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DATE: August 7, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-325, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 927/1ST ENG

RELATING TO: Pinellas Park Water Management District

SPONSOR(S): Representative Waters

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Pinellas Park Water Management District or Authority in Pinellas County into one special act.

The bill declares that the District is an independent special district.

The bill removes obsolete charter language which was preempted by applicable general law chapters and inserts general law language.

The bill preserves the District's existing authority to levy ad valorem tax not to exceed 3 mills on the dollar of assessed valuation.

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 Pinellas Park Water Management District was created in 1975, chapter 75-491, Laws of Florida, to provide storm drainage systems in central Pinellas County. The current charter allows the District to levy an ad valorem tax not to exceed 3 mills on the dollar of assessed valuation.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be made to a district's charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow 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) remove the prohibition of substantive amendments in a district's codification bill; and (4) remove 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. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

Schedule of Submittals of Special Districts' Charters

Special Districts with less than 2 special acts	1999 Legislative Session
Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session

Special Districts with more than 12 special acts

2003 Legislative Session

Special Fire Control Districts

2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 89 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

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 to the department's determination or declaratory statement regarding the status of the district.

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.

Water Control Plans

Effective October 1998, any plan of reclamation, water management plan, or plan of improvement developed and implemented by a water control district is considered a "water control plan". The approval and implementation process has been removed from the purview of the circuit court.

Before adopting a water control plan or plan amendment, the board of supervisors must adopt a resolution to consider adoption of the plan or plan amendment. The board of supervisors shall publish notice of a public hearing once a week for 3 consecutive weeks in a newspaper of general circulation. Individual notices are mailed to landowners, the jurisdictional water management district, the county commission of the county and any municipality in which the District is located.

At the public hearing on the proposed plan or plan amendment the board of supervisors will consider any objections to the plan and then shall determine whether or not to proceed with the plan. In the event the board proceeds forward, it will then direct the District Engineer to prepare a report in writing to the board of supervisors complete with maps and surveys. The report shall include a full and complete water control plan for draining and reclaiming the lands described in the petition. Further, the report must contain an estimate of the costs of carrying out the completing the water control plan and an estimate of the benefits derived from the water control plan.

A final hearing on approval of the water control plan and the engineer's report, is noticed by publication, and held at a regularly scheduled board of supervisors' meeting within 60 days after the filing of the engineer's report with the secretary of the district.

Before final adoption of the engineer's report and water control plan or plan amendment under section 298.301, Florida Statutes, the board of supervisors must determine that the estimated costs

of construction contemplated in the plan or amendment is less than the benefits determined for the lands.

The board of supervisors must review the water control plan at least every 5 years following its adoption.

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:

The bill codifies all prior special acts relating to the Pinellas Park Water Management District in Pinellas County into one special act.

The bill declares that the District is an independent special district.

The bill removes obsolete charter language which was preempted by applicable general law chapters and inserts general law language.

The election of the chairman and the vice-chairman of the District will be annual.

Members currently do not receive compensation only travel expenses. However, the Authority is authorized to provide and pay all or part of the premiums for insurance benefits to its board members equivalent to that paid on behalf of other employees.

The bill allows the District to collect fees for connection to or use of facilities.

The bill removes the provision to give reasonable notice, to keep records, public disclosure of District meetings and adds the requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees are pursuant to chapters 112, 119, 189, and 286, F.S.

The bill preserves the District's existing authority to levy ad valorem tax not to exceed 3 mills on the dollar of assessed valuation.

The bill provides powers, functions and duties are pursuant to chapter 189, F.S. The bill provides methods for assessing and collecting ad valorem taxes, fees, or service charges are pursuant to chapters 200, 189, or 197, F.S. The bill provides the district's planning requirements pursuant to chapter 189, F.S. The bill provides the district's geographic boundary limitations. The bill provides requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees pursuant to chapters 112, 119, 189, and 286, F.S.

The bill provides procedures for conducting elections or referenda by the district pursuant to chapter 189, F.S.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that this act is the codification of all special acts relating to Pinellas Park Water Management District pursuant to section 189.429, Florida Statutes; states the intent of the Legislature is to have a single, comprehensive special act charter and the intent is to preserve all powers granted by this and previous acts; preserves the District's existing authority to levy ad valorem tax not to exceed 3 mills on the dollar of assessed valuation.

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

Section 3. Provides for the re-creation and reenactment of the charter of the District:

Section 1. Provides for short title.

Section 2. Provides for definitions.

Section 3. Provides the District's charter may be amended only by special act of the Legislature; provides for a three member governing board; provides two members are appointed by the City Council of Pinellas Park and one member appointed by the Pinellas County Commission; provides term limits; provides for vacancies; provides for reappointment; provides for appointed members of the district; provides for organization of the board members; provides for quorum; provides for employees of the District; provides for traveling and other necessary expenses but no salary or compensation of the board members, the district may provide and pay all or part of the premiums, from available funds, for insurance benefits to its board members equivalent to the insurance benefits provided to the district's employees under the district's group insurance plan; provides for the removal of board members.

Section 4. Provides for the powers and duties of the District.

Section 5. Provides for the budget, states fiscal year; states debts of authority are the responsibility of the authority; provides for the financial disclosure and reporting requirements.

Section 6. Describes the boundaries for the District.

Section 7. Provides for exemptions from taxation.

Section 8. Declares the District an independent special district; preserves the District's existing authority to levy ad valorem tax not to exceed 3 mills on the dollar of assessed valuation; provides millage limit is approved by a vote of the electors who are not exempt from taxation; provides District may issue tax anticipation notes of indebtedness; provides for de-annexation of property.

Section 9. Provides for expansion of area.

Section 10. Provides procedures for conducting elections or referenda by the authority is pursuant to chapter 189, F.S., as amended.

Section 11. Provides for liberal construction of act.

Section 12. Provides that any part of this act found void, that part will not affect any other part.

Section 4. Repeals chapters 75-491, 77-641, 78-597, 90-448, and 98-456, Laws of Florida.

Section 5. Provides that this act controls in the event of a conflict.

Section 6. Provides effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? November 6, 2000

WHERE? St. Petersburg Times in St. Petersburg, Pinellas 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

III. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The law firm, Lewis, Longman & Walker, P.A., representing the District submitted a boundary letter stating the following:

The boundaries reflected in HB 927 do not change the current district boundaries. As part of the codification process, the district hired a surveyor to update and simplify the legal description they have been using. In a previous special act, a portion of the district located in Kenneth City was removed from the district boundaries. Rather than having a description that provides an exception for this area, the description was revised to simply remove it from the boundaries.

IV. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs adopted two amendments on April 5, 2001. The first amendment adds District to the definition of Authority to clarify that District and Authority are the same. The second amendment deletes repetitive language.

The House approved the amendments on April 24, 2001, and passed the bill as amended.

V. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Terri S. Boggis

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Kama Monroe

Staff Director:

Greg Turbeville

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith