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DATE: February 21, 2002

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

BILL #: HB 971

RELATING TO: Loxahatchee River Environ. District (Palm Beach and Martin Counties)

SPONSOR(S): Representative Atwater

TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) SMARTER GOVERNMENT COUNCIL
 - (3)
 - (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 District into a single act, and repeals all prior special acts relating to the District's charter. It removes obsolete language and inserts applicable chapter language.

The bill removes language from the current charter that provides that each of the District's five areas will be composed of electors from: Area 1: the Town of Jupiter; Area 2: Jupiter Inlet Colony; Area 3: the Village of Tequesta; Area 4: the unincorporated area of Martin County; and Area 5: the unincorporated area of Palm Beach County. The bill now provides that each area will have approximately equal populations according to the latest official decennial census.

The bill amends language from the current charter that provides procedures for electing Members to, and removing Members from the Board. The bill now provides that these procedures will be conducted in accordance with the Florida Election Code.

The bill extends the time for residents to protest property assessments made by the District by removing the 10-day deadline imposed by the current charter.

The bill extends the terms for Members from two years, to four years. It provides that Members from areas 1, and 2 will be elected in the 2000 General Election, and Members from areas 3, 4, and 5 will be elected in the 2002 General Election, in accordance with the Florida Election Code.

According to the economic impact statement, administrative costs associated with the bill will be \$500.00 in both fiscal year 2002-03, and 2003-04. Sewer fees collected by the District will fund these costs. The bill has no anticipated fiscal impact on either the Federal, or State budgets.

The Committee on Local Government and Veterans Affairs, at its meeting on February 12, 2002, considered and adopted a strike-all amendment, and approved the bill. The amendment is traveling with the bill. (See Section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES").

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"/> |

B. PRESENT SITUATION:

The Loxahatchee River Environmental Control District (District) was created as an independent, multi-county special district by chapter 71-822, Laws of Florida, in 1971. The District encompasses portions of Palm Beach and Martin Counties. The District is divided into five separate areas, each with approximately equal populations as determined by the latest decennial census. According to the District's existing charter, as far as practicable, each area includes electors from: Area 1: the Town of Jupiter; Area 2: Jupiter Inlet Colony; Area 3: the Village of Tequesta; Area 4: the unincorporated area of Martin County; and Area 5: the unincorporated area of Palm Beach County.

The District's governing body is known as the "Governing Board of the Loxahatchee River Environmental Control District" (Board), and it consists of five Members, with one Member being elected by the residents from each of the five areas. Members from Areas 1 and 2 are elected in odd numbered years, for a term of two years. Members from Areas 3, 4, and 5 are elected in even numbered years, for a term of two years.

Over the years, the District's charter was amended several times. With this bill, the District desires to codify its special acts into a single, comprehensive charter, pursuant to the provisions of section 189.429, Florida Statutes.

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. Additionally, the 2001 Legislature amended section 189.429, Florida Statutes creating subsections (2) and (3). The subsections provide that reenactment of existing law pursuant to section 189.429: (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, Florida Statutes, 110 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.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the District into a single act, and repeals all prior special acts relating to the District's charter. It removes obsolete language and inserts applicable chapter language.

The bill removes language from the current charter that provides that each of the District's five areas will be composed of electors from: Area 1: the Town of Jupiter; Area 2: Jupiter Inlet Colony; Area 3: the Village of Tequesta; Area 4: the unincorporated area of Martin County; and Area 5: the unincorporated area of Palm Beach County. The bill now provides that each area will have approximately equal populations according to the latest official decennial census.

The bill amends language from the current charter that provides procedures for electing Members to, and removing Members from the Board. The bill now provides that these procedures will be conducted in accordance with the Florida Election Code, as provided in chapters 97-106, Florida Statutes.

The bill extends the time for residents to protest property assessments made by the District by removing the 10-day deadline imposed by the current charter.

The bill extends the terms for Members from two years, to four years. It provides that Members from areas 1, and 2 will be elected in the 2000 General Election, and Members from areas 3, 4, and 5 will be elected in the 2002 General Election, in accordance with section 100.031, Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification pursuant to section 189.429, Florida Statutes, of the Loxahatchee River Environmental Control District into a single, comprehensive special act charter.

Section 2: Codifies, amends, reenacts, and repeals chapters 71-822, 75-475, 76-429, 76-431, 78-559, 78-561, 80-577, 86-429, 86-430, 87-515, 88-506, 90-438, and 92-255, Laws of Florida.

Section 3: Recreates and reenacts the Loxahatchee River Environmental Control District (District) charter to read:

Section 1: Reenacts that the District is a multi-county independent special district with a popularly elected governing board.

Section 2: Reenacts the statement of legislative intent behind the creation of the District.

Section 3: Reenacts the District's boundaries.

Section 4: Reenacts provisions regarding the composition of the Governing Board (Board); that the District will be divided into five equal areas from which the Board Members (Member(s)) will be drawn; removes language providing that each of the areas will be composed of the populations from one of five towns or counties; amends language to state that the District will conduct elections in accordance with the Florida Election Code, as provided in chapters 97-106, Florida Statutes, extends the terms of Members from two to four years, amends procedures for filling vacancies on the Board; provides that the procedure will conform to the Florida Election Code; reenacts provisions regarding the selection of a secretary and treasurer, that board records and meetings will be open to the public, that a quorum will be required for action by the Board, that Members will be compensated; that Members will be indemnified by the Board for expenses and liabilities; that a Member may be removed from the Board.

Section 5: Reenacts definitions for terms used in the act.

Section 6: Reenacts the powers of the District to set the compensation for a director; develop a master plan; construct and operate water and sewer systems; enter any land within the District to carry out the purposes of this act; provide and conduct surveys and feasibility studies; accept governmental grants and loans; enter into contracts; set and collect reasonable fees, charges, and penalties for District services and facilities; issue and set the interest rate for revenue bonds; hold a public hearing before setting rates, fees, and charges; revise schedules of rates, fees, and charges; charge customers an advance deposit fee before rendering services; establish a fund for paying anticipated renewals, replacements, and extraordinary expenses; make a report detailing the operations of its systems, and status of its funds; set up procedures for issuing revenue bonds; prohibit the use of outhouses, septic tanks, and similar devices; levy special assessments against property within the District; require the District engineer to prepare duplicate plans and specifications; removes the 10 day window by which an individual must act to protest the District's property assessments; reenacts that all assessments constitute a lien upon the property that is assessed; to seek injunctive relief; that the pretreatment of industrial

waste is required; that the District may acquire lands, rights, and interests in property that is necessary in connection with the improvement, construction, or operation of the District, pursuant to chapters 73, and 74, Florida Statutes; furnish water and sewer service collection services within the District; levy ad valorem taxes, and issue revenue and general obligation bonds, pursuant to procedures provided in the act.

Section 7: Reenacts that the Board may levy a special tax, that may not exceed 1/4 mill, on all taxable property within the District each year, as provided in section 17; that the Department of Revenue will assess and levy a tax against all railroad lines and property in the District; that all taxes will be held by the treasurer for the credit of the Board, and be paid out in accordance with the provisions of this act.

Section 8: Reenacts the powers that the District may utilize in the event that the fees, rates, or charges for the District's services and facilities are not paid when due.

Section 9: Reenacts that the District may assume the operation of any system that substantially fails to meet its financial responsibilities or operating standards pursuant to this act, or other State laws, and regulations.

Section 10: Reenacts that the District may provide for the construction, or reconstruction of assessable improvements as defined in section 5, and pay for the same by all financing, assessment, and taxing means permitted by law, and this act.

Section 11: Reenacts that the Board will prepare an annual audited report, detailing the District's financial status.

Section 12: Reenacts that unless the Board gives its consent, no water system, storm drainage system, sewer system, or other facility for the production, treatment of sewage, and collection and discharge of storm drainage can be constructed within the District.

Section 13: Reenacts that the Board has the power to transfer, sell, or assign any District property to any other governmental agency, when the District finds that the property is not needed to carry out the purposes of this act.

Section 14: Reenacts liberal construction of this act.

Section 15: Reenacts severability of this act.

Section 16: Reenacts that nothing in this act empowers to District to exercise control over the management of waters of the Central and Southern Florida Flood Control project, or over any of the works of the Central and Southern Florida Flood Control District; or empower the District to use the power of eminent domain against the Central and Southern Florida Flood Control District, or empower the levy of special assessments, or ad valorem taxes against lands held by the Central and Southern Florida Flood Control District.

Section 17: Reenacts that the provisions of section 7 which authorize the levy of ad valorem taxation will take effect only upon its approval by a vote of the electors of the District, as may be required by the State Constitution; that upon approval, the Board may impose an initial tax levy not to exceed 1/4 mill; that any subsequent increase may be made only with the approval of the District's electors at a special election held for that purpose.

Section 18: Reenacts that the qualified electors of the District have the power of initiative to propose an action to be taken by the Board, and the power of referendum to require reconsideration by the Board of any of its actions that require full compliance with the

Administrative Procedures Act; reenacts the procedure by which the electors are entitled to approve or reject a proposed or reconsidered action.

Section 4: Provides that chapters 71-822, 75-475, 76-429, 76-431, 78-559, 78-561, 80-577, 86-429, 86-430, 87-515, 88-506, 90-438, and 92-255, Laws of Florida are repealed.

Section 5: Provides for severability of the act.

Section 6: Provides that the act will take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 26, 2001

WHERE? The Palm Beach Post: West Palm Beach, Palm Beach 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:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

IV. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government and Veterans Affairs, at its meeting on February 21, 2002, considered and adopted a strike-all amendment, and approved the bill. The amendment is traveling with the bill.

The bill repeals chapter 87-515, Laws of Florida. However, this chapter pertains mainly to the South Indian River Water Control District, and that District has already repealed the chapter. The amendment removes any mention of the chapter from the bill.

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The bill repeals chapter 92-255, Laws of Florida. However, this chapter contains a statement of boundaries that will become a part of the District if the District acquires Hydratech Utilities from Hydratech Utilities, Inc.. Although this acquisition has not taken place, it may take place in the future. Therefore, the amendment incorporates the provisions of chapter 92-255, Laws of Florida, into this bill.

The amendment re-inserts subsection (i) into the act on page 41 of the bill. This subsection was unintentionally removed from the bill.

The amendment removes the term "freeholders" from the bill on page 43, and inserts "residents" in its place. This change is made to comport with Constitutional requirements that have arisen since the District's original charter was enacted.

The amendment clarifies language on page 45 of the bill that requires the Department of Revenue to assess and levy taxes on all railroad, telephone, and cable television lines within the boundaries of the District. The amendment removes existing language, and provides that the Department of Revenue assess and levy taxes on all such District property in accordance with section 193.085, Florida Statutes.

V. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Alex Abdo

Joan Highsmith-Smith