

By Senator Dockery

15-1611A-03

See HB 1265

1 A bill to be entitled
2 An act relating to Osceola County; creating an
3 independent special district known as
4 Tohopekaliga Water Authority; providing
5 legislative findings and intent; providing
6 definitions; describing the district
7 boundaries; providing for service areas subject
8 to the approval of affected general purpose
9 local governments; providing that the purpose
10 of the district shall be for the planning,
11 acquisition, development, operation, and
12 maintenance of water and wastewater management
13 systems within the district and its service
14 area; limiting the provision of district
15 services and facilities to only those areas
16 authorized by affected general purpose local
17 governments; providing for an appointed
18 governing body of the district composed of five
19 supervisors and setting forth their authority,
20 terms of office, qualifications, compensation,
21 and method of appointment; providing for the
22 filling of vacancies in office; providing
23 district powers, functions, and duties;
24 providing for the acquisition of land;
25 providing for the levy and collection of rates,
26 fees, assessments, and other charges for the
27 provision of capital facilities or use of
28 district services or payment of operating and
29 financing costs; providing for borrowing money
30 and issuing bonds, certificates, obligations,
31 or other evidence of indebtedness; prohibiting

1 the creation of state, county, or municipal
2 debt; providing for the collection of unpaid
3 rates, fees, assessments, and other charges;
4 providing for the adoption of a master plan;
5 providing for enforcement and penalties;
6 providing for merger and dissolution; providing
7 for severability; providing an effective date.
8

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

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

13 Section 2. Legislative Findings.

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

26 (2) It is declared as a matter of legislative
27 determination that the extensive growth of population and
28 attendant commerce throughout Osceola County has caused
29 affected general purpose local governments within Osceola
30 County to recognize the need to consider, advance, and develop
31 a regional approach to the governmental delivery and provision

1 of potable water, wastewater, nonpotable water, and reclaimed
2 water facilities and services, the protection of the
3 environment, and the use of valuable water resources.

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

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

1 valuable local and regional water resources; and advance
2 regional and comprehensive planning.

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

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

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

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

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

29 (b) Costs of transfer or acquisition by or for the
30 Authority of such project, including, without limitation, any
31 annual revenue transfer obligations payable to one or more

1 predecessor general purpose local governments pursuant to
2 interlocal agreement.

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

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

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

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

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

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

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

26 (j) Any other costs properly attributable to such
27 project or to the issuance of obligations which finance such
28 project, as determined by generally accepted accounting
29 principles applicable to such project, and shall include
30 reimbursement to the Authority or a predecessor local
31 government for any such items of cost advanced, incurred, or

1 paid by the Authority or a general purpose local government
2 prior to issuance of the obligations issued to finance or
3 acquire such project. Additional items of cost may be provided
4 pursuant to the financing documents.

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

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

18 (6) "Pledged funds" means:

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

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

27 (c) Such other property, assets, and moneys of the
28 Authority as shall be pledged pursuant to the financing
29 documents, in each case to the extent provided by the Board of
30 Supervisors pursuant to the financing documents. The funds
31 pledged to one series of obligations may be different than the

1 funds pledged to other series of obligations. Pledged funds
2 shall not include any ad valorem tax revenues or general fund
3 account of the Authority.

4 (7) "Project" means any structure, property, or
5 facility which the Authority, from time to time, may determine
6 to construct or acquire as part of its Authority facilities,
7 together with all improvements, equipment, structures, and
8 other facilities necessary or appropriate in connection
9 therewith. This term is to be broadly construed so as to
10 include the lawful undertaking which will accrue, or is
11 reasonably expected to accrue, to the benefit of the Authority
12 facilities, including joint ventures and acquisitions of
13 partial interests or contractual rights. "Project" shall
14 include, but not be limited to, acquisition or transfer of any
15 water or wastewater utility system, water or wastewater
16 utility assets, or securing the right to provide any water or
17 wastewater utility service as provided for in one or more
18 interlocal agreements between the Osceola County Board of
19 County Commissioners and the City Commission of the City of
20 Kissimmee or any other governmental body. "Project" may also
21 include working capital, as well as any costs or judgments
22 associated with litigation.

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

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

1 Section 4. District Establishment and Creation.
2 (1) There is hereby created and established a special
3 purpose local governmental body, corporate and politic, to be
4 known as Tohopekaliga Water Authority. The Tohopekaliga Water
5 Authority is hereby created and incorporated as an independent
6 special district, pursuant to and in conformance with chapter
7 189, Florida Statutes.
8 (2) The District boundary shall embrace and include:
9 (a) The territory within Osceola County consisting of
10 the incorporated area of the City of Kissimmee and including
11 those areas served or provided with water and wastewater
12 service by the City of Kissimmee on the effective date hereof.
13 (b) All unincorporated areas within Osceola County,
14 less and except any areas included within the Reedy Creek
15 Improvement District, on the effective date hereof, and less
16 and except the territory within Osceola County consisting of
17 the incorporated area of the City of St. Cloud, and including
18 those unincorporated areas authorized by law to be served or
19 provided with water and wastewater service by the City of St.
20 Cloud on the effective date hereof. This act shall not be
21 construed to prohibit or inhibit the City of St. Cloud from
22 lawfully extending, expanding, or providing authorized
23 municipal services and facilities as provided for in section
24 180.02(3), Florida Statutes. The Authority shall be estopped
25 in any future proceeding conducted pursuant to section 180.03
26 or section 180.04, Florida Statutes, by the City of St. Cloud,
27 or any action arising therefrom, from asserting or claiming
28 the willingness and ability to provide potable water or
29 wastewater service to:
30 1. All lands in Osceola County, Florida, lying in
31 Section 8, Township 25 South, Range 31 East.

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

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

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11 The District boundary may be expanded to include any service
12 area within the boundaries of an affected general purpose
13 local government upon the adoption of a resolution by the
14 governing body of the affected general purpose local
15 government authorizing the Authority to provide its service
16 and facilities therein.

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

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

22 (5) The purpose of the District shall be to perform
23 such acts as shall be necessary for the sound planning,
24 acquisition, development, operation, and maintenance of
25 governmentally owned potable and nonpotable water and
26 wastewater management and delivery systems within the District
27 and its service area, including all business facilities
28 necessary and incidental thereto. As provided herein, the
29 Authority shall have exclusive jurisdiction over the
30 acquisition, development, operation, and management of such
31 water and wastewater management systems capable of being

1 provided by general purpose local governments in and for the
2 District boundaries and the service area.

3 Section 5. Authority to Operate in Osceola County or
4 Areas Adjacent to Osceola County; Subject to General Purpose
5 Local Government Consent. By resolution of the governing
6 bodies of each of the general purpose local governments
7 affected, all power and authority available to the Authority
8 under general law, including without limitation, chapters 163,
9 189, and 197, Florida Statutes, and this act shall be deemed
10 to be irrevocably authorized and may be implemented by the
11 Authority within the boundaries of each of the general purpose
12 local governments affected. Exclusive of the provision of
13 services, facilities, or programs provided on a wholesale or
14 bulk service basis, the Authority shall not provide its
15 potable or nonpotable water or wastewater management or
16 delivery services or programs to retail customers in the
17 District or a service area without entering into an interlocal
18 agreement with any affected general purpose local government
19 which addresses the representation of such retail customers of
20 each affected service area. This act expressly authorizes by
21 law the transfer to the Authority or the contracting by the
22 Authority for the provision of any water or wastewater
23 systems, facilities, or services within the District or its
24 service area.

25 Section 6. Governing Body.

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

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

7 (b) Board Supervisor No. 3 and Board Supervisor No. 4
8 shall serve initial terms of approximately 3 years, ending on
9 September 30, 2006. Board Supervisor No. 3 shall be appointed
10 by the Osceola Board of County Commissioners. Board
11 Supervisor No. 4 shall be appointed by the City Commission of
12 the City of Kissimmee.

