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A bill to be entitled

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending chapter 99-425, Laws of Florida; amending the district's election procedures; clarifying that the power of the district with respect to roadways and roads is not limited to roads shown on the replat of Loxahatchee Groves and clarifying that the levying of assessments by the district is pursuant to chapter 298, Florida Statutes, or this act; eliminating references to other types of assessments; providing a procedure for the dedication of roads to the district; amending the permitting of culverts, other drainage systems, bridges, or culvert crossings; providing procedures when such bridges or culvert crossings restrict the normal conveyance of water within the district's canals; providing that special assessments are not limited to roads and roadways but may be levied for district improvements; providing that the issuance of special assessment bonds are not limited to roads and roadways but may be used for district improvements; providing a limitation on the district's liability for third-party use of district lands, rights-of-way, works, and easements; providing an effective date.

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

Section 1. Subsection e. of section 2 and subsections c., g., i., and j. of section 4 of section 2 of chapter 99-425, Laws of Florida, are amended, and section 8 is added to section 2 of

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30 said chapter, to read:

31 Section 2. Landowner's meeting and election of
32 supervisors.--

33 e. Date of landowner's meeting; notice of intent to be
34 elected.--Notwithstanding any provision of s. 298.12, Florida
35 Statutes, to the contrary, for all elections held after 1999, in
36 order for a person to be elected as a supervisor of the
37 district, that person must notify the Supervisor of the Board of
38 Elections of Palm Beach County of his or her intent to be
39 elected as a supervisor at least 90 days prior to the annual
40 landowner's meeting, which shall take place on the 4th Monday of
41 June each year. The date of annual landowner's meeting may be
42 changed by majority of the board of supervisors of the district
43 provided that such change occurs at least 150 days prior to the
44 newly selected date of the landowner's meeting and further
45 provided that notice of such change of the date of the
46 landowner's meeting shall be published once a week for 2
47 consecutive weeks in a newspaper of general circulation in the
48 county in which the lands of the district are located, with the
49 first such publication to be not less than 10 nor more than 15
50 days after the vote of the board of supervisors to change the
51 date of the annual landowner's meeting. No person who has not
52 timely provided notice to the supervisor of elections of his or
53 her willingness to be elected, as set forth above in this
54 section, may be elected as a supervisor of the district, unless
55 no individuals or unless fewer individuals than the number of
56 seats available for election, have timely provided notice to the
57 supervisor of elections, in which event the provisions of s.
58 298.12(1), Florida Statutes, shall control. If the number of

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59 persons timely providing notice to the supervisor of elections
 60 is less than or equal to ~~does not exceed~~ the number of seats for
 61 which supervisors are to be elected in that year, then those
 62 individuals providing timely notice shall be deemed elected as
 63 supervisors as of the date of the annual landowner's meeting and
 64 no election, or notice of such election, shall be held. If the
 65 length of terms varies for those persons who timely provide
 66 notice, the length of terms will be assigned by lot. If the
 67 number of persons timely providing notice to the supervisor of
 68 elections is less than the number of seats for which supervisors
 69 are to be elected in that year, then the individual or
 70 individuals providing timely notice shall be deemed elected as
 71 set forth in this subsection and the seat or seats for which
 72 persons have not filed will be subject to election pursuant to
 73 the provisions of s. 298.12(1), Florida Statutes. In such event,
 74 if the length of terms are different, the person or persons
 75 timely providing notice to the supervisor of elections shall be
 76 deemed elected to the longer or longest term. If the number of
 77 persons providing timely notice to the supervisor of elections
 78 exceeds the number of seats for which supervisors are to be
 79 elected that year, then elections shall proceed forward at the
 80 annual landowner's meeting in accordance with the provisions of
 81 s. 298.12(1), Florida Statutes, as may be modified by this act.
 82 In the event that pursuant to this subsection an election is not
 83 required, notice as set forth in s. 298.12, Florida Statutes,
 84 for the annual meeting need not be provided so long as the
 85 annual meeting has been included among the meetings properly
 86 noticed under the requirements of s. 189.417, Florida Statutes.

87 Section 4. Powers of the district.--

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88 c. In addition to the powers of Loxahatchee Groves Water
89 Control District, hereinafter referred to as the "district,"
90 elsewhere provided by general or special law, the district shall
91 have the power to construct maintain, improve, and repair
92 roadways and roads necessary and convenient for the exercise of
93 any of the powers or duties of the district or the board of
94 supervisors thereof, including, but not limited to, all the
95 roads shown on the replat of Loxahatchee Groves, as recorded in
96 Plat Book 12, Page 29, Palm Beach County Public Records, or to
97 provide access to and development of areas within the district,
98 or both; to provide funds for such construction, maintenance,
99 improvement, or repair through the levying of assessments
100 pursuant to chapter 298, Florida Statutes, or this act
101 ~~hereinafter referred to as "drainage assessments," or special~~
102 ~~assessments,~~ or both; and to acquire land, including any
103 interest therein, by purchase, gift, exchange, or eminent
104 domain, for such construction, maintenance, improvement, or
105 repair. The board of supervisors of the district, at its
106 discretion, may accept for dedication a road within the
107 boundaries of the district pursuant to the following procedures:
108 (1) The landowners possessing the easements to such road
109 must petition in writing the board for dedication of the road,
110 with those signing the petition agreeing to give the district
111 their respective easements at no cost to the district, pursuant
112 to policies established by the district.
113 (2) At least a simple majority of landowners on the road,
114 on a per-acre basis, must petition the board to dedicate the
115 road.

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116 (3) The board of supervisors of the district shall then
117 determine whether or not to accept such petition. If the board
118 determines to accept the petition, the district will then
119 project all estimated costs involved in planning, designing, and
120 building the road or improving the existing road to meet
121 specifications acceptable to the district, including therewith
122 the cost of improving or replacing any culvert crossing or
123 bridge that connects the road to be dedicated to an existing
124 district road or roads, the cost of any eminent domain
125 proceeding to obtain road easements from those landowners who
126 did not sign the petition and to give the district their
127 respective easements, the cost of establishing the special
128 taxing unit, and any other costs anticipated to be incurred by
129 the district as a result of any action involved with such
130 dedication.

131 (4) The estimated cost information shall then be provided
132 to the affected landowners and a referendum shall be held among
133 those landowners to create a special taxing unit, consisting of
134 all of the benefited land contiguous to and inclusive of the
135 road to be dedicated to cover such cost. Upon passage of the
136 referendum by majority vote, on a per-acre basis, the district
137 shall create a special taxing unit and levy assessments for the
138 costs as set forth in paragraph (3).

139 (5) The district shall then acquire by sale or through
140 eminent domain, under chapters 73 and 74, Florida Statutes, as
141 amended from time to time, the necessary easements and build the
142 road or make the necessary improvements to the existing road to
143 meet all district specifications.

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144 (6) Thereafter, the road shall be dedicated to the
 145 district and maintained by the district under its general
 146 maintenance assessment.

147
 148 Notwithstanding anything contained herein, the district's
 149 ability, under chapter 298, Florida Statutes, to create and
 150 assess units of development shall be unaffected.

151 g. The district shall have the power to adopt, by
 152 resolution, a uniform standard for culvert crossings, bridges,
 153 culverts, or other drainage systems that connect with or cross
 154 over any of the works of, or lie within the rights-of-way of,
 155 the district. If the district so establishes a uniform
 156 standard, the district shall by resolution adopt procedures:

157 (1) Which shall require notice of such uniform standards
 158 to be given to persons owning lands upon which, adjacent to, or,
 159 to the best of district's knowledge, using any culvert
 160 crossings, bridges, culverts, or other drainage systems that
 161 connect with or cross over any of the works of, or lie within
 162 the rights-of-way of, the district and to such other persons as
 163 the board of supervisors shall deem to be necessary or
 164 desirable, or both.

165 (2) Which shall authorize granting permits for culvert
 166 crossings, bridges, culverts, or other drainage systems, or
 167 pursuant to such uniform standards, and the district may allow
 168 for permits to be applied for by a single landowner or by
 169 multiple landowners, provided that in the case of multiple
 170 landowners, such landowners establish a single entity to
 171 represent all such landowners to apply for and obtain the permit
 172 and construct and maintain the culvert crossings, bridges,

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173 culverts, or other drainage systems, subject to review by the
 174 district to ensure that said entity has the legal authority to
 175 assess such landowners for the cost of construction and
 176 maintenance of such culverts, drainage systems, culvert
 177 crossings, or bridges, that such power to assess runs with the
 178 land of the landowners creating the entity, and that the
 179 district can enforce such assessment power if necessary.

180 (3)(2) Which shall, except as hereinafter provided,
 181 require as to culverts or other drainage systems not less than
 182 60-days' written notice to be given to persons owning lands upon
 183 which any ~~culvert crossings, bridges, culverts,~~ or other
 184 drainage systems exist in violation of any such uniform
 185 standards prior to the taking of any enforcement action by the
 186 district.

187 ~~(3) Which may provide for~~ Less than 30-days' notice, in
 188 writing or otherwise, of violations of the uniform standards may
 189 be provided in emergency situations.

