 83-454, Laws of Florida, as said laws relate to  
29 the Fort Myers Beach Mosquito Control District, and County  
30 Resolutions adopted June 8, 1949, July 12, 1949, June 24,  
31 1957, June 3, 1959, and Resolution Number 89-07-12, adopted by

1 the Board of County Commissioners of Lee County, Florida, as  
2 said county resolutions relate to the Fort Myers Beach  
3 Mosquito Control District, are hereby codified, reenacted,  
4 amended, and repealed as herein provided.

5 Section 3. The charter for the Fort Myers Beach  
6 Mosquito Control District is re-created and reenacted to read:

7 Section 1. Creation; intent.--The Fort Myers Beach  
8 Mosquito Control District is re-created as an independent  
9 mosquito control District that shall operate pursuant to this  
10 special act and the provisions of chapter 388, Florida  
11 Statutes, as it may be amended from time to time, and all  
12 other general laws, whether referenced herein or not, which  
13 are applicable to independent special districts.

14 Section 2. Boundaries.--There is hereby reestablished  
15 the Fort Myers Beach Mosquito Control District for the purpose  
16 of mosquito control pursuant to chapter 388, Florida Statutes,  
17 and the boundaries of said District are declared to be as  
18 follows:

19  
20 A tract or parcel of land lying in parts of  
21 Township 46 South, Range 23 East and Township  
22 46 South, Range 24 East and part of Township 47  
23 South, Range 24 East, Lee County, Florida,  
24 which tract or parcel is described as follows:

25  
26 Beginning at the southeast corner of section  
27 24, Township 46 South, Range 24 East being a  
28 point on the northerly line of Area No. 5  
29 described in 67-1630 Special Acts of Florida,  
30 as enacted by the 1967 session of the Florida  
31 Legislature, run westerly along the south line

1 of said section and a north line of said Area  
2 No. 5 for 2,700 feet more or less to the waters  
3 of Estero Bay and the Point of Beginning of  
4 said Area No. 5; thence run southwesterly along  
5 a northwesterly line of said Area No. 5 across  
6 the waters of Estero Bay for 8,300 feet to a  
7 point of intersection; thence run southerly  
8 along a westerly line of said Area No. 5 across  
9 said Bay and Starvation Flats for 4,200 feet  
10 more or less to a point of intersection; thence  
11 run southeasterly, southerly and southwesterly  
12 along a westerly line of said area running  
13 across said Bay and Big Carlos Pass for 10,000  
14 feet more or less to a point of intersection in  
15 said Area No. 5; thence run northwesterly  
16 across Big Carlos Pass and along the shoreline  
17 of Estero Island for 6,100 feet more or less to  
18 a point of intersection; thence continue  
19 northwesterly along said shoreline for 3,200  
20 feet more or less to a point of intersection;  
21 thence continue along said shoreline  
22 northwesterly for 22,800 feet more or less to a  
23 point of intersection; thence run northwesterly  
24 along said shoreline for 3,900 feet more or  
25 less to a point of intersection; thence run  
26 northwesterly along said shoreline and across  
27 San Carlos Bay for 8,000 feet more or less to  
28 the intersection of a westerly prolongation of  
29 the north line of Section 13, Township 46  
30 South, Range 23 East and the waters of San  
31 Carlos Bay; thence run easterly along said

1       prolongation and said north line and the north  
2       line of Sections 18, 17, 16, 15, 14 and 13  
3       being also the southerly line of Area No. 1 as  
4       described in said Special Acts of Florida to  
5       the northeast corner of said Section 13,  
6       Township 46 South, Range 24 East; thence run  
7       southerly along the easterly line of said  
8       Section 13 and Section 24, Township 46 South,  
9       Range 24 East for 10,600 feet more or less to  
10       the Point of Beginning. Containing 14,615 acres  
11       more or less. Bearings hereinabove mentioned  
12       are assumed.

