HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1429 CS Manatee and Sarasota Counties
SPONSOR(S): Reagan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Camechis	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

`This bill creates the Lakewood Ranch Stewardship District (District) within Sarasota and Manatee Counties for the purpose of providing community development systems, facilities, services, projects, improvements, and infrastructure to the area. The bill provides the minimum requirements which must be included in the charter when creating an independent special district. The bill authorizes the District to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the District; observation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements with Sarasota and Manatee Counties; and provide buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

The District may levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; maintenance special assessments; and, benefit special assessments. The District is also authorized to impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire governing board of the District is elected by qualified electors of the District.

The bill creates a Board of Supervisors to govern the District. The Board is initially elected on a one-acre/one-vote basis, however, as population in the District increases, members are elected by qualified electors of the District according to the following schedule:

- When 10,000 qualified electors reside in the District, one Board member is elected by qualified electors.
- When 20,000 qualified electors reside in the District, two Board members are elected by qualified electors.
- When 30,000 qualified electors reside in the District, three Board members are elected by qualified electors.
- When 40,000 qualified electors reside in the District, four Board members are elected by qualified electors.
- When 45,000 qualified electors reside in the District, all five Board members are elected by qualified electors.

The attached Economic Impact Statement does not project any fiscal impact in FY 05-06 and FY 06-07; however, the District is authorized to levy special assessments, fees, non ad-valorem assessments, and ad valorem taxes (upon approval at referendum) but the amount of revenues generated by these assessments is indeterminate. The District is authorized to perform numerous functions and undertake a wide range of projects within the District, therefore, expenditures are expected to be substantial but indeterminate.

This bill *appears* to provide exemptions from the provisions of general law. Pursuant to House Rule 5.5(b), 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. [Please see p. 22 of this analysis.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates an independent special district, which is authorized to perform a wide range of functions within its jurisdictional boundaries and to raise revenues by ad valorem taxes, if approved at referendum, non-ad valorem maintenance taxes, non-ad valorem assessments, benefit special assessments, maintenance special assessments, special assessments, fees, or service charges.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404, F.S., prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district; the authority of the proposed district; and an explanation of why the district is the best alternative. In addition, that section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures.

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located. As of November 2003, there were 210 active CDDs in Florida.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager; the right to contract; to borrow money; to adopt administrative rules pursuant to ch. 120, F.S.; and the power of eminent domain.[1]

Lakewood Ranch

According to proponents of the bill, Schroeder-Manatee Ranch, Inc. (SMR) is one of southwest Florida's most successful land management and agri-businesses, with a 100-year tradition of delivering a variety of products on the 28,000-acre property in Manatee and Sarasota counties. SMR proposes to create a new-multi county stewardship district on approximately 23,000 acres of land owned by SMR. The land is contiguous property east of I-75 in Manatee and Sarasota counties, and south of SR 64 in Manatee County. SMR asserts that regional transportation and environmental issues argues for a regional approach to planning for future use of this property. However, use of a traditional CDD is inappropriate because current law does not allow CDDs that span multiple counties. SMR further asserts that reliance upon multiple CDDs to provide services to the land would be inefficient for both the landowner and the affected local governments.

Effect of Proposed Changes

This bill creates the Lakewood Ranch Stewardship District (District), a "unit of special and single purpose local government" and independent special district whose jurisdictional boundaries include lands within Manatee and Sarasota Counties. Because the District is not wholly located within a single county, it cannot be considered a "community development district" under ch. 190, F.S. However, this bill grants the District the general and special powers afforded community development districts by ch. 190, F.S., as well as certain powers granted to water control districts under ch. 298, F.S. Creation of the District appears to comply with the requirements for creating special districts and found in ch. 189, F.S., including the minimum charter requirements listed in s. 189.404(3), F.S. The exclusive charter of the District is created by this bill.

[1] *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

Legislative Findings and Intent

The Act includes a lengthy list of legislative findings and intent, which include the following:

- There is a particular special need to use a specialized and limited single-purpose independent special district unit of local government for the Lakewood Ranch lands located within Sarasota and Manatee Counties and covered by this bill to prevent urban sprawl by providing sustaining and freestanding infrastructure and by preventing needless and counterproductive community development when the existing urban area is not yet developed, and to prevent the needless duplication, fragmentation, and proliferation of local government services in a proposed land use area.
- While chapter 190, Florida Statutes, provides an opportunity for community development services and facilities to be provided by the establishment of community development districts in a manner that furthers the public interest, current general law prohibits the establishment of a community development district transcending county boundaries. Given the vast nature of the lands covered by this bill and the potentially long-term nature of its development, establishing multiple community development districts over these lands would result in an inefficient, duplicative, and needless proliferation of local special purpose government, contrary to the public interest and the Legislature's findings in chapter 190, Florida Statutes. Instead, it is in the public interest that the long-range provision for, and management, financing, and long-term maintenance, upkeep, and operation of, services and facilities to be provided for ultimate development of the lands covered by this bill be under one coordinated entity.
- Longer involvement of the initial landowner with regard to the provision of systems, facilities, and services for the Lakewood Ranch lands, coupled with a severely limited and highly specialized single purpose of the District is in the public interest.
- The existence and use of such a limited specialized single purpose local government for the Lakewood Ranch lands, subject to the respective county comprehensive plans, will: result in a high propensity to provide for orderly development and prevent urban sprawl; protect and preserve environmental, conservation, and agricultural uses and assets; enhance the market value for both present and future landowners of the property consistent with the need to protect private property; enhance the net economic benefit to the Sarasota and Manatee Counties area, including an enhanced and well-maintained tax base to the benefit of all present and future taxpayers in Sarasota and Manatee Counties; and result in the sharing of costs of providing certain systems, facilities, and services in an innovative, sequential, and flexible manner within the developing area to be serviced by the District.
- In order to be responsive to the critical timing required through the exercise of its special management functions, an independent district requires financing of those functions, including bondable lienable and nonlienable revenue, with full and continuing public disclosure and accountability, funded by landowners, both present and future, and funded also by users of the systems, facilities, and services provided to the land area by the District, without unduly burdening the taxpayers and citizens of the state, Sarasota County, Manatee County, or any municipality therein.
- The District created and established by this bill must not have or exercise any comprehensive planning, zoning, or development permitting power; the establishment of the District must not be considered a development order within the meaning of chapter 380, Florida Statutes; and all applicable planning and permitting laws, rules, regulations, and policies of Sarasota and Manatee Counties control the development of the land to be serviced by the District.
- The creation by this bill of the Lakewood Ranch Stewardship District is not inconsistent with either the Sarasota County or the Manatee County comprehensive plan.
- It is the legislative intent and purpose that no debt or obligation of the District constitute a burden on any local general-purpose government without its consent.

The bill also includes a lengthy list of legislative policy statements, which provide in part as follows:

- The District, which is a local government and a political subdivision, is limited to its special purpose with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity its systems, facilities, services, improvements, infrastructure, and projects and possessing financing powers to fund its management power over the long term and with sustained levels of high quality.
- Creation of the District is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, F.S., and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the District as created by this bill.
- The District must operate and function subject to, and not inconsistent with, the applicable comprehensive plans of Manatee County or Sarasota County and any applicable development orders, zoning regulations, and other land development regulations.
- The District does not have the power of a general-purpose local government to adopt a comprehensive plan or related land development regulation as those terms are defined in the Florida Local Government Comprehensive Planning and Land Development Regulation Act.

Modification of District Boundaries

The bill specifies that the charter of the District, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the District boundaries or the general or special powers of the District unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S. However, if a legislative amendment alters the District boundaries in only one county, or affects the District's special powers in only one county, it is necessary to secure the resolution or statement from only the affected county. Although this bill appears to prohibit future legislatures from amending District boundaries unless a resolution from the affected county is secured, this provision cannot “bind” future legislatures or limit the legislature’s ability to amend boundaries. Therefore, although this language may evidence intent of the parties, a future legislature that wishes to amend the boundaries of the District may do so without a resolution from an affected county.

Election of the Governing Board by Landowners

The District is governed by a Board of Supervisors (Board) consisting of 5 members. Board members must be residents of the state and citizens of the United States. Initial Board members are elected by landowners of the District voting at an election held within 90 days following the effective date of this bill. The landowners present at the meeting, in person or by proxy, constitute a quorum. At any landowners' meeting, 50 percent of the District acreage is not required to constitute a quorum, and each governing board member elected by landowners is to be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting. Each landowner is entitled to cast one vote per acre of land owned by him or her and located within the District for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre is treated as 1 acre, entitling the landowner to one vote with respect thereto.

