

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government/Ensure Lower Taxes: If approved by the Board of Commissioners of Sarasota County and a majority vote of the acreage cast, this bill would add approximately 3,740 acres of unincorporated land in Sarasota County into the District, in which the District may exercise its authorities and powers, as formally set out below. The District has the authority to levy non-ad valorem assessments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation:

The West Villages Improvement District (District) is an independent special district wholly within the City of North Port, Sarasota County, Florida. The District consists of approximately 8,194 acres. The District's charter grants the District the powers, functions, and duties under chs. 189 (Special District: General Provisions) and 298 (Draining and Water Control), F.S., with a few exceptions.

The powers of the District are summarized as follows:

- a) To adopt bylaws for the regulation of its affairs and the conduct of its business.
- b) To adopt rules for the implementation, regulation, and enforcement consistent with the purpose of the District.
- c) To adopt an official seal.
- d) To acquire real or personal property or an easement, license, estate or interest therein, for the purposes of the District by a variety of means, including the power of eminent domain when necessary and to sell or otherwise convey out all or any portion of those interests to or with other entities. However, the District is not authorized to obtain fee simple title to real property within the District except by dedication on an approved plat, and with the approval of the North Port Commission, or if otherwise required by another governmental entity or agency. All District property interests used for nonpublic or private commercial purposes, are subject to all taxes and assessments as if privately owned.
- e) To finance and carry on specific planning functions related to the design, acquisition, modification and maintenance of components of a "modern comprehensive water management drainage; environmental; mitigation preservation; erosion, quality and control purposes." However, the District shall agree at the request of the City of North Port and subject to a developer's agreement with the City of North Port, to donate any and turn over operation of any or all of the water management system to the City.
- f) To regulate, modify, control, and redirect the supply of water within the District, including division of waters between water bodies and control facilities, if consistent with City and Southwest Florida Water Management District rules and regulations. To control and restrict development and use of natural or artificial water bodies; and to prevent or alleviate erosion, flooding, or water quality problems, in accordance with applicable federal, state and local rules and regulations.
- g) To finance studies to assist in implementing the District's purposes.
- h) To finance, plan, generally implement, and maintain irrigation works.
- i) To finance, plan, generally implement, and maintain roadways, parkways, bridges, bicycle and jogging paths, street lighting, entry features, traffic signals; including an annual non-ad valorem assessment.
- j) To finance, plan, generally implement, and maintain entry features, garages, parking facilities, district offices, buildings, facilities, and structures.

- k) To finance, plan, generally implement, and maintain community of public preserves, uplands, wetlands, playgrounds, parks, gymnasiums, stadiums, ballfields, greenways, waterways, and facilities for indoor and outdoor recreational, sport, cultural and educational uses.
- l) To finance, plan, generally implement, and collect fees on the production, desalination, purification, sales, and distribution of water for consumption, irrigation, or other purposes.
- m) To finance, plan, generally implement, maintain, and collect fees on the collection, disposal and reuse of effluent, waste, residue, or other byproducts of a sewer system; the prevention of pollution, and improvement of water quality; including the charging of connection fees and charges.
- n) To finance, plan, generally implement, and maintain mosquito control.
- o) To finance, plan, generally implement, and maintain preservation areas, conservation areas, environmental areas, mitigation areas, and wildlife habitat or sanctuaries, including the maintenance of any plant or animal species.
- p) To finance, plan, generally implement, and maintain systems and facilities for school buildings and related structures.
- q) To levy non-ad valorem assessments; establish and collect rates, fees, rentals, fares or other charges for property, facilities, and services made available by the district.
- r) To discontinue service and charge reasonable penalties, including attorney's fees, related to delinquent charges.
- s) To enter into agreements for facilities and services authorized and implied by this act.
- t) To borrow money, issue negotiable or other bonds, and issue negotiable or other notes, in anticipation of the collection of levies, fees, penalties, charges, fares, and assessments or revenues of the district; to pledge such non-ad valorem assessments and other revenues to secure bonds, note or other obligations, and to sell, discount, negotiate or dispose of such instruments.
- u) To provide for safety enhancements and contract with the appropriate local general government agencies for an increased level of such service.
- v) To provide systems for fire prevention, including the construction or purchase of fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
- w) To obtain permits and to enter contracts and to employ consultants and other employees and agents.
- x) To require any individual or entity to obtain written authorization for use of certain district property, rights-of-way, or to connect to works of the district.
- y) To include in a plan improvements the engineer's report and authorizing ch. 170, F.S., authorizing documents (Supplemental and Alternative Method of Making Local Municipal Improvements) to substitute for engineer's report..
- z) To assess benefits and damages to the district's lands as regards ch. 170, F.S.
- aa) To establish and create departments, committees, boards, or other agencies, including a public relations committee.
- bb) Require compliance with the City of North Port comprehensive plan, unified land development code, zoning code and other city codes.
- cc) To establish employee benefits.
- dd) To invest surplus funds.
- ee) To submit the infrastructure improvements plan to the City of North Port.
- ff) To apply, obtain, and utilize grants from other entities.
- gg) To be limited as to maintaining levels of service on any concurrency regulated facilities in unincorporated Sarasota County
- hh) To collect fair share contributions from Sarasota County when approved.

The District's charter contains the following exemptions from general law:

- The charter excludes s. 189.4045(2), F.S., from applying to the District.¹ Section 189.4045(2), F.S., provides for the transfer of assets and debts to the local general-purpose government upon the dissolution of a special district. Rather, the District relies on its non-ad valorem assessment

¹ See ch. 2004-456, L.O.F., § 2(3).

authority as security for debts and the usage of s. 197.363 and s. 197.3632, F.S., for the collection of said non-ad valorem assessments.

