

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 979 Fort Pierce Farms Water Control District, St. Lucie County

**SPONSOR(S):** Mayfield

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

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

### SUMMARY ANALYSIS

This bill amends, codifies, and repeals all special acts and court decrees relating to the Fort Pierce Farms Water Control District (District) to create a single, unified charter. This bill provides the District's boundaries, a maximum annual maintenance tax, and a lifespan lasting until 2111. Additionally, the District is subjected to the requirements of ch. 298, F.S., governing water control districts.

This bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### History of Water Control Districts

As early as the 1830s, the Florida 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 unaltered. In 1972 and 1979, respectively, 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 In neither year did the Legislature enact a major reform of the act, although the 1979 bill repealed provisions authorizing the creation of water control districts by circuit court decree.

##### 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.

##### *Creation of Water Control Districts*

Under section 298.01, F.S., new water control districts may only be created by special acts of the Legislature (independent water control districts) or pursuant to the provisions of s.125.01, F.S. (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by ch. 298, F.S.

##### *Board of Supervisors*

Upon the formation of a water control district, 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.<sup>1</sup> 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. The Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting if acreage owned by the state is subject to assessment by the district.

The members of the board are reimbursed for their travel expenses pursuant to s. 112.061, F.S., but receive no compensation for their service unless the landowners determine at the annual meeting to pay a compensation, which in no event may exceed \$50 per day for the time actually engaged in work for the district and in attending sessions of the board.

Pursuant to s. 298.22, F.S., the board of supervisors of the district has full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the district's water control plan.

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<sup>1</sup> Section 298.11(2), F.S., provides that every acre of assessable land within a district represents one share, or vote, i.e., "one acre, one 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 assessable acre are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one assessable acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowner's acreage is aggregated for purposes of voting.

## *Water Control Plans*

Effective October 1998, any plan of reclamation, water management plan, or plan of improvement developed and implemented by a water control district is considered a "water control plan." The approval and implementation process has been removed from the purview of the circuit court.

Before adopting a water control plan or plan amendment, the board of supervisors must adopt a resolution to consider the issue. The board must publish notice of a public hearing once a week for three consecutive weeks in a newspaper of general circulation. Individual notices are mailed to landowners, the jurisdictional water management district, the county commission of the county, and the governing body of any municipality in which the District is located.

At the public hearing on the proposed plan or plan amendment, the board of supervisors considers any objections and then determines whether or not to move forward with the plan. In the event the board decides to proceed, it directs the district engineer to prepare a written report complete with maps and surveys. The report must include a full and complete water control plan for draining and reclaiming the lands described in the petition. Further, the report must contain an estimate of the costs of carrying out and putting into effect the water control plan and an estimate of the benefits derived from the water control plan.

A final hearing on approval of the water control plan and the engineer's report is noticed by publication and held at a regularly scheduled board of supervisors' meeting within 60 days after the filing of the report with the secretary of the district.

Before final adoption of the engineer's report and water control plan or plan amendment under s. 298.301, F.S., the board of supervisors must determine that the estimated cost of construction contemplated in the plan or amendment is less than the benefits determined for the lands.

The board of supervisors must review the water control plan at least every five years following its adoption.

## *Revenue Sources*

The primary funding source for water control district activities is special assessments, which must be imposed on the property so that the burden on every parcel bears a just proportion to that imposed on every other. In other words, the assessment of a particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. Special assessments are limited to the property benefited and are not taxes within the meaning of the general constitutional requirement that taxation be imposed at a uniform rate. Special assessments may be determined legislatively or judicially.

A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of special assessments levied.<sup>2</sup>

Section 298.54, F.S., also authorizes a maintenance tax to maintain and preserve the ditches, drains, or other improvements, and for the purpose of defraying the current expenses of the district, including any sum which may be required to pay state and county taxes on any lands which may have been purchased. The maintenance tax is apportioned upon the basis of the net assessments of benefits assessed as accruing from original construction.

## *Powers of Water Control Districts*

A water control district created pursuant to this ch. 298, F.S., has 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>3</sup>

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<sup>2</sup> Section 289.47(1), F.S.