13  
14       Section 3. Governing body.--The District shall be  
15       governed by a board which shall consist of three commissioners  
16       of the District elected by a vote of the electors of the  
17       District pursuant to section 388.101, Florida Statutes, or any  
18       other applicable general law or special law, as said laws may  
19       be amended from time to time. This act shall not affect the  
20       balance of the terms of the current members serving on the  
21       board of commissioners of the District and each member shall  
22       complete his or her current elected term. Vacancies on the  
23       board of commissioners shall be filled as provided by section  
24       388.111, Florida Statutes, or any other applicable general law  
25       or special law, as said laws may be amended from time to time.  
26       Members of the board of commissioners may each be paid a  
27       salary as provided in section 388.141, Florida Statutes, or  
28       any other applicable general law or special law, as said laws  
29       may be amended from time to time. The board of commissioners  
30       shall hold meetings as provided by section 388.151, Florida  
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1 Statutes, or any other applicable general law or special law,  
2 as said laws may be amended from time to time.

3 Section 4. Officers.--As soon as practicable after the  
4 election of members of the board, the members shall meet and  
5 elect from the membership a chair, secretary, and treasurer as  
6 provided by section 388.121, Florida Statutes, or any other  
7 applicable general law or special law, as said laws may be  
8 amended from time to time.

9 Section 5. Powers.--The District shall have and the  
10 board may exercise the powers and authority provided by  
11 chapter 388, Florida Statutes, by the special laws related to  
12 the District being codified hereby, by the county resolutions  
13 adopted by the Board of County Commissioners of Lee County,  
14 Florida, related to the District, or by any other applicable  
15 general law or special law, as said laws may be amended from  
16 time to time. The board of commissioners may do any and all  
17 things necessary for the control and elimination of all  
18 species of mosquitoes and other arthropods of public health  
19 importance as provided by applicable general law or special  
20 law, as said laws may be amended from time to time. The  
21 District is authorized to use any and all mechanical,  
22 physical, chemical, or biological control measures as the  
23 board may deem necessary to accomplish the purposes of this  
24 law. In particular, the District shall have and the board may  
25 exercise all the powers of a body corporate, including: the  
26 power to sue and be sued as a corporation in any court; to  
27 contract; to adopt and use a common seal; to purchase, hold,  
28 control, acquire by gift, condemn, lease, and convey such real  
29 estate, easements, and personal property, including surplus  
30 property, as the board may deem proper to carry out the  
31 purposes of this law; to exercise the right of eminent domain

1 and institute and maintain condemnation proceedings as  
2 provided in chapter 73, Florida Statutes; to secure letters of  
3 patent, copyrights, and trademarks, both foreign and domestic,  
4 on any work products, and to enforce its rights therein; to  
5 operate airports and air navigation facilities within the  
6 District's boundaries in accordance with chapter 332, Florida  
7 Statutes; to employ such experts, agents, and employees as the  
8 board may require; to provide uniforms for District employees;  
9 to participate with employees in a family group insurance  
10 plan; to contract and cooperate with county, state, and other  
11 governmental agencies with regard to mosquito control or  
12 suppression; and to borrow money, all in conformance with  
13 applicable provisions of constitutional law, general law, and  
14 special law, as said laws may be amended from time.

15 Section 6. District budgets; hearing.--The fiscal year  
16 of the District shall be the 12-month period extending from  
17 October 1 of one year through September 30 of the following  
18 year. The board of commissioners shall prepare a budget for  
19 the ensuing fiscal year and hold public hearings on same as  
20 provided in section 388.201, Florida Statutes, and in  
21 conformance with other applicable general law and special law,  
22 as said laws may be amended from time to time.

23 Section 7. Taxes.--

24 (1) The board of commissioners may levy on all taxable  
25 property in the District a special tax not exceeding 1 mill on  
26 the dollar during each year as a maintenance tax to be used  
27 solely for the purposes of the District as authorized herein  
28 and by general law and special law, as said laws may be  
29 amended from time to time. The board of commissioners of the  
30 District shall comply with all requirements of general law and  
31 special law, as said laws may be amended from time to time,

1 concerning the levy of the District's annual maintenance tax.  
2 All such taxes shall be held by the treasurer for the credit  
3 of the board and paid out by the treasurer as ordered by the  
4 board.

5 (2) The Legislature does determine that the  
6 eradication and control of mosquitoes within the District is  
7 of special benefit and constitutes a special improvement for  
8 the benefit of the District and the property located therein  
9 and is therefore subject to assessment for special benefits,  
10 and the board of commissioners of the District is authorized  
11 to levy assessments for special benefits upon all of the  
12 property in the District. However, the total amount of any  
13 such assessment levied under this subsection shall not exceed  
14 an amount equal to 1 mill on the dollar of the total valuation  
15 of the property so assessed. Further, the total of any tax  
16 that might be levied under subsection (1) and the assessment  
17 for special benefits levied under this subsection shall not  
18 exceed 1 mill on the dollar of the value of any such property.

19 Section 8. Assessment and collection of taxes.--Taxes  
20 herein provided for shall be assessed and collected in the  
21 manner prescribed by applicable general law or special law, as  
22 said laws may be amended from time to time. The board of  
23 commissioners shall by resolution certify to the property  
24 appraiser of Lee County, timely for the preparation of the tax  
25 roll, the tax rate to be applied in determining the amount of  
26 the District's annual maintenance tax. Certified copies of  
27 such resolution executed in the name of the board of  
28 commissioners by its chair and secretary and under its  
29 corporate seal shall be made and delivered to the property  
30 appraiser, the Board of County Commissioners of Lee County,  
31 and the Department of Revenue not later than September 30 of

1 such year. The property appraiser of Lee County shall assess  
2 and the tax collector of Lee County shall collect the amount  
3 of taxes so assessed and levied by said board of commissioners  
4 of the District upon all of the taxable real and personal  
5 property in the District at the rate of taxation adopted by  
6 the board of commissioners for said year and included in said  
7 resolution, and said levy shall be included in the warrants of  
8 the property appraiser and attached to the assessment roll of  
9 taxes for the county each year. The tax collector shall  
10 collect such taxes so levied by the board in the same manner  
11 as other taxes are collected and shall pay the same within the  
12 time and in the manner prescribed by law to the treasurer of  
13 the board. The Department of Revenue shall assess and levy on  
14 all the railroad lines and railroad property and telegraph and  
15 telephone lines and telegraph and telephone property situated  
16 in the District in the amount of each such levy as in the case  
17 of other state and county taxes and shall collect said taxes  
18 thereon in the same manner as it is required by law to assess  
19 and collect taxes for state and county purposes and remit the  
20 same to the treasurer of the board. The tax officers of Lee  
21 County are hereby authorized and directed to perform the  
22 duties devolving upon them under chapter 388, Florida  
23 Statutes, and to receive compensation therefor at such rates  
24 or charges as are provided by law with respect to similar  
25 services or charges.

26 Section 9. Use, loan, or rental of equipment.--The  
27 use, loan, or rental of equipment by the District shall be as  
28 provided in section 388.231, Florida Statutes, or any other  
29 applicable general law or special law, as said laws may be  
30 amended from time to time.

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1           Section 10. State aid.--The District shall be eligible  
2 to receive state funds, supplies, services, and equipment as  
3 provided by chapter 388, Florida Statutes, and any other  
4 applicable general law or special law, as said laws may be  
5 amended from time to time.

6           Section 11. Breeding places.--

7           (1) Any breeding place for any species of mosquitoes  
8 or any other arthropod of public health importance which  
9 exists by reason of any use made on the land on which it is  
10 found, or of any artificial change in its natural condition,  
11 is hereby declared to be a public nuisance. Such nuisance may  
12 be abated as provided herein or by any applicable general law  
13 or special law, as said laws may be amended from time to time.

14           (2) Whenever a nuisance specified in this chapter  
15 exists upon any property in the District, the board of  
16 commissioners may notify in writing the owner or the party in  
17 possession, or the agent of either, of the existence of the  
18 nuisance. The notice shall state the finding of the District  
19 that a public nuisance exists on the property and the  
20 approximate location of such nuisance on such property. The  
21 notice shall be served upon the owner of record or the person  
22 having possession, or upon the agent of either. The notice  
23 shall be served by any person authorized by the board in the  
24 same manner as the summons in a civil action. If the property  
25 belongs to a person who is not a resident of the District, and  
26 there is no one in possession nor an agent of either upon whom  
27 service can be made, or who can after diligent search be  
28 found, the notice shall be served by posting a copy in a  
29 conspicuous place upon the property for a period of 10 days,  
30 and by mailing a copy to the owner of record addressed to his  
31 or her address as given on the last completed assessment roll

1 of Lee County, or, in the absence of an address on the roll,  
2 to his or her last known address. Before complying with the  
3 requirements of the notice of abatement, the owner or party in  
4 possession may appear at a hearing before the board at a time  
5 and place fixed by the board and stated in the notice. At the  
6 hearing the District board shall determine whether the initial  
7 finding as set forth in the notice is correct and shall permit  
8 the owner or party in possession to present testimony on his  
9 or her behalf. If, after hearing all the facts, the board  
10 makes a determination that a nuisance exists on the property,  
11 the board shall order compliance with the requirements of the  
12 notice or with alternate instructions issued by the board.

13 (3) Any recurrence of the nuisance may be deemed to be  
14 a continuation of the original nuisance.

15 (4) In the event the nuisance is not abated by  
16 appropriate measures to eliminate the nuisance and to prevent  
17 its recurrence within the time specified in the notice or at  
18 the hearing, the board of commissioners may abate the nuisance  
19 by taking any measures it deems appropriate to eliminate the  
20 nuisance and prevent the recurrence of further breeding. The  
21 cost of abatement of a nuisance under this section shall be  
22 repaid to the District by the owner of the property.

23 (5) When any nuisance specified in this chapter is  
24 found to exist on any lands or property subject to the control  
25 of any public agency, the District shall notify the public  
26 agency of the existence of the nuisance. The provisions of  
27 this section relating to the contents of the notice, the  
28 manner of serving it, the right of the public agency to a  
29 hearing before the board, and the power of the District to  
30 abate the nuisance if it is not abated by the public agency  
31 shall apply. If the public agency determines that the order to

1 eliminate the nuisance and prevent recurrence of the breeding  
2 specified in the notice to abate the nuisance is excessive or  
3 inappropriate for the intended use of the land, or if the  
4 public agency determines that a public nuisance within the  
5 meaning of this chapter does not exist, such public agency may  
6 appeal the decision of the board in accordance with "The State  
7 Agency Dispute Settlement Act of 1978." If the control of the  
8 nuisance is performed by the District, the cost for such  
9 control is a charge against, and shall be paid from, the  
10 maintenance fund or from any other funds budgeted for the  
11 support of the public agency.

12 (6) All sums expended by the District in abating a  
13 nuisance, including preventing its recurrence, shall become a  
14 lien upon the property on which the nuisance is abated or its  
15 recurrence is prevented.

16 Section 4. This act shall be construed as a remedial  
17 act and shall be liberally construed to promote the purpose  
18 for which it is intended, which is a codification,  
19 reenactment, and repeal of the several legislative enactments  
20 of the Fort Myers Beach Mosquito Control District and  
21 codification of county resolutions relating to the District.

22 Section 5. In the event of a conflict of the  
23 provisions of this act with the provisions of any other act,  
24 the provisions of this act shall control to the extent of such  
25 conflict.

26 Section 6. Chapters 67-1630, 79-493, 81-414, 82-316,  
27 83-442, and 83-454, Laws of Florida, as said laws relate to  
28 the Fort Myers Beach Mosquito Control District, are repealed.

29 Section 7. This act shall take effect upon becoming a  
30 law.

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