

By Senator Atwater

25-902A-05

1 A bill to be entitled
2 An act relating to drainage and water control
3 districts; amending s. 298.22, F.S.;
4 authorizing the board of supervisors of a
5 district to purchase or lease real or personal
6 property; amending s. 298.225, F.S.; requiring
7 the board of supervisors to submit a plan or
8 amendment for review only for those projects
9 that require a permit from the jurisdictional
10 water management district pursuant to ch. 373,
11 F.S.; providing that an engineer's report is
12 exempt from parts of the plan-adoption process
13 if it meets certain criteria; providing that
14 minor or insubstantial amendments or engineer's
15 reports may be adopted by resolution of the
16 board of supervisors; providing that certain
17 engineer's reports constitute a minor,
18 insubstantial amendment; amending s. 298.301,
19 F.S.; clarifying requirements for holding the
20 final hearing on approval of a proposed plan or
21 plan amendment; requiring that proposed
22 revisions to the engineer's report, water
23 control plans, or plan amendments be heard and
24 determined by the board of supervisors;
25 authorizing the board to approve and confirm
26 the engineer's report and water plan or plan
27 amendment or order the report or amendment
28 changed to conform with its findings; amending
29 s. 298.341, F.S.; providing that assessments
30 constitute a lien from January 1 of each year
31 that assessable property is liable for district

1 assessments; amending s. 298.77, F.S. ;
2 requiring that an engineer's report be revised
3 accordingly if there is a material change in
4 the value of land; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. Subsection (3) of section 298.22, Florida
9 Statutes, is amended to read:

10 298.22 Powers of supervisors.--The board of
11 supervisors of the district has full power and authority to
12 construct, complete, operate, maintain, repair, and replace
13 any and all works and improvements necessary to execute the
14 water control plan. Subject to the applicable provisions of
15 chapter 373 or chapter 403, the board of supervisors:

16 (3) May build and construct any other works and
17 improvements deemed necessary to preserve and maintain the
18 works in or out of said district; acquire, construct, operate,
19 maintain, use, purchase, sell, lease, convey, or transfer real
20 or personal property, including ~~or otherwise provide for~~
21 pumping stations, ~~including~~ pumping machinery, motive
22 equipment, electric lines, and all appurtenant or auxiliary
23 machines, devices, or equipment.

24 Section 2. Subsections (5) and (8) of section 298.225,
25 Florida Statutes, are amended to read:

26 298.225 Water control plan; plan development and
27 amendment.--

28 (5) Before final adoption of the water control plan or
29 plan amendment under s. 298.301, the board of supervisors must
30 submit the proposed plan or amendment to the jurisdictional
31 water management district for review for only those projects

1 that require a permit pursuant to chapter 373 from the
2 jurisdictional water management district. Within ~~60~~ 90 days
3 after receipt of the proposed water control plan or amendment,
4 the governing board of the jurisdictional water management
5 district, or the executive director or designee, if delegated,
6 must review the proposed plan or amendment for consistency
7 with the applicable water resource plans and policies and
8 recommend to the board of supervisors any proposed changes. If
9 the jurisdictional water management district determines that
10 the proposed plan or amendment is incomplete, it may notify
11 the water control district and request additional information.
12 Upon such request, the deadline for review may be extended as
13 agreed by the water control district and the jurisdictional
14 water management district. Within 60 days after receipt of the
15 applicable water management district's recommended changes,
16 the board of supervisors shall include the recommendations in
17 the water control plan or plan amendment to the extent
18 practicable. If the recommendations are not incorporated, the
19 board of supervisors must specify its reasons in the water
20 control plan or plan amendment adopted. A copy of the water
21 control plan must be filed with the jurisdictional water
22 management district and each local general purpose government
23 within which all or a portion of the district's lands are
24 located.

25 (8) If the preparation of a water control plan,
26 engineer's report, or amendments thereto ~~amendment~~ under this
27 section does not result in revision of the district's current
28 plan or require the ~~alteration or~~ increase of any levy of
29 assessments or taxes beyond the maximum amount previously
30 authorized by general law, special law, or judicial
31 proceeding, a change in the use of said assessments or taxes,

1 or substantial change to district facilities, the provisions
2 of s. 298.301(2)-(9) do not apply to the plan adoption
3 process. This section and s. 298.301 do not apply to minor,
4 insubstantial amendments to district plans or engineer's
5 reports, and such amendments or reports may be adopted by
6 resolution of the board of supervisors. Minor, insubstantial
7 amendments include amendments to the:

8 (a) Water control plan which replace, relocate,
9 reconstruct, or improve and upgrade district facilities and
10 operations consistent with the adopted water control plan, but
11 which do not require increasing assessments beyond the maximum
12 amount authorized by law; ~~or-~~

13 (b) Engineer's reports which do not increase the total
14 assessment of benefits.

15 Section 3. Subsection (2), (6), and (8) of section
16 298.301, Florida Statutes, are amended to read:

17 298.301 District water control plan adoption; district
18 boundary modification; plan amendment; notice forms;
19 objections; hearings; assessments.--

20 (2) Before adopting a water control plan or plan
21 amendment, the board of supervisors must adopt a resolution to
22 consider adoption of the proposed plan or plan amendment. As
23 soon as the resolution proposing the adoption or amendment of
24 the district's water control plan has been filed with the
25 district secretary, the board of supervisors shall give notice
26 of a public hearing on the proposed plan or plan amendment by
27 causing publication to be made once a week for 3 consecutive
28 weeks in a newspaper of general circulation published in each
29 county in which lands and other property described in the
30 resolution are situated. The notice must be in substantially
31 the following form:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Notice of Hearing

To the owners and all persons interested in the lands corporate, and other property in and adjacent to the ...name of district... District.

You are notified that the ...name of district... District has filed in the office of the secretary of the district a resolution to consider approval of a water control plan or an amendment to the current water control plan to provide ...here insert a summary of the proposed water control plan or plan amendment.... On or before its scheduled meeting of ...(date and time)... at the district's offices located at ...(list address of offices)... written objections to the proposed plan or plan amendment may be filed at the district's offices. A public hearing on the proposed plan or plan amendment will be conducted at the scheduled meeting, and written objections will be considered at that time. At the conclusion of the hearing, the board of supervisors may determine to proceed with the process for approval of the proposed plan or plan amendment and direct the district engineer to prepare an engineer's report identifying any property to be taken, determining benefits and damages, and estimating the cost of implementing the improvements associated with the proposed plan or plan amendment. A final hearing on approval of the proposed plan or plan amendment and engineer's report shall be duly noticed and held at a regularly scheduled board of supervisors meeting at least 25 days but no later than ~~within~~ 60 days after the last scheduled publication of the notice of filing of the engineer's report with the secretary of the district.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Date of first publication:,
...(year)...
.....
(Chair or President, Board of Supervisors)
..... County, Florida

(6) Upon the filing of the notice of filing of the
engineer's report, the board of supervisors shall give notice
thereof by arranging the publication of the report together
with a geographical depiction of the district once a week for
2 consecutive weeks in a newspaper of general circulation in
each county in the district. A location map or legal
description of the land constitutes a geographical depiction.
The notice must be substantially as follows:

Notice of Filing Engineer's Report for
..... District

Notice is given to all persons interested in the
following described land and property in County (or
Counties), Florida, viz.: ...(Here describe land and
property)... included within the district that
the engineer hereto appointed to determine benefits and
damages to the property and lands situated in the district and
to determine the estimated cost of construction required by
the water control plan, within or without the limits of the
district, under the proposed water control plan or plan
amendment, filed her or his report in the office of the
secretary of the district, located at ...(list address of
district offices),... on the day of,

1 | ...(year)..., and you may examine the report and file written
2 | objections with the secretary of the district to all, or any
3 | part thereof, on or before ...(enter date 20 days after the
4 | last scheduled publication of this notice, which date must be
5 | before the date of the final hearing).... The report
6 | recommends ...(describe benefits and damages).... A final
7 | hearing to consider approval of the report and proposed water
8 | control plan or plan amendment shall be held ...(time, place,
9 | and date at least 30 days but no later than 60 days after the
10 | last scheduled publication of this notice)....

11 |
12 | Date of first publication:,
13 | ...(year)...
14 |
15 | (Chair or President, Board of Supervisors)
16 | County, Florida
17 |

18 | (8) All objections and proposed revisions to the
19 | engineer's report, water control plan, or plan amendment must
20 | be heard and determined by the board of supervisors at the
21 | public hearing so as to carry out liberally the purposes and
22 | needs of the district. If the board of supervisors determines
23 | at the final public hearing, upon examination of the
24 | engineer's report and upon hearing all of the objections or
25 | proposed revisions, that the estimated cost of construction of
26 | improvements contemplated in the plan or plan amendment is
27 | less than the benefits determined for the lands in the
28 | district, the board of supervisors may approve and confirm the
29 | engineer's report and water control plan or plan amendment; or
30 | ~~but~~, if the board of supervisors determines that any of the
31 | objections or proposed revisions to the engineer's report,

1 water control plan, or plan amendment should be sustained or
2 implemented, it shall order the engineer's report and water
3 control plan or plan amendment changed to conform with its
4 findings, and when changed, the board of supervisors shall
5 approve and confirm or disapprove, as appropriate, the
6 engineer's report, water control plan, or plan amendment and
7 enter its order approving or disapproving, as appropriate, the
8 engineer's report and proposed water control plan or plan
9 amendment as so revised. When any land or other property is
10 shown by the engineer's report to be needed for rights-of-way,
11 or other works, the board of supervisors may institute
12 proceedings under chapter 73 or chapter 74 in the circuit
13 court of the proper county to condemn the lands and other
14 property that must be taken or damaged in the making of
15 improvements, with the right and privilege of paying into
16 court a sum to be fixed by the circuit court judge and of
17 proceeding with the work, before the assessment by the jury.

18 Section 4. Section 298.341, Florida Statutes, is
19 amended to read:

20 298.341 When unpaid assessments delinquent;
21 penalty.--All non-ad valorem assessments provided for in this
22 chapter become delinquent and bear penalties on the amount of
23 the assessments in the same manner as county taxes. The
24 assessments shall, from January 1 of each year that assessable
25 property is liable for district assessments, constitute a lien
26 until paid on the property against which assessed and are
27 enforceable in the same manner as county taxes.

28 Section 5. Subsection (3) of section 298.77, Florida
29 Statutes, is amended to read:

30 298.77 Readjustment of assessments; procedure, notice,
31 hearings.--

1 (3) Any interested person may file an answer to the
2 petition before the return day and, if so, shall be duly
3 heard, but, if not, the cause shall proceed ex parte. Upon
4 the hearing of the petition, if the board shall find that
5 there has been a material change in the values of the lands in
6 the district since the last previous assessment of benefits,
7 contributed to by the drainage system, and that the other
8 material allegations of the petition herein required to be set
9 forth are substantially true, the board of supervisors shall
10 order that there be made a readjustment of the assessment of
11 benefits for the purpose of providing a basis upon which to
12 levy further and future taxes for the payment of the
13 obligations of, and maintaining the drainage system in, the
14 district, and the engineer's report shall be revised
15 accordingly. Thereupon, the board of supervisors shall proceed
16 pursuant to s. 298.301 to make such readjustment of assessment
17 of benefits to each piece or parcel of land which has accrued
18 or will accrue as a result of the drainage system. Provided,
19 in making the readjustment of the assessment of benefits, the
20 board of supervisors shall not increase the existing
21 assessment, or unpaid portion thereof, on any piece or parcel
22 of land; provided, further, that after the making of such
23 readjustment, the limitation of 10 percent of the annual
24 maintenance tax which may be levied shall apply to the amount
25 of benefits as readjusted.

26 Section 6. This act shall take effect upon becoming a
27 law.

28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides that, among other available actions, the board of supervisors of a water control district may purchase or lease real or personal property should this board deem it necessary. Provides that only when projects require a permit from the jurisdictional water management district must the board of supervisors submit a plan or amendment for review. Provides that an engineer's report that meets certain criteria may also be exempt from parts of the plan-adoption process. Further defines "a minor, insubstantial amendment." Amends the timeline within which a final hearing on appeal must be held. Requires the board of supervisors to hear all proposed revisions to the engineer's report, water control plans, or plan amendment. Provides that the board may approve and confirm the engineer's report, water plan, or plan amendment or else order them changed to conform with its findings. Sets a timeline for which assessment on property constitutes a lien. Requires that the engineer's report be revised if there has been a material change in the value of the land.