



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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, assessments, and other charges; providing for the adoption



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

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

Section 2. Legislative Findings.

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

(2) It is declared as a matter of legislative  
determination that the extensive growth of population and  
attendant commerce throughout Osceola County has caused affected  
general purpose local governments within Osceola County to  
recognize the need to consider, advance, and develop a regional  
approach to the governmental delivery and provision of potable  
water, wastewater, nonpotable water, and reclaimed water



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

facilities and services, the protection of the environment, and the use of valuable water resources.

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

(4) It is the intent of the Legislature to create an independent special district in Osceola County that, with the concurrence and approval of affected general purpose local governments, can address and carry out the provision of potable and nonpotable water and wastewater services and facilities in certain areas of Osceola County and certain adjacent areas upon the approval of any affected general purpose local government, as hereinafter provided, to provide economies of scale; eliminate duplicative functions and expenditures; protect the local and regional environment; more efficiently use, preserve, address, protect, and have standing in all respects to use,



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

preserve, address, and protect, valuable local and regional water resources; and advance regional and comprehensive planning.

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

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

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

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

(a) The Authority's cost of construction.



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

(d) The cost of any indemnity or surety bonds and premiums for insurance during construction.

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

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

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

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

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

(4) "Financing documents" means the resolution or resolutions duly adopted by the Authority, as well as any indenture of trust, trust agreement, interlocal agreement, or other instrument relating to the issuance or security of any bond or obligations of the Authority.

(5) "Obligations" means a series of bonds, obligations, or other evidence of indebtedness, including, but not limited to, notes, commercial paper, capital leases, or any other obligations of the Authority issued hereunder, or under any general law provisions, and pursuant to the financing documents. The term shall also include any lawful obligation committed to by the Authority pursuant to an interlocal agreement with another governmental body or agency.

(6) "Pledged funds" means:

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

(7) "Project" means any structure, property, or facility which the Authority, from time to time, may determine to construct or acquire as part of its Authority facilities, together with all improvements, equipment, structures, and other facilities necessary or appropriate in connection therewith. This term is to be broadly construed so as to include the lawful undertaking which will accrue, or is reasonably expected to accrue, to the benefit of the Authority facilities, including joint ventures and acquisitions of partial interests or contractual rights. "Project" shall include, but not be limited to, acquisition or transfer of any water or wastewater utility system, water or wastewater utility assets, or securing the right to provide any water or wastewater utility service as provided for in one or more interlocal agreements between the Osceola County Board of County Commissioners and the City Commission of the City of Kissimmee or any other governmental



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

body. "Project" may also include working capital, as well as any costs or judgments associated with litigation.

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

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

Section 4. District Establishment and Creation.

(1) There is hereby created and established a special purpose local governmental body, corporate and politic, to be known as Tohopekaliga Water Authority. The Tohopekaliga Water Authority is hereby created and incorporated as an independent special district, pursuant to and in conformance with chapter 189, Florida Statutes.

(2) The District boundary shall embrace and include:

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

(b) All unincorporated areas within Osceola County, less and except any areas included within the Reedy Creek Improvement District, on the effective date hereof, and less and except the territory within Osceola County consisting of the incorporated area of the City of St. Cloud, and including those





ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

unincorporated areas authorized by law to be served or provided with water and wastewater service by the City of St. Cloud on the effective date hereof. This act shall not be construed to prohibit or inhibit the City of St. Cloud from lawfully extending, expanding, or providing authorized municipal services and facilities as provided for in section 180.02(3), Florida Statutes. The Authority shall be estopped in any future proceeding conducted pursuant to section 180.03 or section 180.04, Florida Statutes, by the City of St. Cloud, or any action arising therefrom, from asserting or claiming the willingness and ability to provide potable water or wastewater service to:

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

2. All lands in Osceola County, Florida, lying in Section 5, Township 25 South, Range 31 East lying easterly of the eastern boundary of Fells Cove Subdivision, according to the plat recorded in the Public Records of Osceola County, Florida, (including specifically the Floridian R.V. Park).

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

The District boundary may be expanded to include any service area within the boundaries of an affected general purpose local government upon the adoption of a resolution by the governing body of the affected general purpose local government



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

authorizing the Authority to provide its service and facilities therein.

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

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

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

Section 5. Authority to Operate in Osceola County or Areas Adjacent to Osceola County; Subject to General Purpose Local Government Consent. By resolution of the governing bodies of each of the general purpose local governments affected, all power and authority available to the Authority under general law, including without limitation, chapters 163, 189, and 197, Florida Statutes, and this act shall be deemed to be irrevocably authorized and may be implemented by the Authority within the boundaries of each of the general purpose local governments affected. Exclusive of the provision of services, facilities, or



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

programs provided on a wholesale or bulk service basis, the Authority shall not provide its potable or nonpotable water or wastewater management or delivery services or programs to retail customers in the District or a service area without entering into an interlocal agreement with any affected general purpose local government which addresses the representation of such retail customers of each affected service area. This act expressly authorizes by law the transfer to the Authority or the contracting by the Authority for the provision of any water or wastewater systems, facilities, or services within the District or its service area.

Section 6. Governing Body.

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

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

(b) Board Supervisor No. 3 and Board Supervisor No. 4 shall serve initial terms of approximately 3 years, ending on September 30, 2006. Board Supervisor No. 3 shall be appointed by the Osceola Board of County Commissioners. Board Supervisor



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

No. 4 shall be appointed by the City Commission of the City of Kissimmee.

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

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

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

(4) Upon the occasion of a vacancy for any reason in the term of office of a member of the Board of Supervisors, which vacancy occurs prior to the replacement of the member by appointment and which remains unfilled for 60 days after such vacancy due to the failure of the respective general purpose local government governing body to duly appoint a successor as provided in subsection (1), a successor shall be appointed by the Governor. Any person appointed to fill a vacancy shall be



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

appointed to serve only for the unexpired term and until a successor is duly appointed.

(5) The Board of Supervisors shall elect a Vice Chairperson, Secretary, and such other officers of the Authority as may be hereafter designated and authorized by the Board of Supervisors, each of whom shall serve for 1 year commencing as soon as practicable after October 1 and until his or her successor is chosen. The Chairperson, Vice Chairperson, and Secretary shall conduct the meetings of the Authority and perform such other functions as herein provided. The Chairperson and Vice Chairperson shall take such actions and have all such powers and sign all documents on behalf of the Authority in furtherance of this act or as may be approved by resolution of the Board of Supervisors adopted at a duly called meeting. The Vice Chairperson, in the Chairperson's absence, shall preside at all meetings. The Secretary, or his or her designee, shall keep minutes of all meetings, proceedings, and acts of the Board of Supervisors, but such minutes need not be verbatim. Copies of all minutes of the meetings of the Authority shall promptly be sent by the Secretary, or his or her designee, to all members of the Board of Supervisors and to each general purpose local government located within the District or the service area. The Secretary may also attest to the execution of documents. The Secretary shall have such other powers as may be approved by resolution of the Board of Supervisors adopted at a duly called meeting.

(6) The Board of Supervisors shall have those administrative duties set forth in this act and chapter 189,



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Florida Statutes, as may be amended from time to time. Any certificate, resolution, or instrument signed by the Chairperson, Vice Chairperson, or such other person of the Authority as may hereafter be designated and authorized by the Board of Supervisors shall be evidence of the action of the Authority, and any such certificate, resolution, or other instrument so signed shall be conclusively presumed to be authentic.

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

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

Section 7. Conflicts of Interest Prohibited. No member, officer, agent, or employee of the Authority, either for himself



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

or herself or as agent for anyone else or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, contract, or other transaction entered into by the Authority. For the purposes of this act, a direct or indirect benefit or participation shall mean a "special private gain or loss" as defined in the Code of Ethics for Public Officers and Employees, part III of chapter 112, Florida Statutes, and shall be determined in the same manner as the question of "special private gain or loss" would be determined for purposes of a violation of section 112.3143, Florida Statutes, or its successor in function. A member, officer, agent, or employee of the Authority may rely upon an advisory opinion or determination of the State Commission on Ethics or the Authority's general counsel as to the question of whether or not there would be a special private gain or loss, and such determination shall also be determinative of the ability of the member, officer, agent, or employee to vote under the provisions of this act or of the conduct of the member, officer, agent, or employee under this act. The violation of any provisions of this act is declared to be a criminal offense and misdemeanor within the meaning of section 775.08, Florida Statutes, and shall be punishable as provided by general law. The provisions of this section shall be cumulative to any general laws of the state which are from time to time applicable to members, officers, agents, or employees of the Authority and which require the disclosure of, or prohibit, conflicts of interest.



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

Section 10. District Powers, Functions, and Duties.

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

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

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

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





ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

(i) To lease or rent any of its easements, real property interests, or facilities to other utility providers which are owned by a municipality, county, or special district, or which hold a franchise from a municipality or county, with such lease or rental to be for joint use by the Authority and such other utility provider.

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

1. That all subdivision type infrastructure, or other contributed transmission or distribution infrastructure



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

necessary to serve a particular project or customer, and necessary easements be approved by and dedicated to the Authority.

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

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

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

(k) To exercise exclusive jurisdiction, control, and supervision over the Authority facilities and to make and enforce such rules and regulations for the maintenance, management, and operation of the Authority facilities as may be, in the judgment of the Board of Supervisors, necessary or desirable for the efficient operation of the Authority facilities in accomplishing the purposes of this act.

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

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

1. Whenever water or wastewater service is required, the owner shall retain a qualified contractor to install the required facilities, extensions, and connections. All facilities shall conform to the Authority's specified minimum design and construction standards and specifications and applicable growth management, plumbing, and building regulations and codes. The installation and connection process shall



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

provide the owner with the right to control the placement, manner, use, and disposition of the installation on private property, subject to the minimum design and construction standards of the Authority and as is reasonably necessary to protect the efficiency and integrity of the Authority's facilities. Such control is afforded to the owner to minimize the physical, aesthetic, and other effects of the installation or connection on the affected property. Upon connection, the owner shall be deemed to have granted a license to the Authority to enter upon the affected property to inspect, repair, reconstruct, or otherwise maintain the installation or connection. Unless authorized otherwise, the owner shall be deemed to own such installation located on the owner's property and may repair, demolish, or construct in the area of the improvement served by the installation or connection, subject to the Authority's minimum design and construction standards and specifications for the Authority's facilities, and applicable growth management, plumbing, and building regulations and codes.

2. In circumstances in which an owner fails or refuses to connect to the Authority facilities, the Authority shall be entitled to seek and employ any legally available remedy to cause the installation of on-site water or wastewater facilities necessary to effectuate the connection of the owner's premises to Authority facilities. Under such circumstances, any installation by the Authority shall be performed after reasonable efforts by the Authority to solicit, and in deference to, the owner's requests, if any, concerning the placement, manner, use, and disposition of the installation on the owner's



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

premises subject to the Authority's applicable minimum design and construction standards and specifications which are reasonably necessary to protect the efficiency and integrity of the Authority's facilities. Upon connection, the owner shall be deemed to have granted a license to the Authority to enter upon the affected property to inspect, repair, reconstruct, or otherwise maintain the installation or connection. Unless authorized otherwise, the owner shall be deemed to own such installation located on the property and may repair, demolish, or construct in the area of the improvement served by the installation or connection, subject to the Authority's minimum design and construction standards and specifications for Authority facilities, and applicable growth management, plumbing, and building regulations and codes.

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

(q) To provide wastewater treatment and disposal and develop, receive, recover, treat, store, and supply potable and nonpotable water withdrawn from or accumulated within the District on a retail, wholesale, or bulk service basis.

(r) To produce and sell bottled water and to undertake any activity related thereto.

(s) To accomplish construction directly or by letting construction contracts to other entities, whether public or private, for all or any part of the construction of improvements to the Authority facilities as determined by the Board of Supervisors in accordance with applicable law.



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

(t) To construct, maintain, and operate connecting, intercepting, or outlet wastewater and wastewater mains and pipes and water mains, conduits, or pipelines in, along, or under any streets, alleys, highways, or other public places or ways regulated by or under the jurisdiction of the state or any political subdivision or municipal corporation when necessary or convenient for the purposes of the Authority.

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

(v) To receive and accept from any federal or state agency grants or loans for or in aid of the planning, construction, reconstruction, or financing of improvements, additions, or extensions to the Authority facilities and to receive and accept aid or contributions or loans from any other source of money, labor, or other things of value, to be held, used, and applied only for the purpose for which such grants, contributions, or loans may be made.

(w) To purchase or assume the ownership, lease, operation, management, or control of any publicly or privately owned water or wastewater facilities, including the assumption, defeasance,



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

or payment of the financial liabilities associated with such water and wastewater facilities.

(x) To divide the Authority facilities into separate units, benefit areas, subsystems, or subdistricts, or otherwise separate a utility system, for imposing special assessments, setting rates, fees, or charges, accounting or financing improvements or additions, or any other purpose.

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

(z) To sue and be sued in the name of the Authority and to participate as a party in any civil, administrative, or other action.

(aa) To adopt and use a seal and authorize the use of a facsimile thereof.

(bb) To employ or contract with any public or private entity or person to manage and operate the Authority facilities, or any portion thereof, upon such terms as the Board of Supervisors deems appropriate.

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

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





ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

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

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

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

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

(kk) To assess, levy, impose, collect, and enforce special assessments upon all or any portion of the lands located within the District or service area. Such special assessments may be apportioned among benefited property in a manner proportionate with the benefits received or commensurate with the burdens alleviated by the maintenance and use of property based upon such factors or combination of factors as determined by resolution of the Board of Supervisors. Such special assessments



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

may, in the discretion of the Board of Supervisors, be imposed, collected, and enforced using any methods and procedures authorized by law, including section 197.3632, Florida Statutes, or its successor in function; or the Board of Supervisors may adopt by resolution its own method or procedures or use any other method or means for levy, imposition, collection, and enforcement not inconsistent with law.

(ll) To apply for and accept grants, loans, and subsidies from any governmental entity for the acquisition, construction, operation, and maintenance of the Authority facilities and to comply with all requirements and conditions imposed in connection therewith.

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

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

(oo) To purchase such insurance as it deems appropriate.

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

(3) In exercising the powers conferred by this act, the Board of Supervisors shall act by resolution or motion made and adopted at duly noticed and publicly held meetings in conformance with applicable law.

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

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

(6) Nothing herein shall affect the ability of either the City Commission of the City of Kissimmee or Board of County Commissioners of Osceola County to engage in or pursue any civil or administrative action or remedies, including, but not limited to, any proceeding or remedy available under chapter 120, Florida Statutes, or its successor in function.

(7) Nothing herein is intended to, or shall be construed to, limit the power of local self-government of a charter county or conflict with the Constitution of the State of Florida or the



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Osceola County Home Rule Charter approved by vote of the electors on March 3, 1992, and which became effective on October 1, 1992.

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

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

(1) The Board of Supervisors shall adopt by resolution a schedule of rates, fees, or other charges for the use of the services, facilities, and products of the Authority to be paid by each customer which may be connected with or provided service by such Authority facilities. The Authority may establish separate rates, fees, and charges for different portions of the



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Authority facilities, including separate rates, fees, and charges for each utility system. The Board of Supervisors may establish different rates, fees, and charges for services, facilities, and products provided by a portion of a utility system provided such rates, fees, and charges are consistent with applicable law.

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

(3) Such rates, fees, and charges for each utility system or portion thereof shall be just, equitable, and uniform for the users in the same class and may be based upon or computed upon any factor (including, by way of example and not limitation, distinguishing between residential and nonresidential customers or uses) or combination of factors affecting the use of the services, products, or facilities furnished to the customers of such utility system or portion thereof, as may be determined by the Board of Supervisors from time to time. Except as described in subsections (7) and (8), no rates, fees, or charges shall be fixed, adopted, or revised under the foregoing provisions of this section until after a duly noticed public hearing at which all of the customers of the Authority facilities affected thereby, or owners, tenants, or occupants served or to be served thereby, and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, or charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, or charges shall be given by one publication in a newspaper of general circulation in the portion of the service area or areas affected by such proposed rates, fees, or charges at least 20 days before the date fixed in such notice for the public hearing, which may be adjourned from time to time. After such hearing, the proposed schedule or schedules, either as initially adopted or as modified or amended, may be finally adopted.

(4) Except as required by any covenant to timely meet, perform, or repay any obligations under any financing documents or as described in subsections (7) and (8), no rates, fees, or



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

charges shall be increased or adopted for 2 years after the effective date of this act, unless the Authority causes a rate consultant to review its rates, fees, charges, gross revenue, operating expenses, and methods of operation and determines that such increase is either predicated upon implementing an identified capital improvement plan or meeting state or federal conservation or water demand management requirements.

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

(6) The Board of Supervisors may appoint the Executive Director, a member of the Board of Supervisors, a committee of members of the Board of Supervisors, or a special master to conduct the public hearing or hearings on its behalf relating to rates, fees, and charges. The Executive Director, member of the Board of Supervisors, committee of members of the Board of Supervisors, or designated special master shall act as a hearing officer or hearing officers and report to the Board of Supervisors its findings relating to such public hearing. Only the Board of Supervisors may set or revise rates, fees, and charges.

(7) Notwithstanding the provisions of subsection (3) or any other provision of applicable law, upon acquisition of a utility system, no public hearing shall be required for adoption by the Authority by resolution of the rates, fees, and charges contained in the rate tariff relating thereto previously approved by the Florida Public Service Commission or any



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

governmental seller thereof. In the event any rate tariff previously approved by a governmental seller includes such a surcharge authorized by section 180.191, Florida Statutes, the Authority may continue the imposition of any such surcharge provided that the Authority incrementally reduces each year thereafter and ultimately discontinues such surcharge within 15 years after any such acquisition by the Authority.

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

(9) Notwithstanding anything in this act to the contrary, the Authority may establish a general fund account into which moneys may be deposited from a surcharge not to exceed 2 percent upon the rates, fees, and charges for the Authority facilities or portion thereof. Any moneys deposited to such general fund account from such a surcharge on the rates, fees, and charges for Authority facilities shall be considered legally available for any lawful purpose approved by the Board of Supervisors. Moneys in such general fund account may be used to pay for initial costs and expenses associated with acquiring Authority facilities and any other lawful purpose approved by the Board of Supervisors. However, whenever reasonably practicable, the Board of Supervisors shall endeavor in good faith to recover and return to such general fund account expenditures from benefited ratepayers or landowners that are not determined by the Board of





ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Supervisors to provide a general benefit to the District or service area.

(10) The Authority may impose charges for the recovery of all costs and expenditures, including, but not limited to, planning, feasibility studies, construction and engineering document preparation, project development costs, or other costs associated with the planning and development of any project. In the event the Authority determines not to proceed with the construction or implementation of any project and reimbursement of all costs and expenditures is not made to the Authority pursuant to interlocal agreement, grant, or otherwise, the Authority may identify all unrecovered costs and expenditures associated with the planning and development of such project and impose a charge on a potential user basis, per parcel basis, or any other basis which reasonably shares and recovers all or a portion of such unrecovered planning and development costs among the parcel owners or potential users for which the projects were planned or developed.

Section 13. System Development Charges; Impact Fees.