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

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

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

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

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

1 Secretary may also attest to the execution of documents. The
2 Secretary shall have such other powers as may be approved by
3 resolution of the Board of Supervisors adopted at a duly
4 called meeting.

5 (6) The Board of Supervisors shall have those
6 administrative duties set forth in this act and chapter 189,
7 Florida Statutes, as may be amended from time to time. Any
8 certificate, resolution, or instrument signed by the
9 Chairperson, Vice Chairperson, or such other person of the
10 Authority as may hereafter be designated and authorized by the
11 Board of Supervisors shall be evidence of the action of the
12 Authority, and any such certificate, resolution, or other
13 instrument so signed shall be conclusively presumed to be
14 authentic.

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

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

1 or charges shall require the affirmative vote of a majority of
2 the entire Board of Supervisors.

3 Section 7. Conflicts of Interest Prohibited. No
4 member, officer, agent, or employee of the Authority, either
5 for himself or herself or as agent for anyone else or as a
6 stockholder or owner in any other legal entity, shall
7 participate in or benefit directly or indirectly from any
8 sale, purchase, lease, contract, or other transaction entered
9 into by the Authority. For the purposes of this act, a direct
10 or indirect benefit or participation shall mean a "special
11 private gain or loss" as defined in the Code of Ethics for
12 Public Officers and Employees, part III of chapter 112,
13 Florida Statutes, and shall be determined in the same manner
14 as the question of "special private gain or loss" would be
15 determined for purposes of a violation of section 112.3143,
16 Florida Statutes, or its successor in function. A member,
17 officer, agent, or employee of the Authority may rely upon an
18 advisory opinion or determination of the State Commission on
19 Ethics or the Authority's general counsel as to the question
20 of whether or not there would be a special private gain or
21 loss, and such determination shall also be determinative of
22 the ability of the member, officer, agent, or employee to vote
23 under the provisions of this act or of the conduct of the
24 member, officer, agent, or employee under this act. The
25 violation of any provisions of this act is declared to be a
26 criminal offense and misdemeanor within the meaning of section
27 775.08, Florida Statutes, and shall be punishable as provided
28 by general law. The provisions of this section shall be
29 cumulative to any general laws of the state which are from
30 time to time applicable to members, officers, agents, or

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1 employees of the Authority and which require the disclosure
2 of, or prohibit, conflicts of interest.

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

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

9 Section 10. District Powers, Functions, and Duties.

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

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

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

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

30 (d) To collect rates, fees, and charges from public or
31 quasi-public corporations, municipalities, counties, the state

1 or its agencies, the federal government, or any other public
2 or governmental agencies or bodies for the use or provision of
3 Authority facilities or services.

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

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

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

30 (h) To acquire such lands and rights and interests
31 therein, including lands under water and riparian rights; to

1 acquire such personal property as the Authority may deem
2 necessary and appropriate in connection with the acquisition,
3 ownership, expansion, improvement, operation, and maintenance
4 of the Authority facilities; and to hold and dispose of all
5 real and personal property under its control. The power of
6 eminent domain, to the maximum extent available to any general
7 purpose local government, may be exercised by the Authority
8 both within and outside the District or service area for the
9 purpose of carrying out the intent of this act.

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

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

21 1. That all subdivision type infrastructure, or other
22 contributed transmission or distribution infrastructure
23 necessary to serve a particular project or customer, and
24 necessary easements be approved by and dedicated to the
25 Authority.

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

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

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

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

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

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

26 (n) To prescribe methods of pretreatment of commercial
27 or industrial wastes before accepting such wastes for
28 treatment and to refuse to accept such commercial or
29 industrial wastes when not sufficiently pretreated as may be
30 prescribed, and, to the extent permitted by law, to prescribe
31 penalties including fines or penalties not exceeding \$2,000

1 per day, if the Authority is required by a state or federally
2 mandated program to have the authority and power to fine or
3 charge any person or entity for the refusal to so pretreat
4 such commercial or industrial wastes.

