



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provides for less government: This bill expands the powers of the Alligator Point Water Resources District enabling the District to provide sewer services and water to persons in the District and in adjoining areas. Upon approval at referendum, this bill will expand the boundaries of the District and subject property owners in the annexed area to ad valorem taxation at a rate not to exceed 5 mills.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Special Districts Generally**

Special districts are limited purpose governmental units administratively separate from county, municipal, or state government. They are generally created to provide financing and to create or maintain infrastructure when local government is unwilling or unable to provide the needed capital structure or services. The Florida Supreme Court noted that special districts “are essentially financing vehicles”. *State v. Sarasota County*, 372 So.2d 1115 (Fla. 1979). A special district only has the powers expressly provided by, or which can be reasonably implied from, the authority provided in its charter by the Legislature.

##### **Codification Generally**

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. 189.429 and 191.015 , F.S., both of which were amended in 1998. The laws provide 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 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.

##### **Alligator Point Water Resources District**

The Alligator Point Water Resources District (District) was created in 1963 and is an independent special district located in Franklin County, Florida. The District is authorized to construct and operate a water system to provide fresh water in the District and to fix and collect fees for water furnished by the water system and for making connections with the system. The District is also authorized to impose any ad valorem tax not to exceed five mills on all taxable property in the District. The current millage rate is 1.7 mills.

The District is governed by a board consisting of 3 members who must be residents of the District. All board members are appointed by the Governor for terms of 4 years.

This bill reenacts the District's powers as listed below, and amends the District charter as further described below under the heading of "Changes to Existing Charter".

### General Powers

The Board of the District is authorized and empowered:

- To purchase and/or construct, reconstruct, buy, improve, extend, enlarge, equip, repair, maintain, and operate a water system; to provide fresh water either within or without the District for a distance of 5 miles, or both; to operate, manage, and control all such systems so purchased and/or constructed and all properties pertaining thereto; and to furnish and supply water, sewage, and disposal services to such District or adjoining area and any persons, firms, or corporation, public or private, in any such area.
- To issue negotiable water revenue certificates of the District, payable from revenues to be derived from the operation of said water and/or sewer system.
- To levy a tax not to exceed 5 mills on all taxable property within the District.
- To fix and collect rates and charges for water or sewer furnished by said water and sewer systems and to fix and collect charges for making connections with any water or sewer system.
- To acquire in the name of the District, by purchase, gift, or the exercise of the right of eminent domain, within and without such lands and rights and interests therein, including lands over and under water and riparian rights; to acquire such personal property as it may deem necessary in connection with the construction or operation of water and sewer systems; and to hold and dispose of all real and personal property under its control.
- To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any bonds issued hereunder; to employ such expert and clerical personnel as may, in the judgment of the board, be deemed necessary; and to fix their compensation, provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act. To exercise jurisdiction, control, and supervision over any water and sewer systems owned, operated, or maintained by it; to make and enforce such rules and regulations for the maintenance and operation of any such system as may in its judgment be necessary or desirable for the efficient operation thereof; and to accomplish the purposes of this act.
- To enter on any lands, water, or premises located within or without the District to make surveys, borings, soundings, or examinations to effectuate the purposes of this act.
- To construct and operate water mains, laterals, conduits, pipelines, pumping stations, lift stations, valves, force mains, laterals, pressure lines, mains, and all necessary appurtenances thereto, in, along, or under any street, alleys, highways, or other public places within or without the District.
- To restrain, enjoin, or otherwise prevent any political subdivision or agency and any person or corporation, public or private, from discharging into any navigable or nonnavigable waters within the limits of the District any sewage, industrial waters, or other refuse which would contribute to the pollution of such and to restrain, enjoin, or otherwise prevent the violation of any provision of this act or any resolution, regulation, or rule adopted pursuant to the powers granted by this act.
- Subject to such provisions and restrictions as may be set forth in any resolution or trust agreement authorizing or securing any bonds issued under the provisions of this act, to enter into contracts with the government of the United States or the state or any agency or instrumentality of either thereof, or with any municipality, District, private corporation, copartnership, association, or individual providing for or relating to such water system or the purchase and sale of water or sewer system and the disposal of sewage.
- To receive and accept from any authorized agency of the Federal Government loans or grants for the planning, construction, improvement, extension, enlargement, reconstruction, or equipment of any water and sewer systems; to enter into agreements with such agency respecting any such loans or grants; and to receive and accept aid or contributions from any

source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, or contributions be made.

- To do all acts and things necessary or convenient to carry out the powers expressly granted in the District charter.

### District Financing

The District may levy an ad valorem tax on all taxable property in the District at a rate not exceeding 5 mills. Each January, the Board meets to determine the millage necessary to carry out the purposes of the District. Ad valorem taxes are levied and collected in the same manner as taxes for county purposes. Taxes of the District are of equal dignity with county taxes and become liens enforced in the same manner as taxes for county purposes.

In addition, the District may fix and collect rates and charges for water furnished by any water system. Any rates and charges must be fixed as to provide funds, together with other funds, sufficient:

- To pay the cost of maintaining, repairing, and operating the water and sewer systems of the District, and to provide reserves therefor and for replacements, depreciation, and necessary extensions and enlargements.
- To pay the principal of and the interest on all outstanding bonds for the payment of which such rates and charges are pledged as the same become due and provide reserves therefor.
- To provide a margin of safety for making such payments and providing such reserves. Such rates and charges are not subject to supervision or regulation by any commission, board, bureau, or agency of the state or of any political subdivision of the state. Such rates and charges must be just and equitable.

The District may, by resolution, provide that if any water rates are not paid within 30 days from the rendition of a water bill, the District must discontinue furnishing water to the premises and may disconnect the premises from the water system. The resolution may include any or all of the following provisions, and may require the Board to adopt such resolutions or to take other lawful action as necessary to effectuate the resolution:

- The District may require the owner, tenant, or occupant of each lot or parcel of land within the district who is obligated to pay water or sewer rates to the district to make a reasonable deposit with the district in advance, to ensure the payment of such rates or charges, and to be subject to application to the payment thereof if and when delinquent.
- If any water or sewer rates charges payable to the District are not paid within 30 days after they become due and payable, the District may, at the expiration of such 30 day period, disconnect the premises from the water system and the District may proceed to recover the amount of any such delinquent rates or charges, with interest at the highest legal rate, in any court having jurisdiction over claims for money damages.

Funds of the District must be used for District purposes, as defined in this bill, and for the administration of the affairs and business of the District, or for the purpose, acquisition, construction, expansion, care, maintenance, upkeep, and operation of a fresh water system and sewer system in the District as the Board may determine to be for the best interest of the district and inhabitants thereof.

### Changes to the District's Charter

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

- Extend the boundaries of the District, which will subject property owners in the annexed area to ad valorem taxation not to exceed 5 mills, subject to referendum;
- Expand the District's authority to include the power to purchase, operate, manage, and control all water systems and properties pertaining thereto; and

- Expand the District's authority to include furnishing and supplying water and sewage services to the District and any person or entity in an adjoining area.

In addition, the bill requires approval of the affected voters prior to expansion of the District's boundaries and levy of ad valorem taxes on property owners in the annexed area.

C. SECTION DIRECTORY:

- Section 1. Provides for codification.
- Section 2. Provides for amendment, codification, reenactment, or repeal of chs. 63-1350 and 85-414, L.O.F.
- Section 3. Recreates and reenacts the District and its charter.
- Section 4. Provides for severability.
- Section 5. Repeals chs. 63-1350 and 85-414, L.O.F.
- Section 6. Provides for referendum of the voters on the question of expanding District boundaries and imposing ad valorem taxes on property owners in the annexed area.
- Section 7. Provides for the expansion of District boundaries upon approval of the voters.
- Section 8. Provides an effective date.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 17, 2005

WHERE? Apalachicola Times, Franklin County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? The date is not specified in the bill. The bill sponsor is expected to offer an amendment to revise the referendum provision and include a date by which the election will be conducted.

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: The referendum provision in Section 6 of the bill does not include certain information needed by the Supervisor of Elections. The bill sponsor is expected to offer an amendment at the meeting of the Local Government Council to revise the referendum provision in order to address these issues.

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

The bill sponsor is expected to offer an amendment at the meeting of the Local Government Council to clarify the referendum provision.