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

A water control district may be authorized to engage in various water control activities,<sup>4</sup> including the power:<sup>5</sup>

- (1) To employ persons and purchase machinery to directly supervise, construct, maintain, and operate the works and improvements described in the water control plan, or contract with others for the same.
- (2) To clean out, straighten, open up, widen, or change the course and flow; alter or deepen any canal, ditch, drain, river, watercourse, or natural stream; concentrate, divert, or divide the flow of water in or out of the district; construct and maintain main and lateral ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations and siphons, and may connect the same, with any canals, drains, ditches, levees, or other works, and with any natural stream, lake or watercourse.
- (3) To build and construct other works and improvements to preserve and maintain the works in or out of the district; acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices or equipment.
- (4) To contract for the purchase, construction, operation, maintenance, use, sale, conveyance, and transfer of pumping stations, machinery, motive equipment, electric lines, and appurtenant equipment, including the purchase of electric power and energy for the operation of the same.
- (5) To construct or enlarge, or cause to be constructed or enlarged, bridges that may be needed in or out of the district, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, track, grade, fill, or cut; construct roadways over levees and embankments; construct any and all of said works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill, or cut, in or out of the district; remove any fence, building, or other improvements, in or out of the district.
- (6) To hold, control, and acquire by donation or purchase and if need be, condemn any land, easement, railroad right-of-way, sluice, reservoir, holding basin, or franchise, in or out of the district, for right-of-way, holding basin, or for material to be used in constructing and maintaining said works and improvements for implementation of the district water control plan.
- (7) To condemn or acquire, by purchase or grant, for the use of the district, any land or property within or without the district not acquired or condemned by the court as identified in the engineer's report, and follow the procedure set out in ch. 73, F.S., relating to eminent domain.
- (8) To adopt resolutions and policies.
- (9) To assess and collect reasonable fees for the connection to and use of the works of the district.
- (10) To implement comprehensive water control activities, including flood protection, water quantity management, and water quality protection and improvement, described in the water control plan.

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<sup>4</sup> Such power is subject to the applicable provisions of chs. 373 and 403, F.S., known as the "Florida Water Resources Act of 1972" and the "Florida Air and Water Pollution Control Act," respectively.

<sup>5</sup> See s. 298.22, F.S.

- (11) To construct and operate facilities for the purpose of controlling and preventing the spread or introduction of agricultural pests and diseases.
- (12) To construct, manage, or authorize construction and management of resource-based recreational facilities that may include greenways, trails, and associated facilities.

### The Uniform Special District Accountability Act

The 1989 Legislature enacted ch. 189, F.S., known as the "Uniform Special District Accountability Act," to consolidate and unify the provisions of existing law relating to the creation and accountability of special districts. The act continues to provide for the general governance of special districts, addressing issues such as the creation and operation of special districts, financial reporting requirements, funding authority, election of board members, compliance with general law provisions such as public records and meetings requirements, and comprehensive planning within special districts.

### Codification

The special acts and court decrees composing the charter of the District have not been codified into a single, comprehensive act as required by s. 189.429, F.S. The 2012 Legislature passed ch. 2012-240, L.O.F., to extend the District's life to December 31, 2111 as it was set to expire in 2018. As a condition of that special act, the District was required to file a bill by the first day of the 2013 Regular Legislative Session codifying all special acts into a single act for reenactment. If the District failed to do so, ch. 2012-240, L.O.F, and the life extension contained therein would be repealed.

### Fort Pierce Farms Water Control District

The Fort Pierce Farms Water Control District (the District) in St. Lucie County is an independent special district responsible for drainage, flood control and protection, water management, and reclamation of lands for approximately 13,000 acres. The District was created in 1919 with a corporate lifespan of 99 years, which was extended for another 99 years in 2012. The initial purpose of the District was to drain approximately 12,000 acres northwest of Fort Pierce for agricultural development. Since 1919, there have been various special acts passed and court decrees issued relating to the District.

### **Effect of Proposed Changes**

This bill amends and codifies special acts and court decrees relating to the District to create a unified District charter. This charter is reenacted and the remaining special acts and court decrees are repealed. This fulfills the legislative directive in ch. 2012-240, L.O.F., thereby preserving the 99 year lifetime expansion passed by the 2012 Legislature.

The reenacted charter maintains two unaltered provisions from prior special acts:

- (1) The District is authorized to assess and levy a maximum annual maintenance tax of \$25 per acre or per parcel/tract less than one acre.
- (2) The District lifespan extends until December 31, 2111.

These provisions, found in lines 169-173 and 182-183, respectively, are included in the bill to prevent their omission from being interpreted as an expansion of the District's authority.

The bill declares the district to be an independent water control district and a public corporation of the state pursuant to chs. 189 and 298, F.S. Chapter 298, F.S., has been incorporated into several parts of the charter previously and this codification expands the District's authority to include any ch. 298, F.S., authority.

In accordance with s. 189.404(3), F.S., the following minimum requirements are provided for the charter of the Fort Pierce Farms Water Control District:

- (1) The district is organized and exists for all purposes set forth in its charter and ch. 298, F.S.
- (2) The district's charter may be amended only by special act of the Legislature.
- (3) In accordance with ch. 189, F.S., the charter, and ss. 298.11 and 298.12, F.S., the governing board of the district is designated the "Board of Supervisors of the Fort Pierce Farms Water Control District" and composed of three persons, who are qualified to hold such office if they are landowners within the district, residents of the state, and citizens of the United States, elected on a one-acre, one-vote basis by the landowners in the district; however, landowners owning less than one acre in the aggregate are entitled to one vote. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than one-half acre owned, when a landowner's acreage has been aggregated for purposes of voting. The membership and organization of the governing board are as set forth in the charter and ch. 298, F.S., provided the charter controls with respect to any inconsistency.
- (4) The compensation of the governing board members is governed by the charter and ch. 298, F.S.
- (5) The administrative duties of the governing board are as set forth in the charter and chs. 189 and 298, F.S.
- (6) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for district officers and employees are as set forth in chs. 112, 189, 190, 286 and 298, F.S., and all other applicable general laws of the state.
- (7) The procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the district are as set forth in chs. 189 and 298, F.S., and applicable general laws.
- (8) The procedures for conducting district elections or referenda and for qualification of electors are pursuant to chs. 189 and 298, F.S.; however, a quorum for purposes of holding the annual meeting or any special meetings consists of those landowners present in person or represented by proxy at said meeting.
- (9) The district may be financed by any method established in its charter, ch. 298, F.S., and other applicable general laws of the state.
- (10) The district is authorized to assess and levy a maximum maintenance tax that is equal and uniform in amount upon each acre of land assessed, and upon any tract or parcel less than one acre in size, and that does not exceed \$25 per acre in any one year.
- (11) The methods for collecting non-ad valorem assessments, fees, or service charges are as set forth in chs. 197 and 298, F.S., and other applicable general laws of the state.
- (12) The district's planning requirements are as set forth in chs. 189 and 298, F.S.<sup>6</sup>
- (13) The district's geographic boundary is as set forth in its charter.

This bill is effective upon becoming law.

## B. SECTION DIRECTORY:

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<sup>6</sup> The district's planning requirements are set forth in s. 298.225, F.S.

- Section 1:** Provides for the codification of all special acts and court decrees relating to the Fort Pierce Farms Water Control District; provides legislative intent.
- Section 2:** Amends, codifies, reenacts, and repeals chs. 9981 (1923), 10549 (1925), 12033 (1927), 16032 (1933), 25447 (1949), 65-1226, 78-609, 82-376, 87-448, and 2012-240, L.O.F.
- Section 3:** Recreates the Fort Pierce Farms Water Control District; recreates, reenacts, and provides the charter language for said district.
- Section 4:** Repeals chs. 9981 (1923), 10549 (1925), 12033 (1927), 16032 (1933), 25447 (1949), 65-1226, 78-609, 82-376, 87-448, and 2012-240, L.O.F.
- Section 5:** Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 23, 2013

WHERE? The *St. Lucie News-Tribune*, a daily newspaper published at Fort Pierce in St. Lucie 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

N/A