

CHAMBER ACTION

1 The Committee on Local Government & Veterans' Affairs recommends
2 the following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the Loxahatchee Groves Water Control
8 District, Palm Beach County; amending chapter 99-425, Laws
9 of Florida; amending the district's election procedures;
10 clarifying that the power of the district with respect to
11 roadways and roads is not limited to roads shown on the
12 replat of Loxahatchee Groves and clarifying that the
13 levying of assessments by the district is pursuant to
14 chapter 298, Florida Statutes, or this act; eliminating
15 references to other types of assessments; providing a
16 procedure for the dedication of roads to the district;
17 amending the permitting of culverts, other drainage
18 systems, bridges, or culvert crossings; providing
19 procedures when such bridges or culvert crossings restrict
20 the normal conveyance of water within the district's
21 canals; providing that special assessments are not limited
22 to roads and roadways but may be levied for district
23 improvements; providing that the issuance of special

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24 | assessment bonds are not limited to roads and roadways but
 25 | may be used for district improvements; providing an
 26 | effective date.

27 |

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

29 |

30 | Section 1. Subsection e. of section 2 and subsections c.,
 31 | g., i., and j. of section 4 of section 2 of chapter 99-425, Laws
 32 | of Florida, are amended to read:

33 | Section 2. Landowner's meeting and election of
 34 | supervisors.--

35 | e. Date of landowner's meeting; notice of intent to be
 36 | elected.--Notwithstanding any provision of s. 298.12, Florida
 37 | Statutes, to the contrary, for all elections held after 1999, in
 38 | order for a person to be elected as a supervisor of the
 39 | district, that person must notify the Supervisor of the Board of
 40 | Elections of Palm Beach County of his or her intent to be
 41 | elected as a supervisor at least 90 days prior to the annual
 42 | landowner's meeting, which shall take place on the 4th Monday of
 43 | June each year. The date of annual landowner's meeting may be
 44 | changed by majority of the board of supervisors of the district
 45 | provided that such change occurs at least 150 days prior to the
 46 | newly selected date of the landowner's meeting and further
 47 | provided that notice of such change of the date of the
 48 | landowner's meeting shall be published once a week for 2
 49 | consecutive weeks in a newspaper of general circulation in the
 50 | county in which the lands of the district are located, with the
 51 | first such publication to be not less than 10 nor more than 15

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52 | days after the vote of the board of supervisors to change the
 53 | date of the annual landowner's meeting. No person who has not
 54 | timely provided notice to the supervisor of elections of his or
 55 | her willingness to be elected, as set forth above in this
 56 | section, may be elected as a supervisor of the district, unless
 57 | no individuals or unless fewer individuals than the number of
 58 | seats available for election, have timely provided notice to the
 59 | supervisor of elections, in which event the provisions of s.
 60 | 298.12(1), Florida Statutes, shall control. If the number of
 61 | persons timely providing notice to the supervisor of elections
 62 | is less than or equal to ~~does not exceed~~ the number of seats for
 63 | which supervisors are to be elected in that year, then those
 64 | individuals providing timely notice shall be deemed elected as
 65 | supervisors as of the date of the annual landowner's meeting and
 66 | no election, or notice of such election, shall be held. If the
 67 | length of terms varies for those persons who timely provide
 68 | notice, the length of terms will be assigned by lot. If the
 69 | number of persons timely providing notice to the supervisor of
 70 | elections is less than the number of seats for which supervisors
 71 | are to be elected in that year, then the individual or
 72 | individuals providing timely notice shall be deemed elected as
 73 | set forth in this subsection and the seat or seats for which
 74 | persons have not filed will be subject to election pursuant to
 75 | the provisions of s. 298.12(1), Florida Statutes. In such event,
 76 | if the length of terms are different, the person or persons
 77 | timely providing notice to the supervisor of elections shall be
 78 | deemed elected to the longer or longest term. If the number of
 79 | persons providing timely notice to the supervisor of elections

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80 exceeds the number of seats for which supervisors are to be
 81 elected that year, then elections shall proceed forward at the
 82 annual landowner's meeting in accordance with the provisions of
 83 s. 298.12(1), Florida Statutes, as may be modified by this act.
 84 In the event that pursuant to this subsection an election is not
 85 required, notice as set forth in s. 298.12, Florida Statutes,
 86 for the annual meeting need not be provided so long as the
 87 annual meeting has been included among the meetings properly
 88 noticed under the requirements of s. 189.417, Florida Statutes.

