

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:

Present Situation

Hobe-St. Lucie Conservancy District

Chapter 2003-339, L.O.F., codified all of the special acts relating to the Hobe-St. Lucie Conservancy District in Martin County. This chapter set out the boundaries for the District in a lengthy legal description. This chapter also designated the Hobe-St. Lucie Conservancy District as a water control district and that it is required to comply with the provisions of chapter 298, Florida Statutes.

Chapter 298, Florida Statutes

Chapter 298, F.S., contains provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Election of Board of Supervisors

Upon the formation of a water control district, jurisdiction within the district's boundaries is given to the circuit court where the majority of the land is located. Once a district is organized, a notice of the first landowners' meeting must be given. This notice must be published once a week for two consecutive weeks in a newspaper of general circulation, in each county where district lands are located. At the first meeting, the landowners are required to elect a three-member board of supervisors. The district supervisors serve for 3-year rotating terms, with one supervisor elected each year at an 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. If acreage owned by the state is subject to assessment by the district, the Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting.

One-Acre, One-Vote

Section 298.11(2), Florida Statutes, provides that every acre of assessable land within a district represents one share, or vote. Landowners within a district are entitled to one vote per acre of assessable land that they own. Landowners owning less than one assessable acre are entitled to one vote. When all of the landowners' acreage has been aggregated for purposes of voting, landowners with more than one acre of assessable land are entitled to one additional vote for any fraction of an acre greater than 1/2 acre. The section also allows landowners to vote by proxy.

Revenue Sources

The primary funding source for water control district activities is special assessments. Special assessments are a home rule revenue source that may be used by a local government to fund local improvements or essential services. In order to be valid, special assessments must meet legal requirements as articulated in Florida case law. The greatest challenge to a valid special assessment is its classification as a tax by the courts.

As established by case law, two requirements exist for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided.

Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. If a local government's special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.

The special benefit and fair apportionment tests must be incorporated into the assessment rate structure. The development of an assessment rate structure involves determining the cost to be apportioned, allocating program costs into program components, and apportioning these costs to each eligible parcel based upon factors such as the property use, and the parcel's physical characteristics.

A special assessment may provide funding for capital expenditures, or the operational costs of services, provided that the property subject to the assessment derives a special benefit from the improvement or service. The courts have upheld a number of assessed services and improvements, such as: garbage disposal, sewer improvements, fire protection, fire and rescue services, street improvements, parking facilities, downtown redevelopment, storm-water management services, and water and sewer line extensions..

A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of special assessments levied.

Laws Effecting Water Control Districts

Section 298.76 Florida Statutes, authorizes special or local legislation that:

- (a) Changes the method of voting for a board of supervisors for any water control district;
- (b) Provides a change in the term of office of the board of supervisors, and changes the qualifications of the board of supervisors of any water control district; and
- (c) Changes the governing authority or governing board of any water control district.

Finally, section 298.76, Florida Statutes, provides that any special or local laws enacted by the Legislature pertaining to any water control district shall prevail as to that district, and shall have the same force and effect as though it had been a part of ch. 298, F.S., at the time the district was created, and organized.

Effect of Proposed Changes

It appears that at the time of the codification set out in ch. 2005-339, L.O.F., the legal description of the boundaries of the Hobe-St. Lucie Conservancy District did not include all of the areas that it was supposed to capture.¹ The bill corrects that error in the new legal description. The bill also specifies the governance of the District through a three-member board of supervisors elected from among the landowners in the District as set out in ch. 298, F.S.

C. SECTION DIRECTORY:

Section 1: Amends Section 1, subsections 1 and 2, and section 3 of section 3 of ch. 2005-339, L.O.F., to correct the legal description for the boundaries of the Hobe-St. Lucie Conservancy District and to provide for the governance of the District.

Section 2. Provides that the bill shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 31, 2006.

¹ Phone discussion with Hobe-St. Lucie Conservancy District representative 3/6/07.

WHERE? The Stuart News, a daily publication in Martin and St. Lucie counties.

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:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES