

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

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 initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows 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. 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 s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede 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.

Since the enactment of s. 189.429 and 191.015, F.S. 173 special districts have codified their charters.

Indian River Mosquito Control District

The Indian River Mosquito Control District (District) was first established in 1925, with the stated purpose of controlling and eradicating mosquitoes and sand flies in designated areas of Indian River County. In 1947, the original enabling act, ch. 11128, L.O.F. (1925), was abolished, and a new law re-establishing the district and revising its authority was enacted.¹

Changes to the Indian River Mosquito Control District Charter

- Clarifies charter provisions pertaining to terms in office; states that commissioners will be elected for 4 year terms and that the one commissioner is to be elected in a given general election by the highest number of votes and the remaining two commissioners are elected by the first and second highest number of votes cast at the next ensuing general election.
- Amends provisions governing the compensation of District Commissioners; declares that commissioners will be paid for each day's service and for each mile traveled in going to and from the Board of Commissioners office according to per diem compensation expense and mileage rates established under general law or special act. Also declares that commissioners will be compensated for regular duties at the rate of \$400 per month;

¹ Ch. 24600, L.O.F (1947)

- Extends the authority of the District to impose eminent domain to public as well as private personal property;
- Updates language referring to the State of Florida's Comptroller; deletes Comptroller, adds Chief Financial Officer;
- Adds severability a clause to the district charter.

Charter of the District

- Section 1: Recreates the Indian River Mosquito Control District.
- Section 2: Provides for a District governing body to be called the Board of Commissioners (Board); the Board is to be composed of three members; establishes the powers of the Board; provides for four staggered terms.
- Section 3: Requires all District Commissioners to provide a surety bond of \$5,000; failure to provide bond within 30 days of election will result in a vacancy on the Board. The Governor will then be allowed to appoint someone to that vacancy.
- Section 4: Provides for a commission chair, vice chair, and secretary to be chosen at the first practical time after an election.
- Section 5: Provides for compensation and payment for time traveled.
- Section 6: Grants the District authority to invest funds in interest-bearing depositories as prescribed by Florida Law.
- Section 7: Declares purpose of the District.
- Section 8: Declares the general powers of the District.
- Section 9: Declares powers of the District as they pertain to purchasing.
- Section 10: Authorizes the District to levy an ad valorem tax on all real and personal taxable property; provides provisions for the collection of those taxes through the county tax collector.
- Section 11: Requires the Board to provide adequate insurance for property damage, bodily injure, or death.
- Section 12: Provides the District abolishment provisions pursuant to s. 9, ch. 24600, 1947, L.O.F.
- Section 13: Provides that willful damage to district projects, property, and work will be seen as a misdemeanor and can be punished as stated by general law.
- Section 14: Authorizes the Board to provide life and health insurance to all District employees, including all Board members, the District Director, the families of said employees, and for the families of the District Director and the Assistant District Director.
- Section 15: Provide severability.

C. SECTION DIRECTORY:

- Section 1: States the intent of the Legislature, pursuant to section 189.429, F.S., to codify all of the special acts relating to the Indian River Mosquito Control District.

- Section 2: Codifies, reenacts, amends, and repeals chapters 11128 (1925), 14381 (1929), 20114 (1939), 20494 (1941), 21048 (1941), 24600 (1947), 61-2278, 63-1433, 73-497, 76-388, 78-531, and 91-337, L.O.F.
- Section 3: Recreates and reenacts the charter of the District.
- Section 4: Repeals chapters 11128 (1925), 14382 (1929), 20114 (1939), 20494 (1941), 21048 (1941), 24600 (1947), 61-2278, 63-1433, 73-497, 76-388, 78-531, and 91-337, L.O.F.
- Section 5: Provides an effective that of July 1, 2005.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? August 24, 2004

WHERE? Vero Beach Press Journal, Indian River County, Vero Beach, 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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

This bill extends the authority of the District to impose eminent domain to public as well as private personal property. However, the Florida Constitution contains provisions specifically related to the ownership of state conservation lands and state sovereignty submerged lands, as follows:

Article 10, section 11, Sovereignty lands.--

The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Article 10, section 18, Disposition of conservation lands.--

The fee interest in real property held by an entity of the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES