



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

A bill to be entitled

An act relating to Osceola County; creating an independent special district known as Tohopekaliga Water Authority; providing legislative findings and intent; providing definitions; describing the district boundaries; providing for service areas subject to the approval of affected general purpose local governments; providing that the purpose of the district shall be for the planning, acquisition, development, operation, and maintenance of water and wastewater management systems within the district and its service area; limiting the provision of district services and facilities to only those areas authorized by affected general purpose local governments; providing for an appointed governing body of the district composed of five supervisors and setting forth their authority, terms of office, qualifications, compensation, and method of appointment; providing for the filling of vacancies in office; providing district powers, functions, and duties; providing for the acquisition of land; providing for the levy and collection of rates, fees, assessments, and other charges for the provision of capital facilities or use of district services or payment of operating and financing costs; providing for borrowing money and issuing bonds, certificates, obligations, or other evidence of indebtedness; prohibiting the creation of state, county, or municipal debt; providing for the collection of unpaid rates, fees, and charges; providing for the assessment and imposition of ad valorem taxes at a rate not to exceed 1 mill only upon approval by referendum of electors of the district; providing for the adoption of



HB 1265

2003

31 a master plan; providing for enforcement and penalties;  
 32 providing for merger and dissolution; providing for  
 33 severability; providing an effective date.

35 Be It Enacted by the Legislature of the State of Florida:

37 Section 1. Popular Name.--This act shall be known by the  
 38 popular name the "Tohopekaliga Water Authority Act."

39 Section 2. Legislative Findings.--

40 (1) It is declared as a matter of legislative  
 41 determination that the extensive growth of population and  
 42 attendant commerce throughout Osceola County has given rise to  
 43 public health and water supply concerns in that many of the  
 44 unincorporated areas of Osceola County are not served by water  
 45 and sewer facilities normally and generally provided and  
 46 maintained by governmental agencies and instead are served by  
 47 private wells and privately owned package sewage treatment  
 48 plants or septic tanks. The proliferation of such package and  
 49 sewage treatment plants and the use of septic tanks pose a  
 50 significant risk of contamination of water supply sources for  
 51 both incorporated and unincorporated areas of Osceola County.

52 (2) It is declared as a matter of legislative  
 53 determination that the extensive growth of population and  
 54 attendant commerce throughout Osceola County has caused affected  
 55 general purpose local governments within Osceola County to  
 56 recognize the need to consider, advance, and develop a regional  
 57 approach to the governmental delivery and provision of potable  
 58 water, wastewater, nonpotable water, and reclaimed water  
 59 facilities and services, the protection of the environment, and  
 60 the use of valuable water resources.



HB 1265

2003

61       (3) Each of the affected general purpose local governments  
62 within Osceola County must meet the comprehensive planning  
63 requirements of chapter 163, Florida Statutes, which mandate  
64 that local governments coordinate their plans for future growth  
65 with available resources of funding and availability of  
66 infrastructure. The provision of potable and nonpotable water  
67 and wastewater services and facilities is a major factor in such  
68 infrastructure coordination. A focused regional approach to  
69 local governmental ownership and provision of potable and  
70 nonpotable water and wastewater utility facilities is desirable  
71 and will readily allow Osceola County and the City of Kissimmee,  
72 and certain adjacent areas upon approval of any affected general  
73 purpose local government, to more effectively meet their  
74 statutory mandate with respect to the utilities element of their  
75 respective comprehensive plans.

76       (4) It is the intent of the Legislature to create an  
77 independent special district in Osceola County that, with the  
78 concurrence and approval of affected general purpose local  
79 governments, can address and carry out the overall  
80 responsibility for the provision of potable and nonpotable water  
81 and wastewater services and facilities in certain areas of  
82 Osceola County and certain adjacent areas upon the approval of  
83 any affected general purpose local government, as hereinafter  
84 provided, to provide economies of scale; eliminate duplicative  
85 functions and expenditures; protect the local and regional  
86 environment; more efficiently use, preserve, protect, and  
87 address valuable local and regional water resources; and advance  
88 regional and comprehensive planning.

89       Section 3. Definitions.--When used in this act, unless a  
90 different meaning appears clearly from the context:



HB 1265

2003

91       (1) "Authority" or "District" means Tohopekaliga Water  
 92 Authority and, unless the context indicates otherwise, means the  
 93 independent special district created by this act and identified  
 94 in section 4, to be known as the Authority or District, and the  
 95 territory included within the special district.

96       (2) "Authority facilities" means the Authority's potable  
 97 and nonpotable water production, transmission, treatment, and  
 98 distribution facilities, systems, and property, and the  
 99 Authority's wastewater treatment, collection, and disposal  
 100 facilities, systems, and property, including reuse, nonpotable,  
 101 and reclaimed water facilities and systems, as they may be  
 102 modified, improved, or expanded from time to time, which are  
 103 owned, leased, operated, managed, or used, from time to time, by  
 104 the Authority to provide water and wastewater services.  
 105 Authority facilities shall include all property, real or  
 106 personal, tangible or intangible, now or hereafter owned,  
 107 leased, operated, or managed by the Authority in connection with  
 108 the provision of water and wastewater services and shall also  
 109 include any such property used or to be used jointly as  
 110 specifically provided for herein.

111       (3) "Cost," when used in connection with a project, means:

112       (a) The Authority's cost of construction.

113       (b) Costs of transfer or acquisition by or for the  
 114 Authority of such project, including, without limitation, any  
 115 annual revenue transfer obligations payable to one or more  
 116 predecessor general purpose local governments pursuant to  
 117 interlocal agreement.

118       (c) Costs of land and interests thereon and the cost of  
 119 the Authority incidental to such transfer or acquisition.

120       (d) The cost of any indemnity or surety bonds and premiums



HB 1265

2003

121 for insurance during construction.

122 (e) All interest due to be paid on the obligations  
123 relating to the project during the period of acquisition and  
124 construction of such project and for periods subsequent to  
125 completion of acquisition and construction as the Board of  
126 Supervisors may determine by resolution.

127 (f) Engineering, legal, and other consulting fees and  
128 expenses.

129 (g) Costs and expenses of the financing incurred for such  
130 project, including audits, fees, and expenses of any paying  
131 agent, registrar, trustee, consultant, attorney, engineer,  
132 credit enhancer, or depository.

133 (h) Payments, when due (whether at the maturity of  
134 principal or the due date of interest or upon redemption) on any  
135 interim or temporary indebtedness incurred for such project.

136 (i) Costs of machinery, equipment, supplies, and spare  
137 parts required by the Authority for the commencement of  
138 operation of such project or continuation of operation of such  
139 project.

140 (j) Any other costs properly attributable to such project  
141 or to the issuance of obligations which finance such project, as  
142 determined by generally accepted accounting principles  
143 applicable to such project, and shall include reimbursement to  
144 the Authority or a predecessor local government for any such  
145 items of cost advanced, incurred, or paid by the Authority or a  
146 general purpose local government prior to issuance of the  
147 obligations issued to finance or acquire such project.  
148 Additional items of cost may be provided pursuant to the  
149 financing documents.

150 (4) "Financing documents" means the resolution or



HB 1265

2003

151 resolutions duly adopted by the Authority, as well as any  
152 indenture of trust, trust agreement, interlocal agreement, or  
153 other instrument relating to the issuance or security of any  
154 bond or obligations of the Authority.

155 (5) "Obligations" means a series of bonds, obligations, or  
156 other evidence of indebtedness, including, but not limited to,  
157 notes, commercial paper, capital leases, or any other  
158 obligations of the Authority issued hereunder, or under any  
159 general law provisions, and pursuant to the financing documents.

160 The term shall also include any lawful obligation committed to  
161 by the Authority pursuant to an interlocal agreement with  
162 another governmental body or agency.

163 (6) "Pledged funds" means:

164 (a) The revenues, fees, charges, special assessments, and  
165 other moneys received by the Authority or its designee relating  
166 to its ownership or operation of the authority facilities, or  
167 some portion thereof.

168 (b) Until applied in accordance with the terms of the  
169 financing documents, all moneys in the funds, accounts, and sub-  
170 accounts established thereby, including investments therein.

171 (c) Such other property, assets, and moneys of the  
172 Authority as shall be pledged pursuant to the financing  
173 documents, in each case to the extent provided by the Board of  
174 Supervisors pursuant to the financing documents. The funds  
175 pledged to one series of obligations may be different than the  
176 funds pledged to other series of obligations. Pledged funds  
177 shall not include any ad valorem tax revenues or general fund  
178 account of the Authority.

179 (7) "Project" means any structure, property, or facility  
180 which the Authority, from time to time, may determine to



HB 1265

2003

181 construct or acquire as part of its authority facilities,  
182 together with all improvements, equipment, structures, and other  
183 facilities necessary or appropriate in connection therewith.  
184 This term is to be broadly construed so as to include the lawful  
185 undertaking which will accrue, or is reasonably expected to  
186 accrue, to the benefit of the authority facilities, including  
187 joint ventures and acquisitions of partial interests or  
188 contractual rights. "Project" shall include, but not be limited  
189 to, acquisition or transfer of any water or wastewater utility  
190 system, water or wastewater utility assets, or securing the  
191 right to provide any water or wastewater utility service as  
192 provided for in one or more interlocal agreements between the  
193 Osceola County Board of County Commissioners and the City  
194 Commission of the City of Kissimmee or any other governmental  
195 body. "Project" may also include working capital, as well as any  
196 costs or judgments associated with litigation.

197 (8) "Ratepayer" means any natural person who pays rates,  
198 fees, or charges on a recurring basis to the Authority, or who  
199 is an official, officer, member, or employee of any entity,  
200 public or private, that pays rates, fees, or charges on a  
201 recurring basis to the Authority.

202 (9) "Service area" means the geographic boundaries within  
203 which the Authority provides, or is otherwise authorized  
204 pursuant to the provisions of this act to provide, water or  
205 wastewater services or facilities.

206 Section 4. District Establishment and Creation.--

207 (1) There is hereby created and established a special  
208 purpose local governmental body, corporate and politic, to be  
209 known as Tohopekaliga Water Authority. The Osceola Regional  
210 Utility is hereby created and incorporated as an independent



HB 1265

2003

211 special district, pursuant to and in conformance with chapter  
 212 189, Florida Statutes.

213 (2) The District boundary shall embrace and include:

214 (a) The territory within Osceola County consisting of the  
 215 incorporated area of the City of Kissimmee and including those  
 216 areas served or provided with water and wastewater service by  
 217 the City of Kissimmee on the effective date hereof.

218 (b) All unincorporated areas within Osceola County, less  
 219 and except any areas included within the Reedy Creek Improvement  
 220 District, on the effective date hereof, and less and except the  
 221 territory within Osceola County consisting of the incorporated  
 222 area of the City of St. Cloud, and including those  
 223 unincorporated areas authorized by law to be served or provided  
 224 with water and wastewater service by the City of St. Cloud on  
 225 the effective date hereof. This act shall not be construed to  
 226 prohibit or inhibit the City of St. Cloud from lawfully  
 227 extending, expanding, or providing authorized municipal services  
 228 and facilities as provided for in section 180.02(3), Florida  
 229 Statutes. The Authority shall be estopped in any future  
 230 proceeding conducted pursuant to section 180.03 or section  
 231 180.04, Florida Statutes, by the City of St. Cloud, or any  
 232 action arising therefrom, from asserting or claiming the  
 233 willingness and ability to provide potable water or wastewater  
 234 service to:

235 1. All lands in Osceola County, Florida, lying in Section  
 236 8, Township 25 South, Range 31 East.

237 2. All lands in Osceola County, Florida, lying in Section  
 238 5, Township 25 South, Range 31 East lying easterly of the  
 239 eastern boundary of Fells Cove Subdivision, according to the  
 240 plat recorded in the Public Records of Osceola County, Florida,





HB 1265

2003

241 (including specifically the Floridian R.V. Park).

242 3. All lands in Osceola County, Florida lying within  
243 Florida Turnpike right-of-way in the Northwest quarter (NW1/4)  
244 Section 36, Township 27 South, Range 30 East (Canoe Creek DOT  
245 facility).

246  
247 The District boundary may be expanded to include any service  
248 area within the boundaries of an affected general purpose local  
249 government upon the adoption of a resolution by the governing  
250 body of the affected general purpose local government  
251 authorizing the Authority to provide its service and facilities  
252 therein.

253 (3) The Authority is created for all purposes set forth in  
254 this act and chapter 189, Florida Statutes, as may be amended  
255 from time to time.

256 (4) The charter created by this act may be amended only by  
257 special act of the Legislature.

258 (5) The purpose of the District shall be to perform such  
259 acts as shall be necessary for the sound planning, acquisition,  
260 development, operation, and maintenance of governmentally owned  
261 potable and nonpotable water and wastewater management and  
262 delivery systems within the District and its service area,  
263 including all business facilities necessary and incidental  
264 thereto. As provided herein, the Authority shall have exclusive  
265 jurisdiction over the acquisition, development, operation, and  
266 management of such water and wastewater management systems  
267 capable of being provided by general purpose local governments  
268 in and for the District boundaries and the service area.

269 Section 5. Authority to Operate in Osceola County or Areas  
270 Adjacent to Osceola County; Subject to General Purpose Local



HB 1265

2003

271 Government Consent.--By resolution of the governing bodies of  
 272 each of the general purpose local governments affected, all  
 273 power and authority available to the Authority under general or  
 274 special law including, without limitation, chapters 163, 189,  
 275 and 197, Florida Statutes, and this act shall be deemed to be  
 276 irrevocably authorized and may be implemented by the Authority  
 277 within the boundaries of each of the general purpose local  
 278 governments affected. This act expressly authorizes by law the  
 279 transfer to the Authority or the contracting by the Authority  
 280 for the provision of any water or wastewater systems,  
 281 facilities, or services within the District or its service area.

282 Section 6. Governing Body.--

283 (1) The governing body of the Authority shall consist of  
 284 five members acting as the Board of Supervisors, each of whom  
 285 shall serve a term of 3 years commencing on October 1, provided  
 286 the procedure for appointment of members of the Board of  
 287 Supervisors and their initial terms of office shall be as  
 288 follows:

289 (a) Board Supervisor No. 1 and Board Supervisor No. 2  
 290 shall serve for initial terms of approximately 2 years, ending  
 291 on September 30, 2005. Board Supervisor No. 1 shall be  
 292 appointed by the Osceola County Board of County Commissioners.  
 293 Board Supervisor No. 2 shall be appointed by the City Commission  
 294 of the City of Kissimmee.

295 (b) Board Supervisor No. 3 and Board Supervisor No. 4  
 296 shall serve initial terms of approximately 3 years, ending on  
 297 September 30, 2006. Board Supervisor No. 3 shall be appointed  
 298 by the Osceola Board of County Commissioners. Board Supervisor  
 299 No. 4 shall be appointed by the City Commission of the City of  
 300 Kissimmee.



HB 1265

2003

301 (c) Board Supervisor No. 5 shall serve an initial term of  
302 approximately 4 years, ending September 30, 2007. Board  
303 Supervisor No. 5 shall be collectively appointed by joint  
304 resolution of the Osceola County Board of County Commissioners  
305 and the City Commission of the City of Kissimmee and shall serve  
306 as the Chairperson of the Board of Supervisors.

307 (2) All members of the Board of Supervisors shall be  
308 ratepayers and qualified electors of Osceola County or of the  
309 service area adjacent to Osceola County in which the District  
310 has been authorized to operate. Each of the general purpose  
311 local governments responsible for appointing members shall  
312 consider but is not required to appoint members with business,  
313 real estate development, engineering, accounting, financial,  
314 scientific, utility, governmental, or public service  
315 backgrounds.

316 (3) Board members shall serve no more than 3 consecutive  
317 3-year terms, not including any initial term of less than 3  
318 years.

319 (4) Upon the occasion of a vacancy for any reason in the  
320 term of office of a member of the Board of Supervisors, which  
321 vacancy occurs prior to the replacement of the member by  
322 appointment and which remains unfilled for 60 days after such  
323 vacancy due to the failure of the respective general purpose  
324 local government governing body to duly appoint a successor as  
325 provided in subsection (1), a successor shall be appointed by  
326 the Governor. Any person appointed to fill a vacancy shall be  
327 appointed to serve only for the unexpired term and until a  
328 successor is duly appointed.

329 (5) The Board of Supervisors shall elect a Vice  
330 Chairperson, Secretary, and such other officers of the Authority



HB 1265

2003

331 as may be hereafter designated and authorized by the Board of  
332 Supervisors, each of whom shall serve for 1 year commencing as  
333 soon as practicable after October 1 and until his or her  
334 successor is chosen. The Chairperson, Vice Chairperson, and  
335 Secretary shall conduct the meetings of the Authority and  
336 perform such other functions as herein provided. The  
337 Chairperson and Vice Chairperson shall take such actions and  
338 have all such powers and sign all documents on behalf of the  
339 Authority in furtherance of this act or as may be approved by  
340 resolution of the Board of Supervisors adopted at a duly called  
341 meeting. The Vice Chairperson, in the Chairperson's absence,  
342 shall preside at all meetings. The Secretary, or his or her  
343 designee, shall keep minutes of all meetings, proceedings, and  
344 acts of the Board of Supervisors, but such minutes need not be  
345 verbatim. Copies of all minutes of the meetings of the  
346 Authority shall promptly be sent by the Secretary, or his or her  
347 designee, to all members of the Board of Supervisors and to each  
348 general purpose local government located within the District or  
349 the service area. The Secretary may also attest to the  
350 execution of documents. The Secretary shall have such other  
351 powers as may be approved by resolution of the Board of  
352 Supervisors adopted at a duly called meeting.

353 (6) The Board of Supervisors shall have those  
354 administrative duties set forth in this act and chapter 189,  
355 Florida Statutes, as may be amended from time to time. Any  
356 certificate, resolution, or instrument signed by the  
357 Chairperson, Vice Chairperson, or such other person of the  
358 Authority as may hereafter be designated and authorized by the  
359 Board of Supervisors shall be evidence of the action of the  
360 Authority, and any such certificate, resolution, or other



HB 1265

2003

361 instrument so signed shall be conclusively presumed to be  
362 authentic.

363 (7) The members of the Board of Supervisors shall receive  
364 as compensation for their services a fee of \$100 per meeting,  
365 not to exceed 3 meetings per month. The amount of compensation  
366 shall be adjusted annually based upon the index provided in  
367 section 287.017(2), Florida Statutes, or its successor in  
368 function. In addition, each member of the Board of Supervisors  
369 shall be reimbursed for expenses as provided in section 112.061,  
370 Florida Statutes, or otherwise approved by the Board of  
371 Supervisors for travel on authority business outside of the  
372 boundaries of the District or service area of the District.

373 (8) A majority of the Board of Supervisors shall  
374 constitute a quorum for the transaction of business of the  
375 Authority. The affirmative vote of the majority of the members  
376 of the Board of Supervisors present and voting (exclusive of any  
377 member having a conflict) shall be necessary to transact  
378 business. However, any increase in rates, fees, or charges  
379 shall require the affirmative vote of a majority of the entire  
380 Board of Supervisors.

381 Section 7. Conflicts of Interest Prohibited.--No member,  
382 officer, agent, or employee of the Authority, either for himself  
383 or herself or as agent for anyone else or as a stockholder or  
384 owner in any other legal entity, shall participate in or benefit  
385 directly or indirectly from any sale, purchase, lease, contract,  
386 or other transaction entered into by the Authority. For the  
387 purposes of this act, a direct or indirect benefit or  
388 participation shall mean a "special private gain or loss" as  
389 defined in the Code of Ethics for Public Officers and Employees,  
390 part III of chapter 112, Florida Statutes, and shall be



HB 1265

2003

391 determined in the same manner as the question of "special  
392 private gain or loss" would be determined for purposes of a  
393 violation of section 112.3143, Florida Statutes, or its  
394 successor in function. A member, officer, agent, or employee of  
395 the Authority may rely upon an advisory opinion or determination  
396 of the State Commission on Ethics or the Authority's general  
397 counsel as to the question of whether or not there would be a  
398 special private gain or loss, and such determination shall also  
399 be determinative of the ability of the member, officer, agent,  
400 or employee to vote under the provisions of this act or of the  
401 conduct of the member, officer, agent, or employee under this  
402 act. If any such person violates the provisions of this  
403 section, he or she shall be guilty of a misdemeanor. The  
404 provisions of this section shall be cumulative to any general  
405 laws of the state which are from time to time applicable to  
406 members, officers, agents, or employees of the Authority and  
407 which require the disclosure of, or prohibit, conflicts of  
408 interest.

409 Section 8. Meetings; Notice.--The Board of Supervisors  
410 shall hold meetings pursuant to sections 189.416 and 189.417,  
411 Florida Statutes.

412 Section 9. Reports; Budgets; Audits.--The District shall  
413 prepare and submit reports, budgets, and audits as provided in  
414 sections 189.415 and 189.418, Florida Statutes.

415 Section 10. District Powers, Functions, and Duties.--

416 (1) The Authority shall have all powers to carry out the  
417 purposes of this act and the functions and duties provided for  
418 herein, including the following powers which shall be in addition  
419 to and supplementing any other privileges, benefits, and powers  
420 granted by this act or general law:



HB 1265

2003

421 (a) To acquire, construct, own, lease, operate, manage,  
422 maintain, dispose of, improve, and expand the authority  
423 facilities and to have the exclusive control and jurisdiction  
424 thereof.

425 (b) To execute all contracts and other documents, adopt  
426 all proceedings, and perform all acts determined by the Board of  
427 Supervisors as necessary or advisable to carry out the purposes  
428 of this act. The Chairperson or Vice Chairperson shall execute  
429 contracts and other documents on behalf of the Board of  
430 Supervisors.

431 (c) To provide for mandatory water and/or wastewater  
432 connections of potential customers, including customers served  
433 by onsite sewage treatment and disposal systems, upon  
434 availability of service by the Authority within 90 days after  
435 notice of availability of such services.

436 (d) To collect rates, fees, and charges from public or  
437 quasi-public corporations, municipalities, counties, the state  
438 or its agencies, the federal government, or any other public or  
439 governmental agencies or bodies for the use or provision of  
440 authority facilities or services.

441 (e) To fix, levy, and collect rates, fees, and other  
442 charges (including system development charges or impact fees)  
443 from persons or property, or both, for the use of the services,  
444 facilities, and product of the authority facilities or to pay  
445 the operating or financing costs of the authority facilities  
446 available to potential users; to fix and collect charges for  
447 making connections with the authority facilities; and, to the  
448 extent provided by law, to provide for reasonable penalties to  
449 be imposed on any users or property for any such rates, fees, or  
450 charges that are delinquent.



HB 1265

2003

451 (f) To discontinue or terminate water or wastewater  
452 service to any person or customer who violates the provisions of  
453 this act or any duly adopted resolutions or regulations of the  
454 Authority, including, but not limited to, delinquency of any  
455 amounts owed the Authority or failure to connect to the  
456 Authority's facilities or water or wastewater systems and  
457 failure to provide to the Authority without cost such easements  
458 or property interests as are reasonably required to provide  
459 service. Any means of enforcement available to the Authority to  
460 require and enforce the use of its service or facilities shall  
461 be alternative and supplemental to any other means available to  
462 the Authority.

463 (g) To contract for the service of engineers, accountants,  
464 attorneys, and other experts or consultants and such other  
465 agents and employees as the Board of Supervisors may require or  
466 deem appropriate from time to time.

467 (h) To acquire such lands and rights and interests  
468 therein, including lands under water and riparian rights; to  
469 acquire such personal property as the Authority may deem  
470 necessary and appropriate in connection with the acquisition,  
471 ownership, expansion, improvement, operation, and maintenance of  
472 the authority facilities; and to hold and dispose of all real  
473 and personal property under its control. The power of eminent  
474 domain, to the maximum extent available to any general purpose  
475 local government, may be exercised by the Authority both within  
476 and outside the District or service area for the purpose of  
477 carrying out the intent of this act.

478 (i) To lease or rent any of its easements, real property  
479 interests, or facilities to other utility providers which are  
480 owned by a municipality, county, or special district, or which





HB 1265

2003

481 hold a franchise from a municipality or county, with such lease  
482 or rental to be for joint use by the Authority and such other  
483 utility provider.

484 (j) To adopt all necessary regulations by resolution that  
485 provide design and construction specifications and procedures  
486 for the dedication of facilities to the Authority. The  
487 Authority may require as condition precedent to the approval of  
488 any connection to authority facilities:

489 1. That all subdivision type infrastructure, or other  
490 contributed transmission or distribution infrastructure  
491 necessary to serve a particular project or customer, and  
492 necessary easements be approved by and dedicated to the  
493 Authority.

494 2. Surety bonds or other guarantees from any developer to  
495 ensure completion of construction in compliance with such  
496 uniform water and wastewater standards, rules, and regulations  
497 adopted by the Authority.

498 3. That the developer make available interim treatment  
499 facilities or services or contract for same on an interim basis  
500 from an authorized service provider.

501 4. That the developer, or the person or entity the  
502 developer has contracted with, provide interim treatment service  
503 or lease back for nominal consideration and maintain such  
504 dedicated or contributed facilities until such time as the  
505 Authority provides services, provided in each case the foregoing  
506 actions shall be consistent with the comprehensive plans of any  
507 affected general purpose local government.

508 (k) To exercise exclusive jurisdiction, control, and  
509 supervision over the authority facilities and to make and  
510 enforce such rules and regulations for the maintenance,



HB 1265

2003

511 management, and operation of the authority facilities as may be,  
 512 in the judgment of the Board of Supervisors, necessary or  
 513 desirable for the efficient operation of the authority  
 514 facilities in accomplishing the purposes of this act.

515 (l) To enter into interlocal agreements or join with any  
 516 other special purpose or general purpose local governments,  
 517 public agencies, or authorities in the exercise of common  
 518 powers.

519 (m) To contract with private or public entities or persons  
 520 to obtain, provide, treat, distribute, or receive potable and  
 521 nonpotable water or to provide or receive wastewater disposal,  
 522 collection, or treatment.

523 (n) To prescribe methods of pretreatment of commercial or  
 524 industrial wastes before accepting such wastes for treatment and  
 525 to refuse to accept such commercial or industrial wastes when  
 526 not sufficiently pretreated as may be prescribed, and, to the  
 527 extent permitted by law, to prescribe penalties including fines  
 528 or penalties not exceeding \$2,000 per day, if the Authority is  
 529 required by a state or federally mandated program to have the  
 530 authority and power to fine or charge any person or entity for  
 531 the refusal to so pretreat such commercial or industrial wastes.

532 (o) To require and enforce the use of services, products,  
 533 and facilities of the Authority whenever and wherever they are  
 534 accessible, and to require and enforce the installation and  
 535 dedication to the Authority of water and wastewater facilities  
 536 or easements as a condition precedent to the provision of  
 537 service by the Authority or by another entity authorized by the  
 538 Authority to provide interim service until authority services,  
 539 products, and facilities are available.

540 1. Whenever water or wastewater service is required, the



HB 1265

2003

541 owner shall retain a qualified contractor to install the  
542 required facilities, extensions, and connections. All  
543 facilities shall conform to the Authority's specified minimum  
544 design and construction standards and specifications and  
545 applicable growth management, plumbing, and building regulations  
546 and codes. The installation and connection process shall  
547 provide the owner with the right to control the placement,  
548 manner, use, and disposition of the installation on private  
549 property, subject to the minimum design and construction  
550 standards of the Authority and as is reasonably necessary to  
551 protect the efficiency and integrity of the Authority's  
552 facilities. Such control is afforded to the owner to minimize  
553 the physical, aesthetic, and other effects of the installation  
554 or connection on the affected property. Upon connection, the  
555 owner shall be deemed to have granted a license to the Authority  
556 to enter upon the affected property to inspect, repair,  
557 reconstruct, or otherwise maintain the installation or  
558 connection. Unless authorized otherwise, the owner shall be  
559 deemed to own such installation located on the owner's property  
560 and may repair, demolish, or construct in the area of the  
561 improvement served by the installation or connection, subject to  
562 the Authority's minimum design and construction standards and  
563 specifications for the Authority's facilities, and applicable  
564 growth management, plumbing, and building regulations and codes.

565 2. In circumstances in which an owner fails or refuses to  
566 connect to the authority facilities, the Authority shall be  
567 entitled to seek and employ any legally available remedy to  
568 cause the installation of on-site water or wastewater facilities  
569 necessary to effectuate the connection of the owner's premises  
570 to authority facilities. Under such circumstances, any



HB 1265

2003

571 installation by the Authority shall be performed after  
572 reasonable efforts by the Authority to solicit, and in deference  
573 to, the owner's requests, if any, concerning the placement,  
574 manner, use, and disposition of the installation on the owner's  
575 premises subject to the Authority's applicable minimum design  
576 and construction standards and specifications which are  
577 reasonably necessary to protect the efficiency and integrity of  
578 the Authority's facilities. Upon connection, the owner shall be  
579 deemed to have granted a license to the Authority to enter upon  
580 the affected property to inspect, repair, reconstruct, or  
581 otherwise maintain the installation or connection. Unless  
582 authorized otherwise, the owner shall be deemed to own such  
583 installation located on the property and may repair, demolish,  
584 or construct in the area of the improvement served by the  
585 installation or connection, subject to the Authority's minimum  
586 design and construction standards and specifications for  
587 authority facilities, and applicable growth management,  
588 plumbing, and building regulations and codes.

589 (p) To sell or otherwise dispose of the effluent, sludge,  
590 or other byproducts as a result of water or wastewater  
591 treatment.

592 (q) To produce and sell bottled water and to undertake any  
593 activity related thereto.

594 (r) To accomplish construction directly or by letting  
595 construction contracts to other entities, whether public or  
596 private, for all or any part of the construction of improvements  
597 to the authority facilities as determined by the Board of  
598 Supervisors in accordance with applicable law.

599 (s) To construct, maintain, and operate connecting,  
600 intercepting, or outlet wastewater and wastewater mains and



HB 1265

2003

601 pipes and water mains, conduits, or pipelines in, along, or  
602 under any streets, alleys, highways, or other public places or  
603 ways regulated by or under the jurisdiction of the state or any  
604 political subdivision or municipal corporation when necessary or  
605 convenient for the purposes of the Authority.

606 (t) Subject to such provisions and restrictions as may be  
607 set forth in any financing document, to enter into contracts  
608 with the government of the United States or any agency or  
609 instrumentality thereof, the state, or any municipality, county,  
610 district, authority, political subdivision, private corporation,  
611 partnership, association, or individual providing for or  
612 relating to the treatment, collection, and disposal of  
613 wastewater or the treatment, supply, and distribution of water  
614 and any other matters relevant thereto or otherwise necessary to  
615 effect the purposes of this act.

616 (u) To receive and accept from any federal or state agency  
617 grants or loans for or in aid of the planning, construction,  
618 reconstruction, or financing of improvements, additions, or  
619 extensions to the authority facilities and to receive and accept  
620 aid or contributions or loans from any other source of money,  
621 labor, or other things of value, to be held, used, and applied  
622 only for the purpose for which such grants, contributions, or  
623 loans may be made.

624 (v) To purchase or assume the ownership, lease, operation,  
625 management, or control of any publicly or privately owned water  
626 or wastewater facilities, including the assumption, defeasance,  
627 or payment of the financial liabilities associated with such  
628 water and wastewater facilities.

629 (w) To divide the authority facilities into separate  
630 units, benefit areas, subsystems, or subdistricts, or otherwise



HB 1265

2003

631 separate a utility system, for imposing special assessments,  
 632 setting rates, fees, or charges, accounting or financing  
 633 improvements or additions, or any other purpose.

634 (x) To appoint advisory boards and committees to assist  
 635 the Board of Supervisors in the exercise and performance of the  
 636 powers and duties provided in this act.

637 (y) To sue and be sued in the name of the Authority.

638 (z) To adopt and use a seal and authorize the use of a  
 639 facsimile thereof.

640 (aa) To employ or contract with any public or private  
 641 entity or person to manage and operate the authority facilities,  
 642 or any portion thereof, upon such terms as the Board of  
 643 Supervisors deems appropriate.

644 (bb) Subject to such provisions and restrictions as may be  
 645 set forth in any financing document, to sell or otherwise  
 646 dispose of the authority facilities, or any portion thereof,  
 647 upon such terms as the Board of Supervisors deems appropriate,  
 648 and to enter into acquisition or other agreements to effect such  
 649 dispositions.

650 (cc) To acquire by purchase, gift, devise, or otherwise,  
 651 and to dispose of, real or personal property or any estate  
 652 therein.

653 (dd) To make and execute contracts or other instruments  
 654 necessary or convenient to the exercise of its powers.

655 (ee) To provide such deferred compensation, retirement  
 656 benefits, or other benefits and programs as the Board of  
 657 Supervisors deems appropriate.

658 (ff) To maintain an office or offices at such place or  
 659 places as the Board of Supervisors may designate from time to  
 660 time.



HB 1265

2003

661 (gg) To hold, control, and acquire by donation, purchase,  
662 or eminent domain or dispose of any public easements,  
663 dedications to public use, platted reservations for public  
664 purposes, or any reservations for those purposes authorized by  
665 this act and to make use of such easements, dedications, and  
666 reservations for any of the purposes authorized by this act.

667 (hh) To lease, as lessor or lessee, to or from any person,  
668 firm, corporation, association, or body, public or private,  
669 facilities or property of any nature to carry out any of the  
670 purposes authorized by this act.

671 (ii) To borrow money and issue bonds, certificates,  
672 warrants, notes, obligations, or other evidence of indebtedness.

673 (jj) To assess, levy, impose, collect, and enforce special  
674 assessments upon all or any portion of the lands located within  
675 the District or service area. Such special assessments may be  
676 apportioned among benefited property in a manner proportionate  
677 with the benefits received or commensurate with the burdens  
678 alleviated by the maintenance and use of property based upon  
679 such factors or combination of factors as determined by  
680 resolution of the Board of Supervisors. Such special assessments  
681 may, in the discretion of the Board of Supervisors, be imposed,  
682 collected, and enforced using any methods and procedures  
683 authorized by law, including section 197.3632, Florida Statutes,  
684 or its successor in function; or the Board of Supervisors may  
685 adopt by resolution its own method or procedures or use any  
686 other method or means for levy, imposition, collection, and  
687 enforcement not inconsistent with law.

688 (kk) To apply for and accept grants, loans, and subsidies  
689 from any governmental entity for the acquisition, construction,  
690 operation, and maintenance of the authority facilities and to



HB 1265

2003

691 comply with all requirements and conditions imposed in  
692 connection therewith.

693 (ll) To the extent allowed by law and to the extent  
694 required to effectuate the purposes of this act, to exercise all  
695 privileges, immunities, and exemptions accorded municipalities  
696 and counties of the state under the provisions of the  
697 constitution and laws of the state.

698 (mm) To invest its moneys in such investments as directed  
699 by the Board of Supervisors in accordance with state law and  
700 which shall be consistent in all instances with the applicable  
701 provisions of the financing documents.

702 (nn) To purchase such insurance as it deems appropriate.

703 (oo) To do all acts and to exercise all of the powers  
704 necessary, convenient, incidental, implied, or proper, both  
705 within and outside of the District and service area, in  
706 connection with any of the powers, duties, obligations, or  
707 purposes authorized by this act, general law, or any interlocal  
708 agreement entered into by the Authority.

709 (2) The Board of Supervisors shall appoint a person or  
710 entity to act as Executive Director of the Authority having such  
711 official title, functions, duties, and powers as the chief  
712 administrative officer of the Authority as the Board of  
713 Supervisors may prescribe. The Board of Supervisors shall  
714 appoint a person or entity to act as the general counsel for the  
715 Authority. The executive director and general counsel shall  
716 each answer directly to the Board of Supervisors. Neither the  
717 executive director nor general counsel shall be a member of the  
718 Board of Supervisors.

719 (3) In exercising the powers conferred by this act, the  
720 Board of Supervisors shall act by resolution or motion made and





HB 1265

2003

721 adopted at duly noticed and publicly held meetings in  
722 conformance with applicable law.

723 (4) The provisions of chapter 120, Florida Statutes, shall  
724 not apply to the Authority.

725 (5) Nothing herein shall be construed to grant the  
726 Authority any jurisdiction to regulate the services or rates of  
727 any investor-owned utility.

728 Section 11. Creation of State, County, or Municipal Debts  
729 Prohibited.--The Authority shall not be empowered or authorized  
730 in any manner to create a debt against the state, county, or any  
731 municipality and may not pledge the full faith and credit of the  
732 state, any county, or any municipality. All revenue bonds or  
733 debt obligations shall contain on the face thereof a statement  
734 to the effect that the state, county, or any municipality shall  
735 not be obligated to pay the same or the interest and that they  
736 are only payable from authority revenues or the portion thereof  
737 for which they are issued and that neither the full faith and  
738 credit nor the taxing power of the state or of any political  
739 subdivision thereof is pledged to the payment of the principal  
740 of or the interest on such bonds. The issuance of revenue or  
741 refunding bonds under the provisions of this act shall not  
742 directly or indirectly or contingently obligate the state,  
743 county, or any municipality to levy or to pledge any form of  
744 taxation whatever therefore or to make any appropriation for  
745 their payment.

746 Section 12. Adoption of Rates, Fees, and Charges.--

747 (1) The Board of Supervisors shall adopt by resolution a  
748 schedule of rates, fees, or other charges for the use of the  
749 services, facilities, and products of the Authority to be paid  
750 by each customer which may be connected with or provided service



HB 1265

2003

751 by such authority facilities. The Authority may establish  
752 separate rates, fees, and charges for different portions of the  
753 authority facilities, including separate rates, fees, and  
754 charges for each utility system. The Board of Supervisors may  
755 establish different rates, fees, and charges for services,  
756 facilities, and products provided by a portion of a utility  
757 system provided such rates, fees, and charges are consistent  
758 with applicable law.

759 (2) Such rates, fees, and charges shall be adopted and  
760 revised so as to provide moneys which, with other funds  
761 available for such purposes, shall be at least sufficient at all  
762 times to pay the expenses of operating, managing, expanding,  
763 improving, and maintaining the authority facilities, including  
764 renewal and replacement reserves for such authority facilities;  
765 to pay costs and expenses provided for in this act, general law,  
766 and the financing documents; to pay the principal and interest  
767 on the obligations as the same shall become due and reserves  
768 therefore; to timely pay and deliver any obligations in the form  
769 of annual transfer amounts due and owing to Osceola County and  
770 the City of Kissimmee, or any other general purpose local  
771 government under any interlocal agreement; and to provide a  
772 reasonable margin of safety over and above the total amount of  
773 such payments. Notwithstanding any other provision in this act,  
774 such rates, fees, and charges shall always be sufficient to  
775 comply fully with any covenants contained in the financing  
776 documents. The Authority shall charge and collect such rates,  
777 fees, and charges so adopted and revised, and such rates, fees,  
778 and charges shall not be subject to the supervision or  
779 regulation by any other commission, board, bureau, agency, or  
780 other political subdivision of the state.



HB 1265

2003

781       (3) Such rates, fees, and charges for each utility system  
782 or portion thereof shall be just, equitable, and uniform for the  
783 users in the same class and may be based upon or computed upon  
784 any factor (including, by way of example and not limitation,  
785 distinguishing between residential and nonresidential customers  
786 or uses) or combination of factors affecting the use of the  
787 services, products, or facilities furnished to the customers of  
788 such utility system or portion thereof, as may be determined by  
789 the Board of Supervisors from time to time. Except as described  
790 in subsections (6) and (7), no rates, fees, or charges shall be  
791 fixed, adopted, or revised under the foregoing provisions of  
792 this section until after a duly noticed public hearing at which  
793 all of the customers of the authority facilities affected  
794 thereby, or owners, tenants, or occupants served or to be served  
795 thereby, and all other interested persons shall have an  
796 opportunity to be heard concerning the proposed rates, fees, or  
797 charges. Notice of such public hearing setting forth the  
798 proposed schedule or schedules of rates, fees, or charges shall  
799 be given by one publication in a newspaper of general  
800 circulation in the portion of the service area or areas affected  
801 by such proposed rates, fees, or charges at least 20 days before  
802 the date fixed in such notice for the public hearing, which may  
803 be adjourned from time to time. After such hearing, the proposed  
804 schedule or schedules, either as initially adopted or as  
805 modified or amended, may be finally adopted.

806       (4) The rates, fees, or charges adopted for any class of  
807 customers served shall be extended to cover any additional  
808 customers thereafter served which shall fall within the same  
809 class without the necessity of any further hearing or notice.

810       (5) The Board of Supervisors may appoint the Executive



HB 1265

2003

811 Director, a member of the Board of Supervisors, a committee of  
812 members of the Board of Supervisors, or a special master to  
813 conduct the public hearing or hearings on its behalf relating to  
814 rates, fees, and charges. The Executive Director, member of the  
815 Board of Supervisors, committee of members of the Board of  
816 Supervisors, or designated special master shall act as a hearing  
817 officer or hearing officers and report to the Board of  
818 Supervisors its findings relating to such public hearing. Only  
819 the Board of Supervisors may set or revise rates, fees, and  
820 charges.

