

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1487

Spring Lake Improvement District, Highlands County

**SPONSOR(S):** Grimsley

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2714

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	_____	Dominguez	Hamby
2) Finance & Tax Committee	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

**SUMMARY ANALYSIS**

Spring Lake Improvement District (District) is an independent water control district located in Highlands County. The District was created in 1971 pursuant to ch. 71-669, L.O.F.

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 amends bid and contract provisions to require competitive bids for contracts and purchases for amounts over \$25,000. Current law requires bids for amounts that are over \$4,000.

The bill also amends the number of board members to reflect the increase from three to five members approved by referendum vote in 1998, pursuant to s.189.4051, F.S.

The Economic Impact Statement indicates that there will be no economic impact associated with this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/25/2005

## 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 bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. 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. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to 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.

Since the enactment of ss. 189.429 and 191.015, F.S. 173 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.

### Spring Lake Improvement District

Spring Lake Improvement District (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.

On March 10, 1998, a referendum of the qualified electors of the District was held to decide whether certain members of its Board of Supervisors could be elected on a one-person one-vote basis pursuant to s. 189.4051, F.S. The resulting board has 3 members elected by via one-acre one vote and 2 members elected via popular election.

### Changes to the Spring Lake Improvement District Charter

There are provisions of this bill which do not simply codify existing law, but amend the charter of the Board:

- Changes requirements for bids from \$4,000 to \$25,000 pursuant to s. 287.017, F.S., pertaining to purchasing categories, threshold amounts; procedures for automatic adjustment by department;
- Amends provisions regarding the number of board members; changes provisions to mirror general provisions in s. 189.4051.

### Charter of the District

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

Section 1: Provides for minimum charter requirements in accordance with s. 189.404(3), F.S.

- Provides for district organization and purposes;
- 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;
- Provides that the District was created by the process contained in ch. 298, F.S;

- Provides that the District's charter may only be amended by special act;
- 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., and ch. 189, F.S.;
- Provides that the compensation of board members shall be governed by this act and ch. 298, F.S.;
- Provides that the administrative duties of the board shall be as set forth in this act and ch. 298, F.S.
- Provides for requirements for financial disclosure, meeting notices, reporting, public records maintenance and per diem expenses;
- Provides for procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the district.
- Provides for procedures for conducting district elections.
- Provides for the financing of the district;
- Provides that the district may continue to levy a maintenance tax upon all of the real taxable property in the district.
- Provides for the method of collecting non-ad valorem assessments, fees or services charges.
- 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: To the extent not inconsistent with this act, provides for the applicability of certain provisions of ch. 298, F.S., with exceptions, to the district; provides that laws inconsistent with the act are inapplicable.

Section 5: Provides 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.

- To contract and be contracted with; to sue and be sued; to adopt a seal; to acquire real or personal property.
- To adopt a water control plan.
- To provide for a district office and the storage and maintenance of the district's equipment.
- To drain and reclaim lands within the district.
- To regulate drainage requirements and set forth conditions to be met for plats to be recorded.
- To borrow money and issue bonds.
- To build improvements and to acquire equipment.
- To construct bridges, culverts and roads.
- To hold easements, reservations or dedications.
- To impose an ad valorem tax, a drainage tax, and a maintenance tax.
- To impose and foreclose special assessment liens.
- To regulate all structures and things which come into contact with or are a part of a district facility.
- To enforce the provisions herein by the promulgation of rules and regulations.
- To cooperate with other drainage districts or governmental agencies.
- To hire employee.
- To exercise all powers necessary.
- To construct roadways.
- To make use of public easements.
- To enter into leases.
- To regulate the supply of water within the district.
- To own and operate water and sewer systems.
- To own and operate parks and other facilities.
- To issue bonds.
- To install and operate streetlights.
- To require underground utilities.
- To require district landowners to maintain their property.

- 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 for 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; authorizes 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, to maintain and preserve the drainage improvements of the district pursuant to s. 298, F.S.
- 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 \$25,000 pursuant to s. 287.017, F.S.(category two).
- 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; provides 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 unless written notice of the claim is given within 180 days, and such action is brought within two years.

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

C. SECTION DIRECTORY:

Section 1: Provide 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: 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.

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

Section 5: Provides for severability.

Section 6: Provides for an act to become effective upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 6, 2004

WHERE? Highlands Today, Sebring, Highland 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:**

During the 2004 session, this codification was vetoed by the Governor. The June 18, 2004 veto message included the following language:

My review of local bills is guided by a long standing local bill policy. The foundation of this policy is local control and awareness of changes to a special district authority. Local bills should provide for a referendum (of the citizens in the affected area(s)) if they propose a change in taxation (ad valorem or other), fees, assessments, or bonding authority, or change in voting procedures, elections, or composition (membership of board or of those voting) for local governments, commissions, special districts or school districts.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.