89 Section 4. Powers of the district.--

90 c. In addition to the powers of Loxahatchee Groves Water
 91 Control District, hereinafter referred to as the "district,"
 92 elsewhere provided by general or special law, the district shall
 93 have the power to construct maintain, improve, and repair
 94 roadways and roads necessary and convenient for the exercise of
 95 any of the powers or duties of the district or the board of
 96 supervisors thereof, including, but not limited to, all the
 97 roads shown on the replat of Loxahatchee Groves, as recorded in
 98 Plat Book 12, Page 29, Palm Beach County Public Records, or to
 99 provide access to and development of areas within the district,
 100 or both; to provide funds for such construction, maintenance,
 101 improvement, or repair through the levying of assessments
 102 pursuant to chapter 298, Florida Statutes, or this act
 103 ~~hereinafter referred to as "drainage assessments," or special~~
 104 ~~assessments,~~ or both; and to acquire land, including any
 105 interest therein, by purchase, gift, exchange, or eminent
 106 domain, for such construction, maintenance, improvement, or
 107 repair. The board of supervisors of the district, at its

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108 discretion, may accept for dedication a road within the
 109 boundaries of the district pursuant to the following procedures:

110 (1) The landowners possessing the easements to such road
 111 must petition in writing the board for dedication of the road,
 112 with those signing the petition agreeing to give the district
 113 their respective easements at no cost to the district, pursuant
 114 to policies established by the district.

115 (2) At least a simple majority of landowners on the road,
 116 on a per-acre basis, must petition the board to dedicate the
 117 road.

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

133 (4) The estimated cost information shall then be provided
 134 to the affected landowners and a referendum shall be held among
 135 those landowners to create a special taxing unit, consisting of

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136 all of the benefited land contiguous to and inclusive of the
 137 road to be dedicated to cover such cost. Upon passage of the
 138 referendum by majority vote, on a per-acre basis, the district
 139 shall create a special taxing unit and levy assessments for the
 140 costs as set forth in paragraph (3).

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

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

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

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

159 (1) Which shall require notice of such uniform standards
 160 to be given to persons owning lands upon which, adjacent to, or,
 161 to the best of district's knowledge, using any culvert
 162 crossings, bridges, culverts, or other drainage systems that
 163 connect with or cross over any of the works of, or lie within

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164 the rights-of-way of, the district and to such other persons as
 165 the board of supervisors shall deem to be necessary or
 166 desirable, or both.

167 (2) Which shall authorize granting permits for culvert
 168 crossings, bridges, culverts, or other drainage systems, or
 169 pursuant to such uniform standards, and the district may allow
 170 for permits to be applied for by a single landowner or by
 171 multiple landowners, provided that in the case of multiple
 172 landowners, such landowners establish a single entity to
 173 represent all such landowners to apply for and obtain the permit
 174 and construct and maintain the culvert crossings, bridges,
 175 culverts, or other drainage systems, subject to review by the
 176 district to ensure that said entity has the legal authority to
 177 assess such landowners for the cost of construction and
 178 maintenance of such culverts, drainage systems, culvert
 179 crossings, or bridges, that such power to assess runs with the
 180 land of the landowners creating the entity, and that the
 181 district can enforce such assessment power if necessary.

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

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

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

198 ~~(5)~~ Upon the failure of any property owner to pay any
 199 assessment levied by the board of supervisors pursuant to this
 200 paragraph ~~(4)~~ within 30 days of receipt by such owner of notice
 201 of said assessment, the district shall have a lien on all lands
 202 and premises affected thereby. Such lien shall be superior and
 203 paramount to the interest in such land and premises of any
 204 owner, lessee, tenant, mortgagee, or other person except the
 205 lien of state, county, or district taxes and shall be on a
 206 parity with the lien of any such state, county, or district
 207 taxes. Such lien shall bear interest at an annual rate equal to
 208 the interest rate due on judgments, pursuant to s. 55.03,
 209 Florida Statutes, per year and shall, until paid, remain in
 210 effect in perpetuity.

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

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

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

230 (c) The landowner or landowners using such structure may
 231 apply for a permit to construct a conforming replacement
 232 structure. This process shall require obtaining a permit issued
 233 by the district pursuant to its uniform standards and
 234 procedures, said permit to be contingent upon the removal of the
 235 nonconforming structure and the construction of a replacement
 236 structure at the sole expense of said landowner or landowners.

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

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

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248 adjoining road, and permit fees and the structure shall
 249 thereafter be a district-owned structure maintained by the
 250 district.

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

265
 266 Notwithstanding any provisions contained in this subsection, the
 267 ability of the district's board of supervisors under chapter
 268 298, Florida Statutes, to create and assess "units of
 269 development" shall be unaffected.

270 i. The board of supervisors of the district, in order to
 271 carry out any of the powers set forth in subsections c.-g. may
 272 levy and impose special assessments against any or all of the
 273 real property within the district upon a determination that the
 274 construction, maintenance, improvement, repair, or operation of
 275 said improvements or services provided to existing improvements

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276 | ~~the roads or roadways~~ provide a benefit to such real property.
 277 | The assessments shall be imposed upon the property specially
 278 | benefited by such construction, maintenance, improvement,
 279 | repair, or operation in proportion to the benefits to be derived
 280 | therefrom, and the special benefits shall be determined and
 281 | prorated by a method prescribed by the board of supervisors.

282 | j. The district is authorized to provide from time to time
 283 | for the issuance of special assessment bonds of the district to
 284 | pay all or any part of the cost of ~~a system of roads and~~
 285 | ~~roadways and any~~ improvements thereto. The principal of and
 286 | interest on any bonds shall be payable from special assessments
 287 | sufficient to pay the bonds in the manner provided in the bonds,
 288 | in this act, and the resolution authorizing such bonds. The
 289 | bonds shall be authorized by resolution or resolutions of the
 290 | board of supervisors of the district, adopted by a majority of
 291 | the supervisors present and voting at a meeting of the
 292 | supervisors. The bonds shall bear interest at a rate or rates
 293 | not in excess of the maximum rates permitted by general law, may
 294 | be in one or more series, may bear such date or dates, and may
 295 | mature at any time or times not exceeding 40 years from their
 296 | respective dates, may be payable in such medium of payment, at
 297 | such place or places within or without the State of Florida, may
 298 | carry such registration privileges, may be subject to redemption
 299 | prior to maturity, with or without premium, may be executed in
 300 | such manner, may contain such terms, covenants, and conditions,
 301 | and may be in such form otherwise as such resolution or
 302 | subsequent resolutions shall provide. The bonds may be sold or
 303 | exchanged for refunding bonds, or delivered to contractors in

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304 payment for any part of the work or improvements financed by
 305 such bonds, or delivered in exchange for any properties, either
 306 real, personal, or both, to be acquired for such works or
 307 improvements, in such manner as the district in its discretion
 308 shall determine. Pending the preparation of the definitive
 309 bonds, interim certificates or receipts or temporary bonds in
 310 such form and with such provisions as the district may determine
 311 may be issued to the purchaser or purchasers of the bonds issued
 312 hereunder. The bonds and such interim certificates or receipts
 313 or temporary bonds shall be fully negotiable and shall be and
 314 constitute negotiable instruments within the meaning of and for
 315 all purposes of the law merchant and the Uniform Commercial Code
 316 of the State of Florida. The proceeds of the sale of any such
 317 bonds shall be used solely for the payment of the costs of the
 318 district incurred or to be incurred in carrying out the powers
 319 set forth in subsection c., subsection d., subsection e., ~~or~~
 320 subsection f., or subsection g., and shall be disbursed in such
 321 manner and under such restrictions as the district may provide
 322 in the authorizing resolution. The district may also provide
 323 for the replacement of any bonds which become mutilated or are
 324 stolen, destroyed, or lost, upon proper indemnification. A
 325 resolution providing for the issuance of special assessment
 326 bonds may also contain such limitations upon the issuance of
 327 additional bonds secured on a parity with the bonds theretofore
 328 issued as the district may deem proper.

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