- The charter provides for a maintenance assessment in lieu of the maintenance tax provided for in s. 298.54, F.S.²
- The charter grants exclusive authority for the issuance of bonds by the District, while s. 298.47, F.S., provides the board of supervisors of a ch. 298, F.S., district the authority for the issuance of bonds.³
- The charter does not require that the District validate its bonds under ch. 75, F.S., while s. 75.02, F.S., provides that any county, municipality, taxing district or other political district, may determine its authority to incur bonded debt by means of a validation proceeding.⁴
- The charter does not require the approval or consent of the bondholders when an amendment is made to the plan of improvement, the engineer's report, or ch. 170 authorizing documents, regardless of any contrary language in ch. 298, F.S., ch. 170 authorizing documents, or provisions of the charter. Section 298.77, F.S., provides that adjustments to assessments may only be made provided the owners of 25% of the acreage and the holders of not less than 95% of any outstanding indebtedness, petition for a readjustment of assessments.⁵
- The charter requires a referendum prior to the amendment of a plan of improvement for any unit which has been sold to the general public. Existing law, s. 298.329, F.S., allows the board of supervisors to amend the plan of improvement and levy an additional assessment.⁶

Effect of Bill:

This bill adds approximately 3,740 acres of unincorporated land in Sarasota County into the District.⁷ Before the boundaries can be expanded by the approval of the Legislature and majority of landowners in the current District and proposed addition, the bill requires prior approval from the Board of County Commissioners of Sarasota County.

The bill contains amendments to the charter's various sections to address the addition of the new territory. The bill makes edits to provide for the same requirements governing the interactions with the District and the City of North Port, to also apply to Sarasota County, and where appropriate, the Englewood Water District. The bill requires that where authorization and prior approval from the North Port Commission was required to implement certain District powers and authorities within the territory of the City, the District must now also receive prior approval from the Board of Commissioners of Sarasota County for the District to use those powers within the County's territory, and requires the Board for the Englewood Water District to approve the District's use of power in that territory. The bill imposes the same requirements regarding compliance and consistency with the plans and studies of the local general purpose and special district governing bodies in the varied parts of the territory.

The bill requires that the District agree to donate and turn over the operation of its water management and public roadway, water, and wastewater systems within the territory being added within the County at the request of the Board of County Commissioners of Sarasota County or their designees, and subject to a developer's agreement with Sarasota County. The bill requires that the District to donate and turn over the operation of its water and wastewater systems within the territory being added within the Englewood Water District to Englewood at the request of the Board of the Englewood Water District.

The bill also requires an interlocal agreement with Sarasota County prior to the District exercising any of its powers, functions, or duties relative to infrastructure planning, programming, or construction within its territory located within Sarasota County.

² See ch. 2004-456, L.O.F., § 7(1).

³ See ch. 2004-456, L.O.F., § 10(1).

⁴ See ch. 2004-456, L.O.F., § 10(12).

⁵ See ch. 2004-456, L.O.F., § 14(3).

⁶ See ch. 2004-456, L.O.F., § 14(4).

⁷ 2006 Economic Impact Statement, HB 1445.

The bill provides that one supervisor of the board elected be a resident of the City when the population of landowners that are registered voters in the City is at least 6,000 on or before January 1 of any year. The same requirement is instituted for the unincorporated area when there are at least 3,000 landowners registered as voters.

The bill requires publication of notices to include Sarasota County. The bill also institutes two weeks advanced notice of the board's intent to establish a unit or units to either the City of North Port City Manager or the Sarasota County Administrator, depending on where the unit is being formed.

The bill also calls for a referendum within 60 days after becoming law, in which a majority vote of the acreage cast of all landowners (including those within the current District and those in the proposed expanded boundaries) is required to add the new territory. The referendum is to be held on a one acre, one vote basis at the expense of the District.

C. SECTION DIRECTORY:

Section 1: Amend ss. 2, 3, 4, 5, 11, 12, 17, and 19 of ch. 2004-456, L.O.F., to add new boundaries and make changes in the charter to apply powers and duties to the new boundaries in the same manner as required for the City of North Port.

Section 2: Provides for a referendum.

Section 3: Provides on effective date of approval by a majority vote of those qualified landowners for s. 1, and upon becoming law for ss. 2 and 3.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 22, 2005.

WHERE? *Sun Newspapers*, Charlotte, DeSoto, Englewood, North Port, and Venice, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Within 60 days of s. 2 and 3 becoming law.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The estimated cost of administration, implementation, and enforcement is \$90,000 for FY 2006/07 and \$120,000 for FY 2007/08. The anticipated new and increased revenues are \$90,000 for FY 2006/07 and \$120,000 for FY 2007/08.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

Line 627, page 23, "county's" needs to be capitalized.

Other Comment:

Sarasota County will have to provide standard zoning and police enforcement services to the subject acreage, when developed, which the District does not have the authority to provide.⁸

There will be overlapping boundaries with the proposed addition and the Englewood Water District. Englewood Water District is a water, wastewater and reuse provider and their revenue source is utility fees. The West Villages Improvement District also has the authority to do similar functions within its territory and the ability to charge access, user, or connections fees in carrying out these functions. This may cause a double taxation, double service problem. However, the bill does require prior authorization from the Board of the Englewood Water District before taking any action regarding these functions within Englewood's territory and requires the District to donate and turn over water and wastewater systems to the Englewood Water District at Englewood's request.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted one amendment on March 29, 2006. The amendment requires the District to donate and turn over water and wastewater systems to the Englewood Water District at Englewood's request. The bill also excused Sarasota County from recourse as to bonds issued by the District. The bill, as amended, was reported favorably with committee substitute.

⁸ 2006 Economic Impact Statement, HB 1445.