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

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

(2) If the structure or improvement on the property for which a system development charge has been paid is not authorized to connect to the Authority facilities within 10 years after the date of such payment, the property owner holding legal title at the end of the 10-year period shall be eligible for a refund of the system development charge without interest. In such an event, the District shall notify the property owner at the address reflected on the most recent tax roll of his or her eligibility for a refund by mailing notice to the property owner. Such notice shall fairly explain the procedure for applying for a refund and shall be sent by registered mail with return receipt requested. Any property owner eligible for a refund shall file written application with the Board of



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Supervisors for a refund within 90 days after the date of mailing of the notice by the District, or such property owner shall be deemed to have waived any right to a refund and the District shall be entitled to retain and apply the system development charge for capital improvements. Failure to construct the improvement for which a system development charge has been paid shall not constitute grounds for a refund, nor shall delay or failure to receive the mailed notice of eligibility for a refund toll the 90-day time limit within which an application for refund must be filed.

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

(4) System development charges shall be reviewed at least every 4 years by the District to determine that the charges are equitable and proportionate to the current estimate of costs for providing the capital improvements for which the charges are imposed. The initial schedule of system development charges shall be those already in effect in the District and any subdistricts or applicable service area at the time the District acquires any utility system. The District may thereafter change



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

or revise the schedule of system development charges upon compliance with the notice and hearing requirements set forth for the adoption of rates, fees, and other charges.

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

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

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

Section 14. Unpaid Rates, Fees, and Charges to Constitute a Lien. In the event that the rates, fees, or charges for the use of the services, facilities, and products of the Authority shall not be paid as and when due, any unpaid balance thereof, and all interest accruing thereon, shall be a lien on any parcel



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

or property affected thereby. Such liens shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgage, or other person except the lien of state, county, municipal, and district taxes and other non-ad valorem assessments and shall be on parity with the lien of all such ad valorem property taxes and non-ad valorem assessments. In the event that any such rates, fees, or charges shall not be paid as and when due and shall be in default for 30 days or more, the unpaid balance thereof and any interest accrued thereon not exceeding the legal rate, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed or otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property; or, alternatively, in lieu of foreclosure, an equivalent amount to such outstanding balance charges may be collected pursuant to sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes, authorizing the collection of charges in the form of special assessments, therein characterized as non-ad valorem assessments, on parity with the lien of ad valorem taxes. However, any such alternative collection procedure shall provide notice to the landowner in the manner required by law, and any existing lien of record on the affected parcel for the delinquent rate, fee, or charge is supplanted by the lien resulting from the certification of any assessment roll to the tax collector.

Section 15. [Reserved]



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

Section 16. Enforcement of Non-ad Valorem Assessments and Authorized Taxes. The collection and enforcement of all non-ad valorem assessments and taxes levied by the Authority shall be at the same time and in like manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, in the issuance to individuals of tax deeds based thereon, and all other procedures in connection therewith shall be applicable to the Authority and the delinquent and unpaid assessments and authorized taxes of the Authority to the same extent as if said statutory provisions were expressly set forth in this act. Any authorized taxes shall be subject to the same discounts as county taxes.

Section 17. Bonds and Obligations.

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

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

(b) Refunding any bonds or other indebtedness of the Authority.

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

(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 interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

facsimile of whose signature shall appear on any obligations shall cease to be such officer before the delivery of such obligations, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until delivery. The Board of Supervisors may sell obligations in such manner and for such price as it may determine to be in the best interest of the Authority in accordance with the terms of the financing documents. In addition to the pledged funds, the obligations may be secured by such credit enhancement as the Board of Supervisors determines to be appropriate pursuant to the financing documents. The obligations may be issued as capital appreciation bonds, current interest bonds, term bonds, serial bonds, variable bonds, or any combination thereof, all as shall be determined pursuant to the financing documents.

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

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





ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

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

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

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



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

pledged funds in accordance with the terms of the financing documents.

(8) All pledged funds shall be deemed to be trust funds, to be held and applied solely as provided in the financing documents. Such pledged funds may be invested by the Authority in such manner as provided in the financing documents.

