

STORAGE NAME: h1925z.ca
DATE: May 22, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 00-492, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1925
RELATING TO: Lake County/Oklawaha Basin
SPONSOR(S): Representative Johnson
TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (2) FINANCE & TAXATION (FRC) (W/D)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill makes the following changes:

- Changes the name of the Oklawaha Basin Recreation and Water Conservation Control Authority to the Lake County Water Authority (Authority);
- Increases number of members of governing board from three to seven;
- Requires that members be elected, rather than appointed, in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code;
- Requires resident status for five of the members of Lake County;
- Changes the terms of board members;
- Prohibits any board member from serving as executive director of the Authority;
- Provides that board may authorize Executive Director to pay expenses;
- Caps millage at a rate of 0.5;
- References general law as controlling authority on the issue of property assessment;
- Changes the number of board members required to constitute a quorum; and
- Provides for certification of millage to the county property appraiser for assessment.

According to the Economic Impact Statement, this bill does not have a fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

This bill requires that a nonpartisan election of Board members be held with the 2000 election.

This bill requires the Lake County Property Appraiser to assess whether the millage is sufficient to meet the annual budget prepared by the Authority.

B. PRESENT SITUATION:

RELEVANT BACKGROUND OF THE OKLAWAHA BASIN RECREATION AND WATER CONSERVATION AUTHORITY:

Ch. 29222 (1953), L.O.F.: The Oklawaha Basin Recreation and Water Conservation Control Authority (Authority) is an independent special district created by chapter 29222, Special Acts of Florida, 1953, as amended.

Section 2: The purposes of the Authority are to: (1) control and conserve the freshwater resources of Lake County; (2) foster and improve the tourist business in the county by improvements to the streams, lakes and canals in the county; (3) provide recreational facilities for the tourists and citizens and taxpayers of the county by a more efficient use of the streams, lakes, and canals in the county; and (4) preserve, protect, and improve the fish and wildlife of the county. The Authority is a special taxing district. The territory of the Authority extends throughout the present limits of Lake County, Florida. The Authority's designated name is "The Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County."

[Note: The Authority is commonly known as the "Lake County Water Authority."]

Section 4: The governing body of the Authority (Board) consists of three (3) members, who are residents of Lake County. The members of the Board must be appointed by the Governor and confirmed by the Senate. The term of office for the members is four (4) years.

[Note: This section also provides for the initial appointment of Board members by the Governor to provide for staggered terms.]

In January of each year the members of the Board must meet and select one member as Chairman and one member as Vice Chairman. The Clerk of the Circuit Court of

Lake County must act as the Secretary and Treasurer of the Board without any additional compensation. In the event the provision pertaining to the duties of the Clerk of the Circuit Court is for any reason held to be invalid, the Board may select one of its members to serve as its Secretary and Treasurer, or it may appoint a nonmember of the Board as its Secretary and Treasurer. Such member or nonmember must receive compensation commensurate with the duties and responsibilities as determined by the Board. The Board must require a surety bond of any person, including the Clerk of the Circuit Court, who is Secretary and Treasurer of the Board, in an amount to be fixed by the Board. In the case of the appointment of the Clerk of the Circuit Court, the bond must be in addition to the bond furnished by him as Clerk of the Circuit Court or as a member of the Board, and the premium must be paid by the Board.

Section 6: Two members of the Board constitute a quorum for the transaction of business. A majority vote of all members present is necessary in order to authorize any action by the Board. The Chairman is entitled to vote on all questions.

Section 9: Provides for the powers and duties of the Board. Authorizes the Board to have all the powers of a body corporate, including the power to sue and be sued; to make contracts; to adopt and use a common seal and to alter the seal; to buy, acquire by condemnation or eminent domain, sell own, use, control, operate, improve, and lease all land and personal property as the Board may deem necessary; to appoint and employ, and dismiss at pleasure certain employees and other employees and agents as the Board may require; to fix and pay compensation; to establish an office for business in Tavares, Florida; to pay all necessary costs and expenses involved and incurred in the formation, organization, and administration of the Board; to pay all other reasonable costs and expenses; to do any and all other acts and things authorized or required to be done; and to do any and all things, whether or not included in the enumerated powers of this act, necessary to accomplish the purposes of this act.

Chapter 57-1484, Laws of Florida: Section 2 of chapter 57-1484, Laws of Florida, amends section 9 of chapter 29222, Special Acts of Florida, 1953, as amended, authorizing the Authority to: establish branch offices anywhere in Lake County; to police all navigable waterways in Lake County; to establish speed limits and other rules and regulations for the protection of life and limb of persons using the waterways of Lake County; and for the protection of fish and wild life along the waterways.

Chapter 59-1466, Laws of Florida: Section 1 of chapter 59-1466, Laws of Florida, amends section 9 of chapter, Special Acts of Florida, 1953, as amended, authorizing the Authority to: provide for the granting of licenses or permits for the construction and excavation of canals and ditches connecting with navigable waters; to establish, promulgate and administer rules and regulations governing the construction and excavation of canals and ditches and to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the authority was established.

Chapter 63-1507, Laws of Florida: Section 1 of chapter 63-1507, Laws of Florida, substantially rewrote section 9 of chapter 29222, Special Acts of Florida, 1953, as amended, as follows:

Newly created subsection 9(a): Authorizes the Authority to have all powers of a body corporate, including the following:

To sue and be sued; To make contracts; To adopt and use a common seal and to alter the same as may be deemed expedient; To buy, acquire by condemnation or eminent domain in the manner prescribed for use by counties in Florida, sell, own, use, control, operate,

improve, and lease all land and personal property as the Authority may deem necessary or proper; To appoint and employ, and dismiss at its pleasure engineers, auditors, attorneys, and other employees and agents; To establish an office in the City of Tavares or any other municipality, provided that any branch office is furnished without any rental or other charge to the authority for its maintenance or use; To pay all necessary costs and expenses incident to administration and operation; To pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this act, provided that all bills and expenditures must first be approved by the board of county commissioners.

Newly created subsection 9(b): Requires an annual budget to be prepared by the Authority and submitted to the board of county commissioners for final adoption.

Newly created subsection 9(c): Authorizes the Board to do the following:

Grant licenses or permits for construction and excavation of canals and ditches connecting with navigable waters;

Establish, promulgate and administer rules and regulations governing the construction and excavation of canals and ditches with the authority to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the Authority was established;

Do any and all other acts and things authorized or required; and

Do any and all things necessary to accomplish the purposes of this act.

Newly created subsection 9(d): Provides that the Authority controls all streams, including slow moving streams, flowing from any of the water reservoirs in Lake County, whether natural or constructed, into the system of lakes and streams in or adjacent to Lake County for the protection of the natural water reservoirs and the adjacent and neighboring areas.

Chapter 65-1787, Laws of Florida: Section 1 of chapter 65-1787, Laws of Florida, amends sections 4 and 9 of chapter 29222, Special Acts of Florida, as amended, as follows:

Amended Section 4: Adds that in the event an Authority board member is appointed as the Secretary and Treasurer, the Authority board member is not entitled to receive pay "per diem" as compensation for his "per diem" as compensation for his services except as provided for in section 8 of chapter 29222, Special Acts of Florida, as amended.

Section 8 of chapter 29222, Special Acts of Florida, as amended, authorizes payment of actual expenses incurred when engaged on business of the Authority, however, this section requires that payment must have prior authorization and approval of the Authority board.

Amended Section 9(a): In addition to the powers and duties enumerated in section 1 of chapter 63-1507, Laws of Florida, amending section 9 of chapter 29222, Special Acts of Florida, 1953, authorizing the board to pay all necessary costs and expenses incident to the administration and operation of the Authority's office or branch office.

Chapter 76-244, Laws of Florida: Amended certain sections of chapter 373, Florida Statutes, which, in part, provided for the assumption of certain contractual obligations of the Southwest Florida Water Management District by the St. Johns River Water Management District.

Chapter 84-338, Laws of Florida: Provided a repealer provision relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, subject to a referendum in

the general election of 1984. Provided that the issue to be resolved was as follows: whether the Authority and its taxing authority should be abolished.

1995 Legislative Session: In the 1995 Regular Session of the Legislature, Representative Bainter sponsored Local Bill H1595 - Oklawaha Water Control Authority. The bill proposed the following changes:

Changes name of Oklawaha Basin Recreation and Water Conservation & Control Authority to Lake County Water Authority;

Increases number of members of governing board from three to five and requires that one member reside in each of county commission districts of Lake County;

Provides that board members may not serve as director of authority; and

Provides for a referendum and continued existence of the board.

On June 16, 1995, the bill was vetoed by the Governor.

1996 Legislative Session: In the 1996 Regular Session of the Legislature, Representative Bainter sponsored Local Bill 2603 - Lake Co./Oklawaha Basin Authority. The bill proposed the following changes:

Changes the name of Authority to Lake County Water Authority;

Increases number of members of governing board from three to five;

Requires that one member reside in each of county commission districts of Lake Co.;

Changes the number of members of governing board required to constitute quorum;

Provides for referenda re election of board, etc.

On May 4, 1996, the bill died in Senate Messages.

1999 Legislative Session: In the 1999 Regular Session of the Legislature, Representative Johnson sponsored Local Bill 2273 - Lake Co./Oklawaha Basin. This bill passed through the House but died in the Senate Committee on Rules and Calendar.

C. EFFECT OF PROPOSED CHANGES:

This bill makes the following changes:

- Changes the name of the Oklawaha Basin Recreation and Water Conservation Control Authority to the Lake County Water Authority (Authority);
- Increases number of members of governing board from three to seven;
- Requires that members be elected, rather than appointed, in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code;
- Requires resident status for five of the members of Lake County;
- Changes the terms of board members;
- Prohibits any board member from serving as executive director of the Authority;
- Provides that board may authorize Executive Director to pay expenses;

- Caps millage at a rate of 0.5;
- References general law as controlling authority on the issue of property assessment;
- Changes the number of board members required to constitute a quorum; and
- Provides for certification of millage to the county property appraiser for assessment.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Provides legislative intent.

Section 2 -- Changes the name Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County District to The Lake County Water Authority (Authority); provides that the Authority additionally protects freshwater resources through treating stormwater runoff.

Section 3 -- Provides clarifying language.

Section 4 -- Provides that Board of Trustees (Board) consists of seven members; requires five of the members to reside in the same area as the county commission district; requires a nonpartisan election to be held with the general election in 2000 per s. 189.405, F.S., and provides for staggered terms and elections; requires Board to select a nonmember to serve as Executive Director.

Section 5 -- Provides gender neutral references.

Section 6 -- Clarifies that a quorum consists of four members.

Section 7 -- Provides gender neutral references.

Section 8 -- Provides that Board may authorize expense payments, or, alternatively, the Board may charge the Executive Director with this duty.

Section 9 -- Caps millage rate at 0.5 mills and requires certification to the Lake County Tax Collector.

Section 10 -- Provides clarifying language.

Section 11 -- Provides clarifying language.

Section 12 -- Provides clarifying language.

Section 13 -- Provides clarifying language.

Section 14 -- Provides clarifying language.

Section 15 -- Provides clarifying language.

Section 16 -- Provides clarifying language.

Section 17 -- Provides clarifying language; deletes obsolete language; cites general law as controlling authority regarding property assessment; provides that millage rate, certified to the Department of Revenue, is charged to the property appraiser to levy and assess and that both entities are required to produce documents upon Board request.

Section 18 -- Provides clarifying language.

Section 19 -- Authorizes Board to issue bonds and assesses formula for value to revenue proportion; requires referendum with detailed ballot statement prior to revenue bond issuance.

Section 20 -- Provides clarifying language.

Section 21 -- Provides clarifying language.

Section 22 -- Requires Authority to draft five-year goals plan and requires annual report detailing activities; requires legislative review of chapter 29222, L.O.F., before September 20, 2010 for effectiveness of Lake County Water Authority; provides dates for additional seats on the Board and provides for elections; provides severability clause; provides for effective date upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 9, 1999

WHERE? The Daily Commercial (Leesburg)

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs:

The Committee on Community Affairs met on April 5, 2000 and adopted one amendment. This amendment, correcting a scrivener's error, provides for legislative review, rather than repeal, of chapter 29222, Laws of Florida.

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VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

Joan Highsmith-Smith