



## 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**

##### Chapter 298, Florida Statutes

Chapter 298, F.S., contains provisions governing the creation and operation of water control districts. The act addresses various matters relating to water control districts, including formation of the district; landowners' meetings; election of a board of supervisors; their terms of office, powers and compensation; appointment and employment of individuals; the water control plan; district assessments and taxes.

##### *Election of Board of Supervisors*

Upon the formation of a water control district, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district. Once a district is organized, notice of the first landowners' meeting must be given. The notice is required to be published once a week for two consecutive weeks in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve three-year rotating terms, with one supervisor elected each year at a required 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.

##### *One-Acre, One-Vote*

Every acre of assessable land within a district represents one share, or vote. Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre also are entitled to one vote. A landowner owning more than one acre is entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowner's acreage has been aggregated for purposes of voting.

##### Limitation on Special Acts

Section 11(a)(21), Art. III of the State Constitution, provides that no special law or general law of local application shall be enacted that pertains to any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.

Section 298.76, F.S., is an example of such a general law passed by a three-fifths vote of the membership of each house. The statute provides that there shall be no special law or general law of local application granting additional authority, powers, rights or privileges to any water control district formed pursuant to ch. 298, F.S. Section 298.76, F.S., does not prohibit special or local legislation that: (a) amends an existing special act that provides for the levy of an annual maintenance tax of a district; (b) extends the corporate life of a district; (c) consolidates adjacent districts; or (d) authorizes the construction or maintenance of roads for agricultural purposes.

Additionally, s. 298.76, F.S., authorizes special or local legislation: (a) changing the method of voting for a board of supervisors for any water control district; (b) providing a change in the term of office of a

board of supervisors and changing the qualifications of a board of supervisors of any water control district; and (c) changing the governing authority or governing board of any water control district.

Finally, s. 298.76, F.S., 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.

### The Central County Water Control District

The Central County Water Control District is an independent special district in Hendry County which was created pursuant to ch. 70-702, L.O.F. The only provision of the district's current charter which addresses the election of the board of supervisors is Section 9:

The number of members of the district board of supervisors shall be five. At each annual meeting of the district, two supervisors will be elected for 3-year terms, except that in elections held at the annual meetings in 2000 and every third year thereafter one supervisor will be elected for a 3-year term.

In November 2006, then-Governor Jeb Bush wrote a letter to the sponsor of this bill expressing his support for a special act to change the voting procedures of the Central County Water Control District from one vote for each acre of land owned in the district (one-acre/one-vote) to one vote for each registered voter in the district (one-person/one-vote). On June 25, 2003, he had vetoed HB 1079 which amended the district's charter to require that the supervisors be elected by the qualified electors after "the issue was rendered moot when a local referendum failed to authorize the change in the charter." The Governor further indicated that:

An August 23, 2006, referendum established the one-person/one-vote method for one of the district's five supervisors. While this change is an improvement, large landowners—not the majority of voters—still control the selection of 80 percent of the supervisors, who set the tax rates and determine how the district is managed. Further action is required to ensure that equal consideration is given to votes cast by all of the district's residents.

### **Effect of Proposed Changes**

The bill amends the charter of the Central County Water Control District, ch. 2000-415, L.O.F. It revises election provisions for members of the board of supervisors; provides membership requirements, qualifications and terms; provides election procedures; and provides an effective date.

The new language provides that there shall continue to be five members of the district board. Three board members are to be elected by district landowners pursuant to ch. 298, F.S., on a one-acre, one-vote basis. However, the two additional board members are to be elected by qualified electors, as defined in s. 97.041, F.S.,<sup>1</sup> who are residents of the district (one-person/one-vote).

The bill also specifies a system for the election of board members. Board member seats are to be numbered 1, 3 and 5 for board members elected pursuant to ch. 298, F.S., by landowners, and numbered 2 and 4 for members elected by qualified electors.

Board Members 1 and 2 will be elected at the annual landowners' meeting held in April 2007 and hold office until the general election in November 2010. Board members 3 and 4 will be elected at the general election held in November 2008. Board member 5, who would have been elected in 2009, will hold office until 2010. Board member 5 will be elected at the district landowners' meeting to be held in

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<sup>1</sup> Section 97.041, F.S., provides the qualifications for a registered voter.

October 2010. Thereafter, all board members will serve terms of four years from the date of their election.

All landowners' meetings will be held annually in October. Landowners' meetings held in even-numbered years will elect supervisors pursuant to ch. 298, F.S. Supervisors to be elected by qualified electors must qualify and run as nonpartisan candidates pursuant to general law. These elections are to be conducted by the county supervisor of elections and held on the general election day in November of even-numbered years. Candidates elected by qualified electors are to be elected by a plurality of the vote.

The act has an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Section 9 of s. 3 of ch. 2000-415, L.O.F., relating to the district board of supervisors' membership and election.

Section 2: This act shall take effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 8, 2007.

WHERE? *The Clewiston News*, a weekly newspaper of general circulation published in Hendry County.

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

According to the Economic Impact Statement, this bill has no fiscal effect.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### Drafting Issues

The current language of the bill which establishes terms would result in requiring "one-acre/one-vote" members to be elected at general elections, and "one-person/one-vote" candidates being elected at

landowner's meetings. The Sponsor of the bill intends to offer an amendment to correct this drafting error.

### **Other Comments**

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill. Sections 298.11 and 298.12, F.S., contemplate three-year terms, while the bill provides for four-year terms. Also, while s. 298.11, F.S., describes elections being conducted pursuant to "one-acre/one-vote," the bill sets up a bifurcated scheme. Nonetheless, it is noted the Legislature has provided express authority to enact such changes in s. 298.76, F.S, which authorizes special or local legislation: (a) changing the method of voting for a board of supervisors for any water control district; or (b) providing a change in the term of office of a board of supervisors.

### **D. STATEMENT OF THE SPONSOR**

No statement submitted.

## **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**