With respect to the elections of initial board members, the two candidates receiving the highest number of votes must be elected for a term expiring November 16, 2008, and the three candidates receiving the next largest number of votes are elected for a term expiring November 18, 2006, with the 4-year term of office for each successful candidate commencing upon election. The members of the first Board elected by landowners serve their respective terms; however, the next election of Board members must be held on the first Tuesday after the first Monday in November 2006. Thereafter, elections by landowners for the District must be conducted every 2 years on the first Tuesday after the first Monday in November.
The Board may not exercise the ad valorem taxing power authorized by this bill until such time as all members of the Board are qualified electors who are elected by qualified electors of the District.

Lastly, the bill provides that it is not a conflict of interest under ch. 112, F.S., for a Board member, the district manager, or another employee of the District to be a stockholder, officer, or employee of a landowner.

Transition to Board Elected by Qualified Electors [Lines 1497-1622]

Regardless of whether the District has proposed to levy ad valorem taxes, qualified electors[2] of the District must elect Board members as the District becomes populated with qualified electors. The transition will occur such that the composition of the Board, after the first general election following a trigger of the qualified elector population thresholds set forth below:

(I) Once 10,000 qualified electors reside within the District, one governing board member must be a person elected by the qualified electors, and four governing board members must be elected by the landowners.
(II) Once 20,000 qualified electors reside within the District, two governing board members must be elected by the qualified electors, and three governing board members must be elected by the landowners.
(III) Once 30,000 qualified electors reside within the District, three governing board members must be elected by the qualified electors and two governing board members must be elected by the landowners.
(IV) Once 40,000 qualified electors reside within the District, four governing board members must be elected by the qualified electors and one governing board member must be elected by the landowners.
(V) Once 45,000 qualified electors reside within the District, all five governing board members must be elected by the qualified electors.

According to estimates provided by proponents of the bill, the population of qualified electors in the District is projected to increase at the following rate:

YEAR	PROJECTED NUMBER OF QUALIFIED ELECTORS	NUMBER OF BOARD MEMBERS ELECTED BY QUALIFIED ELECTORS
2013 (8 years out)	10,000	1
2023 (18 years out)	20,000	2
2029 (24 years out)	30,000	3
2034 (29 years out)	40,000	4
2037 (32 years out)	45,000	5

On or before June 1 of each year, the Board must determine the number of qualified electors in the District as of the immediately preceding April 15. The Board must use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. The determination must be made at a properly noticed meeting of the Board and must become a part of the official minutes of the District.

All governing board members elected by qualified electors must be elected at large. Once the District qualifies to have any of its board members elected by the qualified electors of the District, the initial and all subsequent elections by the qualified electors of the District must be held at a nonpartisan general election in November. The board must adopt a resolution if necessary to implement this requirement.

[2] Section 2(2)(v) of the bill defines "qualified elector" as "any person at least 18 years of age who is a citizen of the United States and a legal resident of the state and of the District and who registers to vote with the Supervisor of Elections in either Manatee County or Sarasota County and resides in either Manatee County or Sarasota County."

Election Procedure for Independent Special Districts Generally

The bill specifies that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"[3] within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis.

If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Election Procedures for Community Development Districts Generally

Section 190.006(3), F.S., provides for the transition of Community Development District (CDD) boards that are elected by landowners to boards elected by qualified electors of the districts. If a CDD wishes to exercise ad valorem taxing power, the district board must call an election at which the members of the board of supervisors will be elected by qualified electors. Each member must be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members are elected for a period of 4 years and two members for a period of 2 years. All elected board members must be qualified electors of the district.

Regardless of whether a district has proposed to levy ad valorem taxes, commencing 10 years after the initial appointment of members, the position of each member whose term has expired must be filled by a qualified elector of the district, elected by the qualified electors of the district. However, if, in the 10th year after initial appointment for districts exceeding 5,000 acres in area, there are not at least 500 qualified electors, members of the board continue to be elected by landowners.

If a district has less than 50 qualified electors when the District is created, after the 10th year and, once a district reaches 250 or 500 qualified electors, respectively, then the positions of two board members whose terms are expiring must be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. The remaining board member whose term is expiring must be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members must be qualified electors elected by qualified electors of the district for a term of 4 years.

[3] Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district must be held at the general election in November.

General Administration of the Board

Members of the Board, regardless of how elected, are public officers and, upon entering into office, must take and subscribe to the oath of office as prescribed by s. 876.05, F.S. Members of the Board are subject to ethics and conflict of interest laws of the state that apply to all local public officers. If, during the term of office, a vacancy occurs, the remaining members of the Board must fill each vacancy by an appointment for the remainder of the unexpired term. Any elected member of the Board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetence, or failure to perform the duties imposed upon him or her by this bill, and any vacancies that may occur in such office for such reasons must be filled by the Governor as soon as practicable.

A majority of the members of the Board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the District must be upon a vote of a majority of the members present unless general law or a rule of the District requires a greater number.

Each Board member is entitled to receive for his or her services an amount not to exceed $200 per meeting of the Board of Supervisors, not to exceed $4,800 per year per supervisor, or an amount established by the electors at referendum. In addition, each supervisor receives travel and per diem expenses as provided in s. 112.061, F.S.

Records of the Board are subject to the Public Records Act in ch. 119, F.S., and the District is subject to the open meetings provisions in ch. 286, F.S. The District must provide financial reports in such form and such manner as prescribed pursuant to this bill and ch. 218, F.S. On an annual basis, the District manager must prepare a proposed budget for the ensuing fiscal year to be submitted to the Board for approval. The Board must consider the proposed budget item by item and may either approve the budget as proposed by the District manager or modify the same in part or in whole. The Board must indicate approval of the budget by resolution, which must provide for a hearing on the budget as approved. At the time and place designated in the public notice of the hearing, the Board must hear all objections to the budget as proposed and may make such changes as the Board deems necessary. At the conclusion of the budget hearing, the Board must, by resolution, adopt the budget as finally approved by the Board.

At least 60 days prior to adoption, the Board must submit to the Manatee County and Sarasota County Boards of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and each Board of County Commissioners may submit written comments to the Board solely for the assistance and information of the Board of the District in adopting its annual District budget.

The Board must submit annually, to the Boards of County Commissioners of Manatee and Sarasota Counties, its District public facilities report under s. 189.415(2), F.S. The Boards of County Commissioners must use and rely on the District public facilities report in the preparation or revision of their respective comprehensive plans, specifically under s. 189.415(6), F.S.

The District must take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the District. Such information must be made available to all existing residents and all prospective residents of the District. The District must furnish each developer of a residential development within the District with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy. Any developer of a residential property within the District, when required by law to provide a public offering statement, must include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The Division of Florida Land Sales,

Condominiums, and Mobile Homes of the Department of Business and Professional Regulation must ensure that disclosures made by developers pursuant to ch. 498, F.S., meet the requirements of s. 190.009(1), F.S.

General Powers

This bill grants the District general powers consistent with those granted to community development districts under s. 190.011, F.S. The general powers of the District must be construed liberally in order to carry out effectively the specialized purpose of this bill. However, nothing regarding the exercise of general powers by the District is intended to allow the District to exercise one or more special powers in Manatee County absent an interlocal agreement with Manatee County consenting to the exercise of such powers within that county, or to allow the District to exercise one or more special powers in Sarasota County absent an interlocal agreement with Sarasota County consenting to the exercise of such powers within that county. The general powers of the District include the power to:

- Adopt and enforce rules and orders pursuant to the provisions of ch. 120, F.S., prescribing the powers, duties, and functions of the officers of the District; the conduct of the business of the District; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the District. The Board may also adopt and enforce administrative rules with respect to any of the projects of the District and define the area to be included therein. The Board may also adopt resolutions which may be necessary for the conduct of District business.
- Borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- Raise, by user charges or fees authorized by resolution of the Board, amounts of money which are necessary for the conduct of District activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.
- Exercise within the District, or beyond the District with prior approval by vote of a resolution of the governing body of the county if the taking will occur in an unincorporated area in that county, the right and power of eminent domain, pursuant to the provisions of chs. 73 and 74, F.S., over any property within the state, except municipal, county, state, and federal property, for the uses and purpose of the District relating solely to water, sewer, District roads, and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.
- Assess and to impose upon lands in the District ad valorem taxes as provided by this bill.
- Determine, order, levy, impose, collect, and enforce maintenance taxes if and when authorized by general law.
- Determine, order, levy, impose, collect, and enforce assessments pursuant to this bill and ch. 170, F.S., pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the District, may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this bill, or by other means authorized by general law now or hereinafter enacted.
- To exercise such special powers and other express powers as may be authorized and granted by this bill, including powers as provided in any interlocal agreement entered into pursuant to ch. 163, F.S., or which must be required or permitted to be undertaken by the District pursuant to any development order or development of regional impact, including any interlocal service agreement with Manatee County or Sarasota County for fair-share capital construction funding for any certain capital facilities or systems required of the developer pursuant to any applicable development order or agreement.

