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An act relating to the Fort Myers Beach Mosquito Control District, Lee County; providing legislative intent; providing for codification of the special acts relating to the District pursuant to s. 189.429, F.S.; codifying, reenacting, and amending all prior special acts relating to the District; codifying the several county resolutions relating to the District; providing a District charter; repealing all prior special acts relating to the District; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Fort Myers Beach Mosquito Control District. This act also constitutes the codification of all resolutions relating to the Fort Myers Beach Mosquito Control District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the District, including all current legislative authority granted to the District by its several legislative enactments and any additional authority granted by this act.

Section 2. This act constitutes the codification of County resolutions adopted June 8, 1949, July 12, 1949, June 24, 1957, June 3, 1959, and Resolution Number 89-07-12, adopted by the Board of County Commissioners of Lee County, Florida, relating to the Fort Myers Beach Mosquito Control

1 District. Chapters 57-2059, 61-2394, 65-1820, 67-1630,
2 72-598, 79-493, 81-414, 82-316, 83-442, and 83-454, Laws of
3 Florida, as said laws relate to the Fort Myers Beach Mosquito
4 Control District, are hereby codified, reenacted, amended, and
5 repealed as herein provided.

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

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

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

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

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

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

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

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

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 57-2059, 61-2394, 65-1820,
27 67-1630, 72-598, 79-493, 81-414, 82-316, 83-442, and 83-454,
28 Laws of Florida, as said laws relate to the Fort Myers Beach
29 Mosquito Control District, are repealed.

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