821 (6) Notwithstanding the provisions of subsection (3) or  
822 any other provision of applicable law, upon acquisition of a  
823 utility system, no public hearing shall be required for adoption  
824 by the Authority by resolution of the rates, fees, and charges  
825 contained in the rate tariff relating thereto previously  
826 approved by the Florida Public Service Commission or any  
827 governmental seller thereof. In the event any rate tariff  
828 previously approved by a governmental seller includes such a  
829 surcharge authorized by section 180.191, Florida Statutes, the  
830 Authority may continue the imposition of any such surcharge  
831 provided that the Authority incrementally reduces each year  
832 thereafter and ultimately discontinues such surcharge within 10  
833 years after any such acquisition by the Authority.

834 (7) Notwithstanding the provisions of subsection (3), no  
835 subsequent public hearings to implement a periodic automatic  
836 indexing factor shall be required after the adoption by the  
837 Board of Supervisors of a periodic automatic indexing factor  
838 applicable to the initial or any revised schedule of rates,  
839 fees, and charges of any utility system.

840 (8) Notwithstanding anything in this act to the contrary,



HB 1265

2003

841 the Authority may establish a general fund account into which  
842 moneys may be deposited from a surcharge not to exceed 2 percent  
843 upon the rates, fees, and charges for the authority facilities  
844 or portion thereof. Any moneys deposited to such general fund  
845 account from such a surcharge on the rates, fees, and charges  
846 for authority facilities shall be considered legally available  
847 for any lawful purpose approved by the Board of Supervisors.  
848 Moneys in such general fund account may be used to pay for  
849 initial costs and expenses associated with acquiring authority  
850 facilities and any other lawful purpose approved by the Board of  
851 Supervisors. However, whenever reasonably practicable, the  
852 Board of Supervisors shall endeavor in good faith to recover and  
853 return to such general fund account expenditures from benefited  
854 ratepayers or landowners that are not determined by the Board of  
855 Supervisors to provide a general benefit to the District or  
856 service area.

857 (9) The Authority may impose charges for the recovery of  
858 all costs and expenditures, including, but not limited to,  
859 planning, feasibility studies, construction and engineering  
860 document preparation, project development costs, or other costs  
861 associated with the planning and development of any project. In  
862 the event the Authority determines not to proceed with the  
863 construction or implementation of any project and reimbursement  
864 of all costs and expenditures is not made to the Authority  
865 pursuant to interlocal agreement, grant, or otherwise, the  
866 Authority may identify all unrecovered costs and expenditures  
867 associated with the planning and development of such project and  
868 impose a charge on a potential user basis, per parcel basis, or  
869 any other basis which reasonably shares and recovers all or a  
870 portion of such unrecovered planning and development costs among



HB 1265

2003

871 the parcel owners or potential users for which the projects were  
872 planned or developed.

873 Section 13. System Development Charges; Impact Fees.--

874 (1) The District is hereby empowered to levy and collect  
875 system development charges for capital improvements and debt  
876 service on capital improvements within the boundaries of the  
877 District and the service areas under any of the following  
878 conditions:

879 (a) Whenever a property owner or his or her authorized  
880 representative connects an existing structure or improvement to  
881 any authority facilities;

882 (b) Whenever a property owner or his or her authorized  
883 representative receives a permit from the Florida Department of  
884 Environmental Protection, or its successor in function, to  
885 extend or connect to authority facilities or applies for a  
886 building permit to construct, install, or alter any structure or  
887 improvement where such extension, connection, construction,  
888 installation, or alteration increases the potential demand on  
889 the authority facilities; or

890 (c) Whenever a property owner or his or her authorized  
891 representative applies for a building permit to construct,  
892 install, or alter any structure or improvement where such  
893 construction, installation, or alteration increases the  
894 potential demand on the authority facilities, even though the  
895 subject property may receive interim utility service from a  
896 source other than the District.

897 (2) If the structure or improvement on the property for  
898 which a system development charge has been paid is not  
899 authorized to connect to the authority facilities within 10  
900 years after the date of such payment, the property owner holding



HB 1265

2003

901 legal title at the end of the 10-year period shall be eligible  
902 for a refund of the system development charge without interest.  
903 In such an event, the District shall notify the property owner  
904 at the address reflected on the most recent tax roll of his or  
905 her eligibility for a refund by mailing notice to the property  
906 owner. Such notice shall fairly explain the procedure for  
907 applying for a refund and shall be sent by registered mail with  
908 return receipt requested. Any property owner eligible for a  
909 refund shall file written application with the Board of  
910 Supervisors for a refund within 90 days after the date of  
911 mailing of the notice by the District, or such property owner  
912 shall be deemed to have waived any right to a refund and the  
913 District shall be entitled to retain and apply the system  
914 development charge for capital improvements. Failure to  
915 construct the improvement for which a system development charge  
916 has been paid shall not constitute grounds for a refund, nor  
917 shall delay or failure to receive the mailed notice of  
918 eligibility for a refund toll the 90-day time limit within which  
919 an application for refund must be filed.

920 (3) All system development charges shall, in accordance  
921 with accepted general accounting principles, be segregated from  
922 all other funds held by the District and accounted for  
923 separately. Except as otherwise provided by any financing  
924 documents authorizing the issuance of obligations of the  
925 District, such accounts shall not be transferred or used for any  
926 purpose other than providing capital improvements in the form of  
927 authority facilities necessitated by growth or new demand upon  
928 the authority facilities and for payment of debt service on  
929 obligations issued to finance any such capital improvements.

930 (4) System development charges shall be reviewed at least



HB 1265

2003

931 every 4 years by the District to determine that the charges are  
 932 equitable and proportionate to the current estimate of costs for  
 933 providing the capital improvements for which the charges are  
 934 imposed. The initial schedule of system development charges  
 935 shall be those already in effect in the District and any  
 936 subdistricts or applicable service area at the time the District  
 937 acquires any utility system. The District may thereafter change  
 938 or revise the schedule of system development charges upon  
 939 compliance with the notice and hearing requirements set forth  
 940 for the adoption of rates, fees, and other charges.

941 (5) The District, in its discretion, may permit the owners  
 942 of existing structures which connect to the District's system to  
 943 pay the system development charges on an installment basis with  
 944 interest in the form of a special assessment. In the event that  
 945 system development charges shall not be paid as and when due,  
 946 any unpaid balance thereof together with all reasonable costs of  
 947 establishing the assessment lien, collection, and statutory  
 948 discounts may be collected as a non-ad valorem assessment on the  
 949 same bill as property taxes.

950 (6) Nothing in this act shall be construed to invalidate  
 951 any system development charges, impact fees, or other capital  
 952 contribution charges previously levied or collected by Osceola  
 953 County or the City of Kissimmee under any implied authority to  
 954 levy and collect such charges; such charges being in the nature  
 955 of impact fees are hereby ratified and confirmed.

956 (7) In addition to and as an alternative to the provisions  
 957 of subsections (1) through (6), the District is empowered to  
 958 levy and collect impact fees within the boundaries of the  
 959 District and the service area in the same manner and to the same  
 960 extent as a county or municipality.





HB 1265

2003

961           Section 14. Unpaid Rates, Fees, and Charges to Constitute  
 962 a Lien.--In the event that the rates, fees, or charges for the  
 963 use of the services, facilities, and products of the Authority  
 964 shall not be paid as and when due, any unpaid balance thereof,  
 965 and all interest accruing thereon, shall be a lien on any parcel  
 966 or property affected thereby. Such liens shall be superior and  
 967 paramount to the interest on such parcel or property of any  
 968 owner, lessee, tenant, mortgage, or other person except the lien  
 969 of state, county, municipal, and district taxes and other non-ad  
 970 valorem assessments and shall be on parity with the lien of all  
 971 such ad valorem property taxes and non-ad valorem assessments.  
 972 In the event that any such rates, fees, or charges shall not be  
 973 paid as and when due and shall be in default for 30 days or  
 974 more, the unpaid balance thereof and any interest accrued  
 975 thereon not exceeding the legal rate, together with attorney's  
 976 fees and costs, may be recovered by the Authority in a civil  
 977 action, and any such lien and accrued interest may be foreclosed  
 978 or otherwise enforced by the Authority by action or suit in  
 979 equity as for the foreclosure of a mortgage on real property;  
 980 or, alternatively, in lieu of foreclosure, an equivalent amount  
 981 to such outstanding balance charges may be collected pursuant to  
 982 sections 197.3632 and 197.3635, Florida Statutes, or any  
 983 successor statutes, authorizing the collection of charges in the  
 984 form of special assessments, therein characterized as non-ad  
 985 valorem assessments, on parity with the lien of ad valorem  
 986 taxes. However, any such alternative collection procedure shall  
 987 provide notice to the landowner in the manner required by law,  
 988 and any existing lien of record on the affected parcel for the  
 989 delinquent rate, fee, or charge is supplanted by the lien  
 990 resulting from the certification of any assessment roll to the



HB 1265

2003

991 tax collector.

