

1 A bill to be entitled

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

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection e. of section 2 and subsections c.,
26 g., i., and j. of section 4 of section 2 of chapter 99-425, Laws
27 of Florida, are amended to read:

28 Section 2. Landowner's meeting and election of
29 supervisors.--

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

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

84 Section 4. Powers of the district.--

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

105 (1) The landowners possessing the easements to such road
 106 must petition in writing the board for dedication of the road,
 107 with those signing the petition agreeing to give the district
 108 their respective easements at no cost to the district, pursuant
 109 to policies established by the district.

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

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

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

136 (5) The district shall then acquire by sale or through
137 eminent domain, under chapters 73 and 74, Florida Statutes, as

138 amended from time to time, the necessary easements and build the
 139 road or make the necessary improvements to the existing road to
 140 meet all district specifications.

141 (6) Thereafter, the road shall be dedicated to the
 142 district and maintained by the district under its general
 143 maintenance assessment.

144
 145 Notwithstanding anything contained herein, the district's
 146 ability, under chapter 298, Florida Statutes, to create and
 147 assess units of development shall be unaffected.

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

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

162 (2) Which shall authorize granting permits for culvert
 163 crossings, bridges, culverts, or other drainage systems, or
 164 pursuant to such uniform standards, and the district may allow
 165 for permits to be applied for by a single landowner or by

166 multiple landowners, provided that in the case of multiple
167 landowners, such landowners establish a single entity to
168 represent all such landowners to apply for and obtain the permit
169 and construct and maintain the culvert crossings, bridges,
170 culverts, or other drainage systems, subject to review by the
171 district to ensure that said entity has the legal authority to
172 assess such landowners for the cost of construction and
173 maintenance of such culverts, drainage systems, culvert
174 crossings, or bridges, that such power to assess runs with the
175 land of the landowners creating the entity, and that the
176 district can enforce such assessment power if necessary.

177 (3)+(2) Which shall, except as hereinafter provided,
178 require as to culverts or other drainage systems not less than
179 60-days' written notice to be given to persons owning lands upon
180 which any ~~culvert crossings, bridges,~~ culverts, or other
181 drainage systems exist in violation of any such uniform
182 standards prior to the taking of any enforcement action by the
183 district.

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

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

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

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

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

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

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

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

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

246 (f) The permitholder of a structure restricting the normal
247 conveyance of water in a district canal, or if said structure is

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

260
261 Notwithstanding any provisions contained in this subsection, the
262 ability of the district's board of supervisors under chapter
263 298, Florida Statutes, to create and assess "units of
264 development" shall be unaffected.

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

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

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

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