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

13 1. Whenever water or wastewater service is required,
14 the owner shall retain a qualified contractor to install the
15 required facilities, extensions, and connections. All
16 facilities shall conform to the Authority's specified minimum
17 design and construction standards and specifications and
18 applicable growth management, plumbing, and building
19 regulations and codes. The installation and connection
20 process shall provide the owner with the right to control the
21 placement, manner, use, and disposition of the installation on
22 private property, subject to the minimum design and
23 construction standards of the Authority and as is reasonably
24 necessary, to protect the efficiency and integrity of the
25 Authority's facilities. Such control is afforded to the owner
26 to minimize the physical, aesthetic, and other effects of the
27 installation or connection on the affected property. Upon
28 connection, the owner shall be deemed to have granted a
29 license to the Authority to enter upon the affected property
30 to inspect, repair, reconstruct, or otherwise maintain the
31 installation or connection. Unless authorized otherwise, the

1 owner shall be deemed to own such installation located on the
2 owner's property and may repair, demolish, or construct in the
3 area of the improvement served by the installation or
4 connection, subject to the Authority's minimum design and
5 construction standards and specifications for the Authority's
6 facilities, and applicable growth management, plumbing, and
7 building regulations and codes.

8 2. In circumstances in which an owner fails or refuses
9 to connect to the Authority facilities, the Authority shall be
10 entitled to seek and employ any legally available remedy to
11 cause the installation of on-site water or wastewater
12 facilities necessary to effectuate the connection of the
13 owner's premises to Authority facilities. Under such
14 circumstances, any installation by the Authority shall be
15 performed after reasonable efforts by the Authority to
16 solicit, and in deference to, the owner's requests, if any,
17 concerning the placement, manner, use, and disposition of the
18 installation on the owner's premises subject to the
19 Authority's applicable minimum design and construction
20 standards and specifications which are reasonably necessary to
21 protect the efficiency and integrity of the Authority's
22 facilities. Upon connection, the owner shall be deemed to
23 have granted a license to the Authority to enter upon the
24 affected property to inspect, repair, reconstruct, or
25 otherwise maintain the installation or connection. Unless
26 authorized otherwise, the owner shall be deemed to own such
27 installation located on the property and may repair, demolish,
28 or construct in the area of the improvement served by the
29 installation or connection, subject to the Authority's minimum
30 design and construction standards and specifications for

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1 Authority facilities, and applicable growth management,
2 plumbing, and building regulations and codes.

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

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

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

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

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

24 (u) Subject to such provisions and restrictions as may
25 be set forth in any financing document, to enter into
26 contracts with the government of the United States or any
27 agency or instrumentality thereof, the state, or any
28 municipality, county, district, authority, political
29 subdivision, private corporation, partnership, association, or
30 individual providing for or relating to the treatment,
31 collection, and disposal of wastewater or the treatment,

1 supply, and distribution of water and any other matters
2 relevant thereto or otherwise necessary to effect the purposes
3 of this act.

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

12 (w) To purchase or assume the ownership, lease,
13 operation, management, or control of any publicly or privately
14 owned water or wastewater facilities, including the
15 assumption, defeasance, or payment of the financial
16 liabilities associated with such water and wastewater
17 facilities.

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

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

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

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

31

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

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

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

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

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

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

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

30 (ii) To lease, as lessor or lessee, to or from any
31 person, firm, corporation, association, or body, public or

1 private, facilities or property of any nature to carry out any
2 of the purposes authorized by this act.

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

6 (kk) To assess, levy, impose, collect, and enforce
7 special assessments upon all or any portion of the lands
8 located within the District or service area. Such special
9 assessments may be apportioned among benefited property in a
10 manner proportionate with the benefits received or
11 commensurate with the burdens alleviated by the maintenance
12 and use of property based upon such factors or combination of
13 factors as determined by resolution of the Board of
14 Supervisors. Such special assessments may, in the discretion
15 of the Board of Supervisors, be imposed, collected, and
16 enforced using any methods and procedures authorized by law,
17 including section 197.3632, Florida Statutes, or its successor
18 in function; or the Board of Supervisors may adopt by
19 resolution its own method or procedures or use any other
20 method or means for levy, imposition, collection, and
21 enforcement not inconsistent with law.

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

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

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

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

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

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

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

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

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

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

7 (7) Nothing herein is intended to, or shall be
8 construed to, limit the power of local self-government of a
9 charter county or conflict with the Constitution of the State
10 of Florida or the Osceola County Home Rule Charter approved by
11 vote of the electors on March 3, 1992, and which became
12 effective on October 1, 1992.

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

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

1 (1) The Board of Supervisors shall adopt by resolution
2 a schedule of rates, fees, or other charges for the use of the
3 services, facilities, and products of the Authority to be paid
4 by each customer which may be connected with or provided
5 service by such Authority facilities. The Authority may
6 establish separate rates, fees, and charges for different
7 portions of the Authority facilities, including separate
8 rates, fees, and charges for each utility system. The Board of
9 Supervisors may establish different rates, fees, and charges
10 for services, facilities, and products provided by a portion
11 of a utility system provided such rates, fees, and charges are
12 consistent with applicable law.

13 (2) Such rates, fees, and charges shall be adopted and
14 revised so as to provide moneys which, with other funds
15 available for such purposes, shall be at least sufficient at
16 all times to pay the expenses of operating, managing,
17 expanding, improving, and maintaining the Authority
18 facilities, including renewal and replacement reserves for
19 such Authority facilities; to pay costs and expenses provided
20 for in this act, general law, and the financing documents; to
21 pay the principal and interest on the obligations as the same
22 shall become due and reserves therefore; to timely pay and
23 deliver any obligations in the form of annual transfer amounts
24 due and owing to Osceola County and the City of Kissimmee, or
25 any other general purpose local government under any
26 interlocal agreement; and to provide a reasonable margin of
27 safety over and above the total amount of such payments.
28 Notwithstanding any other provision in this act, such rates,
29 fees, and charges shall always be sufficient to comply fully
30 with any covenants contained in the financing documents. The
31 Authority shall charge and collect such rates, fees, and

1 charges so adopted and revised, and such rates, fees, and
2 charges shall not be subject to the supervision or regulation
3 by any other commission, board, bureau, agency, or other
4 political subdivision of the state.

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

31

1 (4) Except as required by any covenant to timely meet,
2 perform, or repay any obligations under any financing
3 documents or as described in subsections (7) and (8), no
4 rates, fees, or charges shall be increased or adopted for 2
5 years after the effective date of this act, unless the
6 Authority causes a rate consultant to review its rates, fees,
7 charges, gross revenue, operating expenses, and methods of
8 operation and determines that such increase is either
9 predicated upon implementing an identified capital improvement
10 plan or meeting state or federal conservation or water demand
11 management requirements.

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

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

27 (7) Notwithstanding the provisions of subsection (3)
28 or any other provision of applicable law, upon acquisition of
29 a utility system, no public hearing shall be required for
30 adoption by the Authority by resolution of the rates, fees,
31 and charges contained in the rate tariff relating thereto

1 previously approved by the Florida Public Service Commission
2 or any governmental seller thereof. In the event any rate
3 tariff previously approved by a governmental seller includes
4 such a surcharge authorized by section 180.191, Florida
5 Statutes, the Authority may continue the imposition of any
6 such surcharge provided that the Authority incrementally
7 reduces each year thereafter and ultimately discontinues such
8 surcharge within 15 years after any such acquisition by the
9 Authority.

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

16 (9) Notwithstanding anything in this act to the
17 contrary, the Authority may establish a general fund account
18 into which moneys may be deposited from a surcharge not to
19 exceed 2 percent upon the rates, fees, and charges for the
20 Authority facilities or portion thereof. Any moneys deposited
21 to such general fund account from such a surcharge on the
22 rates, fees, and charges for Authority facilities shall be
23 considered legally available for any lawful purpose approved
24 by the Board of Supervisors. Moneys in such general fund
25 account may be used to pay for initial costs and expenses
26 associated with acquiring Authority facilities and any other
27 lawful purpose approved by the Board of Supervisors. However,
28 whenever reasonably practicable, the Board of Supervisors
29 shall endeavor in good faith to recover and return to such
30 general fund account expenditures from benefited ratepayers or
31

1 landowners that are not determined by the Board of Supervisors
2 to provide a general benefit to the District or service area.

