

CHAMBER ACTION

1 The Local Government Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the St. Johns Water Control District,
7 Indian River County; codifying, amending, and reenacting
8 special acts relating to the district; fixing and
9 prescribing boundaries of said district; making the
10 provisions of chapter 298, F.S., applicable thereto;
11 providing for the levy, collection, and enforcement of
12 installment and maintenance taxes by said district at the
13 same time and in like manner as county taxes; providing
14 that said taxes shall be extended by the county on the
15 county tax roll and shall be collected by the tax
16 collector in the same manner and time as county taxes;
17 providing for the same discounts and penalties as county
18 taxes; providing for the compensation of the county and
19 tax collector; providing that district taxes shall be a
20 lien on lands against which taxes are levied of equal
21 dignity with county and other taxes; providing that the
22 approval of the board of drainage commissioners is not
23 required to issue bonds; providing for floating

HB 1423

2005
CS

24 indebtedness of the district; providing that payment of
25 taxes in advance is not authorized; providing that use of
26 bonds and interest coupons in payment of taxes is not
27 authorized; providing that the board may enter into
28 certain covenants and agreements with holders of bonds;
29 providing that water is a common enemy; providing for
30 compensation of the board of supervisors; providing for
31 the levy of fines for the introduction of pollutants into
32 the waters of the district; providing additional powers of
33 the board; providing for severability of the provisions of
34 the act; repealing chapters 65-812 and 69-1162, Laws of
35 Florida, relating to the district; providing an effective
36 date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Intent.--Pursuant to section 189.429, Florida
41 Statutes, this act constitutes the codification of all special
42 acts relating to the St. Johns Water Control District (the
43 "district"), together with the decree creating and incorporating
44 the district. It is the intent of the Legislature in enacting
45 this law to provide a single, comprehensive special act charter
46 for the district, including all current legislative authority
47 granted to the district by its several legislative enactments,
48 any additional authority granted by this act, and authority
49 granted by applicable general law.

50 Section 2. Chapters 65-812 and 69-1162, Laws of Florida,
51 are codified, reenacted, amended, and repealed as provided in
52 this act.

53 Section 3. The St. Johns Water Control District is re-
54 created, and the charter for such district is re-created and
55 reenacted to read:

56 Section 1. The decree of the Circuit Court in and for the
57 Ninth Judicial Circuit, Indian River County, Florida, entered in
58 Case No. 5736 on May 14, 1962, creating and incorporating the
59 St. Johns Water Control District, an independent special
60 district, under chapter 298, Florida Statutes, and the decree of
61 said court revising and correcting the boundaries of the
62 district entered on October 25, 1963, and an order correcting a
63 clerical error in the decree revising and correcting the
64 boundaries of the district on December 27, 1963, and all
65 subsequent proceedings taken in said circuit court concerning
66 said district are hereby ratified, confirmed, and approved,
67 including its territorial boundaries as follows:

68
69 From the center of Section 5, township 33 South, Range
70 38 East, run West along the centerline of Highway 60
71 through Sections 5 and 6, and in Township 33 South,
72 Range 37 East continue west along the centerline of
73 State Highway 60 through Sections 1, 2, 3, 4, 5 and 6
74 to the West boundary of Section 6; thence South along
75 the West boundary of Sections 6, 7, 18 and 19 to the
76 Southwest corner of Section 19; thence East along the
77 south boundary of Section 19 to the Southeast corner

78 | of said Section 19; thence South along the West
 79 | boundary of Sections 29 and 32 to the Southwest corner
 80 | of Section 32; thence Easterly along the South
 81 | boundary of Sections 32, 33, 34, 35 and 36 to the
 82 | Southeast corner of Section 36, all lying in Township
 83 | 33 South, Range 37 East; thence in Township 33 South,
 84 | Range 38 East, run Easterly along the South boundary
 85 | of Sections 31 and 32 to the Southeast corner of
 86 | Section 32; thence run North to the Northeast corner
 87 | of Section 29, Township 33 South, Range 38 East;
 88 | thence run Easterly to the Southeast corner of Section
 89 | 21, Township 33 South, Range 38 East; thence Northerly
 90 | along the East boundaries of Sections 21 and 16 to the
 91 | Northeast corner of the Southeast one-quarter (SE 1/4)
 92 | of Section 16, Township 33 South, Range 38 East;
 93 | thence Westerly to the center of Section 16; thence
 94 | Northerly to the Northeast corner of the Northwest
 95 | one-quarter (NW 1/4) of Section 16; thence Westerly to
 96 | the Southeast corner of Section 8; thence North to the
 97 | Northeast corner of Section 8; thence Westerly to the
 98 | Southeast corner of the Southwest one-quarter (SW 1/4)
 99 | of Section 5; thence North to the center of Section 5
 100 | and the point of beginning. Including 27,743.40
 101 | acres.

102 |
 103 | Section 2. The provisions of the general drainage laws of
 104 | Florida applicable to drainage districts or subdrainage
 105 | districts which are embodied in chapter 298, Florida Statutes,

HB 1423

2005
CS

106 and all of the laws amendatory thereof, now existing or
 107 hereafter enacted, so far as not inconsistent with this act, are
 108 hereby declared to be applicable to said St. Johns Water Control
 109 District.

110 Section 3. Taxes shall be levied and apportioned as
 111 provided for in the general drainage laws of Florida (chapter
 112 298, Florida Statutes, and amendments thereto), except as
 113 otherwise provided herein. The board of supervisors shall
 114 determine, order, and levy the amount of the annual installments
 115 of the total taxes levied under sections 298.50 and 298.54,
 116 Florida Statutes, which shall become due and be collected during
 117 each year at the same time that county taxes are due and
 118 collected, which said annual installment and levy shall be
 119 evidenced to and certified by the said board not later than
 120 August 1 of each year, to Indian River County. Said tax shall be
 121 extended by the county on the county tax roll and shall be
 122 collected by the tax collector in the same manner and time as
 123 county taxes, and the proceeds thereof paid to said district.
 124 Said tax shall be a lien until paid on the property against
 125 which assessed, and enforceable in like manner as county taxes.

126 Section 4. Maintenance taxes as provided for under section
 127 298.54, Florida Statutes, shall be apportioned upon the basis of
 128 the net assessments of benefits assessed as accruing for
 129 original construction, and shall be evidenced to and certified
 130 by the board of supervisors not later than August 31 of each
 131 year, to Indian River County, and shall be extended by the
 132 county on the county tax roll and shall be collected by the tax
 133 collector in the same manner and time as county taxes and the

HB 1423

2005
CS

134 proceeds therefrom paid to said district. Said tax shall be a
 135 lien until paid on the property against which assessed and
 136 enforceable in like manner as county taxes.

137 Section 5. The collection and enforcement of all taxes
 138 levied by said district shall be at the same time and in like
 139 manner as county taxes, and the provisions of the Florida
 140 Statutes relating to the sale of lands for unpaid and delinquent
 141 county taxes, the issuance, sale, and delivery of tax
 142 certificates for such unpaid and delinquent county taxes, the
 143 redemption thereof, the issuance to individuals of tax deeds
 144 based thereon, and all other procedures in connection therewith,
 145 shall be applicable to said district and the delinquent and
 146 unpaid taxes of said district to the same extent as if said
 147 statutory provisions were expressly set forth in this act. All
 148 taxes shall be subject to the same discounts as county taxes.
 149 All discounts allowed shall be a charge against the maintenance
 150 tax only.

151 Section 6. All taxes levied by the district shall be and
 152 become delinquent and bear penalties on the amount of said taxes
 153 in the same manner as county taxes.

154 Section 7. (1) Indian River County shall be paid annually
 155 an amount equal to 1 percent of the total taxes of the district
 156 and the Tax Collector of Indian River County shall be paid
 157 annually an amount equal to 1 percent of the total taxes of the
 158 district collected, for their respective services to the St.
 159 Johns Water Control District in said county for respectively
 160 assessing and collecting said drainage district taxes, provided,
 161 however, that the total amount to be paid to said county and

HB 1423

2005
CS

162 said tax collector in any one year shall not exceed the sum of
 163 \$1,500 to each. All compensation paid the tax assessor and the
 164 tax collector shall be paid from the proceeds of the maintenance
 165 tax.

166 (2) The services of said county and said county tax
 167 collector in assessing and collecting said drainage district
 168 taxes are hereby declared to be special services performed
 169 directly for said district and the amounts paid therefor shall
 170 not be considered a part of the general income of their
 171 respective offices, nor shall it come under the provisions of
 172 sections 116.03, 145.10, and 145.11, Florida Statutes. The
 173 personnel required to do said special work shall be paid for
 174 such special services by the county or the tax collector, as the
 175 case may be, from the receipts provided for such purpose.

176 Section 8. All drainage taxes levied by the district,
 177 together with all penalties for default in payment of the same
 178 and all costs in collecting the same, shall constitute a lien of
 179 equal dignity with the liens for county taxes, and other taxes
 180 of equal dignity with county taxes, upon all the lands against
 181 which said taxes shall be levied. A sale of any of the lands
 182 within the district for county or other taxes shall not operate
 183 to relieve or release the lands so sold from the lien for
 184 subsequent installments of district taxes, which lien may be
 185 enforced against such lands as though no such sale thereof had
 186 been made.

187 Section 9. The board of supervisors may issue bonds under
 188 the provisions of chapter 298, Florida Statutes, without the

HB 1423

2005
CS

189 approval of the Board of Drainage Commissioners of the State of
 190 Florida, as provided for in section 298.47, Florida Statutes.

191 Section 10. (1) After the levy of maintenance taxes for
 192 any year, the board of supervisors may from time to time issue
 193 warrants or negotiable notes or other evidences of indebtedness
 194 of the district, which shall be payable solely from such
 195 maintenance taxes and shall not be issued in an amount greater
 196 than the amount of such maintenance taxes then unpaid less the
 197 amount of any of such notes then outstanding. All such notes
 198 shall mature not later than 1 year from the date of issuance
 199 thereof, shall bear interest at a rate or rates not exceeding 6
 200 percent per annum, and shall have such other details as shall be
 201 provided in the resolution or resolutions of the board of
 202 supervisors authorizing the issuance thereof.

203 (2) After the authorization of any bonds under the
 204 provisions of chapter 298, Florida Statutes, the board of
 205 supervisors may from time to time issue bond anticipation notes
 206 in anticipation of the issuance of such bonds, and the amount
 207 thereof shall not exceed the amount of bonds authorized and not
 208 issued. Such notes shall all mature not later than 1 year after
 209 the date thereof and may be renewed for a further period not
 210 exceeding 1 year, but all of such notes, including the renewals
 211 thereof, shall mature not later than 2 years from the date
 212 thereof. Such bond anticipation notes shall be paid from the
 213 proceeds of such bonds when issued, or from any taxes levied for
 214 the payment of such bonds which have been authorized, but in
 215 such case a like amount of the bonds authorized shall not be
 216 issued. The proceeds of any bond anticipation notes shall be

HB 1423

2005
CS

217 used solely for the purposes provided in the resolution which
 218 authorized the issuance of the bonds in anticipation of which
 219 bond anticipation notes are issued.

220 Section 11. The provisions of section 298.73, Florida
 221 Statutes, and amendments and successors thereof, relating to the
 222 use of bonds and obligations in payment of drainage taxes, shall
 223 not be applicable to said district and its bonds, obligations,
 224 and taxes.

225 Section 12. The board of supervisors of the district shall
 226 have the power, in the resolution or other proceedings
 227 authorizing the issuance of any bonds, to enter into valid and
 228 legally binding covenants and agreements with the holders of
 229 such bonds as to the custody and security of the proceeds of
 230 said bonds, or of any bond anticipation notes issued in
 231 anticipation thereof, the custody and security of any debt
 232 service funds, including reserves, and the appointment of banks
 233 or trust companies as trustee to hold such construction funds
 234 and debt service and reserve funds, the rank or priority as
 235 between the bonds originally issued by the district, and any
 236 bonds thereafter issued and terms and conditions under which any
 237 bonds can be issued by the district after the original bonds or
 238 notes have been issued to finance the cost of the drainage
 239 improvements or works, and such other covenants and conditions
 240 as shall be deemed necessary and advisable by the board of
 241 supervisors in accordance with bond market practices and in
 242 order to better secure the payment of such bonds and the
 243 marketability thereof. All such covenants and agreements shall
 244 be and constitute valid and legally binding obligations of the

HB 1423

2005
CS

245 district and the state does hereby covenant that it will not by
 246 any legislation hereafter in any manner repeal, modify, or
 247 impair the rights, remedies, and security of the holders of any
 248 bonds or other obligations issued by the district.

249 Section 13. The district shall also have power to covenant
 250 and agree with the holders of such bonds that all of the fees
 251 and expenses for the levy and collection of taxes in said
 252 district and of any trustees or other custodians of the bond
 253 proceeds or of the construction funds or debt service funds or
 254 reserves therefor, or the cost of the expenses of any annual
 255 audits or of any other annually recurring services or costs
 256 shall be paid from the maintenance taxes to be collected in each
 257 year with said district and not from the proceeds of any bonds
 258 or other obligations issued by said district.

259 Section 14. It is hereby declared that, in said district,
 260 surface waters, which shall include rainfall and the overflow of
 261 rivers and streams, are a common enemy, and the said district
 262 and any individual or agency holding a permit to do so from said
 263 district shall have the right to dike, dam, and construct levees
 264 to protect the said district or any part thereof, or the
 265 property of said individual or agency against the same, and
 266 thereby divert the course and flow of such surface water and or
 267 pump the water from within such dikes and levees.

268 Section 15. Each supervisor shall be paid for his or her
 269 services a per diem of \$25 for each day actually engaged in work
 270 pertaining to the said district; but the said supervisors shall
 271 not in any one month be paid more than \$100 each, except that in
 272 addition to the said per diem, they shall be paid 10 cents per

HB 1423

2005
CS

273 | mile for each mile actually traveled in going to and from their
 274 | place of residence to the place of meeting.

275 | Section 16. It shall be unlawful for any person, firm, or
 276 | corporation to connect or to maintain a connection of any farm
 277 | ditch with any of the canals, ditches, laterals, or waterways
 278 | constructed, controlled, or maintained by St. Johns Water
 279 | Control District in Indian River County, except in accordance
 280 | with plans and specifications showing the method of such
 281 | connection as prescribed by the board of supervisors of said
 282 | district. Any violation of this act shall be punished as
 283 | prescribed by the general law for punishment of misdemeanors.
 284 | The board of supervisors shall also have the right and power to
 285 | cause any such connection constructed or maintained in violation
 286 | of this act to be blocked or stopped up.

287 | Section 17. The Board of Supervisors of St. Johns Water
 288 | Control District in Indian River County, in order to effect the
 289 | drainage, reclamation, and protection of lands in said district,
 290 | is hereby authorized to construct, install, and maintain locks,
 291 | dams, and other works and facilities in the canals, ditches, and
 292 | drains in said district and elsewhere.

293 | Section 18. The St. Johns Water Control District is hereby
 294 | authorized to grant such permits as it shall deem proper in
 295 | allowing any access over, under, or across its lands.

296 | Section 19. (1) The district shall also have power to
 297 | levy fines for the introduction of pollutants into the waters of
 298 | the district; for violation of any rule or regulation
 299 | promulgated by the Florida Department of Environmental
 300 | Protection; for violation of the United States Clean Water Act

HB 1423

2005
CS

301 (33 U.S.C. sections 1251-1387); or for violation of the
 302 conditions of any National Pollutant Discharge Elimination
 303 System permit.

304 (2) If, after notice and an opportunity to be heard by the
 305 board of supervisors of the district, any person is found and
 306 determined to have committed any of the foregoing violations,
 307 the district shall enter an order imposing a fine, or a fine
 308 plus repair costs, against the violator, and a certified copy of
 309 the order may be recorded in the public records of Indian River
 310 County, and thereafter shall constitute a lien against the land
 311 on which the violation exists. Upon petition to the circuit
 312 court, such order shall be enforceable in the same manner as a
 313 court judgment by the sheriffs of this state, including
 314 execution and levy against the personal property of the
 315 violator, but such order shall not be deemed a court judgment
 316 except for enforcement purposes. A fine imposed pursuant to this
 317 section shall continue to accrue until the violator comes into
 318 compliance or until judgment is rendered in a suit filed
 319 pursuant to this section, whichever occurs first. A lien arising
 320 from a fine imposed pursuant to this section runs in favor of
 321 the district, and the district may execute a satisfaction or
 322 release of lien entered pursuant to this section. After 3 months
 323 after the filing of any such lien which remains unpaid, the
 324 board may authorize its attorney to foreclose on the lien or to
 325 sue to recover a money judgment for the amount of the lien plus
 326 accrued interest. No lien created pursuant to the provisions of
 327 this section may be foreclosed on real property which is
 328 homestead under section 4, Article X of the State Constitution.

HB 1423

2005
CS

329 No lien provided hereunder shall continue for a period longer
 330 than 20 years after the certified copy of an order imposing a
 331 fine has been recorded, unless within that time an action is
 332 commenced in a court of competent jurisdiction. In an action to
 333 foreclose on a lien or for a money judgment, the prevailing
 334 party is entitled to recover all costs and reasonable attorney's
 335 fees that it incurs in the action.

336 Section 20. In case any one or more of the sections or
 337 provisions of this act or the application of such sections or
 338 provisions to any situation, circumstance, or person shall for
 339 any reason be held to be unconstitutional, such
 340 unconstitutionality shall not affect any other sections or
 341 provisions to any other situation, circumstance, or person, and
 342 it is intended that this law shall be construed and applied as
 343 if such section or provision had not been included herein for
 344 any unconstitutional application.

345 Section 4. Chapters 65-812 and 69-1162, Laws of Florida,
 346 are repealed.

347 Section 5. This act shall take effect upon becoming a law.