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DATE: February 7, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 397
RELATING TO: Manatee County Mosquito Control District
SPONSOR(S): Representative Bennett and other

TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2) STATE ADMINISTRATION (SGC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Manatee County Mosquito Control District into a single act. This bill also makes other changes that appear to alter the effect of existing law pertaining to the District.

One of the most significant changes is the potential increase in the maintenance fees. The effect of the bill is to remove the one-quarter mill on the dollar ad valorem tax rate and allow general law, relating to mosquito control districts, to apply. That general law currently allows a maintenance tax of up to 10 mills on the dollar. As such, the maintenance tax appears to be an ad valorem tax and subject to the requirements of section 9(b), Article VII, of the Florida Constitution, thus requiring voter approval if the district raised the rate beyond what is currently authorized by the voters.

The bill further provides the manner in which commissioners of the District are selected must conform to the provisions of current law. Under the bill, commissioners are now selected the same way as other county constitutional officers. Compensation for the commissioners is allowed under the bill.

According to the Economic Impact Statement, this bill does not impact state or local budgets.

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 checked="" type="checkbox"/> | N/A <input 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:

The bill replaces the current revenue-raising mechanism with a maintenance tax that has a limit of 10 mills on the dollar. The current allowed maximum rate is one-quarter mills on the dollar. However, the district reports its millage rate is currently .1568 mills which was actually lowered from the previous year's rate of .1612 mills. The rate cannot be raised unless approved by the District voters in a referendum pursuant to section 9(b), Article VII, of the Florida Constitution

B. PRESENT SITUATION:

Background

The Manatee County Mosquito Control District was created in 1947, chapter 24677, Laws of Florida, to achieve and maintain arthropod control to protect human health and safety and foster the quality of life of people, promote the economic development of the state, and facilitate the enjoyment of its natural attractions by reducing the number of pestiferous and disease-carrying arthropods. It is an independent special district and is currently authorized to levy one-quarter mill on the dollar of assessed value. However, the district reports its millage rate is currently .1568 mills which was lowered from the previous year's rate of .1612 mills. Currently, the district only reimburses commissioners' expenses. They receive no other compensation. Commissioners are selected in the same manner as state legislators. In the event of a vacancy, the Governor appoints to fill the vacancy.

Independent Special District Elections

Section 189.405, F.S. states that any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county; Any independent special district not conducting district elections through the supervisor of elections shall report to the supervisor in a timely manner the purpose, date, authorization, procedures, and results of each election conducted by the district; A candidate for a position on a governing board of a single-county special district that has its elections conducted by the supervisor of elections shall qualify for the office with the county supervisor of elections in whose jurisdiction the district is located; If a multicounty special district has a popularly elected governing board, elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97-106, F.S.; With the exception of those districts conducting elections on a one-acre/one-vote basis, qualifying for multicounty special district governing board positions shall be coordinated by the Department of State; With the exception of elections of special district governing board members conducted on a one-acre/one-vote basis, in any election conducted in a special district

the decision made by a majority of those voting shall prevail, except as otherwise specified by law; The department may provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district boards; An individual district board, at its discretion, may bear the costs associated with educating its members; The provisions of this section shall not apply to community development districts established pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373; Nothing in this act requires that a special district governed by an appointed board convert to an elected governing board.

Special District Elections – Special Requirements for one-acre/one-vote Districts

Section 189.4051, F.S., defines who is a qualified elector, defines urban areas, defines governing board members, defines contiguous developed urban areas. This section provides guidelines for popular elections and referendum, provides for a governing board and its guidelines including membership, terms of office, and meetings, and provides qualification guidelines.

Mosquito Control District Commissioners and Terms of Offices

Section 388.101, F.S. states:

- (1) Following the creation of the district, and in the general election each 4 years thereafter, the district board of commissioners shall be elected on a nonpartisan basis by the electors of the district. The three persons receiving the highest number of votes cast in the general election shall serve 4 years and shall take office at the same time as do other county officers, on the first Tuesday after the first Monday in January next after their election, and serve on the same cycle as do other constitutional county officers.
- (2) The district board of commissioners may, by resolution, elect to increase the membership of the board to five commissioners to be elected on a nonpartisan basis in the manner specified by subsection (1) to terms of 4 years each.
- (3) The district board of commissioners may, by resolution, elect to stagger the terms of office of the members of the board. If the board of commissioners is composed of three members, at the first general election following the resolution the electors of the district shall elect three commissioners, one to a term of office of 2 years and the other two to terms of office of 4 years. If the board of commissioners is composed of five members, the electors of the district shall, at the first general election following the resolution, elect five commissioners, two to terms of office of 2 years and three to terms of office of 4 years. The board of commissioners shall, in their resolution, designate the term of office of each seat on the board for the purposes of the initial election following the resolution. Each commissioner shall hold his or her office until a successor is elected and qualified. Thereafter, each commissioner shall be elected to a 4-year term of office.
- (4) The district board of commissioners, if it resolves to increase the membership of the board or stagger the terms of office of the members of the board, must do so at least 1 month prior to the opening of the qualifying period for the next general election. Resolutions to increase board membership and stagger terms of office may be effective at the same general election.
- (5) The board of county commissioners shall call and provide for said election. Members of the district board of commissioners shall be resident registered electors.

Mosquito Control District Commissioner Vacancies

Section 388.111, F.S. states:

In the event of a vacancy due to any cause in any board of commissioners, the same shall be filled by appointment by the Commissioner of Agriculture for the unexpired term.

Mosquito Control District Compensation for Commissioners:

Section 388.141, F.S. states:

- (1) Members of the board of commissioners of independent special tax districts may each be paid a salary to be determined by unanimous vote of the board which shall not exceed \$4,800 for each commissioner during any one year; however, this section shall not be construed to limit compensation of district commissioners where higher amounts have otherwise been authorized by special act or general act of local application. Said members may be reimbursed for expenses incurred in the performance of their duties as provided in 112.061, F.S.
- (2) No board member of a mosquito control district shall receive compensation except for per diem and travel expenses authorized pursuant to 112.061, F.S. for serving on more than one special district board in this state. All special districts, regardless of the existence of other specific provisions of law, shall comply with this subsection.

Mosquito Control District Tax Levies

Section 388.221, F.S. states:

- (1) The board of commissioners of such district may levy upon all of the real and personal taxable property in said district a special tax not exceeding 10 mills on the dollar during each year as maintenance tax to be used solely for the purposes authorized and prescribed by this chapter. Said board shall by resolution certify to the property appraiser of the county in which the property is situate, timely for the preparation of the tax roll, the tax rate to be applied in determining the amount of the district's annual maintenance tax. Certified copies of such resolution executed in the name of said board by its chair and secretary and under its corporate seal shall be made and delivered to the property appraiser and the board of county commissioners of the county in which such district is located, and to the Department of Revenue not later than September 30 of such year. The property appraiser of said county shall assess and the tax collector of said county shall collect the amount of taxes so assessed and levied by said board of commissioners of said district upon all of the taxable real and personal property in said district at the rate of taxation adopted by said board for said year and included in said resolution, and said levy shall be included in the warrants of the property appraiser and attached to the assessment roll of taxes for said county each year. The tax collector shall collect such taxes so levied by said board in the same manner as other taxes are collected and shall pay the same within the time and in the manner prescribed by law to the treasurer of said board. The Department of Revenue shall assess and levy on all the railroad lines and railroad property and telegraph and telephone lines and telegraph and telephone property situated in said district in the amount of each such levy as in the case of other state and county taxes and shall collect said taxes thereon in the same manner as it is required by law to assess and collect taxes for state and

county purposes and remit the same to the treasurer of said board. All such taxes shall be held by said treasurer for the credit of said board and paid out by him or her as ordered by said board.

- (2) The tax officers of the county are hereby authorized and directed to perform the duties devolving upon them under this chapter and to receive compensation therefore at such rates or charges as are provided by law with respect to similar services or charges.

Codification of Special Acts

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, F.S., 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, F.S. (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, F.S., 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. Additionally, the 2001 Legislature amended section 189.429, F.S. creating subsections (2) and (3). The subsections provide that reenactment of existing law pursuant to section 189.429: (1) shall not be construed to grant additional authority nor to supercede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall 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.

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, F.S., 110 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, F.S., is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

C. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to the Manatee County Mosquito Control District in Manatee County into a single act and repeals all prior special acts relating to the District's charter. This bill restates and describes the following charter provisions: describes the purpose for the District; describes powers, functions, and duties of the district regarding ad valorem taxation, bond issues and other revenue-raising capabilities, budget matters, lien issues, and other similar issues; describes the methods for establishing the District; describes the method for amending the charter of the District; describes the membership and organization of the governing board of the district; describes the compensation of a governing board member; describes the administrative duties of the governing board of the District; describes the applicable financial disclosure, noticing, and reporting, requirements; describes the procedures and requirements for issuing bonds; describes the procedures for conducting any district elections or referenda and the qualifications of an elector of the district; describes the methods for financing the district; changing the authorized millage rate; describes the methods for collecting non-ad valorem assessments, fees, or service charges; describes the District planning requirements; and describes that the geographic boundary limitations.

Three substantive changes to the charter appear to alter the effect of existing law pertaining to the authorized ad valorem tax millage limit, the selection of board members and filling vacancies.

One of the most significant changes is the potential increase in the maintenance fees. The effect of the bill is to remove the one-quarter mill on the dollar ad valorem tax rate and allow chapter 388, F.S. to apply. Section 388.221, F.S. currently allows a maintenance tax of up to 10 mills on the dollar. As such, the maintenance tax appears to be an ad valorem tax and subject to the requirements of section 9(b), Article VII, of the Florida Constitution, thus requiring voter approval if the district raised the rate beyond what is currently authorized by the voters.

The matter in which Commissioners of the District are selected conforms to the provisions in chapter 189.405(2)(a), F.S.. Compensation for the commissioners is permitted pursuant to chapter 388, F.S. In the event of a vacancy, the Commissioner of Agriculture is responsible for selecting a replacement.

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

D. SECTION-BY-SECTION ANALYSIS:

Section 1: States that this act constitutes the codification of special acts relating to this district.

Section 2: States that all previous laws pertaining to this District are codified, reenacted, amended, and repealed

Section 3: Recreates and reenacts the district charter, providing the following:

Section 1: Ratifies, restates, and approves the District's formation

Section 2: Provides the geographical boundaries for the district.

Section 3: Provides for the establishment of the District as an independent Special District; states the District charter may only be amended by special act of the Florida Legislature.

Section 4: Provides information on how the District is administered on the local level.

- i. Provides for a three member Board of Commissioners to be chosen by the electors from the District in a non-partisan election. States that the term of office is 4 years.
- ii. States the designation for the seats on the Board
- iii. States that each Board Member must be a resident of the District at the time of election and throughout the term in which that Member serves.
- iv. States when the Board Members assume office and calls for the establishment of officers for the Board.
- v. States that two members of the Board shall constitute a quorum and that two members are required to be present in order to transact District business.
- vi. Provides for compensation
- vii. Provides the procedure for filling Board vacancies
- viii. Provides for procedures on conducting elections and for the qualifications of the District electors.
- ix. Provides for administrative duties.
- x. Provides that this act does not affect those Board Members currently in office.

Section 5: Describes the District powers pursuant to chapters 189 and 388, F.S.

Section 6: Provides for the District's planning requirements pursuant to chapters 189 and 388, F.S.

Section 7: Provides for financial disclosure, meeting notices, public records, maintenance, and per diem expenses for officers and employees pursuant to chapters 112, 119, 189, 286 and 388, F.S.

Section 8: Provides for the procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the District pursuant to chapter 189, F.S.

Section 4: Provides for liberal construction.

Section 5: Provides that if any part of this act is deemed unconstitutional, that this act is severable

Section 6: Repeals all previous acts relating to the District's charter.

Section 7: Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? September 21, 2001

WHERE? Bradenton Herald in Bradenton, Manatee County, Florida

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DATE: February 7, 2002

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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:

NONE

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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