992       Section 15. Ad Valorem Taxes Authorized Subject to  
 993 Approval by Referendum; Limitation on Millage.--The Authority is  
 994 authorized to assess and impose ad valorem taxes at a rate not  
 995 to exceed 1 mill only upon approval by referendum of electors of  
 996 the Authority. Such ad valorem taxes shall be levied for and  
 997 applied to the purposes of the District.

998       Section 16. Enforcement of Taxes.--The collection and  
 999 enforcement of all non-ad valorem assessments and taxes levied  
 1000 by the Authority shall be at the same time and in like manner as  
 1001 county taxes, and the provisions of general law relating to the  
 1002 sale of lands for unpaid and delinquent county taxes, the  
 1003 issuance, sale, and delivery of tax certificates for such unpaid  
 1004 and delinquent county taxes, the redemption thereof, in the  
 1005 issuance to individuals of tax deeds based thereon, and all  
 1006 other procedures in connection therewith shall be applicable to  
 1007 the Authority and the delinquent and unpaid assessments and  
 1008 taxes of the Authority to the same extent as if said statutory  
 1009 provisions were expressly set forth in this act. All taxes  
 1010 shall be subject to the same discounts as county taxes.

1011       Section 17. Bonds and Obligations.--

1012       (1) The Board of Supervisors shall have the power and is  
 1013 hereby authorized to provide pursuant to the financing  
 1014 documents, at one time or from time to time in one or more  
 1015 series, for the issuance of obligations of the Authority, or  
 1016 notes in anticipation thereof, for one or more of the following  
 1017 purposes:

1018       (a) Paying all or part of the cost of one or more  
 1019 projects.

1020       (b) Refunding any bonds or other indebtedness of the



HB 1265

2003

1021  
1022  
1023  
1024  
1025  
1026  
1027  
1028  
1029  
1030  
1031  
1032  
1033  
1034  
1035  
1036  
1037  
1038  
1039  
1040  
1041  
1042  
1043  
1044  
1045  
1046  
1047  
1048  
1049  
1050

Authority.

(c) Assuming or repaying the indebtedness relating to authority facilities acquired or leased by the Authority from a public or private entity.

(d) Setting aside moneys in a renewal or replacement account.

(e) Funding a debt service reserve account.

(f) Capitalizing interest on the obligations.

(g) Paying costs of issuance relating to the obligation.

(h) Any other purpose relating to this act.

(2) The principal of and the interest on each series of obligations shall be payable from the pledged funds, all as determined pursuant to the financing documents. The Authority may grant a lien upon and pledge the pledged funds in favor of the holders of each series of obligations in the manner and to the extent provided in the financing documents. Such pledged funds shall immediately be subject to such lien without any physical delivery thereof, and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority.

(3) The obligations of each series shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as shall be determined by the Board of Supervisors pursuant to the financing documents. The Board of Supervisors shall determine the form of the obligations and the manner of executing such obligations and shall fix the denomination of such obligations and the place of payment of the principal and



HB 1265

2003

1051 interest, which may be at any bank or trust company within or  
1052 without the state. In case any officer whose signature or  
1053 facsimile of whose signature shall appear on any obligations  
1054 shall cease to be such officer before the delivery of such  
1055 obligations, such signature or such facsimile shall nevertheless  
1056 be valid and sufficient for all purposes the same as if he or  
1057 she had remained in office until delivery. The Board of  
1058 Supervisors may sell obligations in such manner and for such  
1059 price as it may determine to be in the best interest of the  
1060 Authority in accordance with the terms of the financing  
1061 documents. In addition to the pledged funds, the obligations may  
1062 be secured by such credit enhancement as the Board of  
1063 Supervisors determines to be appropriate pursuant to the  
1064 financing documents. The obligations may be issued as capital  
1065 appreciation bonds, current interest bonds, term bonds, serial  
1066 bonds, variable bonds, or any combination thereof, all as shall  
1067 be determined pursuant to the financing documents.

1068 (4) Prior to the preparation of definitive obligations of  
1069 any series, the Board of Supervisors may issue interim receipts,  
1070 interim certificates, or temporary obligations, exchangeable for  
1071 definitive obligations when such obligations have been executed  
1072 and are available for delivery. The Board of Supervisors may  
1073 also provide for the replacement of any obligation which shall  
1074 become mutilated or be destroyed or lost. Obligations may be  
1075 issued without any other proceedings or the happening of any  
1076 other conditions or things than those proceedings, conditions,  
1077 or things which are specifically required by this act, the  
1078 financing documents, or other applicable laws.

1079 (5) The proceeds of any series of obligations shall be  
1080 used for such purposes, and shall be disbursed in such manner



HB 1265

2003

1081 and under such restrictions, if any, as the Board of Supervisors  
 1082 may provide pursuant to the financing documents.

1083 (6) The financing documents may also contain such  
 1084 limitations upon the issuance of additional obligations as the  
 1085 Board of Supervisors may deem appropriate, and such additional  
 1086 obligations shall be issued under such restrictions and  
 1087 limitations as may be prescribed by such financing documents.  
 1088 The financing documents may contain such provisions and terms in  
 1089 relation to the obligations and the pledged funds as the Board  
 1090 of Supervisors deems appropriate and which shall not be  
 1091 inconsistent herewith.

1092 (7) Obligations shall not be deemed to constitute a  
 1093 general obligation debt of the Authority or a pledge of the  
 1094 faith and credit of the Authority, but such obligations shall be  
 1095 payable solely from the pledged funds and any moneys received  
 1096 from the credit enhancers of the obligations in accordance with  
 1097 the terms of the financing documents. The issuance of  
 1098 obligations shall not directly, indirectly, or contingently  
 1099 obligate the Authority to levy or to pledge any form of ad  
 1100 valorem taxation whatsoever therefor. No holder of any such  
 1101 obligations shall ever have the right to compel any exercise of  
 1102 the ad valorem taxing power on the part of the Authority to pay  
 1103 any such obligations or the interest thereon or the right to  
 1104 enforce payment of such obligations or the interest thereon  
 1105 against any property of the Authority, nor shall such  
 1106 obligations constitute a charge, lien, or encumbrance, legal or  
 1107 equitable, upon any property of the Authority, except the  
 1108 pledged funds in accordance with the terms of the financing  
 1109 documents.

1110 (8) All pledged funds shall be deemed to be trust funds,



HB 1265

2003

1111 to be held and applied solely as provided in the financing  
1112 documents. Such pledged funds may be invested by the Authority  
1113 in such manner as provided in the financing documents.

1114 (9) Any holder of obligations, except to the extent the  
1115 rights herein given may be restricted by the financing  
1116 documents, may, either at law or in equity, by suit, action,  
1117 mandamus, or other proceeding, protect and enforce any and all  
1118 rights under the laws of the state or granted hereunder or under  
1119 the financing documents, and may enforce and compel the  
1120 performance of all agreements or covenants required by this act,  
1121 or by such financing documents, to be performed by the Authority  
1122 or by any officer thereof.

1123 (10) The obligations may be validated, at the sole  
1124 discretion of the Board of Supervisors, pursuant to chapter 75,  
1125 Florida Statutes. Obligations may be issued pursuant to and  
1126 secured by a resolution of the Board of Supervisors.

1127 (11) In addition to the other provisions and requirements  
1128 of this act, any financing documents may contain such provisions  
1129 as the Board of Supervisors deems appropriate.

1130 (12) All obligations issued hereunder shall not be invalid  
1131 for any irregularity or defect in the proceedings for the  
1132 issuance and sale thereof and shall be incontestable in the  
1133 hands of bona fide purchasers for value. No proceedings in  
1134 respect to the issuance of such obligations shall be necessary  
1135 except such as are required by this act, the financing  
1136 documents, and general law. The provisions of the financing  
1137 documents shall constitute an irrevocable contract between the  
1138 Authority and the holders of the obligations issued pursuant to  
1139 the provisions thereof.

1140 (13) Holders of obligations shall be considered third-



HB 1265

2003

1141 party beneficiaries hereunder and may enforce the provisions of  
 1142 this act or general purpose law.

1143 (14) The Board of Supervisors may enter into such swap,  
 1144 hedge, or other similar arrangements relating to any obligations  
 1145 as it deems appropriate.

1146 Section 18. Planning Requirements.--

1147 (1) Within 3 years after the effective date of this act,  
 1148 the Board of Supervisors shall adopt a master plan which, among  
 1149 other things:

1150 (a) Identifies current customers, projects, and future  
 1151 customers.

1152 (b) Profiles customers (residential and non-residential,  
 1153 e.g. commercial, industrial).

1154 (c) Reviews and generally inventories all existing  
 1155 infrastructure and treatment facilities within the boundaries of  
 1156 or served by the District.

1157 (d) Identifies a capital improvement program for the  
 1158 Authority.

1159 (e) Reviews all current permits and existing regulations  
 1160 to projected regulations.

1161 (f) Identifies and evaluates potential acquisitions or  
 1162 service expansions.

1163 (g) Evaluates authority staffing.

1164 (h) Provides for detailed mapping of authority facilities.

1165 (i) Provides for hydraulic analysis of authority  
 1166 facilities, both existing and proposed.

1167 (j) Evaluates present and future sources of raw water and  
 1168 treatment requirements for those sources in terms of capacity,  
 1169 reliability, and economy.

1170 (k) Provides for an analysis of all available wastewater



HB 1265

2003

1171 alternatives, including surface water discharge, wetlands  
1172 discharge, percolation facilities, spray irrigation, and deep  
1173 well injection.

1174 (1) Identifies reclaimed water storage alternatives and  
1175 wet weather backup alternatives.

1176 (m) Identifies current and potential high volume users of  
1177 reclaimed water.

1178  
1179 Thereafter, the Board of Supervisors shall review and, if  
1180 necessary, amend the master plan periodically, but no less often  
1181 than every 4 years.

1182 (2) Treatment facility construction or expansion or line  
1183 extension policies adopted by the Authority shall be furtherance  
1184 of land development regulations adopted by the applicable local  
1185 general purpose government or the applicable local government  
1186 comprehensive plan.

1187 (3) The construction or expansion of any portion of the  
1188 Authority's facilities, or major alterations which affect the  
1189 quantity of the level of service of the Authority's facilities,  
1190 that are undertaken or initiated by the Authority shall be  
1191 consistent with the applicable local government comprehensive  
1192 plan adopted pursuant to part II of chapter 163, Florida  
1193 Statutes; However, no local government comprehensive plan shall  
1194 require the Authority to construct, expand, or perform a major  
1195 alteration of any public facility which would result in the  
1196 impairment of covenants and agreements relating to obligations  
1197 issued by the Authority.

1198 (4) When a local government has issued a development order  
1199 which approves the construction of public facilities or has  
1200 issued a development order pursuant to chapter 380, Florida





HB 1265

2003

1201 Statutes, the local government shall not use the requirements of  
 1202 this act to limit or modify the rights of the Authority to  
 1203 approve, construct, modify, operate, or maintain public  
 1204 facilities authorized by the development order.

1205 (5) Except as provided herein or by law, the Authority  
 1206 shall take no action which is inconsistent with applicable  
 1207 comprehensive plans, land development ordinances, or regulations  
 1208 adopted by any general purpose local government.

1209 (6) The Authority shall comply with the provisions of  
 1210 sections 189.415 and 189.4155, Florida Statutes.

1211 Section 19. Merger; Dissolution.--

1212 (1) In no event shall a merger involving the Authority be  
 1213 permitted unless otherwise approved by resolution of all  
 1214 affected general purpose local governments. Upon the effective  
 1215 date of this act, any governmental utility authority created by  
 1216 interlocal agreement between Osceola County and the City of  
 1217 Kissimmee as a separate legal authority pursuant to section  
 1218 163.01(7)(g), Florida Statutes, may be merged into the Authority  
 1219 and this act shall be the surviving charter for the Authority in  
 1220 all respects.

1221 (2) The charter of the Authority may be revoked or amended  
 1222 and the Authority dissolved by a special act of the Legislature  
 1223 or as otherwise provided by law.

1224 (3) The dissolution of the Authority shall occur by law  
 1225 and transfer the title to all property owned by the Authority in  
 1226 a manner consistent with chapter 189, Florida Statutes, unless  
 1227 otherwise provided in a dissolution plan approved by the  
 1228 referendum or adopted and approved by all affected general  
 1229 purpose local governments.

1230 Section 20. Effect of Incorporation or Presence of Another



HB 1265

2003

1231 Special District.--The subsequent incorporation or annexation of  
 1232 any area included within the boundaries of the District or  
 1233 service area, or the presence or creation of any special  
 1234 district within the boundaries of the District or service area,  
 1235 shall not impair or alter the authority, power, obligations, or  
 1236 purpose of the Authority or its successor in providing water and  
 1237 wastewater services and facilities within any portion of the  
 1238 District's boundaries or authorized service area now included  
 1239 within Osceola County, any municipality, or special district or  
 1240 subsequently included within any county, municipality, or  
 1241 special district.

1242       Section 21. Enforcement and Penalties.--The Board of  
 1243 Supervisors or any aggrieved person may have recourse to such  
 1244 remedies in law and equity as may be necessary to ensure  
 1245 compliance with the provisions of this act, including injunctive  
 1246 relief to mandate compliance with or enjoin or restrain any  
 1247 person violating the provisions of this act and any bylaws,  
 1248 resolutions, regulations, rules, codes, and orders adopted under  
 1249 this act, and the court shall, upon proof of such failure of  
 1250 compliance or violation, have the duty to issue forthwith such  
 1251 temporary and permanent injunctions as are necessary to mandate  
 1252 compliance with or prevent such further violations thereof.

1253       Section 22. Tax Exemption.--As the exercise of the powers  
 1254 conferred by this act to effect the purposes of this act  
 1255 constitutes the performance of essential public functions, and  
 1256 as the projects of the Authority will constitute public property  
 1257 used for public purposes, all assets and properties of the  
 1258 Authority, all obligations issued hereunder and interest paid  
 1259 thereon, and all rates, fees, charges, and other revenues  
 1260 derived by the Authority from the projects provided for by this



HB 1265

2003

1261 act or otherwise shall be exempt from all taxes by the state or  
 1262 any political subdivision, agency, or instrumentality thereof,  
 1263 except that this exemption shall not apply to interest earnings  
 1264 subject to taxation under chapter 220, Florida Statutes.

1265 Section 23. Liberal Construction of Act.--This act, being  
 1266 for the purpose of developing and promoting the public good and  
 1267 the welfare of Osceola County, the territory included in the  
 1268 District, and any service area authorized to be served by the  
 1269 Authority, and the citizens, inhabitants, and taxpayers residing  
 1270 therein, shall be liberally construed to effect the purposes of  
 1271 the act and shall be deemed cumulative, supplemental, and  
 1272 alternative authority for the exercise of the powers provided  
 1273 herein.

1274 Section 24. Limitation of State Authority.--The state does  
 1275 hereby pledge to and agree with the holders of any obligations  
 1276 issued under this act, and with those parties who may enter into  
 1277 contracts with the Authority pursuant to the provisions of this  
 1278 act, that the state will not limit or alter the rights hereby  
 1279 vested in the Authority until such obligations are fully met and  
 1280 discharged and such contracts are fully performed on the part of  
 1281 the Authority.

1282 Section 25. It is found and determined that the notice of  
 1283 intention to apply for this legislation was given in the time,  
 1284 form, and manner required by the Constitution and laws of the  
 1285 state. Said notice is found to be sufficient and is hereby  
 1286 validated and approved.

1287 Section 26. The provisions of this act are severable, and  
 1288 it is the intention to confer the whole or any part of the  
 1289 powers herein provided for, and if any of the provisions of this  
 1290 act or any of the powers granted by this act shall be held



HB 1265

2003

1291 unconstitutional by any court of competent jurisdiction, the  
 1292 decision of such court shall not affect or impair any of the  
 1293 remaining provisions of this act or any of the remaining powers  
 1294 granted by this act. It is hereby declared to be the  
 1295 legislative intent that this act would have been adopted had  
 1296 such unconstitutional provision or power not been included  
 1297 therein.

1298 Section 27. In the event of a conflict of the provisions of  
 1299 this act with the provisions of any other act, the provisions of  
 1300 this act shall control to the extent of such conflict. Except as  
 1301 specifically provided herein, the provisions of this act shall  
 1302 control over the provisions of any other special or general law.

1303 Section 28. This act shall take effect upon becoming a  
 1304 law.