

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1281 East County Water Control District, Hendry and Lee Counties

**SPONSOR(S):** Local and Federal Affairs Committee, Caldwell

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	14 Y, 0 N, As CS	Dougherty	Rojas
2) State Affairs Committee	16 Y, 0 N	Rosenthal	Camechis

### SUMMARY ANALYSIS

The East County Water Control District (District) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County.

This bill authorizes the District to finance, plan, construct, and operate street lights and sidewalks in Lee County. The bill also provides that the District may levy non-ad valorem tax assessments on a per-project basis that require the majority approval of electors who will be benefited and obligated to pay.

The bill is effective upon becoming a law.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1281c.SAC

**DATE:** 4/3/2013

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### History of Water Control Districts

Water control districts have a long history in Florida. As early as the 1830s, the Legislature passed special acts authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Following the passage of several special acts creating drainage districts, the Legislature passed the state's first general drainage law, the General Drainage Act of 1913, to establish one procedure for creating drainage districts – through circuit court decree – and to provide general law provisions governing the operation of these districts.

Between 1913 and 1972, the General Drainage Act remained virtually unchanged. In 1972 and 1979, the Legislature amended the act to change the name of these districts to water management districts and then to water control districts. In neither year did the Legislature enact a major reform of the act, although the 1979 act did repeal provisions authorizing the creation of water control districts by circuit court decree.

##### Limitation on Granting Additional Authority to Water Control Districts

Section 298.76, F.S., 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 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, s. 298.76, F.S., provides that any special or local law enacted by the Legislature pertaining to a water control district prevails as to that district and has 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.

##### Powers of Water Control Districts

The supervisors of a water control district created pursuant to ch. 298, F.S., have a variety powers provided in s. 298.22, F.S.<sup>1</sup> These include the full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.<sup>2</sup> Additionally, this section provides in pertinent part that a water control district:

may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of said district; acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal

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<sup>1</sup> Subject to the applicable provisions of chs. 373 and 403, F.S., the “Florida Water Resources Act of 1972” and the “Florida Air and Water Pollution Control Act” respectively.

<sup>2</sup> Section 298.22, F.S.

property, including pumping stations, pumping machinery, motive equipment, electric lines and all appurtenant or auxiliary machines, devices, or equipment.<sup>3</sup>

### East County Water Control District

The East County Water Control District (District) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County. The District is responsible for the maintenance of drainage infrastructure for 70,000 acres in these counties. The District was created by circuit court decree in 1958 and derives its statutory authority from ch. 298, F.S., and is considered to be created pursuant to this chapter.<sup>4</sup>

According to the codification of the District's special laws and charter,<sup>5</sup> the District may exercise all powers, functions, and duties in chs. 189, 197, and 298, F.S., and ch. 2000-423, L.O.F. Pursuant to these authorities, the codification was accompanied by additional grants of power relating to public improvements and community facilities, specifically relating to conservation, parks, and navigation.

This bill's proposed additional powers regarding street lights and sidewalks are statutorily authorized in ch. 298, F.S. Section 298.22(3), F.S., provides that water control districts may build and construct any works and improvements deemed necessary to preserve and maintain the works in or out of said district.

### **Effect of Proposed Changes**

The bill amends ch. 2000-423, L.O.F., as amended, granting the District's board of commissioners the power to finance, plan, construct, and operate street lights and related facilities and sidewalks in the Lee County portion of the District. Furthermore, the bill provides for funding of said projects through non-ad valorem assessments on a per-project basis. These assessments require a majority approval of those electors that would be benefited and obligated to pay. The bill adds street lighting and sidewalk powers to the board's current additional powers relating to conservation, parks, and navigation.

This bill is effective upon becoming a law.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends ch. 2000-423, L.O.F., as amended; grants powers to the District relating to public improvements and community facilities in the Lee County, Florida portion of the District; authorizes the District to finance, plan, construct, and operate (a) street lights and associated facilities, and (b) sidewalks; provides for non-ad valorem assessments on per-project basis for these street lighting or sidewalk facilities; provides the District with statutory authority options with which the implementation of said projects must apply; requires majority approval of electors who will be benefited and obliged to pay non-ad valorem assessments for said projects.

**Section 2:** Provides that the act takes effect upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

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<sup>3</sup> Section 298.22(3), F.S.

<sup>4</sup> See s. 298.01, F.S.

<sup>5</sup> Chapter 2000-423, L.O.F., pursuant to s. 189.429, F.S.

IF YES, WHEN? February 2, 2013

WHERE? *The News-Press*, a daily and Sunday paper published in Lee County, Florida.

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.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2013, the House Local and Federal Affairs Committee adopted a technical amendment and passed the bill as amended.

This analysis has been updated to reflect the amendment adopted by the Local and Federal Affairs Committee.