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

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

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

(12) All obligations issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect to the issuance of such obligations shall be necessary except such as are required by this act, the financing



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

documents, and general law. The provisions of the financing documents shall constitute an irrevocable contract between the Authority and the holders of the obligations issued pursuant to the provisions thereof.

(13) Holders of obligations shall be considered third-party beneficiaries hereunder and may enforce the provisions of this act or general purpose law.

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

Section 18. Planning Requirements.

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

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

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

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

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

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

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

(g) Evaluates Authority staffing.



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

(h) Provides for detailed mapping of Authority facilities.

(i) Provides for hydraulic analysis of Authority facilities, both existing and proposed.

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

(k) Provides for an analysis of all available wastewater alternatives, including surface water discharge, wetlands discharge, percolation facilities, spray irrigation, and deep well injection.

(l) Identifies reclaimed water storage alternatives and wet weather backup alternatives.

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

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

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

(3) The construction or expansion of any portion of the Authority's facilities, or major alterations which affect the quantity of the level of service of the Authority's facilities, that are undertaken or initiated by the Authority shall be consistent with the applicable local government comprehensive



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

plan adopted pursuant to part II of chapter 163, Florida Statutes; However, no local government comprehensive plan shall require the Authority to construct, expand, or perform a major alteration of any public facility which would result in the impairment of covenants and agreements relating to obligations issued by the Authority.

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

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

Section 19. Merger; Dissolution.

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

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

(3) The dissolution of the Authority shall occur by law and transfer the title to all property owned by the Authority in a manner consistent with chapter 189, Florida Statutes, unless



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

otherwise provided in a dissolution plan approved and adopted by resolution upon a 4/5 vote of both the City Commission of the City of Kissimmee and the Board of County Commissioners of Osceola County.

Section 20. Effect of Incorporation or Presence of Another Special District. To the maximum extent permitted by law, the subsequent incorporation or annexation of any area included within the boundaries of the District or service area, or the presence or creation of any special district within the boundaries of the District or service area, shall not impair or alter the authority, power, obligations, or purpose of the Authority or its successor in providing water and wastewater services and facilities within any portion of the District's boundaries or authorized service area now included within Osceola County, any municipality, or special district or subsequently included within any county, municipality, or special district. Nothing herein shall be construed to limit or affect the powers of any municipal services benefit unit or dependent special district established by any charter county.

Section 21. Enforcement and Penalties. The Board of Supervisors or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to mandate compliance with or enjoin or restrain any person violating the provisions of this act and any bylaws, resolutions, regulations, rules, codes, and orders adopted under this act, and the court shall, upon proof of such failure of compliance or violation, have the duty to issue forthwith such



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

temporary and permanent injunctions as are necessary to mandate compliance with or prevent such further violations thereof.

Section 22. Tax Exemption. As the exercise of the powers conferred by this act to effect the purposes of this act constitutes the performance of essential public functions, and as the projects of the Authority will constitute public property used for public purposes, all assets and properties of the Authority, all obligations issued hereunder and interest paid thereon, and all rates, fees, charges, and other revenues derived by the Authority from the projects provided for by this act or otherwise shall be exempt from all taxes by the state or any political subdivision, agency, or instrumentality thereof, except that this exemption shall not apply to interest earnings subject to taxation under chapter 220, Florida Statutes.

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

Section 24. Limitation of State Authority. The state does hereby pledge to and agree with the holders of any obligations issued under this act, and with those parties who may enter into contracts with the Authority pursuant to the provisions of this act, that the state will not limit or alter the rights hereby



ENROLLED  
HB 1265, Engrossed 1

2003 Legislature

vested in the Authority until such obligations are fully met and discharged and such contracts are fully performed on the part of the Authority.

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

Section 26. Severability. The provisions of this act are severable, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the provisions of this act or any of the powers granted by this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act or any of the remaining powers granted by this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provision or power not been included therein.

Section 27. This act shall take effect upon becoming a law.