



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

A bill to be entitled

An act relating to Charlotte and Sarasota Counties; creating the Englewood Water District; providing for codification of special laws regarding special districts pursuant to s. 189.429, F.S., relating to the Englewood Water District; establishing boundaries; providing definitions; providing for election of a Board of Supervisors to govern said District; establishing powers, authority, and duties of the Board; granting to said governing board the authority in the territory defined to construct, acquire, extend, enlarge, reconstruct, improve, maintain, equip, repair, and operate a water system, wastewater system, or wastewater reuse system, or any combination thereof; authorizing the levy and collection of non-ad valorem assessments on property benefited by the construction of such water system, wastewater system, wastewater reuse system, or combined systems; providing for optional methods of financing the cost of the water system, wastewater system, wastewater reuse system, or combined systems or extensions and additions thereto by the issuance of revenue bonds or assessment bonds or any combination thereof and the fixing and collection thereof and the fixing and collection of rates and charges on users of such systems; providing for the levy and collection of non-ad valorem assessments on benefited property and the pledge of such assessments for the payment of any revenue bonds or assessment bonds; providing for the rights, remedies, and security of any of



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

the holders of said bonds; providing penalties; repealing chapter 96-499, Laws of Florida, relating to the creation and establishment of the Englewood Water District; providing an effective date.

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

Section 1. In accordance with section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Englewood Water District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act.

Section 2. Chapter 96-499, Laws of Florida, relating to Englewood Water District, is codified, reenacted, amended, and repealed as herein provided.

Section 3. The Englewood Water District is re-created and the charter is re-created and reenacted to read:

Section 1. (1) There is hereby created the Englewood Water District for the areas of Charlotte and Sarasota Counties, described as follows:

Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 35, and 36, that part of sections 4 and 5, lying and being west of the west boundary of Lemon Bay, township 40 south; range 19 east; and



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33, township 40 south, range 20 east, all being in Sarasota County, State of Florida.

Sections 1, 2, 12 and 13, Township 41 South, Range 19 East; Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18, that part of Section 20 lying and being east of the east boundary of Lemon Bay, Township 41 South, Range 20 East, all lying and being in Charlotte County, State of Florida.

That portion of Section 3, Township 40 South, Range 19 East lying west of S.R. 776 (Englewood Road), and those portions of Sections 4 and 5, Township 40 South, Range 19 East, lying and being east of the west boundary of Lemon Bay, all being south of the east-west line prescribed by Colonial Road, all being in Sarasota County, Florida.

(2) The Englewood Water District is hereby declared to be a body corporate and politic under the corporate name and style of "Englewood Water District" with power to contract, to sue and be sued in its corporate name, and with the other powers and duties hereinafter set forth, as well as all other powers and exemptions given by general law.

Section 2. As used in this act, unless the context otherwise requires:



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(1) "District" means the Englewood Water District created by this act.

(2) "Water system" means and includes any plants, systems, facilities, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as a part thereof, useful or necessary, or having the present capacity for future use in connection with the development of sources, treatment for purification and distribution of water for domestic, commercial, or industrial use and without limiting the generality of the foregoing shall include dams, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system and shall include all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever relating to such system and necessary or convenient to the operation thereof.

(3) "Wastewater system" means and includes any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as a part thereof, useful or necessary, or having the present capacity for future use in connection with the collections, treatment, purification, or disposal of wastewater or sewerage of any nature or originating from any source, including industrial wastes resulting from any processes of any industry, manufacture, trade, or business or from the development of any natural resources; and without limiting the generality of the foregoing definition shall embrace treatment plants, pumping stations, lift stations, valves, force mains, intercepting



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment, all wastewater mains and laterals for the reception and collection of wastewater or sewerage on premises connected therewith, and shall include all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

(4) "Wastewater reuse system" means and includes any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as a part thereof, useful or necessary, or having the present capacity for future use in connection with the collection, treatment, purification, disposal, or distribution of wastewater or stormwater originating from any source, for the purpose of reuse and without limiting the generality of the foregoing definition, shall embrace treatment plants, dams, reservoirs, storage tanks, pumping stations, lift stations, valves, force mains, laterals, pressure lines, mains, and all necessary appurtenances and equipment, and shall include all real and personal property and any interest therein, rights, easements, and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof. Water which has received at least secondary treatment and stormwater may be referred to as reclaimed wastewater and may be reused for such beneficial purposes, including, but not limited to, landscape or agricultural irrigation, aesthetic uses such as ponds or fountains, groundwater recharge, industrial uses, environmental enhancement, or fire protection.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(5) "System" or "systems" means the water, wastewater, or wastewater reuse systems authorized by this act either individually, in any combination, or any part thereof.

(6) "Cost" means, as applied to the acquisition and construction of a water system, wastewater reuse system, or a wastewater system or extensions, additions, or improvements thereto, the cost of construction or reconstruction, acquisition, or purchase, the cost of all labor, materials, machinery, and equipment, cost of all lands and interest therein, an office and administration building for the district, property, rights, easements, and franchises of any nature whatsoever, financing charges, interest prior to and during construction and for 1 year after completion of construction or acquisition of such water system, wastewater reuse system, or wastewater system or extensions, additions, or improvements thereto, bond discount, fees and expenses of financial advisors or fiscal agents, cost of plans and specifications, surveys and estimates of costs and revenues, cost of engineering and legal services, and all other expenses necessary or incidental in determining feasibility or practicality of such construction, reconstruction, or acquisition, administrative expenses and such other expenses as may be necessary or incidental to the construction or acquisition or improvement of such water system, wastewater reuse system, or wastewater system authorized by this act and the financing thereof, and the reimbursement of any expenses incurred by the district in connection with any of the foregoing items of cost.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(7) "Revenue bonds" means bonds or other obligations secured by and payable as to principal and interest from the revenues derived from rates, fees, and charges collected by the district from the users of the facilities of the water system, wastewater reuse system, or wastewater system, or any combination thereof, and which may or may not be additionally secured by a pledge of the proceeds of non-ad valorem assessments levied against property benefiting from assessable improvements.

(8) "Board" means the Board of Supervisors of the District.

Section 3. The District shall be governed and its affairs administered by the Board of Supervisors consisting of five members.

A.(i) By a majority vote, the Englewood Water District Board of Supervisors shall adopt a preliminary resolution dividing the district into five separate and distinct sections of approximately equal populations, drawn along Charlotte County and/or Sarasota County precinct lines, if feasible. These divisions shall be known as the "Englewood Water District Supervisor Election Districts" which shall be numbered 1 through 5.

(ii) After the initial adoption by the board of the proposed Englewood Water District Supervisor Election Districts, the district shall hold a public hearing at which all residents of the district or other interested parties shall have an opportunity to be heard concerning the proposed Englewood Water District Supervisor Election Districts. Notice of such public



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

hearing setting forth the five proposed Englewood Water District Supervisor Election Districts shall be given by one publication in a newspaper published in Charlotte County, in a newspaper published in Sarasota County, and such notice shall also be posted in five public places in the district, at least 30 days prior to the date of such hearing, which may be adjourned from time to time.

(iii) After such hearing, such preliminary resolution dividing the district into five separate and distinct sections, known as the Englewood Water District Supervisor Election Districts, either as initially adopted or as modified or amended, shall be finally adopted. A map of the Englewood Water District Supervisor Election Districts shall be kept on file in the office of the administrator of the district and shall be open to public inspection during normal business hours.

(iv) The Englewood Water District Supervisor Election Districts shall be revised every 10 years in the same manner as they were originally established. If the boundaries of the district are modified, the election districts shall be modified as necessary in the same manner established above in adequate time for the new election districts to be utilized during the next general election.

1. On the first Tuesday after the first Monday of November 1994, a person residing in Englewood Water District Board of Supervisors Election District 5 was elected by the qualified electors of the Englewood Water District for a 4-year term to create and fill Englewood Water District Supervisors Election



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

District Seat Five. On the first day of January following the election, the expiring seats, four and six were eliminated.

2. On the first Tuesday after the first Monday of November 1995, a person residing in Englewood Water District Board of Supervisors Election District 4 was elected by the qualified electors of the Englewood Water District for a term of 3 years to create and fill Englewood Water District Supervisors Election District Seat Four. On the first day of January following the election, the expiring seats, seven, eight, and nine shall be eliminated.

3. On the first Tuesday after the first Monday of November 1996, a person residing in each of the Englewood Water District Board of Supervisors Election Districts 3, 2, and 1 was elected by the qualified electors of the Englewood Water District for a term of 4 years to create and fill Englewood Water District Supervisors Election District Seats three, two, and one respectively.

B.(i) On the first Tuesday after the first Monday in November 2002, and every 4th year thereafter, two supervisors, one residing in Englewood Water District Board of Supervisors Election District 5 and one residing in Englewood Water District Board of Supervisors Election District 4, were elected by the qualified electors of the Englewood Water District for a term of 4 years.

(ii) On the first Tuesday after the first Monday in November 2004, and every 4th year thereafter, three supervisors, one residing in Englewood Water District Board of Supervisors Election District 3, one residing in Englewood Water District



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

Board of Supervisors Election District 2, and one residing in Englewood Water District Board of Supervisors Election District 1, shall be elected by the qualified electors of the Englewood Water District for a term of 4 years.

(iii) The results of such election shall be declared by resolution adopted by the Board. Each elected member of the Board shall assume office 10 days following the member's election. Each supervisor shall duly file his or her oath of office and a bond in such amount as the Board shall determine for the faithful performance of his or her duties prior to taking office and the cost thereof shall be paid by the District.

C. In the event no person has been elected at the general election to fill an office which was required to be filled at such election, the members of the board shall, within 60 days following the date of the election, by a majority vote of all members then in office, appoint a person from the appropriate Englewood Water District Supervisors Election District, to serve for each office not otherwise filled by said election, to serve until the next general election, at which election the qualified electors of the District shall elect a supervisor to serve the remaining unexpired term, if any, of such supervisors so appointed.

(i) In the event any supervisor shall resign, die, or be removed from the district, or the office of such supervisor shall for any reason become vacant, the remaining members of the board may, by a majority vote of all members then in office, appoint a successor to such supervisor from the appropriate



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

Englewood Water District Supervisors Election District to serve until the next general election, at which election the qualified electors of the district shall elect a supervisor to serve for the remaining unexpired term, if any, of such supervisor whose office became vacant as aforesaid.

(ii) A notice of the election shall be given at least once at least 14 days prior thereto by one publication in a newspaper published in Charlotte County, in a newspaper published in Sarasota County, and be posted during the 14-day period in five public places in the district.

D. All elections under this act shall be nonpartisan.

E.(i) Elections for the purpose of electing Supervisors to the Board shall conform to the Florida Election Code, chapters 97 through 106, Florida Statutes, as pertains to independent special districts as set forth in section 189.405, Florida Statutes.

(a) The results of the election shall be jointly canvassed by the county canvassing boards of the Counties of Charlotte and Sarasota and the results of such joint canvass shall be reported in accordance with general law.

(b) Supervisors shall be qualified electors with legal residence in the appropriate Englewood Water District Board of Supervisors Election District, who are freeholders. The office of any supervisor who ceases to be a qualified elector with legal residence in the appropriate election district and a freeholder in the district during his or her term of office shall become vacant.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(ii)(a) The Board shall be vested with all administrative power and authority of the District and shall have and exercise all powers conferred upon such District by the terms of this act. Said Board members may receive compensation for their services to be determined by at least a majority plus one vote of the Board. The board shall publish notice of its intent to consider a modification of board member compensation in the same manner as provided in paragraph 1(e) of this section. Said salary may not exceed \$2,500 each, annually, except that the chair may receive \$3,000 annually. Such payments shall be payable in such installments during each year of a member's term as the Board shall from time to time determine. Said Board members shall also be reimbursed for moneys expended in the performance of their official duties consistent with the provisions of section. 112.061, Florida Statutes.

(b) The organization and conduct of the Board's affairs shall be as follows:

1. The chair and vice chair shall be elected at an annual meeting to be held in January of each year, and shall serve in said capacities until the next annual meeting and said officers may be removed at any time during their tenure, with or without cause, by a majority vote of all members of said Board. Upon the expiration of the terms of office of any of said officers for any reason whatsoever, the Board shall elect new officers to fill the positions thus vacated.

