

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Codification

Codification is the process of updating a special act. After a special district is created, special acts often amend the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all changes made to the charter since its inception. Codification of special district charters is critical because it allows readers to easily discern the present provisions of a charter.

Codification of special district charters initially was authorized by the 1997 Legislature pursuant to ss. 189.429 (special districts) and 191.015, F.S. (independent special fire control districts). Current law provides for codification of all special district charters by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

The 2001 Legislature amended s.189.429, F.S., to provide that reenactment of existing law pursuant to that section shall:

- not be construed to grant additional authority nor to supercede the authority of an entity;
- continue the application of exceptions to law contained in special acts reenacted pursuant to the section;
- not be construed to modify, amend or alter any covenants, contracts or other obligations of any district with respect to bonded indebtedness; and
- not be construed to affect a district’s ability to levy and collect taxes, assessments, fees or charges for the purpose of redeeming or servicing the district’s bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 155 special districts have codified their charters.

History of Water Control Districts

As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Following the passage of several special acts creating drainage districts, the Legislature passed the state’s first general drainage law, the General Drainage Act of 1913, to establish one procedure for creating drainage districts—through circuit court decree—and to provide general law provisions governing the operation of these districts.

Between 1913 and 1972, the General Drainage Act remained virtually unchanged. In 1972 and 1979, the Legislature amended the act to change the name of these districts to water management districts and then to water control districts. The Legislature did not enact a major reform of the act in either year, although the 1979 act repealed provisions authorizing the creation of water control districts by circuit court decree.

Chapter 298, F.S.

Chapter 298, F.S., contains provisions governing the creation and operation of water control districts. Section 298.01, F.S., restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and the provisions of s.125.01, F.S. (dependent water control districts), which relate to the powers of county governing bodies. Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by ch. 298, F. S. Upon the formation of a water control district, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district.

Notice of the first landowners' meeting is required within 20 days after the effective date of a special act creating a district. The notice is to be published once a week for two consecutive weeks in a newspaper of general circulation in each county in which lands of the district are located. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve three-year rotating terms, with one supervisor elected each year at a required annual meeting. To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located, unless a district's special act provides otherwise. The Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting if acreage owned by the state is subject to assessment by the district.

The primary funding source for water control district activities is special assessments. The assessment of the particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. A board of supervisors also is authorized to issue bonds and taxes.

Limitation on Special Acts

Article 111, s. 11(a)(21), of the State Constitution, provides that no special law or general law of local application shall be enacted that pertains to any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.

Section 298.76, F. S., is an example of a general law passed by a three-fifths vote of the membership of each house. The statute provides that there shall be no special law or general law of local application granting additional authority, powers, rights or privileges to any water control district formed pursuant to ch. 298, F. S. Section 298.76 F. S., does not prohibit special or local legislation that:

- amends an existing special act that provides for the levy of an annual maintenance tax of a district;
- extends the corporate life of a district;
- consolidates adjacent districts; or
- authorizes the construction or maintenance of roads for agricultural purposes as outlined in ch. 298, F.S.

Additionally, s. 298.76, F. S., authorizes special or local legislation that:

- changes the method of voting for a board of supervisors for any water control district;
- provides a change in the term of office of the board of supervisors or changes the qualifications of the board of supervisors of any water control district; or

- changes the governing authority or governing board of any water control district.

Finally, s. 298.76, F. S., provides that any special or local law enacted by the Legislature pertaining to any water control district shall prevail as to that district and shall have the same force and effect as though it had been a part of ch. 298, F.S., at the time the district was created and organized.

HB 817

Spring Lake Improvement District is an independent water control district located in Highlands County which was created in 1971 pursuant to ch. 71-669, L.O.F. The district consists of 3,359 acres. This bill codifies all special acts related to the Spring Lake Improvement District into a single act in accordance with ch. 189, F.S. The bill also contains new language which changes the number of board members and their terms of office; provides for the use of taxes for expanded purposes; and changes the requirement for bids from \$4,000 to \$150,000.

C. SECTION DIRECTORY:

Section 1: Provides that the act is the codification of all special acts relating to the Spring Lake Improvement District pursuant to chs. 97-255 and 98-320, L.O.F.; states the Legislative intent for the act; preserves all district authority, including the authority of the district to annually assess and levy taxes.

Section 2: Codifies, reenacts, amends and repeals special acts relating to the district's charter (chs. 71-669, 77-563, 88-461 and 90-434, L.O.F.).

Section 3: This section recreates the district, and recreates and reenacts the Spring Lake Improvement District charter as follows:

- Section 1. Provides for minimum charter requirements in accordance with s. 189.404(3), F.S.:
1. Provides for district organization and purposes.
 2. Provides for district powers, functions and duties regarding non-ad valorem assessments, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.
 3. Provides that the district was created by the process contained in ch. 298, F.S.
 4. Provides that the district's charter may only be amended by special act.
 5. Provides that the district is governed by a board of supervisors, whose membership and organization shall be as set forth in the act and ch. 298, F.S.
 6. Provides that the compensation of board members shall be governed by this act and ch. 298, F.S.
 7. Provides that the administrative duties of the board shall be as set forth in this act and ch. 298, F.S.
 8. Provides for requirements for financial disclosure, meeting notices, reporting, public records maintenance and per diem expenses.
 9. Provides for procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the district.
 10. Provides for procedures for conducting district elections.
 11. Provides for the financing of the district;
 12. Provides that the district may continue to levy a maintenance tax upon all of the real taxable property in the district.
 13. Provides for the method of collecting non-ad valorem assessments, fees or services charges.
 14. Provides for the district's planning requirements.

Section 2. Provides for the ratification and approval of the creation of the district and the change of name of the district to the Spring Lake Improvement District.

Section 3. Provides for the boundaries of the district.

Section 4. Provides for the applicability of certain provisions of ch. 298, F.S., to the district; provides that laws inconsistent with the act are inapplicable.

Section 5. Provides for definitions.

Section 6. Provides for board powers, membership, terms of office, elections, oath of office, vacancies, officers, quorum, records and minutes; adds language changing the number of board members from three to five members, providing for office terms of three or four years, and providing language as to what constitutes a quorum.

Section 7. Provides for appointment and duties of district manager.

Section 8. Provides for the board treasurer, depositories and fiscal agent.

Section 9. Provides for the compensation of the board.

Section 10. Provides for the powers of the district:

1. To contract and be contracted with; to sue and be sued; to adopt a seal; to acquire real or personal property.
2. To adopt a water control plan.
3. To provide for a district office and the storage and maintenance of the district's equipment.
4. To drain and reclaim lands within the district.
5. To regulate drainage requirements and set forth conditions to be met for plats to be recorded.
6. To borrow money and issue bonds.
7. To build improvements and to acquire equipment.
8. To construct bridges, culverts and roads.
9. To hold easements, reservations or dedications.
10. To impose an ad valorem tax, a drainage tax, and a maintenance tax.
11. To impose and foreclose special assessment liens.
12. To regulate all structures and things which come into contact with or are a part of a district facility.
13. To enforce the provisions herein by the promulgation of rules and regulations.
14. To cooperate with other drainage districts or governmental agencies.
15. To hire employees.
16. To exercise all powers necessary.
17. To construct roadways.
18. To make use of public easements.
19. To enter into leases.
20. To regulate the supply of water within the district.
21. To own and operate water and sewer systems.
22. To own and operate parks and other facilities.
23. To issue bonds.
24. To install and operate streetlights.
25. To require underground utilities.
26. To require district landowners to maintain their property.
27. To exercise all powers conferred by ch. 298, F.S.

- Section 11. Provides that the official seal of the district bear the legend of the Spring Lake Improvement District.
- Section 12. Provides for the district fiscal year to be established by the board by resolution.
- Section 13. Provides for an annual budget.
- Section 14. Provides for notice and call of meetings.
- Section 15. Provides an adoption of a water control plan pursuant to ch. 298, F.S., or provisions of this section.
- Section 16. Provides for the adoption, revision and revocation of the water control plan.
- Section 17. Provides for assessing land for reclamation, apportionment of tax, and a drainage tax record.
- Section 18. Provides for prepayment of taxes or assessments.
- Section 19. Provides for tax liens.
- Section 20. Provides for the issuance of bond anticipation notes.
- Section 21. Provides for short-term borrowing.
- Section 22. Provides for the issuance of bonds.
- Section 23. Provides for the sale of bonds.
- Section 24. Provides for the authorization and form of bonds.
- Section 25. Provides for interim and replacement certificates.
- Section 26. Provides that district bonds are negotiable.
- Section 27. Provides for the defeasance of a holder's rights to district bonds.
- Section 28. Provides for the issuance of additional bonds.
- Section 29. Provides for the issuance of refunding bonds.
- Section 30. Provides for revenue bonds.
- Section 31. Provides for general obligations bonds.
- Section 32. Provides that bonds issued under the provisions of the act constitute legal investments.
- Section 33. Provides that board resolutions authorizing the issuance of bonds may contain covenants.
- Section 34. Provides for the validity of bonds and validation proceedings.
- Section 35. Provides that this act constitutes the full and complete authority for the issuance of district bonds and the exercise of district powers.

Section 36. Provides a pledge by the state to the bondholders of the district and the federal government.

Section 37. Provides for the assessment of an ad valorem tax on all taxable real and tangible personal property in the district; contains new language which states that this tax may be used to pay for the operation and maintenance costs of any district projects. Current language allows the use of ad valorem taxes to pay the principal and interest on any district general obligation bonds and to provide for other funds established in connection with such bonds.

Section 38. Provides that the board annually levy annual installment taxes.

Section 39. Provides for a maintenance tax; contains new language stating that this tax may be used to for construction projects. Current language provides for the use of this tax to maintain and preserve the drainage improvements of the district. Section 298.54, F.S., does not appear to contemplate the use of this tax for construction projects.

Section 40. Provides for the enforcement of taxes.

Section 41. Provides that taxes become delinquent and bear penalties in the same manner as county taxes.

Section 42. Provides for a tax exemption.

Section 43. Provides for special assessments.

Section 44. Provides for the issuance of certificates of indebtedness.

Section 45. Provides for the foreclosure of liens.

Section 46. Provides for the payment of taxes and redemption of tax liens by the district, and sharing in proceeds of tax sale.

Section 47. Provides that the district may require the mandatory use of certain district facilities and services.

Section 48. Provides for bids on certain district projects and purchases; contains new language which changes the current bid requirement from \$4,000 to \$150,000 citing s. 287.017, F.S. (category four). This is the same standard required for community development districts pursuant to s. 190.033, F.S.

Section 49. Provides that the district has the powers to construct and operate projects across rights-of-way.

Section 50. Provides that the board has the power to enter into agreements with consultants or advisors with respect to the issuance of bonds.

Section 51. Provides that the board is authorized to enter into agreements with other political bodies for the joint discharge of common functions.

Section 52. Provides for fees, rentals and other charges; provides a procedure for adoption and modifications; and minimum revenue requirements.

Section 53. Provides for recovery of delinquent charges.

Section 54. Provides for discontinuance of service.

Section 55. Provides for action taken on consent of landowners.

Section 56. Provides for enforcement and penalties.

Section 57. Provides that no suit shall be brought against the district for damages arising out of tort or breach of contract.

Section 58. Provides that district property shall be exempt from levy and sale by virtue of an execution.

Section 59. Provides that all acts and proceedings of the circuit court, the board and other officers of the district and all tax levies and assessments are hereby ratified.

Section 4. Provides for the repeal of chs. 71-669, 77-563, 88-461 and 90-434.

Section 5. Provides for severability.

Section 6. Provides for an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 20, 2003¹

WHERE? *Highlands Today & The Tampa Tribune*, newspapers of general circulation, published in Highlands County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

¹ The Notice of Intent to Apply for Passage of Local Legislation was republished in March 2004 due to a technical error in the notice.

C. DRAFTING ISSUES OR OTHER COMMENTS:

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to create such an exemption in that s.6 of Section 3 of the bill adds language changing the number of board members from three to five members, and providing for office terms of three or four years. These provisions conflict with ss. 298.11 and 298.12, F.S., respectively. The bill also may provide an exemption to s. 298.54, F.S., in authorizing the use of a maintenance tax for construction projects within s. 10(39) of Section 3 of the bill.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.