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DATE: January 24, 2002

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

BILL #: HB 999

RELATING TO: Troup-Indiantown Water Control District

SPONSOR(S): Representative Negron

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) COUNCIL FOR SMARTER GOVERNMENT
 - (3)
 - (4)
 - (5)
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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 is a substantial rewrite of the Troup-Indiantown Water Control District's one special act.

The bill declares that the District is an independent water control district.

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

The bill does not make any substantive changes to current law.

This bill has no fiscal impact according to the Economic Impact Statement.

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 Troup-Indiantown Water Control District (District) was created in 1963, by chapter 63-819, Laws of Florida, and has not been amended since, to provide irrigation as well as drainage in central Martin County. The current charter allows the District to levy an ad valorem as provided in general law.

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 amends chapter 63-819, Laws of Florida, relating to the Troup-Indiantown Water Control District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act amends chapter 63-819, Laws of Florida.

Section 1: Provides that the district is an independent water control district and a public corporation of the State of Florida pursuant to 298, F.S.; and provides the geographical boundaries of the district.

Section 2: Provides the minimum charter requirements in accordance with s. 189.404(3), F.S. The following subsections constitute the charter of the district:

- (1) provides the district is organized and exists for all purposes in this act and chapter 298, F.S.;
- (2) provides for the powers, functions, and duties of the district;
- (3) provides the district's charter be amended only by special act of the Legislature;
- (4) provides for a three member board; provides for the membership and organization of the governing board of the district;
- (5) provides for the compensation of a governing board member;
- (6) provides for the administrative duties of the board of supervisors;
- (7) provides for the requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees of the district;
- (8) authorizes the issuance of bonds, notes, and other certificates of indebtedness; and, provides the procedures and requirements for issuing bonds;
- (9) provides the procedures for conducting district elections and for qualification of electors; provides the number of members of the governing board that constitutes a quorum;
- (10) provides for the financing of the district;
- (11) provides the methods for collecting non-ad valorem assessments, fees, or service charges;
- (12) provides for the district's planning requirements;
- (13) provides the geographic boundary limitations of the district;
- (14) provides for the powers of the district as provided by this act, chapter 189 and 298, F.S., and other applicable general laws;
- (15) permits, authorizes, and empowers the district to engage in irrigation as well as drainage; defines irrigation; permits, authorizes, and empowers the district to own, construct, maintain, and operate roads, bridges, culverts, and passageways for access to and from all of the drainage and irrigation facilities of the district, and provide access to and from the lands lying within the boundaries; provides all pumps, pumping stations, dams, floodgates, sluiceways, wells, reservoirs, roads, bridges, culverts, passageways, and other works will become part of the plan of reclamation of the district.

Section 3: Provides for ratification, validation, and confirmation of prior acts.

Section 4: Provides for liberal construction of act.

Section 5: Provides that any part of this act held unconstitutional, that part will not affect the validity of any other part.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 25, 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 sponsor of the bill is submitting two amendments to the bill. The first amendment, in compliance with section 189.404(5), Florida Statutes, adds the word "special" to the status statement and states that this act is a substantial rewrite of 63-819, Laws of Florida, and repeals the act. The second amendment repeals chapter 63-819, Laws of Florida.

V. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith