

## ENROLLED

HB 1423, Engrossed 1

2005 Legislature

1                                   A bill to be entitled  
2           An act relating to the St. Johns Water Control District,  
3           Indian River County; codifying, amending, and reenacting  
4           special acts relating to the district; fixing and  
5           prescribing boundaries of said district; making the  
6           provisions of chapter 298, F.S., applicable thereto;  
7           providing for the levy, collection, and enforcement of  
8           installment and maintenance taxes by said district at the  
9           same time and in like manner as county taxes; providing  
10          that said taxes shall be extended by the county on the  
11          county tax roll and shall be collected by the tax  
12          collector in the same manner and time as county taxes;  
13          providing for the same discounts and penalties as county  
14          taxes; providing for the compensation of the county and  
15          tax collector; providing that district taxes shall be a  
16          lien on lands against which taxes are levied of equal  
17          dignity with county and other taxes; providing that the  
18          approval of the board of drainage commissioners is not  
19          required to issue bonds; providing for floating  
20          indebtedness of the district; providing that payment of  
21          taxes in advance is not authorized; providing that use of  
22          bonds and interest coupons in payment of taxes is not  
23          authorized; providing that the board may enter into  
24          certain covenants and agreements with holders of bonds;  
25          providing that water is a common enemy; providing for  
26          compensation of the board of supervisors; providing for  
27          the levy of fines for the introduction of pollutants into  
28          the waters of the district; providing additional powers of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | the board; providing for severability of the provisions of  
 30 | the act; repealing chapters 65-812 and 69-1162, Laws of  
 31 | Florida, relating to the district; providing an effective  
 32 | date.

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

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

46 | Section 2. Chapters 65-812 and 69-1162, Laws of Florida,  
 47 | are codified, reenacted, amended, and repealed as provided in  
 48 | this act.

49 | Section 3. The St. Johns Water Control District is re-  
 50 | created, and the charter for such district is re-created and  
 51 | reenacted to read:

52 | Section 1. The decree of the Circuit Court in and for the  
 53 | Ninth Judicial Circuit, Indian River County, Florida, entered in  
 54 | Case No. 5736 on May 14, 1962, creating and incorporating the  
 55 | St. Johns Water Control District, an independent special  
 56 | district, under chapter 298, Florida Statutes, and the decree of

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57 said court revising and correcting the boundaries of the  
58 district entered on October 25, 1963, and an order correcting a  
59 clerical error in the decree revising and correcting the  
60 boundaries of the district on December 27, 1963, and all  
61 subsequent proceedings taken in said circuit court concerning  
62 said district are hereby ratified, confirmed, and approved,  
63 including its territorial boundaries as follows:

64  
65 From the center of Section 5, township 33 South, Range  
66 38 East, run West along the centerline of Highway 60  
67 through Sections 5 and 6, and in Township 33 South,  
68 Range 37 East continue west along the centerline of  
69 State Highway 60 through Sections 1, 2, 3, 4, 5 and 6  
70 to the West boundary of Section 6; thence South along  
71 the West boundary of Sections 6, 7, 18 and 19 to the  
72 Southwest corner of Section 19; thence East along the  
73 south boundary of Section 19 to the Southeast corner  
74 of said Section 19; thence South along the West  
75 boundary of Sections 29 and 32 to the Southwest corner  
76 of Section 32; thence Easterly along the South  
77 boundary of Sections 32, 33, 34, 35 and 36 to the  
78 Southeast corner of Section 36, all lying in Township  
79 33 South, Range 37 East; thence in Township 33 South,  
80 Range 38 East, run Easterly along the South boundary  
81 of Sections 31 and 32 to the Southeast corner of  
82 Section 32; thence run North to the Northeast corner  
83 of Section 29, Township 33 South, Range 38 East;  
84 thence run Easterly to the Southeast corner of Section

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85 21, Township 33 South, Range 38 East; thence Northerly  
 86 along the East boundaries of Sections 21 and 16 to the  
 87 Northeast corner of the Southeast one-quarter (SE 1/4)  
 88 of Section 16, Township 33 South, Range 38 East;  
 89 thence Westerly to the center of Section 16; thence  
 90 Northerly to the Northeast corner of the Northwest  
 91 one-quarter (NW 1/4) of Section 16; thence Westerly to  
 92 the Southeast corner of Section 8; thence North to the  
 93 Northeast corner of Section 8; thence Westerly to the  
 94 Southeast corner of the Southwest one-quarter (SW 1/4)  
 95 of Section 5; thence North to the center of Section 5  
 96 and the point of beginning. Including 27,743.40  
 97 acres.

