

STORAGE NAME: h0837b.lgva.doc
DATE: April 9, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 837
RELATING TO: Sunshine Drainage District
SPONSOR(S): Representative Ritter
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends the charter of the Sunshine Drainage District to provide different procedures for electing the members of the governing board of the District than are provided in general law. This bill also provides different qualifications for the members of the governing board of the District than are provided in general law.

Negligible fiscal impacts are anticipated according to the Economic Impact Statement (EIS).

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

On April 5, 2001, the Committee on Local Government & Veterans Affairs considered HB 837, adopted a strike-everything amendment, and passed the bill. The amendment, which is traveling with the bill, is explained in this bill analysis. (See section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:".)

This bill, as amended, exempts the District from applicable provisions of general law requiring members of the governing board of the District to be elected by the one-ACRE/one-vote method. This bill proposes that members of the governing board of the District be elected by a one-PERSON/one-vote method. This change in election methodology will result in a diminution of the voting rights of owners of large tracts of land, may result in the elimination of the voting power of the Department of Environmental Protection to the extent acreage owned by the state is subject to assessment by the District, and may result in the elimination of the voting rights of non-resident landowners and landowners whose interests are represented by proxy (e.g., corporations, partnerships, estates, trusts, and incompetents). (See section II. "PRESENT SITUATION".)

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:

N/A

B. PRESENT SITUATION:

The Sunshine Drainage District was created and incorporated by decree of the circuit court in and for the 15th judicial circuit, Broward County, Florida, entered in chancery No. 62-4596-F, on the 23rd day of January 1963. The name of the District was changed to the Sunshine Water Control District by operation of chapter 78-153, Laws of Florida, which created section 298.001, Florida Statutes (1978) providing that certain drainage districts will be designated water control districts. Currently, the District has a three-member board of supervisors elected by landowners. Every acre of assessable land within a district representing one share, or vote.

History of Water Control Districts

Water control districts have a long history in Florida. As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Following the passage of several special acts creating drainage districts, the Legislature passed the state’s first general drainage law, the General Drainage Act of 1913, to establish one procedure for creating drainage districts – through circuit court decree – and to provide general law provisions governing the operation of these districts.

Between 1913 and 1972, the General Drainage Act remained virtually unchanged. In 1972 and 1979, the Legislature amended the act to change the name of these districts to water management districts and then to water control districts. In neither year did the Legislature enact a major reform of the act, although the 1979 act did repeal provisions authorizing the creation of water control districts by circuit court decree.

Chapter 298, Florida Statutes

Chapter 298, Florida Statutes, contains provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Creation of Water Control Districts

Section 298.01, Florida Statutes, restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 125.01,

Florida Statutes (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by chapter 298, Florida Statutes.

Election of Board of Supervisors

Upon the formation of a water control district, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district. Once a district is organized, notice of the first landowners' meeting shall be given. The notice shall be published once a week for two consecutive weeks in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve 3-year rotating terms, with one supervisor elected each year at a required annual meeting. To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located, unless a district's special act provides otherwise. The Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting if acreage owned by the state is subject to assessment by the district.

One-Acre, One-Vote

Section 298.11(2), Florida Statutes, provides that every acre of assessable land within a district represents one share, or vote. Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Role of the Circuit Courts

Prior to July 1, 1980, when a water control district was formed, the circuit court of the county where the majority of the land is located had exclusive jurisdiction within the boundaries of the district. Circuit courts served several functions in the creation and governance of water control districts. After a board of supervisors adopted a plan of reclamation, it petitioned the circuit court to appoint three commissioners to appraise the lands that would be acquired to implement the plan of reclamation. A circuit court may have required the report on assessment of benefits and damages to be amended to include condemned lands needed to construct the district's works. In the event a circuit court determined that the value of land within the district had changed and additional conditions were met, the court was required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

Revenue Sources

The primary funding source for water control district activities is special assessments, which must be imposed on the property so that the burden on every parcel will bear a just proportion to that imposed on every other. In other words, the assessment of the particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. Special assessments are limited to the property benefited and are not taxes within the meaning of the general constitutional requirement that taxation be imposed at a uniform rate. Special assessments may be determined legislatively or judicially.

A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of special assessments levied.

Limitation on Special Acts

Section 11(a)(21), Article III of the State Constitution, provides that no special law or general law of local application shall be enacted that pertains to any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.

