

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Codification

Codification is the process of compiling, updating, and systematically arranging the special acts that comprise a special district's charter. After a special district's charter is created by special act of the Legislature, the original charter provisions may be amended by subsequent special acts. However, special act amendments are not automatically incorporated into one special act charter. Therefore, in order to ascertain the current status of a special district's charter, it is necessary to locate all special acts amending a district's original charter. This can often be a difficult and time-consuming process for persons interested in determining the current status of a district's charter. Codification of special district charters is important because it permits readers to easily locate and identify the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature in ss. 189.429¹ and 191.015², F.S., both of which were amended in 1998. The laws provide for codification of all special district charters by December 1, 2004.³ Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district. The 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law: (1) shall not be construed to grant additional authority nor supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall 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.

To date, 173 special districts have codified their charters.

Status Statement Language

Section 189.404(5), F.S., provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform to the department's determination or declaratory statement regarding the status of the district.

The St. John's Water Control District

The St. Johns Water Control District (District) is an independent district located in Indian River County. The District was created in 1962 through circuit court decree and derives its statutory authority from s. 298, F.S. The District imposes maintenance taxes and has the power to issue bonds.

¹ Chapter 189, F.S., is known as the "Uniform Special District Accountability Act".

² Chapter 191, F.S., is known as the "Independent Special Fire Control District Act".

³ The 1998 amendment allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the House Committee on Community Affairs.

Changes to St. Johns Water Control District Charter

The bill deletes specified provisions relating to the District board and officers, general and special powers of the District, maximum amount of negotiable notes or certificates of indebtedness outstanding at any one time, bond issuance and valuations and taxation. The bill provides for the District's powers and authority to be in accordance with chapters 189 and 298, F.S.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill contains provisions which do not simply codify existing law, but amend the charter of the District, including:

- providing legal boundaries of the District;
- providing a maximum payment of the county tax collector from the proceeds of the maintenance tax;
- authorizing the District to enter into valid and legally binding covenants and agreements with bondholders;
- providing for per diem and mileage for board supervisors; and
- authorizing the District to levy fines for the introduction of pollutants into the waters of the District, and legal proceedings for prosecution.

Charter of the District

In recreating and reenacting the charter of the District, the bill:

Section 1: Presents the boundaries of the District.

Section 2: Declares the provisions of s. 298, F.S. to be applicable to the District.

Section 3: Provides for taxes to be levied and apportioned as provided by s. 298, F.S., and to be collected during each year at the same time that county taxes are due and collected in Indian River County.

Section 4: Provides for a maintenance tax pursuant to s. 298.54, F.S.

Section 5: Provides for collection and enforcement of all taxes levied to coincide with collection of county taxes.

Section 6: Provides for taxes to become delinquent in the same manner as county taxes.

Section 7: This section:

- Provides compensation for Indian River County and the Tax Collector of Indian River County for their respective services; provides for compensation to be no more than \$1,500 each in one year, to be paid with proceeds of the maintenance tax.
- Declares services to be provided by Indian River County and the Tax Collector of Indian River County to be special services performed directly for the District.

Section 8: Declares all drainage taxes levied by the District, including all default penalties and the costs of collecting taxes, liens of equal dignity with liens for county taxes; prevents the sale of any district lands for county or other taxes to relieve or release the land sold from the lien for subsequent installments of District taxes.

Section 9: Authorizes the Board of Supervisors(Board) to issue bonds pursuant to s. 298, F.S.

Section 10: This section:

- Authorizes the Board to issue warrants, negotiable notes, or other evidences of indebtedness which are to be payable solely from maintenance taxes; interest rates for such notes are not to exceed 6% per year.
- Authorizes the Board to issue bond anticipation notes.

Section 11: Excludes the District from the application of bond provisions in s. 298.73, F.S.

Section 12: Grants the Board the power to enter into valid and legally binding covenants and agreements with the holders of bonds as to the custody and security of the proceeds of said bonds. All covenants and agreements shall be and constitute valid and legally binding obligations of the District and the state will not by any legislation repeal, modify, or impair the rights, remedies, and security of the holders of any bond or other obligation of the District.

Section 13: Grants the District the power to covenant and agree with bond holders regarding fees, expenses, collection of taxes, construction funds, debt service funds or reserves, the cost of the expenses of any annual audits, or any other annually recurring services or costs.

Section 14: Grants the District the power to dike, dam, and construct levees to protect the District from rainfall, rivers, and streams and thereby divert the course and flow of such surface water and or pump water from within dikes and levees.

Section 15: Provides compensation of the Board of Supervisors; provides \$25 for each day actually engaged in work pertaining to the District, but restricts payments to no more that \$100 per month for each Board Member; provides for mileage reimbursement.

Section 16: Prohibits any person, firm, or corporation from connecting or maintaining a connection of any farm ditch with any of the canals, ditches, laterals, or waterways, constructed, controlled, or maintained by the District.

Section 17: Authorizes the District to construct, install, and maintain locks, dams, and other works and facilities in the canals, ditches, and drains within the District.

Section 18: Authorizes the District to grant permits allowing any access over, under, or across its lands.

Section 19: Grants power to levy fines for the introduction of pollutants into the waters of the District.

- Provides provisions for pursuing retribution for violations of rules and regulations promulgated by the Florida Department of Environmental Protection, United State Clean Water Act, or for conditions of any National Pollutant Discharge Elimination System.

Section 20: Provides severability.

C. SECTION DIRECTORY:

Section 1: Provides the legislative intent pursuant to s. 189.429, F.S.

Section 2: Codifies, reenacted, amends, and repeals ch. 65-812 and 69-1162, L.O.F.

Section 3: Presents the charter of the District.

Section 4: Repeals chs. 65-812 and 69-1162, L.O.F.

Section 5: Provides for bill to take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? August 24, 2004

WHERE? Vero Beach Press Journal, Vero Beach, Indian River 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.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At the April 13, 2005 meeting of the Local Government Council, an amendment adding a status statement to the District's charter was approved. The statement indicates that the District is an independent special district.