99 Section 2. The provisions of the general drainage laws of  
 100 Florida applicable to drainage districts or subdrainage  
 101 districts which are embodied in chapter 298, Florida Statutes,  
 102 and all of the laws amendatory thereof, now existing or  
 103 hereafter enacted, so far as not inconsistent with this act, are  
 104 hereby declared to be applicable to said St. Johns Water Control  
 105 District.

106 Section 3. Taxes shall be levied and apportioned as  
 107 provided for in the general drainage laws of Florida (chapter  
 108 298, Florida Statutes, and amendments thereto), except as  
 109 otherwise provided herein. The board of supervisors shall  
 110 determine, order, and levy the amount of the annual installments  
 111 of the total taxes levied under sections 298.50 and 298.54,  
 112 Florida Statutes, which shall become due and be collected during

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113 each year at the same time that county taxes are due and  
 114 collected, which said annual installment and levy shall be  
 115 evidenced to and certified by the said board not later than  
 116 August 1 of each year, to Indian River County. Said tax shall be  
 117 extended by the county on the county tax roll and shall be  
 118 collected by the tax collector in the same manner and time as  
 119 county taxes, and the proceeds thereof paid to said district.  
 120 Said tax shall be a lien until paid on the property against  
 121 which assessed, and enforceable in like manner as county taxes.

122 Section 4. Maintenance taxes as provided for under section  
 123 298.54, Florida Statutes, shall be apportioned upon the basis of  
 124 the net assessments of benefits assessed as accruing for  
 125 original construction, and shall be evidenced to and certified  
 126 by the board of supervisors not later than August 31 of each  
 127 year, to Indian River County, and shall be extended by the  
 128 county on the county tax roll and shall be collected by the tax  
 129 collector in the same manner and time as county taxes and the  
 130 proceeds therefrom paid to said district. Said tax shall be a  
 131 lien until paid on the property against which assessed and  
 132 enforceable in like manner as county taxes.

133 Section 5. The collection and enforcement of all taxes  
 134 levied by said district shall be at the same time and in like  
 135 manner as county taxes, and the provisions of the Florida  
 136 Statutes relating to the sale of lands for unpaid and delinquent  
 137 county taxes, the issuance, sale, and delivery of tax  
 138 certificates for such unpaid and delinquent county taxes, the  
 139 redemption thereof, the issuance to individuals of tax deeds  
 140 based thereon, and all other procedures in connection therewith,

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141 shall be applicable to said district and the delinquent and  
142 unpaid taxes of said district to the same extent as if said  
143 statutory provisions were expressly set forth in this act. All  
144 taxes shall be subject to the same discounts as county taxes.  
145 All discounts allowed shall be a charge against the maintenance  
146 tax only.

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

150 Section 7. (1) Indian River County shall be paid annually  
151 an amount equal to 1 percent of the total taxes of the district  
152 and the Tax Collector of Indian River County shall be paid  
153 annually an amount equal to 1 percent of the total taxes of the  
154 district collected, for their respective services to the St.  
155 Johns Water Control District in said county for respectively  
156 assessing and collecting said drainage district taxes, provided,  
157 however, that the total amount to be paid to said county and  
158 said tax collector in any one year shall not exceed the sum of  
159 \$1,500 to each. All compensation paid the property appraiser and  
160 the tax collector shall be paid from the proceeds of the  
161 maintenance tax.

162 (2) The services of said county and said county tax  
163 collector in assessing and collecting said drainage district  
164 taxes are hereby declared to be special services performed  
165 directly for said district and the amounts paid therefor shall  
166 not be considered a part of the general income of their  
167 respective offices, nor shall it come under the provisions of  
168 sections 116.03, 145.10, and 145.11, Florida Statutes. The

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169 personnel required to do said special work shall be paid for  
170 such special services by the county or the tax collector, as the  
171 case may be, from the receipts provided for such purpose.

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

183 Section 9. The board of supervisors may issue bonds under  
184 the provisions of chapter 298, Florida Statutes, without the  
185 approval of the Board of Drainage Commissioners of the State of  
186 Florida, as provided for in section 298.47, Florida Statutes.

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

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197 provided in the resolution or resolutions of the board of  
 198 supervisors authorizing the issuance thereof.

