

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2696

SPONSOR: Senator Geller

SUBJECT: Disston Island Conservancy District in Hendry and Glades Counties

DATE: April 17, 2000

REVISED: 04/17/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill codifies all prior special acts relating to the Disston Island Conservancy District (district) in Hendry and Glades Counties into a single act and repeals all prior special acts relating to the district's charter.

This bill makes no substantive changes to the current charter of the district.

II. Present Situation:

In 1923, the Florida Legislature created the Disston Island Drainage District, through special act (chapter 23-9977, L.O.F.). The 1975 Florida Legislature changed the name of the district to the Disston Island Conservancy District (chapter 75-383, L.O.F.). It has been amended 12 times by the Legislature since 1923. Chapter 75-383, L.O.F., repealed the following chapters: 25-10472, 29-13626, 31-14710, 37-17891, 41-20495, 45-22879, and 49-25445, L.O.F. The district exists to provide comprehensive water management and control and development and management of lands and water within the district for the purpose of making the lands within the district available and habitable for settlement and agriculture, for the public convenience, welfare, utility, and benefit.

Codification

Codification is the process of bringing up-to-date a special act. Special acts are not codified and, after the Legislature passes the initial enabling act, special acts continuously amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments or changes made to the act since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to go to one special act to determine the current charter of a district, instead of two, ten, twenty, or sometimes more special acts.

The 1997 Legislature amended chapter 189, F.S., to provide for codification of all special districts' charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, F.S., requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation and that all prior legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, F.S., by

- (1) extending the deadline to codify to December 1, 2004;
- (2) allowing for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs;
- (3) removing the prohibition of substantive amendments in a district's codification bill; and
- (4) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

- Special districts with 2 special acts (45 districts): 1999 Legislative Session
- Special districts with 3 - 4 special acts (63 districts): 2000 Legislative Session
- Special districts with 5 - 7 special acts (53 districts): 2001 Legislative Session
- Special districts with 8 - 12 special acts (56 districts): 2002 Legislative Session
- Special districts with 13 or more (54 districts): 2003 Legislative Session
- Special fire control districts (47 districts): 2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, F.S., 36 special districts have codified their charters. In 1998, the Environmental Protection Commission in Hillsborough County unsuccessfully attempted to codify its charter. The district is scheduled to codify in 2002. In 1999, there were two unsuccessful codifications. Mid-Bay Bridge Authority's codification bill passed the Legislature, but was vetoed by the Governor. The authority was scheduled to codify its charter in 1999. The South Walton Fire District's codification bill died on the House calendar on April 30, 1999. The district is scheduled to codify its charter in 2004.

According to the Schedule of Submissions of Special District Charters and information relating to charters previously codified, there are 94 special districts that should have been codified during the 1999 session but which were not. There are 56 special districts that are scheduled for codification during the 2000 Legislative Session.

Status Statement Language

Section 189.404(5), F.S., provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

History of Water Control Districts

Water control districts have a long history in Florida. As early as the 1830s, the Legislature passed a special act 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.

Chapter 298, Florida Statutes

Chapter 298, F.S., contains provisions governing the creation and operation of water control districts. Section 298.01, F.S., restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 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 chapter 298, F.S.

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, the clerk of the circuit court with jurisdiction over the district must announce the first landowners' meeting in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve 3-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. In the event a quorum is not present, the Department of Environmental Protection (DEP) is required to fill the vacant seat.

Section 298.11, F.S., provides for every acre of land within a district to represent one share, or vote. Each landowner within a district is entitled to one vote per acre of land they own. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well.

As noted, once a water control district is formed, the circuit court of the county where the majority of the land is located has exclusive jurisdiction within the boundaries of the district. Circuit courts serve several functions in the creation and governance of water control districts. After a board of supervisors adopts a plan of reclamation, it must petition the circuit court to appoint three commissioners to appraise the lands that will be acquired to implement the plan of reclamation. A circuit court may require the report on assessment of benefits and damages to be amended and it must condemn lands described in the report that are needed to construct the district's works. In the event a circuit court determines that the value of land within the district has changed and additional conditions are met, the court is required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

The primary funding source for water control district activities is special assessments. Once a circuit court has issued its decree on the report on assessments of benefits and damages, a board

of supervisors may levy a tax on the land that will be benefited by the works. This tax must be apportioned to, and levied on, each tract of land in said district in proportion to the benefits assessed, and not in excess thereof, as provided for in section 298.50, F.S. A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of assessments levied. A board of supervisors also may levy an annual maintenance tax on each tract of land in the district to maintain and preserve the district's works once they are completed. This tax also must be apportioned on the basis of the net benefits accruing to the individual parcels.

Limitations on Special Acts

Paragraph (21) of Subsection 11(a), Article III of the State Constitution, prohibits special laws or general laws of local application pertaining to any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Furthermore, such law may be amended or repealed by like vote.

Section 298.76, F.S., was adopted pursuant to this authority. The section provides 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 this chapter. However, this subsection does not prohibit special or local legislation that:

- (a) Amends an existing special act which 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 as outlined in this chapter.

The section also authorizes special or local laws:

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

Finally, the section 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 this chapter or any section thereof at the time the district was created and organized.

III. Effect of Proposed Changes:

The bill codifies all prior special acts relating to the Disston Island Conservancy District in Hendry and Glades Counties into a single act and repeals all prior special acts relating to the district's charter. The bill removes obsolete language which was preempted by applicable general law chapters and inserts general law language. The bill provides for minimum charter requirements. This bill does not make any substantive changes to current law.

Section 1 declares that the intent of this act is to codify all prior special acts relating to the Disston Island Conservancy District into a single act and repeals all prior special acts relating to the district's charter.

Section 2 codifies, reenacts, amends, and repeals, as provided in this act, chapter 9977, Laws of Florida, 1923; chapter 14709, Laws of Florida, 1931; and chapters 75-383 and 77-561, Laws of Florida.

Section 3 re-creates the district's charter.

Section 1 of the charter provides that the district is organized and exists pursuant to chapter 298, F.S. The district's powers, functions, and duties relating to non-ad valorem assessments, bond issuance, other revenue-raising capabilities, budget, liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are as established in chapters 189, 197 and 298 F.S. The provision for the District Board of Supervisors, their compensation, administrative duties, levy and collection of taxes, are governed by chapter 298, F.S. The financing of the district, issuance of bonds by the board, district elections, levy and collection of special assessments, and planning requirements are governed by chapters 189 and 298, F.S. Meetings of the Board are governed by chapters 112, 189, 286, and 298, F.S.

Section 2 of the charter provides that the drainage, reclamation, and conservation of lands in the district from the effects of water, or lack of water, for controlling the water and the water tables and the creation of the district are in the interest of and conducive to agricultural and sanitary purposes, and for the public health, convenience, welfare, utility, and benefit. This section also describes the district's boundaries.

Section 3 of the charter provides for additional powers of the district to maintain and rehabilitate facilities designed to facilitate the drainage, irrigation, and water control of the lands in the district.

Section 4 of the charter authorizes the district to levy maintenance taxes and to provide for special and additional services to any particular area in the district.

Section 5 of the charter provides that all district lands must receive equal benefits from the water management works, facilities, and improvements and that such lands must be taxed equally for the maintenance, rehabilitation, and improvement of the district's works, facilities, and improvements.

Section 6 of the charter authorizes the district to periodically levy a rehabilitation tax to be levied in the same manner as the maintenance tax, subject to the approval of the landowners at any regular or special meeting.

Section 7 of the charter designates the three member governing board of the district to be the "Board of Supervisors of Disston Island Conservancy District."

Section 8 of the charter provides that at any landowners' meeting, the owners and proxy holders of land in the district present shall constitute a quorum.

Section 9 of the charter ratifies, validates, and confirms all other acts and proceedings of the Circuit Court of Hendry and Glades Counties taken by, for, and on behalf of the district since its creation, and all of the acts and proceedings of the Board of Supervisors, the Commissioners, and all other officers and agents of the district, counties, acting for and on behalf of the district, and any and all tax levies and assessments which have been made by the Board of Supervisors for and on behalf of the district.

Section 4 repeals chapter 9977, Laws of Florida, 1923; chapter 10591, Laws of Florida, 1925; chapter 11510, Laws of Florida, 1925; chapter 1479, Laws of Florida, 1931; chapter 75-383, Laws of Florida, and chapter 77-561, Laws of Florida.

Section 5 provides that in the event a section or provision of this act is determined to be invalid or unenforceable it shall not affect any other section or provision of this act.

Section 6 provides that in the event a provision of this act is determined to be a conflict with any other act the provision of this act shall control.

Section 7 provides this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides a Rehabilitation Tax that is not authorized by Chapter 298, F.S.

Under s. 11(a)(21), Art. III of the Florida Constitution, the Legislature may, by general law, designate a subject as prohibited special law. Under this procedure, the Legislature, pursuant to s. 298.76(1), F.S., prohibits any special law or general law of local application that grants additional authority, beyond that granted by chapter 298, F.S., to any water control district, with several exceptions where the special act:

- ▶ Amends an existing special act which provides for the levy of an annual maintenance tax;
- ▶ Extends the corporate life of the district;
- ▶ Consolidates adjacent districts;

- ▶ Authorizes the construction or maintenance of roads for agricultural purposes;
- ▶ Changes the method of voting for a board of supervisors; and
- ▶ Changes the governing authority or governing board of any district.

Section 298.54, F.S., authorizes a maintenance tax for the purpose of maintaining and preserving drainage improvements which is apportioned on the basis of the net assessments of benefits assessed as accruing from the original construction of the drainage improvements. In contrast, chapter 298, F.S., contains no similar authority for a rehabilitation tax.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The law firm representing the district has submitted a boundary letter which states that the bill's legal description does not modify or alter the current boundaries of the District.

Notice of the local bill was published January 27, 2000 in the Glades County Democrat. The Local Bill Certification and Economic Impact Statement has been filed and is attached.

VIII. Amendments:

#1 by Comprehensive Planning, Local and Military Affairs:

This technical amendment corrects the list of Laws of Florida repealed by this bill.