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DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 905
RELATING TO: Broward Co./Pine Tree Water District
SPONSOR(S): Representative Ritter
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 7 NAYS 0
 - (2) STATE ADMINISTRATION YEAS 3 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Pine Tree Water Control District (District) was first established as the Broward County Board of Water Resources in 1961, a drainage and water control district under chapter 298, Florida Statutes. The District boundaries partly encompass the cities of Parkland and Coral Springs. The District provides water control services for the cities of Coral Springs and Parkland, as well as the unincorporated areas surrounding these cities in Broward County.

The bill codifies all prior special acts relating to the Pine Tree Water Control District into a single act.

This bill has no fiscal impact according to the Economic Impact Statement.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Pine Tree Water Control District (District) was first established as the Broward County Board of Water Resources in 1961, a drainage and water control district under chapter 298, Florida Statutes. The District boundaries partly encompass the cities of Parkland and Coral Springs. The District provides water control services for the cities of Coral Springs and Parkland as well as the unincorporated areas surrounding these cities in Broward County. The Board of Supervisors for the District is composed of three members-at-large and one member appointed by the City Commission of Coral Springs and one member appointed by the Parkland City Commission.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be made to a district's charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow 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) remove the prohibition of substantive amendments in a district's codification bill; and (4) remove 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. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

Schedule of Submittals of Special Districts' Charters

Special Districts with less than 2 special acts

1999 Legislative Session

Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 89 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Status Statement Language

Section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district must 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 must be amended to conform to 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, Florida Statutes, contains provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Creation of Water Control Districts

Section 298.01, Florida Statutes, 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, Florida Statutes (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, Florida Statutes

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 shall be given. The notice shall 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 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, 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.

One-Acre, One-Vote

Section 298.11(2), Florida Statutes, provides that 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 are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Role of the Circuit Courts

Prior to July 1, 1980, when a water control district was formed, the circuit court of the county where the majority of the land is located had exclusive jurisdiction within the boundaries of the district. Circuit courts served several functions in the creation and governance of water control districts. After a board of supervisors adopted a plan of reclamation, it petitioned the circuit court to appoint three commissioners to appraise the lands that would be acquired to implement the plan of reclamation. A circuit court may have required the report on assessment of benefits and damages to be amended to include condemned lands needed to construct the district's works. In the event a circuit court determined that the value of land within the district had changed and additional conditions were met, the court was required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

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 adoption of the plan or plan amendment. The board of supervisors shall publish notice of a public hearing once a week for 3 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 any municipality in which the District is located.

At the public hearing on the proposed plan or plan amendment the board of supervisors will consider any objections to the plan and then shall determine whether or not to proceed with the plan. In the event the board proceeds forward, it will then direct the District Engineer to prepare a report in writing to the board of supervisors complete with maps and surveys. The report shall 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 the completing 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 engineer's report with the secretary of the district.

Before final adoption of the engineer's report and water control plan or plan amendment under section 298.301, Florida Statutes, the board of supervisors must determine that the estimated costs 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 5 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 will bear a just proportion to that imposed on every other. In other words, the assessment of the 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.

Limitation on Special Acts

Section 11(a)(21), Article 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, Florida Statutes, 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 chapter 298, Florida Statutes. Section 298.76, Florida Statutes, 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 as outlined in this chapter.

Section 298.76, Florida Statutes, 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 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, section 298.76, Florida Statutes, 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 chapter 298, Florida Statutes, at the time the district was created and organized.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies chapters 61-1969, 63-1186, 65-1337, 69-905, 71-562, 71-581, 73-420, 74-446, 77-518, 85-391, 93-372, and 94-430, Laws of Florida, relating to the Pine Tree Water Control District into a single act.

In compliance with section 189.404(5), Florida Statutes, this bill provides that the District is an independent special district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification required under section 189.429, Florida Statutes. States the Legislative intent for the act.

Section 2: Provides that this act amends, codifies, reenacts, and repeals the special acts relating to the District's charter.

Section 3: Provides for the re-creation and reenactment of the charter for the District and the following provisions.

Section 1: Provides the method for establishing the District; validates all lawful debts, bonds, obligations, contracts, franchises, promissory notes, audits, minutes, resolutions, and other takings of the Pine Tree Water Management District; and, provides that procedures done by the Pine Tree Water Management District will not be impaired or avoided by this act.

Section 2: Provides the geographical boundaries of the District.

Section 3: Provides for the applicability of chapter 298, Florida Statutes, to the District insofar as not inconsistent with this act; and, reenacts exemptions from general law provisions found in sections 298.11 (Landowners' meetings; election of board of supervisors; duties of Department of Environmental Protection), 298.12 (Annual election of supervisors; term of office; vacancy), and 298.54 (Maintenance tax), Florida Statutes.

Section 4: Provides definitions of terms as used in this act.

Section 5: Provides that the District is an independent special district; provides the membership and organization of the governing board of the district; provides the terms of office for members of the District's governing board; provides the number of members of the governing board that constitutes a quorum; provides for monthly meetings of the governing board of the District; and, provides for the maximum compensation of a governing board member.

- Section 6: Authorizes the levy of ad valorem taxes; provides the millage rate that is authorized; and, provides the enforcement of taxes, penalties for delinquent tax payment, tax liens, foreclosure of liens, and use of tax deeds and tax certificates.
- Section 7: Provides the methods for collecting non-ad valorem assessments; reenacts an exemption from general law to provide that District special assessments may be made payable in 20 annual installments rather than 30 annual installments as provided in section 170.09 (Priority of lien; interest; and method of payment), Florida Statutes.
- Section 8: Authorizes the issuance of bonds and other certificates of indebtedness; and, provides the procedures and requirements for issuing bonds.
- Section 9: Provides the methods for collecting fees, rentals, and charges; and, provides minimum revenue requirements.
- Section 10: Provides civil remedy for recovery of delinquent charges owed to the District.
- Section 11: Provides the method for discontinuance of District services when charges owed to the District are not paid in a timely fashion.
- Section 12: Provides legal and equitable remedies and penalties for the enforcement of the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act.
- Section 13: Provides that any action against the District in tort is limited as provided in section 768.28 (Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs), Florida Statutes.
- Section 14: Provides that District property is exempt from execution or other judicial process; and, provides rights and remedies for enforcement of any lien or pledge given by the District in connection with bonded indebtedness or other obligation.
- Section 15: Provides that the dissolution, merger, abolishment, or other proceeding relative to the District is governed by chapter 189, Florida Statutes.
- Section 4:** Provides for the severability of any invalid provision.
- Section 5:** Provides this act will take precedence over conflicting laws.
- Section 6:** Repeals special acts relating to the District's charter.
- Section 7:** Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28, 2001

WHERE?

Sun-Sentinel, Fort Lauderdale, Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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Joan Highsmith-Smith

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