



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### ***Codification***

Codification is the process of updating a special act. After a special district is created, special acts often amend the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all changes made to the charter since its inception. Codification of special district charters is critical because it allows readers to easily discern the present provisions of a charter.

Codification of special district charters initially was authorized by the 1997 Legislature pursuant to ss. 189.429 (special districts) and 191.015, F.S. (independent special fire control districts). Current law provides for codification of all special district charters by December 1, 2004. 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.

The 2001 Legislature amended s.189.429, F.S., to provide that reenactment of existing law pursuant to that section shall:

- not be construed to grant additional authority nor to supercede the authority of an entity;
- continue the application of exceptions to law contained in special acts reenacted pursuant to the section;
- not be construed to modify, amend or alter any covenants, contracts or other obligations of any district with respect to bonded indebtedness; and
- 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.

Since the enactment of ss. 189.429 and 191.015, F.S., 155 special districts have codified their charters.

##### ***History of Water Control Districts***

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. The Legislature did not enact a major reform of the act in either year, although the 1979 act repealed provisions authorizing the creation of water control districts by circuit court decree.

### ***Chapter 298, F.S.***

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 the provisions of s.125.01, F.S. (dependent water control districts), which relate to the powers of county governing bodies. Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by ch. 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.

Notice of the first landowners' meeting is required within 20 days after the effective date of a special act creating a district. The notice is to be published once a week for two consecutive weeks in a newspaper of general circulation in each county in which lands of the district are located. At the first meeting, the 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. 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 primary funding source for water control district activities is special assessments. The assessment of the particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. A board of supervisors also is authorized to issue bonds and taxes.

### ***Limitation on Special Acts***

Article III, s. 11(a)(21), 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, F. S., is an example of 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 ch. 298, F. S. Section 298.76 F. S., does not prohibit special or local legislation that:

- amends an existing special act that provides for the levy of an annual maintenance tax of a district;
- extends the corporate life of a district;
- consolidates adjacent districts; or
- authorizes the construction or maintenance of roads for agricultural purposes as outlined in ch. 298, F.S.

Additionally, s. 298.76, F. S., authorizes special or local legislation that:

- changes the method of voting for a board of supervisors for any water control district;
- provides a change in the term of office of the board of supervisors or changes the qualifications of the board of supervisors of any water control district; or

- 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 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 ch. 298, F.S., at the time the district was created and organized.

## HB 1403

The North Lauderdale Water Control District, a dependent special district, was created by ch. 63-661, L.O.F. This bill codifies, reenacts and repeals all prior special acts relating to the district's charter. An updated description of the district's boundaries is provided. Additionally, the bill amends the district charter to provide that:

- the district may borrow money at a rate not to exceed that which is provided by law;
- members of the board of supervisors shall be the "city commission," rather than the "city council" of the City of North Lauderdale, due to a change in the proper name of that body;
- the board shall elect a chair and vice chair at the required annual meeting or as necessary due to vacancies;
- the publication of meeting notice shall be made once at least five days prior to the meeting rather than by publication for two consecutive weeks, and the meeting shall be held at a public place, rather than a "convenient place";<sup>1</sup>
- the city clerk of the city of North Lauderdale will serve as the district secretary.
- board members will be reimbursed for travel expenses pursuant to s. 112.061, F.S.<sup>2</sup>
- interest rates on bonds issued by the board shall not exceed the maximum rate allowed by law.
- interest rates on tax anticipation notes issued by the board shall not exceed the maximum rate allowed by law.

Section 16 of ch. 63-661, L.O.F., relating to "the payment of taxes in advance not authorized" is deleted as it reflects a provision of ch. 298, F.S., which has been repealed (s. 298.42, F.S.).

### C. SECTION DIRECTORY:

Section 1: Provides that this act is the district's charter codification required under s. 189.429, F.S.: provides Legislative intent; preserves all district authority, and any additional authority provided by the act.

Section 2: Codifies, reenacts, amends and repeals chs. 63-661, 82-273, 85-385, 94-428, and 97-370, L.O.F.

Section 3: Re-creates and reenacts the North Lauderdale Water Control District charter as follows:

Section 1. Creates the district; provides a legal description of the district's boundaries; declares that said lands in their present condition are wet and subject to overflow, and that protection of these lands is in the public interest.

Section 2. Provides for applicability of provisions of ch. 298, F.S., to the district, which are not inconsistent with the act. Adds new language which states that it is

<sup>1</sup> This provision may not provide the requisite "reasonable notice" of public meetings that is contemplated by the Sunshine Law. See, s. 286.011(1), F.S. While that law does not specify what constitutes reasonable notice, public agencies may be subject to additional notice requirements imposed by other statutes. In such cases, the requirements of that statute must be strictly observed. In this case, s. 298.11, F.S., which governs water control districts, provides that "notice shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in each county in which lands of the district are located, the last publication to be not less than 10 nor more than 15 days before the date of the meeting."

<sup>2</sup> Section 298.14, F.S., provides that members of a board shall be reimbursed for their travel expenses pursuant to s. 112.061, F.S. The charter currently states that board members shall be paid 10 cents per mile for trips to and from the board meeting.

determined that said lands in their present conditions are wet and that the drainage, reclamation and protection of these lands from the effects of water is conducive to the public health and welfare.

- Section 3. Provides for the powers of the district.
- Section 4. Provides the district board of supervisors be the governing body of the district; provides for a five member governing board, composed of the city commission of the City of North Lauderdale; provides for terms of office that are coincidental with that member's term of office; provides for annual meetings.
- Section 5. Provides for special meetings; provides for notice, with exception; provides for not less than four meetings annually.
- Section 6. Provides for compensation of the board.
- Section 7. Provides for the levy, apportionment and collection of annual taxes or non-ad valorem assessments.
- Section 8. Provides for a maintenance tax.
- Section 9. Provides for the levy and assessment of all taxes on fractional acres.
- Section 10. Provides for the collection and enforcement of all taxes and assessments.
- Section 11. Provides for penalties when unpaid tax is delinquent.
- Section 12. Provides for the issuance of bonds; provides for the sale and disposition of proceeds; provides for interest; provides the duties of the treasurer with regards to bonds.
- Section 13. Authorizes full authority for the issuance and sale of bonds.
- Section 14. Provides that the board may issue bonds without the approval of the state board of drainage commissioners.
- Section 15. Authorizes the issuance of tax anticipation notes.
- Section 16. Authorizes the right of eminent domain by the district.
- Section 17. Declares that the water in the district is a common enemy.
- Section 18. Provides for unit development; provides for powers of supervisors to designate units of the district and to adopt system of a progressive drainage by the units; provides for plans of reclamation and financing assessments for each unit.
- Section 19. Provides for severability of the provisions of the act.
- Section 20: Approves the manner of giving notice of intention to apply for this legislation.
- Section 4: Provides that the act shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 25, 2004

WHERE? The *Sun-Sentinel*, a newspaper of general circulation, Broward 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

According to the Economic Impact Statement, there are no costs associated with the bill.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

Section 3 (14) of the bill provides that the board may issue bonds without the approval of the state board of drainage commissioners. The State Board of Drainage Commissioners was abolished by the Governmental Reorganization Act of 1969. The Sponsor may want to amend the bill to delete this reference.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may be subject to this provision in that it provides an exemption to ch. 298.11, F.S., at Section 3 (5).

## IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.