Section 298.76, Florida Statutes, is an example of such a general law passed by a three-fifths vote of the membership of each house. The statute provides that there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to chapter 298, Florida Statutes. Section 298.76 Florida Statutes, does not prohibit special or local legislation that:

- (a) Amends an existing special act that provides for the levy of an annual maintenance tax of a district;
- (b) Extends the corporate life of a district;
- (c) Consolidates adjacent districts; or
- (d) Authorizes the construction or maintenance of roads for agricultural purposes as outlined in this chapter.

Section 298.76 Florida Statutes, authorizes special or local legislation:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

Finally, section 298.76, Florida Statutes, provides that any special or local laws enacted by the Legislature pertaining to any water control district shall prevail as to that district and shall have the same force and effect as though it had been a part of chapter 298, Florida Statutes, at the time the district was created and organized.

C. EFFECT OF PROPOSED CHANGES:

This bill amends section 2 of chapter 63-609, Laws of Florida, to exempt the District from the provisions of sections 198.14 [appears to be an incorrect citation], 298.11, and 298.12, Florida Statutes. This bill provides that four of the members of the governing board of the District will be elected by the residents of the District in a regular election conducted by the Broward County Supervisor of Elections on the first Tuesday in November of certain years. This bill also provides that the elected members of the governing board of the District must merely be residents of the District rather than be owners of property in the District and residents of the county or counties in which the District is located.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

This bill, as amended, exempts the District from provisions of chapter 298, Florida Statutes, requiring members of the governing board of the District to be elected by the one-acre/one-vote method. This bill proposes that members of the governing board of the District be elected by a one-person/one-vote method. This change in election methodology will result in a diminution of the voting rights of owners of large tracts of land, may result in the elimination of the voting power of the

Department of Environmental Protection to the extent acreage owned by the state is subject to assessment by the District, and may result in the elimination of the voting rights of non-resident landowners and landowners whose interests are represented by proxy (e.g., corporations, partnerships, estates, trusts, and incompetents). (See section II. "PRESENT SITUATION".)

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 2 of chapter 63-609, Laws of Florida; exempts the District from the provisions of sections 198.14 (Failure to make return; extension of time for filing) [appears to be a citation error], 298.11 (Landowners' meetings; election of board of supervisors; duties of Department of Environmental Protection), and 298.12 (Annual election of supervisors; term of office; vacancy), Florida Statutes; provides the membership of the governing board of the District will be comprised of 4 elected members and a City Commissioner for the City of Coral Springs; provides the term of office for members of the governing board of the District; provides procedures for conducting District elections; provides the procedures and notice requirements for conducting regular and special District meetings; provides the number of members of the governing board of the District that constitutes a quorum.

Section 2: Provides for the severability of any invalid provision.

Section 3: Provides for the resolution of any conflict between this act and the provisions of any other act.

Section 4: Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28, 2001

WHERE?

Sun-Sentinel, Fort Lauderdale, Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill provides that the elected members of the governing board of the District must merely be residents of the District rather than be owners of property in the District and residents of the county or counties in which the District is located, as is currently required by section 298.11(1), Florida Statutes. This change will potentially allow renters and temporary residents to qualify for election to the governing board of the District.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 5, 2001, the Committee on Local Government & Veterans Affairs considered HB 837, adopted a strike-everything amendment, and passed the bill. The amendment, which is traveling with the bill provides as follows:

- Corrects a statutory reference from 198.14, Florida Statutes, to 298.14, Florida Statutes. Section 298.14, Florida Statutes, deals with the organization of drainage and water control boards, annual reports to landowners, and compensation of members of drainage and water control boards. Section 198.14, Florida Statutes, deals with extensions of time to file Estate Tax returns.
- Provides for the election of all the members of the governing board of the District by the residents of the District rather than the proposed scheme of 4 members elected and one appointed.
- References the status of the special district as an independent special district, as required by section 189.404(5), Florida Statutes.
- Provides that the election of members of the governing board of the District will coincide with general elections.

An amendment by the sponsor is necessary to clarify that the name of the District was changed to the Sunshine Water Control District by operation of chapter 78-153, Laws of Florida, which created section 298.001, Florida Statutes (1978) providing that certain drainage districts will be designated water control districts.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Christopher J. Shipley

Joan Highsmith-Smith