190 ~~(4) Which may provide that~~ If, after such notice pursuant
 191 to this paragraph ~~(2) or paragraph (3)~~, any landowner shall fail
 192 to conform to such uniform standards, the district may enter
 193 upon such lands and take such action as necessary to cause such
 194 violation to be corrected and may assess the owner of such land
 195 for the district's costs in connection therewith.

196 ~~(5)~~ Upon the failure of any property owner to pay any
 197 assessment levied by the board of supervisors pursuant to this
 198 paragraph ~~(4)~~ within 30 days of receipt by such owner of notice
 199 of said assessment, the district shall have a lien on all lands
 200 and premises affected thereby. Such lien shall be superior and
 201 paramount to the interest in such land and premises of any

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202 owner, lessee, tenant, mortgagee, or other person except the
 203 lien of state, county, or district taxes and shall be on a
 204 parity with the lien of any such state, county, or district
 205 taxes. Such lien shall bear interest at an annual rate equal to
 206 the interest rate due on judgments, pursuant to s. 55.03,
 207 Florida Statutes, per year and shall, until paid, remain in
 208 effect in perpetuity.

209 (4) Which shall provide that in the event any culvert
 210 crossing or bridge, whether or not permitted by the district, is
 211 determined by the district to be restricting the normal
 212 conveyance of water in a district canal, the district shall
 213 notify the permitholder of said structure, or if there is no
 214 permit on file with the district for said structure, the
 215 district shall notify the landowner or landowners using such
 216 structure that the following options are available regarding the
 217 structure:

218 (a) The structure may be repaired, by the permitholder or
 219 the landowner or landowners using the structure, in conformance
 220 with current district standards (as determined by a licensed
 221 engineer), including obtaining a permit from the district
 222 pursuant to its uniform standards and procedures.

223 (b) The structure may be abandoned and removed by the
 224 permitholder at its expense or, if the structure has not been
 225 permitted, the district shall remove the structure and the
 226 district shall not be liable to any person or entity that uses
 227 such structure for its removal.

228 (c) The landowner or landowners using such structure may
 229 apply for a permit to construct a conforming replacement
 230 structure. This process shall require obtaining a permit issued

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231 by the district pursuant to its uniform standards and
 232 procedures, said permit to be contingent upon the removal of the
 233 nonconforming structure and the construction of a replacement
 234 structure at the sole expense of said landowner or landowners.

235 (d) With respect to subparagraphs (a) and (c), in the
 236 event that there are multiple landowners involved, the
 237 landowners may establish a single entity as set forth in
 238 paragraph (2) to represent all such landowners.

239 (e) Alternatively, the affected landowners may request the
 240 district, via referendum of the landowners utilizing the
 241 structure, upon a majority vote of such landowners, on a per-
 242 acre basis, to establish a special taxing unit of all such
 243 landowners to pay a special assessment to cover the initial
 244 costs, including, but not limited to, engineering fees, removal
 245 cost, repair or replacement construction cost, dedication of
 246 adjoining road, and permit fees and the structure shall
 247 thereafter be a district-owned structure maintained by the
 248 district.

249 (f) The permitholder of a structure restricting the normal
 250 conveyance of water in a district canal, or if said structure is
 251 unpermitted, the landowner or landowners as reasonably
 252 determined by the district to be using such structure, shall
 253 have 60 days after notice is sent to respond to the district
 254 regarding which option set forth in this paragraph has been
 255 chosen and an additional 120 days to repair or remove said
 256 structure. If the district does not receive a written response
 257 within the first 60 days after the notice has been sent, the
 258 structure shall be reviewed by the district's board of
 259 supervisors, which may deem the structure to be abandoned. In

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260 emergency situations, the time periods for notice and response
 261 may be shortened by the district as is reasonable under the
 262 circumstances.

263
 264 Notwithstanding any provisions contained in this subsection, the
 265 ability of the district's board of supervisors under chapter
 266 298, Florida Statutes, to create and assess "units of
 267 development" shall be unaffected.

268 i. The board of supervisors of the district, in order to
 269 carry out any of the powers set forth in subsections c.-g. may
 270 levy and impose special assessments against any or all of the
 271 real property within the district upon a determination that the
 272 construction, maintenance, improvement, repair, or operation of
 273 said improvements or services provided to existing improvements
 274 ~~the roads or roadways~~ provide a benefit to such real property.
 275 The assessments shall be imposed upon the property specially
 276 benefited by such construction, maintenance, improvement,
 277 repair, or operation in proportion to the benefits to be derived
 278 therefrom, and the special benefits shall be determined and
 279 prorated by a method prescribed by the board of supervisors.

280 j. The district is authorized to provide from time to time
 281 for the issuance of special assessment bonds of the district to
 282 pay all or any part of the cost of ~~a system of roads and~~
 283 ~~roadways and any improvements thereto~~. The principal of and
 284 interest on any bonds shall be payable from special assessments
 285 sufficient to pay the bonds in the manner provided in the bonds,
 286 in this act, and the resolution authorizing such bonds. The
 287 bonds shall be authorized by resolution or resolutions of the
 288 board of supervisors of the district, adopted by a majority of

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289 the supervisors present and voting at a meeting of the
290 supervisors. The bonds shall bear interest at a rate or rates
291 not in excess of the maximum rates permitted by general law, may
292 be in one or more series, may bear such date or dates, and may
293 mature at any time or times not exceeding 40 years from their
294 respective dates, may be payable in such medium of payment, at
295 such place or places within or without the State of Florida, may
296 carry such registration privileges, may be subject to redemption
297 prior to maturity, with or without premium, may be executed in
298 such manner, may contain such terms, covenants, and conditions,
299 and may be in such form otherwise as such resolution or
300 subsequent resolutions shall provide. The bonds may be sold or
301 exchanged for refunding bonds, or delivered to contractors in
302 payment for any part of the work or improvements financed by
303 such bonds, or delivered in exchange for any properties, either
304 real, personal, or both, to be acquired for such works or
305 improvements, in such manner as the district in its discretion
306 shall determine. Pending the preparation of the definitive
307 bonds, interim certificates or receipts or temporary bonds in
308 such form and with such provisions as the district may determine
309 may be issued to the purchaser or purchasers of the bonds issued
310 hereunder. The bonds and such interim certificates or receipts
311 or temporary bonds shall be fully negotiable and shall be and
312 constitute negotiable instruments within the meaning of and for
313 all purposes of the law merchant and the Uniform Commercial Code
314 of the State of Florida. The proceeds of the sale of any such
315 bonds shall be used solely for the payment of the costs of the
316 district incurred or to be incurred in carrying out the powers
317 set forth in subsection c., subsection d., subsection e., ~~or~~

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318 subsection f., or subsection g., and shall be disbursed in such
 319 manner and under such restrictions as the district may provide
 320 in the authorizing resolution. The district may also provide
 321 for the replacement of any bonds which become mutilated or are
 322 stolen, destroyed, or lost, upon proper indemnification. A
 323 resolution providing for the issuance of special assessment
 324 bonds may also contain such limitations upon the issuance of
 325 additional bonds secured on a parity with the bonds theretofore
 326 issued as the district may deem proper.

327 Section 8. District liability.--The provisions of any
 328 general law or special act to the contrary notwithstanding, the
 329 following provisions control with respect to the liability of
 330 the Loxahatchee Groves Water Control District relating to
 331 persons using the district's lands, rights-of-way, works, or
 332 easements:

333 a. Except as provided in subsection c., if:

334 (1) The Loxahatchee Groves Water Control District
 335 individually or jointly with another agency of government,
 336 authorizes, permits, or licenses activities for facilities
 337 within district rights-of-way. works, or lands over which the
 338 Loxahatchee Groves Water Control District has a legally
 339 established easement right, thereby allowing access to or use of
 340 such rights-of-way, works, lands, or easements for such purposes
 341 or;

342 (2) Facilities or structures are constructed by any person
 343 or entity other than the district within district rights-of-way
 344 or lands over which the Loxahatchee Groves Water Control
 345 District has easement rights, whether or not such facilities or
 346 structures are permitted,

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348 then in either such case the Loxahatchee Groves Water Control
349 District shall not be liable for personal injury or damages
350 caused by the negligent or willful and intentional acts of
351 permitholders and their invitees that may occur as a result of
352 carrying out the permitted activity or from the use of such
353 facilities or structures.

354 b. Other than as specified in subsection c., when the
355 Loxahatchee Groves Water Control District's rights-of-way,
356 works, lands, or easements are used or accessed by the public
357 for authorized, permitted, or licensed actions for facilities or
358 structures, Loxahatchee Groves Water Control District does not
359 by the authorization for such use or access extend any assurance
360 that such rights-of-way, works, lands, or easements are safe for
361 any purpose, does not by such authorization incur any duty of
362 care toward a person who goes onto those rights-of-way, works,
363 lands, or easements, and is not responsible for any injury to
364 persons or property caused by a negligent act or omission of any
365 person who goes onto those rights-of-way, works, lands, or
366 easements.

367 c. This section does not relieve the Loxahatchee Groves
368 Water Control District of any liability that would otherwise
369 exist for negligence or any deliberate, willful, or malicious
370 injury to a person or property as provided by applicable Florida
371 law. This section does not create or increase the liability of
372 Loxahatchee Groves Water Control District or any person beyond
373 that which is authorized by s. 768.28, Florida Statutes.

374 Section 2. This act shall take effect upon becoming a law.