2. The Board shall hold such meetings as the business affairs of the district may require, and all such meetings shall be noticed and open to the public as provided by law. Such



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

meetings shall be held within the territorial limits of the District or may be held outside the District in conjunction with other boards, commissions, agencies, bodies, or persons for the purpose of holding discussions or for the exchange of information. However, no formal action may be taken by the passage of any resolution, rule, or order at meetings held outside the District other than that action which is required for the ordinary conduct of such meetings.

3. A majority of the Board shall constitute a quorum at any meeting thereof and all actions of the Board shall be upon an affirmative vote of the majority of Board members present at any such meeting; provided that no action of the Board may pass with less than three affirmative votes. However, any resolution authorizing the issuance of bonds or other obligations, or the levy on non-ad valorem assessments or the fixing of rates and charges for the services and facilities of the systems of the District shall not be adopted except upon the affirmative vote of a majority of all the members of the Board then in office. Actions of the Board shall be evidenced by resolutions voted upon and adopted by the Board, which may be finally adopted at the same meeting at which they are introduced and need not be published or posted, except resolutions authorizing the issuance of bonds or other obligations shall be advertised in accordance with the provisions of Section 3(1)(c)2 and a public hearing shall be held prior to the adoption of such resolutions. Resolutions providing solely for the refunding of any already existing bonds or other obligations need not be so advertised.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

4. Written minutes of each Board meeting shall be kept and there shall be recorded therein a report of all that transpired at any such meeting. The minutes shall be signed by the vice chair of the Board and kept permanently in books provided for that purpose.

5. The Board shall cause to be kept complete and accurate books of accounting in standard bookkeeping and accounting procedures. Annually the Board shall make a true and complete accounting of all moneys received and expended by said Board and said accounting shall list the assets and liabilities of the District. Said accounting shall be based upon an audit prepared by a certified public accountant, and shall be in writing with sufficient copies thereof made to furnish to any inhabitants of the district requesting same.

6. All contracts of the District shall be signed by the chair of the Board of Supervisors, and the seal of the board shall be affixed thereto, attested by the secretary to the Board who shall be official custodian of such seal. The Board, by resolution, may delegate authority to sign contracts to the administrator of the District. Any bonds issued by the District under the provisions of this act shall be signed in the same manner as a contract. However, only one manual signature shall be required on any bonds and the seal of the District may be imprinted or reproduced thereon.

7. Every Board member and every officer of the district shall be indemnified by the District against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon the member or officer in connection with any



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

proceeding or any settlement of any proceeding to which he or she may be a party or in which he or she may become involved by reason of his or her being or having been a Board member or officer of the District, whether or not he or she is a Board member or officer at the time such expenses are incurred. In the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the District. The right of indemnification authorized by this paragraph shall be in addition to and not exclusive of all other rights to which a Board member or officer may be entitled. This paragraph shall not apply to a Board member or officer who is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties.

8. The Board may, by the vote of a majority of all members, elect a member to serve as chair or vice chair on an interim basis during the absence of such officer. The interim officer shall have all of the powers, duties, and authority of such officer during his or her absence.

Section 4. The district, by and through the Board, is hereby authorized and empowered:

(1) To make rules and regulations for its own governance and proceedings and to adopt an official seal for the District.

(2) To employ such consulting and other engineers, technicians, construction and accounting experts, financial advisors or fiscal agents, attorneys, and such other agents and employees as the board may require or deem necessary to effectuate the purposes of this act and to take such steps as



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

are necessary to be taken to provide coverage by the old age and survivors insurance system embodied in the Federal Social Security Act to employees of the Englewood Water District on as broad a basis as permitted under the Federal Social Security Act and the laws of Florida and may provide a pension or retirement plan for its employees. Board members are not eligible for pension or retirement benefits. Notwithstanding the prohibition against extra compensation set forth in section 215.425, Florida Statutes, the board may provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.

(3) To construct, install, erect, acquire and operate, maintain, improve, extend, or enlarge and reconstruct a water system, wastewater system, or a wastewater reuse system or any combination thereof within or without said district for the furnishing of water service, wastewater service, or wastewater reuse service or any combination of such services to the inhabitants of the district, and to have the exclusive control and jurisdiction thereof; to issue its revenue bonds, assessment bonds, or other obligations, or any combination thereof to pay all or part of the cost of such construction, reconstruction, erection, acquisition, or installation of such systems. The purchase or sale of a water, wastewater, or wastewater reuse system shall be accomplished in accordance with section 189.423, Florida Statutes.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(4) To regulate the disposal of wastewater, reuse of wastewater, and the supply of water within the District and to prohibit the use and maintenance of outhouses, privies, septic tanks, or other unsanitary structures or appliances, in accordance with the general laws of the state.

(5) To fix and collect rates, fees, capital contributions, and other charges for the use of the facilities and services provided by any system, and to fix and collect charges for making connections and reconnections with any such system, and to provide for reasonable charges and penalties to any users of property for any such rates, fees, or charges that are delinquent.

(6) To acquire in the name of the district by purchase, gift, or the exercise of eminent domain pursuant to chapter 73 or chapter 74, Florida Statutes, such lands and rights and interest therein, both within and without the district, including land under water and riparian rights and to acquire such personal property as may be deemed necessary in connection with the construction, reconstruction, improvement, extensions, installation, erection, or operation and maintenance of any system, and to hold and dispose of all real and personal property under its control.

(7) To receive grants, either separately or in conjunction with any municipality, governmental agency, or governmental entity, either in the nature of public works or public improvement grants or loans from any governmental agency, department, bureau, or individual for the purpose of installing,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

constructing, erecting, acquiring, operating, or maintaining a system or other things necessary or incidental thereto.

(8) To exercise exclusive jurisdiction, control, and supervision over any system owned, operated, and maintained by the District and to make and enforce such rules and regulations for the maintenance and operation of any system as may be, in the judgment of the Board, necessary or desirable for the efficient operation of any such systems or improvements in accomplishing the purposes of this act.

(9) To restrain, enjoin, or otherwise prevent the violation of this act or of any resolution, rule, or regulation adopted pursuant to the powers granted by this act.

(10) To join with any other district or districts, cities, towns, counties, or other political subdivisions, public agencies or authorities in the exercise of common powers consistent with section 163.01, Florida Statutes.

(11) To contract with municipalities or other private or public corporations or persons to provide or receive a water supply or for wastewater disposal, collection, or treatment or for wastewater reuse.

(12) To prescribe methods of pretreatment of industrial wastes not amenable to treatment with domestic wastewater before accepting those wastes for treatment and to refuse to accept such industrial wastes when not sufficiently pre-treated as may be prescribed, and by proper resolution to prescribe penalties for the refusal of any person or corporation to so pre-treat such industrial wastes.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

(13) To require and enforce the use of its facilities whenever and wherever they are accessible in accordance with applicable general law and applicable local government comprehensive plans.

(14) To sell or otherwise dispose of the effluent, sludge, reclaimed wastewater, or other byproducts as a result of wastewater treatment and reclamation.

(15) To accomplish construction by holding hearings, advertising for construction bids, and letting contracts for all or any part or parts of the construction of any system in accordance with the provisions of section 15.

(16) To cause surveys, plans, specifications, and estimates to be made from time to time for any system.

(17) To enter on any lands, water, or premises, public or private, located within or without the District or the Counties of Charlotte or Sarasota to make surveys, borings, soundings, or examinations for the purposes of this act.

(18) To construct and operate connecting, intercepting, or outlet wastewater or reclaimed wastewater mains and pipes and water mains, conduits or pipe lines in, along, or under any street, alleys, highways, or other public places or ways within the state or any municipality or political subdivision.

(19) Subject to such provisions and restrictions as may be set forth in the resolution authorizing or securing any bonds or other obligations issued under the provisions of this act, to enter into contracts with the government of the United States or any agency or instrumentality thereof, or with any other county, municipality, district, authority, or political subdivision,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

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 or reclaimed wastewater and any other matters relevant thereto or otherwise necessary to effect the purposes of this act and to receive and accept from any federal agency, grants for or in aid of the planning, construction, reconstruction or financing of any system and to receive and accept aid or contributions from any other source of either money, property, labor or other things of value to be held, used, and applied only for the purpose for which such grants and contributions may be made.

(20) To acquire, purchase, or buy real estate within or without the District to be used in the development, installation, construction, improvement, maintenance, operation, or servicing of any system of the District, by installment contract, agreement for deed, or by note and mortgage; provided that said contract, agreement for deed, or mortgage does not constitute a lien or encumbrance upon any real property other than that being purchased thereby.

(21) To sell or otherwise dispose of effluent, sludge, or other byproducts produced by any system.

(22) To require the owner, tenant, or occupant of each lot or parcel of land within the District who is obligated to pay the rates, fees, or charges for the services furnished by any facility owned or operated by the District under the provisions of this act make a reasonable deposit with the district in advance to ensure the payment of such rates, fees, or charges.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

If such rates, fees, or charges become delinquent, the district may apply the deposit to the payment or partial payment thereof, including accrued interest, shutoff charges, and penalties, if any.

(23) To invest and reinvest the surplus public funds of the district consistent with the requirements of applicable state or federal laws.

Section 5. (1) The Board for and on behalf of the District is authorized to provide from time to time for the issuance of revenue bonds to finance or refinance all or part of the costs of additions, extensions, and improvements to, or the acquisition of, any system. The principal of and interest on any such revenue bonds shall be payable from the rates, fees, charges, or other revenues derived from the operation of any such system or systems in the manner provided in this act and the resolution authorizing such bonds and pledging such revenues. The proceeds of non-ad valorem assessments levied as provided in this act may be pledged as additional security for said revenue bonds. It is the express intent of this act that the District shall be authorized to finance the purposes provided in this act by the issuance of revenue bonds or special assessment bonds separately for all or any part of the cost thereof, or to issue revenue bonds additionally secured by the non-ad valorem assessments for all or any part of such cost, so that the District shall have complete flexibility as to the types of bonds to be issued and the security for the holders of such bonds. The revenue bonds of the District shall be issued in such denominations, mature on such dates and in such amounts,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

and may be subject to optional and mandatory redemption, all as shall be determined by resolutions adopted by the Board on behalf of the District. Bonds of said District may bear interest at a fixed or floating or adjustable rate and may be issued as interest-bearing, interest-accruing bonds or zero coupon bonds at such rate or rates not exceeding the maximum rate permitted by general law, all as shall be determined by resolutions of the Board on behalf of the District. Principal and interest shall be payable in the manner determined by the Board. The bonds shall be signed by the chair or vice chair of the Board, attested with the seal of said District and by the signature of the chair of the Board of Supervisors. In case any officer whose signature or a facsimile of whose signature shall appear on the bonds shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all intents and purposes the same as if he or she had remained in office until such delivery. The Board may sell such bonds in such manner not inconsistent with general law, either at public or private sale, and for such price, as it may determine to be for the best interests of the District.

(2) The proceeds of the sale of any such bonds shall be used to finance or refinance all or part of the costs of the construction or acquisition of additions, extensions, and improvements of any water system, wastewater reuse system, or wastewater system or any combination thereof, to fund reserves and renewal and replacement funds and to pay the costs of issuing such bonds. The funds derived from the sale of the bonds shall be disbursed in such manner and under such restrictions as



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

the board may provide in the authorizing resolution. Revenue bonds may be issued under the provisions of this act without any other proceeding or happening of any other condition or thing than those proceedings, conditions, or things which are specifically required by this act and by general law.

(3) A resolution providing for the issuance of revenue bonds may also contain such limitations upon the issuance of additional revenue bonds secured on a parity with the bonds theretofore issued, as the board may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such authorizing resolution.

(4) Revenue bonds may be issued under the provisions of this act without regard to any limitations or indebtedness prescribed by law.

(5) Revenue bonds issued under the provisions of this act shall not constitute a general obligation debt of the District within the meaning of any constitutional or statutory debt limitation, but such bonds shall be payable solely from the revenues and/or non-ad valorem assessments, if any, pledged therefor, and that the full faith and credit of the district is not pledged to the payment of the principal of or interest on such bonds.

(6) In connection with the sale and issuance of bonds, the district may enter into any contracts which the Board determines to be necessary or appropriate to achieve a desirable effective interest rate in connection with the bonds by means of, but not limited to, contracts commonly known as investment contracts, funding agreements, interest rate swap agreements, currency swap



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, options, puts, or calls to hedge payment, rate, spread, or similar exposure. Such contracts or arrangements may also be entered into by the District in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor. Such contracts and arrangements shall be made upon the terms and conditions established by the Board, after giving due consideration for the credit worthiness of the counter parties, where applicable, including any rating by a nationally recognized rating service or any other criteria as may be appropriate.

(7) In connection with the sale and issuance of the bonds, or entering into any of the contracts or arrangements referred to in the paragraph above, the district may enter into such credit enhancement or liquidity agreements, with such payment, interest rate, security, default, remedy, and any other terms and conditions as the board shall determine.

(8) Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit, proceeds of the bonds and any money set aside or pledged to secure payment of the principal of, premium, if any, and interest on the bonds, or any of the contracts entered into pursuant to this section, may be invested in securities or obligations described in the resolution providing for the issuance of bonds.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

Section 6. (1) The Board shall, by resolution prior to the issuance of any revenue bonds, fix the initial schedule of rates, fees, or other charges for the use of and the services and facilities to be furnished by any such water system, wastewater reuse system, or wastewater system, or any combination thereof, to be paid by the owner, tenant, or occupant of each lot or parcel of land which may be connected with or used by any such system or systems, of the district. After the system or systems have been in operation the District board may revise the schedule of rates, fees, and charges from time to time. However, such rates, fees, and charges shall be so fixed and revised so as to provide sums which, with other funds for such purposes, shall be sufficient at all times to pay:

A. The principal of and interest on revenue bonds as the same shall become due and reserves therefor.

B. The expenses of maintaining and repairing such systems, including reserves for such purposes and for capital replacements, depreciation, and necessary extensions or improvements and administrative expenses.

C. Any other payments required by the resolution authorizing the issuance of such revenue bonds.

(2) Such rates, fees, and charges shall be just and equitable and uniform for users of the same class and, where appropriate, may be based or computed either upon the quantity of water or wastewater consumed or produced, the number and size of wastewater connections, or the number and kind of plumbing fixtures in use in the premises or upon the number or average number of persons residing or working in or otherwise using the



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

facilities of such system or upon any other factor affecting the use of the facilities or services furnished or upon any combination of the foregoing factors as may be determined by the Board on any other equitable basis. All rates, fees, and charges established pursuant to this act shall be set in accordance with the total cost of service which is required to provide service to the customers. The water system, wastewater reuse system, and wastewater system shall be accounted for as separate and as distinct systems. However, the District shall set rates consistent with the guidelines adopted by the American Water Works Association, for government-owned utilities. The district may, by resolution, consolidate any one or more systems provided such consolidation shall not impair the rights of any existing bondholders of the district.

(3) No rates, fees, or charges shall be fixed under the foregoing provisions of this section until a public hearing at which all the users of the proposed system, or owners, tenants, or occupants served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, fees, and charges. After the initial adoption by the Board of the resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees, and charges, notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, and charges shall be given by one publication in a newspaper published in Charlotte County and in a newspaper published in Sarasota County and such notice shall also be posted in five public places in the district, at least 10 days prior to the date of such



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

hearing, which may be adjourned from time to time. After such hearing such preliminary schedule or schedules, either as initially adopted, or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, or charges finally fixed in such resolution shall be kept on file in the office of the District and shall be open at all times to public inspection. The rates, fees, or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which shall fall in the same class, without the necessity of any hearing or notice. Any change or revision of such rates, fees, or charges may be made in the same manner as such rates, fees, or charges were originally established as provided herein; provided that if such changes or revisions be made substantially pro rata as to all classes of service no hearing or notice shall be required.

Section 7. In addition to the other provisions and requirements of this act any resolution authorizing the issuance of bonds may contain any other provisions deemed necessary or in the best interest of the District and the Board is authorized to provide and may covenant and agree with the several holders of such bonds to include, but without limitation as to any other provisions, any of the following:

(1) As to a reasonable deposit with the District in advance, to ensure the payment of rates, fees, or charges for the facilities of the system or systems.

(2) May, in keeping with its rules and regulations, disconnect any premises from the water system, wastewater reuse



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

system, or wastewater system if any such rates, fees, or charges are delinquent for a period of 30 days or more.

(3) The assumption of payment or discharge of any indebtedness, lien, or other claim relating to any part of any such system or any combination thereof, or any other obligations having or which may have a lien on any part of any such system or systems.

(4) Limitations on the powers of the District to construct, acquire, or operate, or permit the construction, acquisition or operation of any plants, structures, facilities, or properties which may compete or tend to compete with any other system of the District.

(5) The manner and method of paying service charges and fees and the levying of penalties for delinquent payments.

(6) The manner and order of priority of the disposition of revenues or redemption of any bonds.

(7) Terms and conditions for modification or amendment of any provisions or covenants in any such bond resolution authorizing the issuance of such bonds.

(8) Provisions and limitations on the appointment of a trustee, paying agent, registrar, or escrow agent for bondholders.

(9) Provisions as to the appointment of a receiver of any system on default of principal or interest on any such bonds or the breach of any covenant or condition of such authorizing resolution or the provisions and requirements of this act.

(10) Provisions as to the execution and entering into of trust agreements, if deemed necessary by the board, regarding



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

the disposition of revenues or bond proceeds for the payment of the cost of the acquisition and construction of the system or any part thereof, or for any other purposes necessary to secure any such revenue bonds.

(11) Provisions as to the maintenance of any such system or systems and reasonable insurance thereof.

(12) Any other matters necessary to secure such bonds and the payment of the principal and interest thereof. All such provisions of the bond resolution and all such covenants and agreements in addition to the other provisions and requirements of this act shall constitute valid and legally binding contracts between the District and several holders of any such bonds regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by mandamus or other appropriate action, suit, or proceeding in law or in equity in any court of competent jurisdiction.

Section 8. (1) When the fees, rates, or charges for the services and facilities of any system are not paid when due and are in default for 10 days or more, following written notice to such delinquent customer, the District may discontinue and shut off the supply of the services and facilities of such systems, to the person, firm, corporation, or other body, public or private, so supplied with such services or facilities, until such fees, rates, or charges, including interest, penalties, and charges for the shutting off and discontinuance or the restoration of such services or facilities are fully paid. Such delinquent fees, rates, or charges, together with interest, penalties, and charges for the shutting off and discontinuance



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

or the restoration of such services or facilities, and reasonable attorney's fees, costs and other expenses, may be recovered by the board in a court of competent jurisdiction.

(2) In the event that the fees, rates, or charges for the services and the facilities of any system shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall, to the extent permitted by law, be a lien on any parcel or property affected thereby. Such liens shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgagee, or other person except the lien of county or district taxes and shall be on a parity with the lien of any such county or district taxes. In the event that any such service charge shall not be paid as and when due and shall be in default for 30 days or more the unpaid balance thereof and all interest accrued or penalties thereon, together with attorney's fees and costs, may be recovered by the District in a civil action, and any such lien and accrued interest and penalties may be foreclosed or otherwise enforced by the District by action or suit in equity as for the foreclosure of a mortgage on real property in the manner provided by general law.

Section 9. (1) The District may provide for the levy of non-ad valorem assessments under this act on the lands and real estate benefited by the construction of any system, or extensions or improvements thereof, or any part thereof. Non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such improvements. The District



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

may use any assessment apportionment methodology that meets the "fair apportionment" standards.

(2) The Board may determine to make any improvements authorized by this act and defray the whole or any part of the expense thereof by non-ad valorem assessments. The Board shall so declare by resolution stating the nature of the proposed improvement, designating the location of wastewater facilities, the location of water mains, water laterals, and other water distribution facilities, or the location of the wastewater reuse facilities, and the part or portion of the expense thereof to be paid by non-ad valorem assessments, the manner in which said assessments shall be made, when said assessments are to be paid, and what part, if any, shall be apportioned to be paid from the general funds of the District. Said resolution shall also designate the lands upon which the non-ad valorem assessments shall be levied, and in describing said lands it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for." Such resolution shall also state the total estimated cost of the improvement. Such estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, discount on the sale of assessment bonds, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expense, and such other expense may be necessary or incident to the financing herein authorized.

(3) At the time of the adoption of the resolution provided for in subsection (2), there shall be on file at the District's offices, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans, and specifications and estimate shall be open to the inspection of the public.

(4) Upon adoption of the resolution provided for in subsection (2), or completion of the preliminary assessment roll provided for in subsection (5), whichever is later, the vice chair of the Board shall publish notice of the resolution once in a newspaper published in the Counties of Charlotte and Sarasota. The notice shall state in brief and general terms a description of the proposed improvements with the location thereof, and that the plans, specifications, and estimates are available to the public at the district's offices. The notice shall also state the date and time of the hearing to hear objections provided for in subsection (7), which hearing shall be no earlier than 15 days after publication of said notice. Such publication shall be verified by the affidavit of the publisher and filed with the secretary to the Board.

(5) Upon the adoption of the resolution provided for in subsection (2), the Board shall cause to be made a preliminary



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

assessment roll in accordance with the method of assessment provided for in said resolution, said assessment roll shall show the lots and lands assessed and the amount of the benefit to and the assessment against each lot or parcel of land, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.

(6) Upon the completion of said preliminary assessment roll, the Board shall by resolution fix a time and place at which the owners of the property to be assessed or any other persons interested therein may appear before said Board and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Ten days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the assessment and shall be served by mailing a copy by first class mail to each of such property owners at his or her last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser, proof of such mailing to be made by the affidavit of the secretary to the Board, or by the engineer.

(7) At the time and place named in the notice provided for in subsection (4), the Board shall meet and hear testimony from affected property owners as to the propriety and advisability of making the improvements and funding them with non-ad valorem assessments on property. Following the testimony, the Board



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

shall make a final decision on whether to levy the non-ad valorem assessments, adjusting assessments as may be warranted by information received at or prior to the hearing. If any property which may be chargeable under this section shall have been omitted from the preliminary roll or if the prima facie assessment shall not have been made against it, the Board may place on such roll an apportionment to such property. The owners of any property so added to the assessment roll shall be mailed a copy of the notice provided for in subsection (6), by first class mail and granted 15 days from such date of mailing to file any objections with the Board. When so approved by resolution of the Board, a final assessment roll shall be filed with the vice chair of the Board, and such assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which such assessments are made until paid. The assessment so made shall be final and conclusive as to each lot or parcel assessed unless proper steps be taken within 30 days of the filing of the final assessment roll in a court of competent jurisdiction to secure relief. If the assessment against any property shall be sustained or reduced or abated by the court, the vice chair shall note that fact on the assessment roll opposite the description of the property affected thereby and notify the county property appraiser and the tax collector in writing. The amount of the non-ad valorem assessment against any lot or parcel which may be abated by the court, unless the assessment upon the entire District be abated, or the amount by which such assessment is so reduced, may by resolution of the Board be made chargeable against the District at large, or, at



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

the discretion of the Board, a new assessment roll may be prepared and confirmed in the manner hereinabove provided for the preparation and confirmation of the original assessment roll. The Board may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing costs, such as capitalized interest, funded reserves, and bond discount included in the estimated cost of the project, upon payment in full of any assessment during such period prior to the time such financing costs are incurred as may be specified by the board.

(8) The non-ad valorem assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvement; shall remain liens, coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate not to exceed the percentage authorized by section 170.09, Florida Statutes, for municipal special assessments or, if bonds are issued pursuant to this chapter, at a rate not to exceed 1 percent above the rate of interest at which the bonds authorized pursuant to this act and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid and only for capital outlay projects, be made payable in equal installments over a period not to exceed 20 years, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within 30



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

days after the improvement is completed and a resolution accepting the same has been adopted by the Board.

(9) The non-ad valorem assessments approved by the Board may be levied, assessed, and collected pursuant to section 197.3632, Florida Statutes. The collection and enforcement of the non-ad valorem assessment levied by the district shall be at the same time and in like manner as county taxes.

(10) All assessments shall constitute a lien upon the property so assessed from the date of confirmation of the resolution ordering the improvement of the same nature and to the same extent as the lien for general county, municipal, or district taxes falling due in the same year or years in which such assessments or installments thereof fall due, and any assessment or installment not paid when due shall be collected with such interest and with a reasonable attorney's fee and costs, but without penalties, by the District by proceedings in a court of equity to foreclose the lien of assessment as a lien for mortgages is or may be foreclosed under the laws of the state; provided that any such proceedings to foreclose shall embrace all installments of principal remaining unpaid with accrued interest thereon, which installments shall, by virtue of the institution of such proceedings immediately become due and payable. Nevertheless, if, prior to any sale of the property under decree of foreclosure in such proceedings, payment be made of the installment or installments which are shown to be due under the provisions of the resolution passed pursuant to this section, and all costs including attorney's fees, such payment shall have the effect of restoring the remaining installments to



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

their original maturities and the proceedings shall be dismissed. It shall be the duty of the District to enforce the prompt collection of assessments by the means herein provided, and such duty may be enforced at the suit of any holder of bonds issued under this act in a court of competent jurisdiction by mandamus or other appropriate proceedings or action. Not later than 30 days after the annual installments are due and payable, it shall be the duty of the board to direct the attorney or attorneys whom the board shall then designate, to institute actions within 3 months after such direction to enforce the collection of all non-ad valorem assessments for improvements made under this section and remaining due and unpaid at the time of such direction. Such action shall be prosecuted in the manner and under the conditions in and under which mortgages are foreclosed under the laws of the state. It shall be lawful to join in one action the collection of assessments against any or all property assessed by virtue of the same assessment roll unless the court shall deem such joinder prejudicial to the interest of any defendant. The court shall allow reasonable attorney's fees for the attorney or attorneys of the district, and the same shall be collectible as a part of or in addition to the costs of the action. At the sale pursuant to decree in any such action, the District may be a purchaser to the same extent as an individual person or corporation, except that the part of the purchase price represented by the assessments sued upon and the interest thereon need not be paid in cash. Property so acquired by the District may be sold or otherwise disposed of, the proceeds of such disposition to be placed in the fund



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

provided by subsection (11). However, no sale or other disposition thereof shall be made unless the notice calling for bids therefor to be received at a stated time and place shall have been published in a newspaper of general circulation in the District once in each of 4 successive weeks prior to such disposition.

(11) All assessments and charges made under the provisions of this section for the payment of all or any part of the cost of any improvements for which assessment bonds shall have been issued under the provisions of this act are hereby pledged to the payment of the principal of and the interest on such assessment bonds and shall, when collected, be placed in a separate fund, properly designated, which fund shall be used for no other purpose than the payment of such principal and interest.

(12) The counties in which the District is located and each school district and other political subdivision wholly or partly within the District shall be subject to the same duties and liabilities in respect of assessment under this section affecting the real estate of such counties, school districts, or other political subdivisions which private owners of real estate are subject to hereunder, and such real estate of any such counties, school districts, and political subdivision shall be subject to liens for said assessments in all cases where the same property would be subject had it at the time the lien attached been owned by a private owner, except that no such lien may be foreclosed unless and until said real estate is conveyed to a person or entity which is not a political subdivision.



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

Section 10. The Board shall cause to be made at least once each year a comprehensive report of its water system, wastewater reuse system, and wastewater system including all matters relating to rates, revenues, expenses of maintenance, repair, and operation and renewals and capital replacements, principal and interest requirements, and the status of all funds and accounts. Copies of such general report shall be filed with the vice chair and shall be open to public inspection.

Section 11. Any holder of bonds issued under the provisions of this act, or of any of the coupons appertaining thereto, except as to the extent that the rights herein granted may be restricted by the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolutions, and may enforce and compel the performance of all duties required by this act and by such resolutions to be performed by the District or by the board or by any officer or officers or employees thereof, including the fixing and charging and collecting of rates, fees, and charges for the services and facilities furnished by the water system, wastewater reuse system, or wastewater system and the due and proper collection of any non-ad valorem assessments pledged therefor.

Section 12. (1) As the exercise of the powers conferred by this act constitutes the performance of essential public functions and as the systems constructed under the provisions of this act constitute public property used for public purposes, such District and the property thereof, including all revenues,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

moneys, or other assets of any type or character, shall not be subject to taxation by the state or any political subdivision, agency, instrumentality, or municipality thereof, and it is hereby expressly found, determined, and declared that all of the lands and real estate in said District will be benefited by the construction or acquisition of the systems, and additions, extensions, and improvements thereto, provided for in this act.

(2) All bonds or other obligations issued under this act shall be exempt from all taxation by the state or any county, municipality, or political subdivision thereof; however, the exemption does not apply to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits; however, the exemption does not apply to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned by corporations. Such bonds or other obligations shall be and constitute securities eligible for deposit as collateral to secure any state, county, municipal, or other public funds, and shall also be and constitute legal investments for any banks, savings banks, trust funds, executors, administrators, state, county, municipal, or other public funds, or any other fiduciary funds.

Section 13. In any case where the character or condition of the sewage from or originating in any manufacturing or industrial plant or building or premises is such that it imposes an unreasonable burden upon the wastewater system, an additional charge may be made therefor or the Board may, if it deems it advisable, compel such manufacturing or industrial plant, building, or premises to treat such wastewater in such manner as



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

shall be specified by the Board before discharging such wastewater into any wastewater lines owned, maintained, or operated by the District.

Section 14. The District is authorized to enter into any agreement for the delivery of any revenue bonds, assessment bonds, or any combination thereof, at one time or from time to time as full or partial payment for any work done by any contractor who may have been awarded a contract for the construction of all or any part of any system. However, any such bonds so delivered for payment of services shall have been authorized and issued pursuant to the provisions of this act and shall otherwise conform to the provisions thereof.

Section 15. (1) All contracts for the purchase of commodities or contractual services in excess of \$25,000 let, awarded, or entered into by the District for the construction, reconstruction, or addition to any system shall be publicly advertised and bid. The Board shall adopt procedures for public advertisement and call for sealed bids; which procedures may vary the frequency and length of publication based on the amount of the procurement.

(2) Such advertisement for bids, in addition to the other necessary and pertinent matter, shall state in general terms the nature and description of the improvement or improvements to be undertaken and shall state that detailed plans and specifications for such work are on file in the office of the vice chair or will be mailed upon request to interested parties. The award shall be made to the responsible and competent bidder or bidders who shall offer to undertake the improvements at the



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

lowest cost to the District and such bidder or bidders shall be required to file bond for the full and faithful performance of such work and the execution of any such contract in such amount as the Board shall determine. No criteria may be used in determining the acceptability of the bid that was not set forth in the invitation to bid. The contract shall be awarded with reasonable promptness by written notice to the qualified and responsive bidder who submits the lowest responsive bid.

(3) When the Board determines that the use of competitive sealed bidding is not practicable, commodities or contractual services shall be procured by competitive sealed proposals. A request for proposals which includes a statement of the commodities or contractual services sought and all contractual terms and conditions applicable to the procurement, including the criteria, which shall include, but not be limited to, price, to be used in determining acceptability of the proposal shall be issued. To ensure full understanding of and responsiveness to the solicitation requirement, discussions may be conducted with qualified offerors. The offerors shall be accorded fair and equal treatment prior to the submittal dates specified in the request for proposals with respect to any opportunity for discussion and revision of proposals. The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the District, taking into consideration the price and the other criteria set forth in the request for proposals.

(4) If the chair of the Board, or his or her designee, determines in writing that an immediate danger to the public



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

health, safety, or welfare or other substantial loss to the District requires emergency action, the provisions of this section requiring competitive bidding or proposals shall be waived. After the chair or his or her designee makes such a written determination, the District may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without competition. However, such emergency procurement shall be made with such competition as is practicable under the circumstances. Commodities or contractual services available only from a single source may be excepted from the bid requirements if it is determined that such commodities or services are available only from a single source and such determination is documented and approved by the Board. Nothing in this section shall be deemed to prevent the district from hiring or retaining such consulting engineers, or other professionals or other technicians as it shall determine, in its discretion, consistent with the requirements of section 287.055, Florida Statutes, or for undertaking any construction work with its own resources and without any such public advertisement.

Section 16. The same rates, fees, charges, and non-ad valorem assessments shall be fixed, levied, and collected on the property, officers, and employees of the counties, or any school district, or other political subdivision included within the District, as are fixed, levied, and collected on all other properties or persons in the District as provided in this act.

Section 17. Any county, municipality, or other political subdivision is authorized to sell, lease, grant, or convey any real or personal property to the district and any such sale,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

grant, lease, or conveyance may be made without formal consideration. The district is authorized to classify as surplus any of its property and dispose of such property consistent with the provisions of sections 274.05 and 274.06, Florida Statutes.

Section 18. No system or portion thereof shall be constructed within the District unless the Board shall give its consent thereto and approve the plans and specifications therefor; subject, however, to the terms and provisions of any resolution authorizing any bonds and agreements with bondholders.

Section 19. The Board shall have no power to mortgage, pledge, encumber, sell, or otherwise convey all or any part of its systems except as otherwise provided in this act, and except that the Board may dispose of any part of such system or systems as may be no longer necessary for the purposes of the District. The provisions of this section shall be deemed to constitute a contract with all bondholders. All District property shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against such property nor shall any judgment against the District be a charge or lien on its property; provided that nothing herein contained shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district on revenues derived from the operation of any system.

Section 20. The state does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to this act that the state will not limit or alter the rights hereby vested in the District to acquire, construct, maintain,



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

reconstruct, and operate its systems and to fix, establish, charge, and collect its service charges therefor, and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and will not in any way impair the rights or remedies of such holders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

Section 21. The provisions of this act shall be deemed to constitute a contract with the holders of any bonds issued hereunder and shall be liberally construed to effect its purposes and shall be deemed cumulative and supplemental to all other laws.

Section 22. If any section or provision of this act is held to be invalid or inoperative, then the same shall be deemed severable from and shall not affect the validity of any of the other provisions hereof.

Section 23. The District may assume the operation of any system which substantially fails to meet its financial responsibilities or operating standards pursuant to this act or other laws and regulations of the state, if the Board determines that such action is in the public interest and the system owner conveys ownership to the District.

Section 24. The Board may lease or license the use of any real or personal property of the District upon such terms, conditions, and for such consideration as the Board deems appropriate. However, no such lease or license shall be for a



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

period exceeding 20 years in duration, unless renewed, and provided that the lease or license shall be restricted to permit the grantee to use such property during the term of the lease or license only for civic or public purposes or purposes not in conflict with this act or general law.

Section 25. The District may, in addition to other provisions of this act providing for the accrual of interest, assess an interest charge on contractual obligations owed the District. Such interest shall accrue at an annual percentage rate as provided in chapter 687, Florida Statutes, or as otherwise provided by contract. Such accrued interest charges, if payment thereof becomes delinquent, may be recovered in the same manner as provided in this act for other delinquent rates, fees, charges, or penalties.

Section 26. The members of the Board of Supervisors shall be subject to recall as provided by general law for elected officers of municipalities.

Section 27. Any person who shall steal or damage District property, or tamper with or alter District property or threaten or cause actual harm to public health shall be guilty of a criminal offense and misdemeanor within the meaning of section 775.08, Florida Statutes, unless such offense is of a higher degree in general law, and shall be punishable as provided by law.

Section 28. All contracts, obligations, rules, regulations, or policies of any nature existing on the date of enactment of this act shall remain in full force and effect and



ENROLLED
HB 0881, Engrossed 1

2003 Legislature

this act shall in no way affect the validity of such contracts, obligations, rules, regulations, or policies.

Section 29. This act shall not affect the terms of office of the present District Board, nor shall it affect the terms and conditions of employment of any employees of the District.

Section 4. Chapter 96-499, Laws of Florida, is repealed.

Section 5. It is declared to be the intent of the Legislature that if any section, subsection, sentence, clause, phrase, or portion of this act is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holdings shall not affect the validity of the remaining portions of this act.

Section 6. This act shall be construed as a remedial act and the provisions of this act shall be liberally construed in order to effectively carry out the purpose of this act in the interest of the public health, welfare, and safety of the citizens served by the District.

Section 7. This act shall take effect upon becoming a law.