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HB 987, Engrossed 1

2005 Legislature

1 A bill to be entitled
 2 An act relating to the Lake County Water Authority
 3 district; amending, codifying, reenacting, and repealing
 4 special acts relating to the district in conformity to s.
 5 189.429, F.S.; providing district boundaries; providing
 6 purposes; providing for a governing body and prescribing
 7 its powers, duties, functions, membership, and
 8 organization; providing for partisan election of board
 9 members; providing duties of constitutional officers in
 10 Lake County with respect to the authority; providing a
 11 limit on the amount the authority may spend to educate the
 12 public regarding water issues; providing maximum millage
 13 limit; repealing chapters 29222 (1953), 57-1484, 59-1466,
 14 63-1507, 65-1787, 69-1209, 2000-492, and 2003-376, Laws of
 15 Florida, relating to the district; providing for a
 16 referendum on whether elections to the authority shall be
 17 partisan; providing a ballot statement; providing
 18 effective dates.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Pursuant to section 189.429, Florida Statutes,
 23 this act constitutes the codification of all special acts
 24 relating to the Lake County Water Authority district. It is the
 25 intent of the Legislature in enacting this law to provide a
 26 single act for the district. It is further the intent of the
 27 Legislature to preserve all district authority, including the

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28 authority to annually assess and levy taxes or assessments
 29 against all assessable property in the district.

30 Section 2. Chapters 29222 (1953), 57-1484, 59-1466, 63-
 31 1507, 65-1787, 69-1209, 2000-492, and 2003-376, Laws of Florida,
 32 relating to the Lake County Water Authority, are codified,
 33 amended, reenacted, and repealed as provided in this act.

34 Section 3. The charter for the Lake County Water Authority
 35 district is re-created and reenacted to read:

36 Section 1. Purpose.--For the purposes of controlling and
 37 conserving the freshwater resources of Lake County; fostering
 38 and improving the tourist business in the county by improvements
 39 to streams, lakes, and canals in the county; providing
 40 recreational facilities for tourists and citizens and taxpayers
 41 of the county by a more efficient use of the streams, lakes, and
 42 canals in the county; improving the fish and aquatic wildlife of
 43 the county by improving the streams, lakes, and canals in the
 44 county; and protecting the freshwater resources of Lake County
 45 through assisting local governments in treating of stormwater
 46 runoff by conserving fresh water to improve the streams, lakes,
 47 and canals in the county, there is created and incorporated a
 48 special taxing district extending territorially throughout the
 49 present limits of Lake County, Florida. The district shall be
 50 known and designated as the "Lake County Water Authority," but
 51 shall hereafter in this act, for convenience, be referred to as
 52 "the authority."

53 Section 2. Territorial limits.--The territorial limits of
 54 the authority shall be coterminous with the boundaries of Lake
 55 County.

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56 Section 3. County purpose.--Each of the purposes for which
57 the authority is created is declared to be a county purpose, for
58 the accomplishment of which taxes upon all real and personal
59 property within the territorial limits of the authority are by
60 this act authorized to be levied, assessed, and collected.

61 Section 4. Governing board; elections; surety.--A
62 governing body for the authority is created, consisting of seven
63 members who are residents of Lake County, which body shall be
64 known and designated as the "Board of Trustees of the Lake
65 County Water Authority," but which shall be referred to as "the
66 board." Five of the members must each reside in a geographic
67 area identical to a county commission district, to be elected by
68 the electors of the county at large. Two of the members will be
69 elected by the electors of the county at large without regard to
70 their residence. On the second Tuesday following the general
71 election in 2000, the term of office of each person serving on
72 the board immediately before that date expires, and the members
73 of the board shall be elected by the electors of Lake County in
74 nonpartisan elections conducted by the supervisor of elections
75 pursuant to section 189.405, Florida Statutes, in accordance
76 with the Florida Election Code, chapters 97 through 106, Florida
77 Statutes, beginning with the general election in 2000, for terms
78 of 4 years beginning on the second Tuesday following the general
79 election. For purposes of staggering terms, the members elected
80 in 2000 from odd-numbered areas and the at-large member
81 receiving the higher number of votes shall be elected to 4-year
82 terms and the members elected from even-numbered areas and the
83 at-large member receiving the lower number of votes shall be

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84 elected to 2-year terms. Thereafter, each member shall be
85 elected for a term of 4 years, except that a person may not be
86 elected to more than two consecutive 4-year terms. At the first
87 meeting in December of each year or, during a year in which
88 there is a general election, at a meeting held no later than 30
89 days after the general election if the meeting and the election
90 of officers have been advertised properly, the board shall
91 select one of their number as chair and one as vice chair of the
92 board. The Clerk of the Circuit Court of Lake County shall act
93 as secretary and treasurer of the board without any additional
94 compensation. In the event the provision pertaining to the
95 duties of the clerk of the circuit court is for any reason held
96 to be invalid, the board may select one of its members to serve
97 as its secretary and treasurer, or it may appoint a nonmember of
98 the board as its secretary and treasurer, and such nonmember
99 shall receive compensation commensurate with the
100 responsibilities as determined by the board. The board shall
101 select a nonmember to serve as executive director of the
102 authority, and such nonmember shall receive compensation
103 commensurate with the responsibilities as determined by the
104 board. The board shall require a surety bond of any person,
105 including the clerk of the circuit court, who shall act as
106 secretary and treasurer of the board. The amount of the surety
107 bond will be determined by the board. This bond shall be in
108 addition to any bond furnished by such person as clerk of the
109 circuit court or as a member of the board. The premium of the
110 bond shall be paid by the board as a necessary expense of
111 operation.

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112 Section 5. Surety bond.--Each member of the board, before
113 assuming his or her duties, shall give a good and sufficient
114 surety bond in the sum of \$2,500 payable to the Governor of the
115 State of Florida and his or her successors in office,
116 conditioned upon the faithful performance of his or her duties
117 as a member of the board. Such bond must be approved by and
118 filed with the Chief Financial Officer of the State of Florida,
119 and the premium or premiums for such bond shall be paid by the
120 board as a necessary expense.

121 Section 6. Quorum; majority vote; entitlement to
122 vote.--Four members of the board shall constitute a quorum for
123 the transaction of business. A majority vote of all members
124 present shall be necessary in order to authorize any action by
125 the board. The chair shall be entitled to vote on all questions.

126 Section 7. Board compensation.--Each member of the board
127 shall receive \$25 per day as compensation for his or her
128 services when performing his or her duties.

129 Section 8. Expenses.--Each member of the board and its
130 engineers, auditors, attorneys, agents, and employees shall be
131 paid their actual expenses incurred when engaged on business of
132 the authority, but such expenses shall not be paid unless
133 payment has been authorized and approved. The board may
134 authorize and approve the payment of any expense, or it may
135 delegate to the executive director the power to authorize such
136 payment as long as, at the time it makes the delegation, it
137 approves parameters, including, but not limited to, parameters
138 on the amount that may be expended, within which the executive

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139 director may exercise that power. A separate delegation must be
 140 made with respect to any expenditure or class of expenditures.

141 Section 9. Powers of board.--

142 (a) The board has all the powers of a body corporate,
 143 including, but not limited to, the power to sue and be sued; to
 144 make contracts; to adopt and use a common seal and to alter the
 145 same as deemed expedient; to buy, acquire by condemnation or
 146 eminent domain in the manner prescribed for use by counties in
 147 Florida, sell, own, use, control, operate, improve, and lease
 148 all land and personal property as the board deems necessary or
 149 proper in carrying out the provisions of this act; to appoint
 150 and employ, and dismiss at pleasure, such engineers, auditors,
 151 attorneys, and other employees and agents as the board may
 152 require, and to fix and pay the compensation thereof; to
 153 establish an office for the transaction of its business in Lake
 154 County and to pay all necessary costs and expenses incident to
 155 the administration and operation thereof; and to pay all other
 156 costs and expenses reasonably necessary or expedient in carrying
 157 out and accomplishing the purposes of this act.

158 (b) The authority may acquire by purchase, gift, lease,
 159 condemnation, eminent domain, or any other manner such lands
 160 within the territorial extent of the authority as are reasonably
 161 necessary for constructing and maintaining the works and making
 162 the improvements required to carry out the intent of this act,
 163 including, without limitation, the right to acquire by
 164 condemnation or eminent domain such lands and any interest
 165 therein reasonably necessary for any such purpose which may
 166 already be devoted to public use for county, municipal,

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167 district, railroad, or public utility purposes where and to the
 168 extent that the same may cross, intersect, or be situate upon or
 169 within the area of such land hereinbefore referred to. The
 170 authority shall also have the right to acquire by purchase,
 171 gift, lease, condemnation, or eminent domain, or in any other
 172 manner, land, timber, earth, rock, and other materials or
 173 property, and property rights, including riparian rights, in
 174 such amounts as are reasonably necessary or useful in the
 175 development of the works or improvements before referred to.
 176 Condemnation or eminent domain proceedings shall be maintained
 177 by and in the name of the authority, and the procedure shall be,
 178 except insofar as is altered hereby, that prescribed for use by
 179 counties in Florida.

180 (c) The authority may take, exclusively occupy, use, and
 181 possess, insofar as is necessary for carrying out the provisions
 182 of this act, any areas of land owned by the state and within the
 183 territorial jurisdiction of the authority, not in use for state
 184 purposes, including, without limitation, swamps and overflowed
 185 lands, bottoms of streams, lakes, and rivers, and the riparian
 186 rights thereto pertaining, and, when so taken and occupied, due
 187 notice of such taking and occupancy having been filed with the
 188 Trustees of the Internal Improvement Trust Fund of the state by
 189 the authority, such areas of land are granted to and shall be
 190 the property of the authority. For the purposes of this section,
 191 the meaning of the term "use" shall include the removal of
 192 material from and the placing of material on any such land. In
 193 case it is held by any court of competent jurisdiction that
 194 there are any lands owned by the state which may not be so

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195 granted, the provisions of this section shall continue in full
196 force and effect as to all other lands owned by the state and
197 granted to the authority under this section. The provisions of
198 this section are subject to all laws and regulations of the
199 United States of America with respect to navigable waters.

200 (d) In addition to all other powers conferred upon the
201 board by this act, the board may enlarge, change, modify, or
202 improve any stream, lake, or canal within the territorial limits
203 of the authority and may clean out, straighten, enlarge, or
204 change the course of any waterway or canal, natural or
205 artificial, within the territorial limits of the authority; may
206 provide such canals, locks, levees, dikes, dams, sluiceways,
207 reservoirs, holding basins, floodways, pumping stations,
208 buildings, bridges, highways, and other works and facilities
209 that the board deems necessary; may cross any highway or railway
210 with works of the district and hold, control, and acquire by
211 donation, lease, purchase, or otherwise any land or personal
212 property needed for carrying out the purpose of this act and may
213 remove any building or other obstruction necessary for the
214 construction, maintenance, and operation of such works. The
215 improvements made or to be made under this act are sometimes
216 referred to in this act as "the works" of the board. The board
217 shall also have power to operate any and all works and
218 improvements of the authority. The provisions of this section
219 are subject to all laws and regulations of the United States of
220 America with respect to navigable waters.

221 (e) The board may take possession of and control, use,
222 operate, and maintain all streams, lakes, canals, dams, locks,

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223 levees, dikes, sluiceways, reservoirs, holding basins,
 224 floodways, pumping stations, buildings, bridges, highways,
 225 navigation, and conservation works, and other works and
 226 facilities within the territorial limits of the authority to the
 227 extent only that such possession, control, and use have been
 228 deemed by the board, in its sole discretion, to be useful and
 229 necessary in carrying out the purposes of this act. Such
 230 possession, control, and use are subject to the rights of
 231 persons, firms, and corporations and the rights of Lake County
 232 and municipalities, districts, and political bodies in Lake
 233 County (which rights may be acquired by the authority by
 234 condemnation or eminent domain as provided for by this act).

235 (f) The authority shall control all streams, including
 236 slow-moving streams, flowing from any of the water reservoirs in
 237 Lake County, whether natural or constructed, into the system of
 238 lakes and streams in or adjacent to Lake County for the
 239 protection of the natural water reservoirs and the adjacent and
 240 neighboring areas.

241 (g) The board may grant licenses or permits for the
 242 construction and excavation of canals and ditches connecting
 243 with navigable waters; may establish, adopt, and administer
 244 rules governing the construction and excavation of canals and
 245 ditches with authority to prohibit any construction deemed by
 246 the board to be detrimental to the best interests of the public
 247 or purposes for which the authority was established; may do any
 248 and all things hereinafter authorized or required to be done;
 249 and may do any and all things, whether or not included in the

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250 powers enumerated in this act, necessary to accomplish the
 251 purposes of this act.

252 (h) The board may enter into any agreement or contract
 253 with the Federal Government or the state, or any agency,
 254 political subdivision, or instrumentality of either; and
 255 counties adjoining Lake County; and municipalities and taxing
 256 districts in Lake County and in counties adjoining Lake County
 257 for the purpose of carrying out, or which in the judgment of the
 258 board may assist it in carrying out, the purposes of this act.

259 Section 10. Receipt or use of property.--Lake County and
 260 all municipalities, districts, political bodies, and political
 261 subdivisions of the state in Lake County are severally
 262 authorized to grant, convey, or transfer to, and permit the use
 263 of by, the authority upon such terms and conditions as are
 264 agreeable to the governing bodies thereof real and personal
 265 property belonging to them which is necessary or useful to the
 266 authority in carrying out the purposes of this act.

267 Section 11. Authority funds; warrants.--All authority
 268 funds shall be deposited in a bank or banks or federal or state
 269 savings and loan association to be designated by the board, but
 270 before any authority moneys are deposited in such depository or
 271 depositories, security shall be furnished the authority ample to
 272 protect such deposits to the full extent and amount that such
 273 deposits are not otherwise protected or insured by the Federal
 274 Deposit Insurance Corporation or the Federal Savings and Loan
 275 Insurance Corporation. Funds of the authority shall be paid out
 276 only upon warrant signed by the treasurer of the authority and
 277 countersigned by the chair or vice chair. No warrants shall be

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278 drawn or issued disbursing any of the funds of the authority
279 except for a purpose authorized by this act and only when the
280 account or expenditure for which the same is to be given in
281 payment has been audited and approved by the board.

282 Section 12. Budget; millage levied; procedure.--The board
283 shall determine, annually on or before October 1, by resolution
284 the amount of money that will be required to carry out the
285 purposes of this act for the next ensuing fiscal year (which
286 fiscal year shall be the same as that of Lake County) and the
287 millage, which shall not exceed one-half of one mill, that will
288 be required to be levied to produce the amount of money set
289 forth in the resolution; however, the determination of the
290 amount of money to be raised and the millage to be levied may be
291 delayed until the board receives the necessary information. The
292 authority shall allocate no more than 3.5 percent of its annual
293 ad valorem budget for educational programs to educate and teach
294 the public about water issues. Immediately upon the adoption of
295 the resolution a certified copy thereof shall be furnished to
296 the Board of County Commissioners of Lake County, and the Board
297 of County Commissioners of Lake County shall, for the year named
298 in the certified copy of the resolution, levy, assess, collect,
299 and enforce taxes upon all taxable real and personal property
300 within the authority. The procedure to be followed to accomplish
301 the purpose of this section shall be as follows:

302 (a) Assessment of property shall be as provided by general
303 law.

304 (b) The board shall by resolution determine the total
305 amount to be raised by taxation in such year upon the taxable

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306 property within the authority and shall, in and by such
307 resolution, fix and determine the millage on each dollar
308 valuation of property on the assessment rolls, which, when
309 levied, will raise the amount so determined as the total amount
310 to be raised by taxation in that year, and in and by such
311 resolution the board shall direct the Board of County
312 Commissioners to levy, assess, and fix such millage as the rate
313 of taxation upon all the taxable real and personal property
314 within the authority.

315 (c) A certified copy of such tax resolution executed in
316 the name of the authority by its chair or vice chair and
317 attested by its secretary, under its corporate seal, shall
318 immediately be delivered to the Board of County Commissioners of
319 Lake County.

320 (d) It shall be the duty of the Board of County
321 Commissioners, each year: to levy, assess, and fix the millage
322 and the rate of taxation upon all the taxable real and personal
323 property within the authority as set forth in the certified copy
324 of the resolution of the board; to certify the millage to the
325 Department of Revenue of the State of Florida; and to order the
326 property appraiser of the county to levy and assess, and the
327 county tax collector to collect, a tax at the millage fixed by
328 the Board of County Commissioners upon all of the taxable real
329 and personal property within the authority for the year, and the
330 levies and assessments shall be included in the tax roll and
331 warrant of the property appraiser of the county for each fiscal
332 year thereafter. The tax collector of the county shall collect
333 such taxes so levied by the board of county commissioners for

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334 the authority in lawful money of the United States of America in
 335 the same manner and at the same time as county taxes are
 336 collected and shall pay and remit the same upon collection to
 337 the board.

338 (e) The Property Appraiser, Tax Collector, and Board of
 339 County Commissioners of Lake County and the Department of
 340 Revenue shall, when requested by the board, prepare from their
 341 official records and deliver to the board any and all
 342 information that may be requested from time to time from them
 343 regarding the tax valuations, levies, assessments, or
 344 collections in such county.

345 Section 13. Collection of taxes; enforcement.--All taxes
 346 levied and assessed by the Board of County Commissioners of Lake
 347 County for the authority (beginning with the year 1953) shall be
 348 collected and the enforcement thereof shall be at the same time
 349 and in the same manner as other county taxes are collected and
 350 enforced and when so collected shall be paid over to the board
 351 for its use pursuant to this act.

352 Section 14. Borrowing of funds; bond issuance.--

353 (a) The board may borrow money at such time or times as it
 354 deems necessary to carry out the purposes of this act and to
 355 execute and deliver its promissory note or notes therefor
 356 bearing interest as fixed by the board; however, the board shall
 357 not borrow any sum of money or give its promissory note therefor
 358 for a period of time longer than 1 year, and the total amount of
 359 money borrowed and outstanding may not exceed \$35,000 at any one
 360 time.

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361 (b) The board may issue bonds payable solely from revenues
362 of the authority. The value of all such bonds outstanding at any
363 time may not exceed an amount equal to one-third of the
364 authority's anticipated revenues for the period for which the
365 bonds are outstanding. Revenue bonds may not be issued unless
366 their issuance has been approved by a majority of those electors
367 of the authority voting in a referendum in which the ballot
368 statement describes in detail the purpose for which the bonds
369 will be issued.

370 Section 15. Financial statement.--At least once in each
371 year the board shall publish in some newspaper published in Lake
372 County a complete detailed statement of its financial condition,
373 including a list of all moneys received and disbursed by the
374 board during the preceding year.

375 Section 16. Construction.--It is the intention of the
376 Legislature that the provisions of this act be liberally
377 construed to accomplish its purposes.

378 Section 17. Plan; annual report.--

379 (a) The authority shall prepare a plan that describes the
380 authority's goals for the ensuing 5 years. The plan must include
381 projects that will be undertaken within that period in
382 furtherance of its goals. The authority shall update the plan
383 periodically.

384 (b) The authority shall prepare a report annually which
385 includes an evaluation and assessment of the effectiveness of
386 the authority's activities in the preceding year. The report
387 must address both ongoing activities of the authority and the
388 progress in meeting goals and projects enumerated in the 5-year

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389 plan. The report shall be submitted to the Legislature, the St.
 390 Johns River Water Management District, and the Lake County Board
 391 of County Commissioners.

392 Section 18. Charter amendment.--The district's charter may
 393 be amended only by the Legislature.

394 Section 4. Chapters 29222 (1953), 57-1484, 59-1466, 63-
 395 1507, 65-1787, 69-1209, 2000-492, and 2003-376, Laws of Florida,
 396 are repealed.

397 Section 5. Section 4 of section 3 of this act is amended
 398 to read:

399 Section 4. Governing board; elections; surety.--A
 400 governing body for the authority is created, consisting of seven
 401 members who are residents of Lake County, which body shall be
 402 known and designated as the "Board of Trustees of the Lake
 403 County Water Authority," but which shall be referred to as "the
 404 board." Five of the members must each reside in a geographic
 405 area identical to a county commission district, to be elected by
 406 the electors of the county at large. Two of the members will be
 407 elected by the electors of the county at large without regard to
 408 their residence. On the second Tuesday following the general
 409 election in 2000, the term of office of each person serving on
 410 the board immediately before that date expires, and the members
 411 of the board shall be elected by the electors of Lake County in
 412 partisan ~~nonpartisan~~ elections conducted by the supervisor of
 413 elections pursuant to section 189.405, Florida Statutes, in
 414 accordance with the Florida Election Code, chapters 97 through
 415 106, Florida Statutes, beginning with the general election in
 416 2000, for terms of 4 years beginning on the second Tuesday

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417 following the general election. For purposes of staggering
418 terms, the members elected in 2000 from odd-numbered areas and
419 the at-large member receiving the higher number of votes shall
420 be elected to 4-year terms and the members elected from even-
421 numbered areas and the at-large member receiving the lower
422 number of votes shall be elected to 2-year terms. Thereafter,
423 each member shall be elected for a term of 4 years, except that
424 a person may not be elected to more than two consecutive 4-year
425 terms. At the first meeting in December of each year or, during
426 a year in which there is a general election, at a meeting held
427 no later than 30 days after the general election if the meeting
428 and the election of officers have been advertised properly, the
429 board shall select one of their number as chair and one as vice
430 chair of the board. The Clerk of the Circuit Court of Lake
431 County shall act as secretary and treasurer of the board without
432 any additional compensation. In the event the provision
433 pertaining to the duties of the clerk of the circuit court is
434 for any reason held to be invalid, the board may select one of
435 its members to serve as its secretary and treasurer, or it may
436 appoint a nonmember of the board as its secretary and treasurer,
437 and such nonmember shall receive compensation commensurate with
438 the responsibilities as determined by the board. The board shall
439 select a nonmember to serve as executive director of the
440 authority, and such nonmember shall receive compensation
441 commensurate with the responsibilities as determined by the
442 board. The board shall require a surety bond of any person,
443 including the clerk of the circuit court, who shall act as
444 secretary and treasurer of the board. The amount of the surety

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445 | bond will be determined by the board. This bond shall be in
 446 | addition to any bond furnished by such person as clerk of the
 447 | circuit court or as a member of the board. The premium of the
 448 | bond shall be paid by the board as a necessary expense of
 449 | operation.

450 | Section 6. The provisions of section 5 shall take effect
 451 | only upon express approval by a majority vote of those qualified
 452 | electors of the Lake County Water Authority district voting in a
 453 | referendum to be called by the Lake County Supervisor of
 454 | Elections and to be held in conjunction with the next general
 455 | election, in accordance with the provisions of law currently in
 456 | force in the district. The question to be placed on the ballot
 457 | shall be in substantially the following form:

458 |
 459 | Shall the members of the Lake County Water Authority be elected
 460 | in partisan elections?

461 |
 462 | Yes

463 |
 464 | No

465 | Section 7. Except as otherwise provided for section 5 of
 466 | this act, this act shall take effect upon becoming a law.