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

19 Section 13. System Development Charges; Impact Fees.

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

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

28 (b) Whenever a property owner or his or her authorized
29 representative receives a permit from the Florida Department
30 of Environmental Protection, or its successor in function, to
31 extend or connect to Authority facilities or applies for a

1 building permit to construct, install, or alter any structure
2 or improvement where such extension, connection, construction,
3 installation, or alteration increases the potential demand on
4 the Authority facilities; or

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

12 (2) If the structure or improvement on the property
13 for which a system development charge has been paid is not
14 authorized to connect to the Authority facilities within 10
15 years after the date of such payment, the property owner
16 holding legal title at the end of the 10-year period shall be
17 eligible for a refund of the system development charge without
18 interest. In such an event, the District shall notify the
19 property owner at the address reflected on the most recent tax
20 roll of his or her eligibility for a refund by mailing notice
21 to the property owner. Such notice shall fairly explain the
22 procedure for applying for a refund and shall be sent by
23 registered mail with return receipt requested. Any property
24 owner eligible for a refund shall file written application
25 with the Board of Supervisors for a refund within 90 days
26 after the date of mailing of the notice by the District, or
27 such property owner shall be deemed to have waived any right
28 to a refund and the District shall be entitled to retain and
29 apply the system development charge for capital
30 improvements. Failure to construct the improvement for which
31 a system development charge has been paid shall not constitute

1 grounds for a refund, nor shall delay or failure to receive
2 the mailed notice of eligibility for a refund toll the 90-day
3 time limit within which an application for refund must be
4 filed.

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

16 (4) System development charges shall be reviewed at
17 least every 4 years by the District to determine that the
18 charges are equitable and proportionate to the current
19 estimate of costs for providing the capital improvements for
20 which the charges are imposed. The initial schedule of system
21 development charges shall be those already in effect in the
22 District and any subdistricts or applicable service area at
23 the time the District acquires any utility system. The
24 District may thereafter change or revise the schedule of
25 system development charges upon compliance with the notice and
26 hearing requirements set forth for the adoption of rates,
27 fees, and other charges.

28 (5) The District, in its discretion, may permit the
29 owners of existing structures which connect to the District's
30 system to pay the system development charges on an installment
31 basis with interest in the form of a special assessment. In

1 the event that system development charges shall not be paid as
2 and when due, any unpaid balance thereof together with all
3 reasonable costs of establishing the assessment lien,
4 collection, and statutory discounts may be collected as a
5 non-ad valorem assessment on the same bill as property taxes.

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

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

18 Section 14. Unpaid Rates, Fees, and Charges to
19 Constitute a Lien. In the event that the rates, fees, or
20 charges for the use of the services, facilities, and products
21 of the Authority shall not be paid as and when due, any unpaid
22 balance thereof, and all interest accruing thereon, shall be a
23 lien on any parcel or property affected thereby. Such liens
24 shall be superior and paramount to the interest on such parcel
25 or property of any owner, lessee, tenant, mortgage, or other
26 person except the lien of state, county, municipal, and
27 district taxes and other non-ad valorem assessments and shall
28 be on parity with the lien of all such ad valorem property
29 taxes and non-ad valorem assessments. In the event that any
30 such rates, fees, or charges shall not be paid as and when due
31 and shall be in default for 30 days or more, the unpaid

1 balance thereof and any interest accrued thereon not exceeding
2 the legal rate, together with attorney's fees and costs, may
3 be recovered by the Authority in a civil action, and any such
4 lien and accrued interest may be foreclosed or otherwise
5 enforced by the Authority by action or suit in equity as for
6 the foreclosure of a mortgage on real property; or,
7 alternatively, in lieu of foreclosure, an equivalent amount to
8 such outstanding balance charges may be collected pursuant to
9 sections 197.3632 and 197.3635, Florida Statutes, or any
10 successor statutes, authorizing the collection of charges in
11 the form of special assessments, therein characterized as
12 non-ad valorem assessments, on parity with the lien of ad
13 valorem taxes. However, any such alternative collection
14 procedure shall provide notice to the landowner in the manner
15 required by law, and any existing lien of record on the
16 affected parcel for the delinquent rate, fee, or charge is
17 supplanted by the lien resulting from the certification of any
18 assessment roll to the tax collector.

19 Section 15. [Reserved]

20 Section 16. Enforcement of Non-ad Valorem Assessments
21 and Authorized Taxes. The collection and enforcement of all
22 non-ad valorem assessments and taxes levied by the Authority
23 shall be at the same time and in like manner as county taxes,
24 and the provisions of general law relating to the sale of
25 lands for unpaid and delinquent county taxes, the issuance,
26 sale, and delivery of tax certificates for such unpaid and
27 delinquent county taxes, the redemption thereof, in the
28 issuance to individuals of tax deeds based thereon, and all
29 other procedures in connection therewith shall be applicable
30 to the Authority and the delinquent and unpaid assessments and
31 authorized taxes of the Authority to the same extent as if

1 said statutory provisions were expressly set forth in this
2 act. Any authorized taxes shall be subject to the same
3 discounts as county taxes.

4 Section 17. Bonds and Obligations.

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

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

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

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

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

20 (e) Funding a debt service reserve account.

21 (f) Capitalizing interest on the obligations.

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

24 (h) Any other purpose relating to this act.

25 (2) The principal of and the interest on each series
26 of obligations shall be payable from the pledged funds, all as
27 determined pursuant to the financing documents. The Authority
28 may grant a lien upon and pledge the pledged funds in favor of
29 the holders of each series of obligations in the manner and to
30 the extent provided in the financing documents. Such pledged
31 funds shall immediately be subject to such lien without any

1 physical delivery thereof, and such lien shall be valid and
2 binding as against all parties having claims of any kind in
3 tort, contract, or otherwise against the Authority.

4 (3) The obligations of each series shall be dated,
5 shall bear interest at such rate or rates, shall mature at
6 such time or times not exceeding 40 years from their date or
7 dates, and may be made redeemable before maturity, at the
8 option of the Authority, at such price or prices and under
9 such terms and conditions as shall be determined by the Board
10 of Supervisors pursuant to the financing documents. The Board
11 of Supervisors shall determine the form of the obligations and
12 the manner of executing such obligations and shall fix the
13 denomination of such obligations and the place of payment of
14 the principal and interest, which may be at any bank or trust
15 company within or without the state. In case any officer whose
16 signature or facsimile of whose signature shall appear on any
17 obligations shall cease to be such officer before the delivery
18 of such obligations, such signature or such facsimile shall
19 nevertheless be valid and sufficient for all purposes the same
20 as if he or she had remained in office until delivery. The
21 Board of Supervisors may sell obligations in such manner and
22 for such price as it may determine to be in the best interest
23 of the Authority in accordance with the terms of the financing
24 documents. In addition to the pledged funds, the obligations
25 may be secured by such credit enhancement as the Board of
26 Supervisors determines to be appropriate pursuant to the
27 financing documents. The obligations may be issued as capital
28 appreciation bonds, current interest bonds, term bonds, serial
29 bonds, variable bonds, or any combination thereof, all as
30 shall be determined pursuant to the financing documents.

31

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

13 (5) The proceeds of any series of obligations shall be
14 used for such purposes, and shall be disbursed in such manner
15 and under such restrictions, if any, as the Board of
16 Supervisors may provide pursuant to the financing documents.