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

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

221 Section 12. The board of supervisors of the district shall  
 222 have the power, in the resolution or other proceedings  
 223 authorizing the issuance of any bonds, to enter into valid and  
 224 legally binding covenants and agreements with the holders of



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225 such bonds as to the custody and security of the proceeds of  
 226 said bonds, or of any bond anticipation notes issued in  
 227 anticipation thereof, the custody and security of any debt  
 228 service funds, including reserves, and the appointment of banks  
 229 or trust companies as trustee to hold such construction funds  
 230 and debt service and reserve funds, the rank or priority as  
 231 between the bonds originally issued by the district, and any  
 232 bonds thereafter issued and terms and conditions under which any  
 233 bonds can be issued by the district after the original bonds or  
 234 notes have been issued to finance the cost of the drainage  
 235 improvements or works, and such other covenants and conditions  
 236 as shall be deemed necessary and advisable by the board of  
 237 supervisors in accordance with bond market practices and in  
 238 order to better secure the payment of such bonds and the  
 239 marketability thereof. All such covenants and agreements shall  
 240 be and constitute valid and legally binding obligations of the  
 241 district and the state does hereby covenant that it will not by  
 242 any legislation hereafter in any manner repeal, modify, or  
 243 impair the rights, remedies, and security of the holders of any  
 244 bonds or other obligations issued by the district.

245 Section 13. The district shall also have power to covenant  
 246 and agree with the holders of such bonds that all of the fees  
 247 and expenses for the levy and collection of taxes in said  
 248 district and of any trustees or other custodians of the bond  
 249 proceeds or of the construction funds or debt service funds or  
 250 reserves therefor, or the cost of the expenses of any annual  
 251 audits or of any other annually recurring services or costs  
 252 shall be paid from the maintenance taxes to be collected in each

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253 year with said district and not from the proceeds of any bonds  
 254 or other obligations issued by said district.

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

264 Section 15. Each supervisor shall be paid for his or her  
 265 services a per diem of \$25 for each day actually engaged in work  
 266 pertaining to the said district; but the said supervisors shall  
 267 not in any one month be paid more than \$100 each, except that in  
 268 addition to the said per diem, they shall be paid 10 cents per  
 269 mile for each mile actually traveled in going to and from their  
 270 place of residence to the place of meeting.

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

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281 cause any such connection constructed or maintained in violation  
 282 of this act to be blocked or stopped up.

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

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

292 Section 19. (1) The district shall also have power to  
 293 levy fines for the introduction of pollutants into the waters of  
 294 the district; for violation of any rule or regulation  
 295 promulgated by the Florida Department of Environmental  
 296 Protection; for violation of the United States Clean Water Act  
 297 (33 U.S.C. sections 1251-1387); or for violation of the  
 298 conditions of any National Pollutant Discharge Elimination  
 299 System permit.

300 (2) If, after notice and an opportunity to be heard by the  
 301 board of supervisors of the district, any person is found and  
 302 determined to have committed any of the foregoing violations,  
 303 the district shall enter an order imposing a fine, or a fine  
 304 plus repair costs, against the violator, and a certified copy of  
 305 the order may be recorded in the public records of Indian River  
 306 County, and thereafter shall constitute a lien against the land  
 307 on which the violation exists. Upon petition to the circuit  
 308 court, such order shall be enforceable in the same manner as a

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309 court judgment by the sheriffs of this state, including  
 310 execution and levy against the personal property of the  
 311 violator, but such order shall not be deemed a court judgment  
 312 except for enforcement purposes. A fine imposed pursuant to this  
 313 section shall continue to accrue until the violator comes into  
 314 compliance or until judgment is rendered in a suit filed  
 315 pursuant to this section, whichever occurs first. A lien arising  
 316 from a fine imposed pursuant to this section runs in favor of  
 317 the district, and the district may execute a satisfaction or  
 318 release of lien entered pursuant to this section. After 3 months  
 319 after the filing of any such lien which remains unpaid, the  
 320 board may authorize its attorney to foreclose on the lien or to  
 321 sue to recover a money judgment for the amount of the lien plus  
 322 accrued interest. No lien created pursuant to the provisions of  
 323 this section may be foreclosed on real property which is  
 324 homestead under section 4, Article X of the State Constitution.  
 325 No lien provided hereunder shall continue for a period longer  
 326 than 20 years after the certified copy of an order imposing a  
 327 fine has been recorded, unless within that time an action is  
 328 commenced in a court of competent jurisdiction. In an action to  
 329 foreclose on a lien or for a money judgment, the prevailing  
 330 party is entitled to recover all costs and reasonable attorney's  
 331 fees that it incurs in the action.

332 Section 20. In case any one or more of the sections or  
 333 provisions of this act or the application of such sections or  
 334 provisions to any situation, circumstance, or person shall for  
 335 any reason be held to be unconstitutional, such  
 336 unconstitutionality shall not affect any other sections or

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337 provisions to any other situation, circumstance, or person, and  
338 it is intended that this law shall be construed and applied as  
339 if such section or provision had not been included herein for  
340 any unconstitutional application.

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

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