

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1541

Pine Tree Water Control District, Palm Beach County

SPONSOR(S): Abruzzo

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Military & Local Affairs Policy Committee</u>	<u></u>	<u>Noriega</u>	<u>Hoagland</u>
2)	<u>Economic Development & Community Affairs Policy Council</u>	<u></u>	<u></u>	<u></u>
3)	<u></u>	<u></u>	<u></u>	<u></u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Pine Tree Water Control District (PTWCD or District) is an independent special district comprised of approximately 4,022 acres of land in Palm Beach County, Florida. This District was created by a circuit court decree dated May 17, 1971, for the purpose of water control and water supply. The District's statutory authority is derived from chapter 298, F.S. There are three special acts relating to the District.

PTWCD was created to construct, improve, pave and maintain streets, roadways, and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for cultivation, agricultural, settlement, and other beneficial use and development as a result of the drainage, irrigation and reclamation operations of the District. PTWCD's Board is comprised of three members elected by the landowners within the District on a one acre one vote basis.

PTWCD does not have ad valorem tax authority and uses a special assessment in order execute its duties and related activities.

This bill constitutes the codification of all special acts relating to the District's charter as contemplated by s. 189.429, F.S. The bill repeals chs. 80-572, 82-358, and 2005-295, L.O.F.

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

This bill provides an effective date of upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Codification of Special District Charters

Codification is the process of compiling, updating and systematically arranging the special acts that comprise a special district's charter. Original provisions may be amended by subsequent special acts after these charters are created by the Legislature. Because special act amendments are not automatically incorporated into one special act, it is necessary to locate all special acts amending an original charter in order to determine the current status of a special district's charter. This can be a difficult and time-consuming process for persons interested in ascertaining the law governing a district. Codification of special district charters is important because it allows readers to refer to one special act to identify the charter of a district.

Codification of special district charters initially was authorized by the 1997 Legislature in ss. 189.429¹ and 191.015,² F.S., both of which were amended in 1998. The laws currently provide for each district that has more than one special act to submit a draft codified charter, at its own expense, to the Legislature by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district, and be filed with the Department of Community Affairs within 30 days after adoption pursuant to s. 189.418(2), F.S. The 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law: (1) shall not be construed to grant additional authority nor supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend or alter any covenants, contracts or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Although the deadline for submission of codified special district charters was prior to the 2005 legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been

¹ Chapter 189, F.S., is known as the "Uniform Special District Accountability Act."

² Chapter 191, F.S., is known as the "Independent Special Fire Control District Act."

vetoed by the Governor. As a result, it is anticipated that proposed codification bills will continue to be filed.

Chapter 298, F.S – Drainage and Water Control

Chapter 298, F.S., contains provisions governing the creation and operation of water control districts. Prior to July 1, 1980, the formation of water control districts was handled chiefly through judicial action, and these districts were allowed to operate under the authority provided by ch. 298, F.S. However, on and after that date, no water control district may be created except as prescribed by s. 125.01, F.S., or a special act of the Legislature.

Since 1980, water control districts established under ch. 298, F.S., may be created by a county governing body or by a special act of the Florida Legislature.

The primary funding source for water control district activities is a special assessment. The assessment of a particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. A board of supervisors is also authorized to issue bonds and taxes.

Status Statement Language

Section 189.404(5), F.S., requires the charter for special districts created after October 1, 1997, to contain and, as practical, the charter of a preexisting special district to be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement must be amended to conform to the Department of Community Affairs' determination or declaratory statement regarding the status of the district.

Pine Tree Water Control District

PTWCD is an independent special district³ comprised of approximately 4,022 acres of land in Palm Beach County, Florida. This District was created by a circuit court decree dated May 17, 1971. The District's statutory authority, as stated above, is derived from ch. 298, F.S.

This District was created to construct, improve, pave and maintain streets, roadways, and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for cultivation, agricultural, settlement, and other beneficial use and development as a result of the drainage, irrigation and reclamation operations of the District.

Amendments for the power and authority of the PTWCD are done by Special Act of the Legislature. There have been three special acts of the Legislature that have directly impacted PTWCD's powers. The first (ch. 80-572, L.O.F.) provided the District with the ability to maintain roadways. The second (ch. 82-358, L.O.F.) provided that at least one member of the Board of Supervisors had to be a resident of Rustic Ranches. The third special act was more recent (ch. 2005-295, L.O.F.) and contemplated that the PTWCD would become a dependent district of the Village of Wellington. That act was subject to a referendum and since the referendum did not support the act, it never became effective and does not have any impact on current District operations or authority.

PTWCD does not have ad valorem tax authority and uses a special assessment in order execute its duties and related activities.

Board of Supervisors, Qualifications

PTWCD's Board of Supervisors is comprised of three members elected by the landowners within the District on a one acre one vote basis. Village of Wellington employees serve as staff members to the PTWCD.

³ "Independent special district" means a special district that is not a dependent special district. § 189.403(3), F.S. A dependent special district has at least one of the following characteristics: "(a) the membership of its governing body is identical to that of the governing body of a single county or a single municipality; (b) all members of its governing body are appointed by the governing body of a single county or a single municipality; (c) during their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; (d) the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality." § 189.403(2), F.S.

PTWCD's Board of Supervisors are qualified and elected in accordance with the provision of ch. 298, F.S. Beginning with the annual meeting of the landowners held in 1982, one of the members of the Board of Supervisors has been a legal resident of Rustic Ranches, in addition to the other qualifications provided for in ch. 298, F.S.

Proposed Changes

This bill codifies the District's charter and repeals chs. 80-572, 82-358, and 2005-295, L.O.F., in an attempt to comply with s. 189.429, F.S. This proposed bill does not alter the District's existing powers, boundaries, or operations in any way.

This bill brings the District into compliance with the requirements of s. 189.429, F.S., by having the special acts affecting the District codified into a single document of authority for re-enactment by the Legislature. The statutory deadline for compliance with s. 189.429, F.S., was December 1, 2004. PTWCD notes that the deadline was not met earlier because the District, located wholly within municipal boundaries of the Village of Wellington, was considering becoming a dependent district of the Village. A special act allowing for that possibility was passed by the Legislature, subject to a referendum on the issue. All special acts of the District became ordinances of the Village of Wellington on June 8, 2005, and the referendum was held on July 18, 2006. However, the referendum outcome resulted in a decision to remain an independent special district.

PTWCD also notes that because of the pendency of the passage and enactment of the dependent district legislation and a 2008 change in District administration, this bill provides the first opportunity since the District came within the boundaries of the Village of Wellington that the Board has had an opportunity to come into compliance with this statutory requirement. The statute does not prescribe any penalty for the failure to meet the 2004 date.

This bill also re-codifies the existence of PTWCD as a water control district with all the powers and authority of such a district under ch. 298, F.S. The bill also continues the District's ability to maintain roadways and requires at least one board member to be a Rustic Ranches resident. In addition, the bill does not alter, modify, or amend any contract or other obligation of the District, or amend the existing boundaries of the District in any way.

This bill provides an effective date of upon becoming a law.

To date, legislative staff has not received the status statement required pursuant to s. 189.404(5), F.S.

B. SECTION DIRECTORY:

Section 1: Provides guidelines for the reenactment of existing law.

Section 2: Amends, codifies, reenacts, and repeals chs. 80-572, 82-358, and 2005-295, L.O.F.

Section 3: Recreates the Pine Tree Water Control District, and reenacts the charter to include:

Section 1: Boundaries.

Section 2: Makes chs. 298 and 189, F.S., applicable to the District.

Section 3: Powers.

Section 4: Board of Supervisors.

Section 5: Amendment of master plan.

- Section 4: Provides a severability clause.
- Section 5: Construction.
- Section 6: Repeals chs. 80-572, 82-358, and 2005-295, L.O.F.
- Section 7: Provides a savings clause.
- Section 8: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 3, 2009.

WHERE? In the *Palm Beach Post*, a daily newspaper published in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

It appears that the provisions of this bill will not have an economic impact because this bill re-codifies the existing powers and operations of the District. The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES