

STORAGE NAME: h1017.lgva.doc

DATE: January 25, 2002

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

BILL #: HB 1017

RELATING TO: Plantation Acres Improvement District

SPONSOR(S): Representative Ritter

TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) FISCAL POLICY & RESOURCES (FRC)
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill codifies all prior special acts relating to the Plantation Acres Improvement District (District) into a single act. This bill codifies all prior special acts relating to the Plantation Acres Improvement District in Broward County into a single act and repeals all prior special acts relating to the District's charter.

The bill removes obsolete charter language regarding the election of the Governing Board, selecting depositories, creating a plan of improvement for roads and water control, assessing land for improvement for roads and water control, annual installment taxes, maintenance taxes, enforcement taxes and delinquent taxes and updates them in accordance with general law. The district currently has ad valorem taxing authority. The current rate authorized is 2 mills. Any increase in the rate must be voter approved.

The bill directs the Governing Board to choose a supervisor to serve as Chairman of the Board and a supervisor to serve as Vice Chairman of the Board. The bill allows the Board to establish administrative and financial units within the District pursuant to general law. The bill states that prior to June 1st of each year, the District Treasurer must prepare a budget to be submitted to the Governing Board for approval. Annual installment taxes and a maintenance tax must be evidenced and certified by the Governing Board by June 1st of each year. The bill removes the requirement that any purchases required by way of bidding that exceed \$4,000 be advertised once a week for two weeks in a Broward County newspaper. This bill updates the section regarding bid requirements in accordance with general law.

The bill, in accordance with general law, satisfies the minimum charter requirements. This bill also makes other changes that do not appear to alter the effect of existing law pertaining to the District.

There is no fiscal impact on the state budget or on local governments or the District.

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:

Background

The Plantation Acres Improvement District (District) was created in 1982, by chapter 82-274, Laws of Florida and has been subsequently amended by special acts. It was created due to the abolishment of the Dixie Drainage District by chapter 82-274, Laws of Florida. Current law directs the Governing Board to choose one supervisor to serve as President of the Board. The Governing Board is not authorized to establish administrative and financial units within the District. Prior to May 15th of each year, the District Manager must prepare a budget to be submitted to the Governing Board for approval. Annual installment taxes and a maintenance tax must be evidenced and certified by the Governing Board by August 31st of each year. It is a requirement that any purchases required by way of bidding that exceed \$4,000 be advertised once a week for two weeks in a Broward County newspaper

In 1999, chapter 99-426, Laws of Florida, amended the charter by raising the monthly compensation for each District Board Supervisor from \$100 to \$300. It also made the section gender neutral.

In 1986, chapter 86-355, Laws of Florida, amended the charter by extending landowners' meetings called for the purpose of electing Board Supervisors, if there is no quorum. In that event, meetings are extended by 14 days, at which time if there is still no quorum, a quorum is considered present if a minimum of 5 landowners owning separate parcels of land is present. The candidates receiving the highest number of votes are elected as the Board Supervisors.

History of Water Control Districts

As early as the 1830s, the Legislature passed special acts authorizing landowners to construct drainage ditches across adjacent lands for the discharge excess water. Following the passage of several special acts creating these districts, the Legislature passed the state's first general drainage law, the General Drainage Act of 1913. The purpose of this Act was to establish that all drainage districts would be created by 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 Act was amended to change the name of the entities from drainage districts, to water management districts, and finally to water control districts. Although the Legislature did not enact a

major reform of the Act in either year, the 1979 amendment repeal provisions in the Act that authorized 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

A water control district can be created as a dependant, or an independent special district, and this decision determines the powers and authority wielded by the special district. Section 298.01, Florida Statutes, restricts the creation of independent water control districts to special acts of the Legislature, and dependant water control districts to the provisions of section 125.01, Florida Statutes. 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, jurisdiction within the district's boundaries is given to the circuit court where the majority of the land is located. Once a district is organized, a notice of the first landowners' meeting must be given. This notice must be published once a week for two consecutive weeks in a newspaper of general circulation, in each county where district lands are located. At the first meeting, the landowners are required to elect a three-member board of supervisors. The district supervisors serve for 3-year rotating terms, with one supervisor elected each year at an 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. If acreage owned by the state is subject to assessment by the district, the Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting.

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. Landowners within a district are entitled to one vote per acre of assessable land that they own. Landowners owning less than one assessable acre are entitled to one vote. When all of the landowners' acreage has been aggregated for purposes of voting, landowners with more than one acre of assessable land are entitled to one additional vote for any fraction of an acre greater than 1/2 acre. The section also allows landowners to vote by proxy.