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

26 (7) Obligations shall not be deemed to constitute a
27 general obligation debt of the Authority or a pledge of the
28 faith and credit of the Authority, but such obligations shall
29 be payable solely from the pledged funds and any moneys
30 received from the credit enhancers of the obligations in
31 accordance with the terms of the financing documents. The

1 issuance of obligations shall not directly, indirectly, or
2 contingently obligate the Authority to levy or to pledge any
3 form of ad valorem taxation whatsoever therefor. No holder of
4 any such obligations shall ever have the right to compel any
5 exercise of the ad valorem taxing power on the part of the
6 Authority to pay any such obligations or the interest thereon
7 or the right to enforce payment of such obligations or the
8 interest thereon against any property of the Authority, nor
9 shall such obligations constitute a charge, lien, or
10 encumbrance, legal or equitable, upon any property of the
11 Authority, except the pledged funds in accordance with the
12 terms of the financing documents.

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

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

27 (10) The obligations may be validated, at the sole
28 discretion of the Board of Supervisors, pursuant to chapter
29 75, Florida Statutes. Obligations may be issued pursuant to
30 and secured by a resolution of the Board of Supervisors.

31

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

4 (12) All obligations issued hereunder shall not be
5 invalid for any irregularity or defect in the proceedings for
6 the issuance and sale thereof and shall be incontestable in
7 the hands of bona fide purchasers for value. No proceedings in
8 respect to the issuance of such obligations shall be necessary
9 except such as are required by this act, the financing
10 documents, and general law. The provisions of the financing
11 documents shall constitute an irrevocable contract between the
12 Authority and the holders of the obligations issued pursuant
13 to the provisions thereof.

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

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

20 Section 18. Planning Requirements.

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

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

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

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

31

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

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

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

7 (g) Evaluates Authority staffing.

8 (h) Provides for detailed mapping of Authority
9 facilities.

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

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

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

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

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

23

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

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

1 (3) The construction or expansion of any portion of
2 the Authority s facilities, or major alterations which affect
3 the quantity of the level of service of the Authority s
4 facilities, that are undertaken or initiated by the Authority
5 shall be consistent with the applicable local government
6 comprehensive plan adopted pursuant to part II of chapter 163,
7 Florida Statutes; However, no local government comprehensive
8 plan shall require the Authority to construct, expand, or
9 perform a major alteration of any public facility which would
10 result in the impairment of covenants and agreements relating
11 to obligations issued by the Authority.

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

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

18 Section 19. Merger; Dissolution.

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

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

31

1 (3) The dissolution of the Authority shall occur by
2 law and transfer the title to all property owned by the
3 Authority in a manner consistent with chapter 189, Florida
4 Statutes, unless otherwise provided in a dissolution plan
5 approved and adopted by resolution upon a 4/5 vote of both the
6 City Commission of the City of Kissimmee and the Board of
7 County Commissioners of Osceola County.

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

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

1 such failure of compliance or violation, have the duty to
2 issue forthwith such temporary and permanent injunctions as
3 are necessary to mandate compliance with or prevent such
4 further violations thereof.

5 Section 22. Tax Exemption. As the exercise of the
6 powers conferred by this act to effect the purposes of this
7 act constitutes the performance of essential public functions,
8 and as the projects of the Authority will constitute public
9 property used for public purposes, all assets and properties
10 of the Authority, all obligations issued hereunder and
11 interest paid thereon, and all rates, fees, charges, and other
12 revenues derived by the Authority from the projects provided
13 for by this act or otherwise shall be exempt from all taxes by
14 the state or any political subdivision, agency, or
15 instrumentality thereof, except that this exemption shall not
16 apply to interest earnings subject to taxation under chapter
17 220, Florida Statutes.

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

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

1 the rights hereby vested in the Authority until such
2 obligations are fully met and discharged and such contracts
3 are fully performed on the part of the Authority.

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

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

20 Section 27. Conflict. In the event of a conflict of
21 the provisions of this act with the provisions of any other
22 act, the provisions of this act shall control to the extent of
23 such conflict.

24 Section 28. This act shall take effect upon becoming a
25 law.

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