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 amendment. The board of supervisors must 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 amendment, the board of supervisors must consider objections before determining whether or not to proceed with the plan, or amendment. 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 must 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, and completing the water control plan, in addition to an estimate of the benefits derived from it.

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 engineer's report is filed with the secretary of the district.

Under section 298.301, Florida Statutes, the board of supervisors must determine that the plan's estimated costs of construction are less than the benefits determined for the lands, before the final adoption of the engineer's report, and water control plan, or plan amendment.

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. Special assessments are a home rule revenue source that may be used by a local government to fund local improvements or essential services. In order to be valid, special assessments must meet legal requirements as articulated in Florida case law. The greatest challenge to a valid special assessment is its classification as a tax by the courts.

As established by case law, two requirements exist for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided. Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. If a local government's special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.

The special benefit and fair apportionment tests must be incorporated into the assessment rate structure. The development of an assessment rate structure involves determining the cost to be apportioned, allocating program costs into program components, and apportioning these costs to each eligible parcel based upon factors such as the property use, and the parcel's physical characteristics.

A special assessment may provide funding for capital expenditures, or the operational costs of services, provided that the property subject to the assessment derives a special benefit from the

improvement or service. The courts have upheld a number of assessed services and improvements, such as: garbage disposal, sewer improvements, fire protection, fire and rescue services, street improvements, parking facilities, downtown redevelopment, storm-water management services, and water and sewer line extensions.

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, a general law may be amended or repealed by a like vote.

Section 298.76, Florida Statutes, is an example of 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 that:

- (a) Changes the method of voting for a board of supervisors for any water control district;
- (b) Provides a change in the term of office of the board of supervisors, and changes the qualifications of the board of supervisors of any water control district; and
- (c) Changes 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.

Codification of Special Acts

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, F.S., 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, F.S. (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, F.S., 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. Additionally, the 2001 Legislature amended section 189.429, F.S. creating subsections (2) and (3). The subsections provide that reenactment of existing law pursuant to section 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supercede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

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, F.S., 110 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, F.S., is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Plantation Acres Improvement District in Broward County into a single act and repeals all prior special acts relating to the District's charter.

The bill removes obsolete charter language in regards to the election of the Governing Board and updates it in accordance with section 189.405, F.S.

The bill directs the Governing Board to choose a supervisor to serve as Chairman of the Board and a supervisor to serve as Vice Chairman of the Board.

The bill removes obsolete charter language in regards to selecting depositories and updates it in accordance with chapter 280 F.S.

The bill allows the Board to establish administrative and financial units within the District pursuant to section 298.353, F.S.

The bill states that prior to June 1st of each year, the District Treasurer must prepare a budget to be submitted to the Governing Board for approval.

The bill removes obsolete charter language regarding creating a plan of improvement for roads and water control and updates it in accordance with chapter 298 F.S.

The bill removes obsolete charter language regarding assessing land for improvement for roads and water control and updates it in accordance with section 298.305 F.S.

The bill directs that annual installment taxes and a maintenance tax must be evidenced and certified by the Governing Board by June 1st of each year.

The bill removes obsolete charter language regarding annual installment taxes and maintenance taxes and updates it in accordance with chapter 298 F.S.

The bill removes obsolete charter language regarding the enforcement taxes and delinquent taxes and updates it in accordance with chapter 298 F.S.

The bill removes the requirement that any purchases required by way of bidding that exceed \$4,000 be advertised once a week for two weeks in a Broward County newspaper. This bill updates the section regarding bid requirements in accordance with chapters 255 and 298, F.S.

The bill in accordance with section 189.404 (3), F.S., satisfies the minimum charter requirements.

This bill also makes other changes to the charter including: describing the purpose for the District; describing powers, functions, and duties of the district regarding ad valorem taxation, bond issues and other revenue-raising capabilities, budget matters, lien issues, and other similar issues; describing the methods for establishing the District; describing the method for amending the charter of the District; describing the membership and organization of the governing board of the district; describing the compensation of a governing board member; describing the administrative duties of the governing board of the District; describing the applicable financial disclosure, noticing, and reporting, requirements; describing the procedures and requirements for issuing bonds; describing the procedures for conducting any district elections or referenda and the qualifications of an elector of the district; describing the methods for financing the district; describing the authorized millage rate; describing the methods for collecting non-ad valorem assessments, fees, or service charges; describing the District planning requirements; and describing that the geographic boundary limitations. However, these changes to the charter do not appear to alter the effect of existing law pertaining to the District.

In compliance with section 189.404(5), F.S., this bill provides that the District is an independent special district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: States that this act constitutes the codification of special acts relating to this district.

Section 2: States that all previous laws pertaining to this District are codified, reenacted, amended, as provided herein.

Section 3: Recreates and reenacts the district charter, providing the following:

Section 1: Creates the district, states that the charter may only be amended by the Legislature and abolishes the Dixie Drainage District.

- Section 2: Provides the geographical boundaries for the district.
- Section 3: Applies provisions of chapter 298, F.S. to the District. States that inconsistent laws are inapplicable.
- Section 4: Provides definitions for words and phrases used in the act.
- Section 5: Provides for the governing board, (Board of Supervisors), elections, organization, terms of office, quorums, reports and minutes.
- Section 6: Allows the appointment of a District Manager and defines the duties.
- Section 7: Allows the designation of a Treasurer and defines powers.
- Section 8: Provides compensation for the Board of Supervisors.
- Section 9: Defines the District's powers.
- Section 10: Defines the District seal.
- Section 11: Allows the Board of Supervisors to establish the fiscal year for the District.
- Section 12: Directs the Treasurer to prepare a budget for the District.
- Section 13: Provides for plans for improving roads and water control.
- Section 14: Allows the Board of Supervisors to amend water control plan and road construction plans.
- Section 15: Permits the District to levy a non-ad valorem assessment.
- Section 16: Provides guidelines for prepayment of taxes or assessments.
- Section 17: Provides guidelines for tax liens.
- Section 18: Allows the District to issue bond anticipation notes.
- Section 19: Permits the District to obtain loans and provides guidelines.
- Section 20: Allows the Board of Supervisors to secure the issue the bond by way of a trust agreement.
- Section 21: Allows and provides guidelines for the sale of bonds.
- Section 22: Provides the procedure for the authorization and forms of bonds.
- Section 23: Allows the Board of Supervisors to issue interim and replacement bond certificates.
- Section 24: Provides for the negotiability of bonds.
- Section 25: Provides the guidelines for bond defeasance.

- Section 26: Permits the Board of Supervisors to issue additional bonds.
- Section 27: Authorizes the District to retire or refund bonds.
- Section 28: Authorizes the District to issue revenue bonds and provides guidelines.
- Section 29: Authorizes the District to issue general obligation bonds and provides guidelines.
- Section 30: Directs that bonds are legal investment and securities.
- Section 31: Allows the Board of Supervisors to permit covenants in relation to the issuance of bonds.
- Section 32: Provides guidelines for the validity of bonds.
- Section 33: Provides the authority for the issuance of bonds.
- Section 34: States pledges to bondholders and to the Federal Government.
- Section 35: Authorizes the Board of Supervisors to assess ad valorem taxes and provides guidelines.
- Section 36: Allows for the levy of annual installment taxes
- Section 37: Allows for the levy of maintenance taxes.
- Section 38: Provides the District the power to enforce the assessment of taxes.
- Section 39: Provides penalties for delinquent taxes.
- Section 40: Defines which District activities are tax-exempt.
- Section 41: Allows for the levy of non-ad valorem and special assessments.
- Section 42: Provides guidelines for the issuance of certificates of indebtedness.
- Section 43: Provides guidelines for the foreclosure of liens.
- Section 44: Provides guidelines for the payment of taxes and redemption of tax liens.
- Section 45: Authorizes the District to require all lands, buildings, premises, people, and businesses to use District facilities.
- Section 46: Requires bids for construction of projects and maintenance of projects.
- Section 47: Allows the District to maintain projects across rights-of-way.
- Section 48: Permits the Board to enter into agreements and contracts with other political bodies for the joint discharge of common functions.
- Section 49: Permits the District to act without a hearing if all District landowners agree to what the District proposes.
- Section 50: Provides for enforcement and penalties.

Section 51: Exempts district property from execution.

Section 52: Satisfies minimum carter requirements.

Section 4: Provides for liberal construction.

Section 5: Provides that if any part of this act is deemed void, the other parts remain in effect.

Section 6: Provides that in the event of a conflict, this act shall control.

Section 7: Repeals prior special acts relating to this District.

Section 8: This act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

December 20, 2001

WHERE? Sun-Sentinel, Broward / Palm Beach / Miami-Dade Counties, 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:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

NONE

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VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Kevin Doyle

Joan Highsmith-Smith