Special Powers

The bill authorizes the District to exercise the following "special powers" subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein:

- To provide water management and control for the lands within the District and to connect some or any of such facilities with roads and bridges. In the event that the Board assumes the responsibility for providing water management and control for the District which is to be financed by benefit special assessments, the Board must adopt plans and assessments pursuant to law or may proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments in accordance with procedures set forth in the bill.
- To provide water supply, sewer, and wastewater management, reclamation, and reuse, or any combination thereof, and any irrigation systems, facilities, and services and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.
- The District may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the District has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest.
- To provide bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of way, highway, grade, fill, or cut.
- To provide District roads equal to or exceeding the specifications of the county in which such District roads are located, and to provide street lights, including conditions of development approval for which specifications may sometimes be different than the normal specifications of the county. This special power includes, but is not limited to, roads, parkways, bridges, landscaping, hardscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire installed pursuant to an agreement with or tariff of a retail provider of services, and all other customary elements of a functioning modern road system in general or as tied to the conditions of development approval for the area within the District, and parking facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local law and ordinance.
- To provide buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.
- To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the District and who caused or contributed to the contamination.
- To provide observation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.
- Using its general and special powers as set forth in this bill, to provide any other project within or without the boundaries of the District when the project is the subject of an agreement between the District and the Board of County Commissioners of either Manatee County or Sarasota County or with any other applicable public or private entity, and is not inconsistent with the effective local comprehensive plans.
- To provide parks and facilities for indoor and outdoor recreational, cultural, and educational uses.
- To provide fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

- To provide school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the district school board.
- To provide security, including, but not limited to, guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; however, the District may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries. Notwithstanding any provision of general law, the District may operate guardhouses for the limited purpose of providing security for the residents of the District and which serve a predominate public, as opposed to private, purpose. Such guardhouses must be operated by the District or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the Board, from time to time, following the procedures set forth in ch.120, F.S.
- To provide control and elimination of mosquitoes and other arthropods of public health importance.
- To provide waste collection and disposal.
- To enter into impact fee credit agreements with Manatee County or Sarasota County. Under such agreements, if the District constructs or makes contributions for public systems, facilities, services, projects, improvements, works, and infrastructures for which impact fee credits would be available to the landowner developer under the applicable impact fee ordinance, the agreement authorized by this bill must provide that such impact fee credit must inure to the landowners within the District in proportion to assessments or other burdens levied and imposed upon the landowners with respect to assessable improvements giving rise to such impact fee credits, and the District must from time to time execute such instruments, such as assignments of impact fee credits, as may be necessary, appropriate, or desirable to accomplish or to confirm the foregoing.
- To provide buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this bill.
- To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the District, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the District, as from time to time the members of the Board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the Board's general or special powers to implement an innovative project to carry out the special purpose of the District as provided in this bill and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies and such administrative duties and other powers as the Board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the Board that must retain the powers of the Board.

This enumeration of special powers is not exclusive or restrictive but incorporates all powers express or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this bill to implement the District's single purpose. Further, these special powers must be construed liberally in order to carry out effectively the special purpose of the District. The District may exercise the special powers within Manatee and Sarasota Counties only upon the execution of an interlocal agreement between the District and each county consenting to the District's exercise of those powers within each county. The District may exercise different powers within each county, depending upon the timing and content of the respective interlocal agreement, as either may be amended.

District Financing

Bond Anticipation Notes. The District is specifically authorized to issue bond anticipation notes after the issuance of bonds for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes must be paid from the proceeds of such bonds when issued. The Board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any taxes or assessments

levied for the payment of such bonds, but, in such event, a like amount of the bonds authorized must not be issued.

Borrowing. The District at any time may obtain loans for the purpose of paying any of the expenses of the District or any costs incurred or that may be incurred in connection with any of the projects of the District. The Board must have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the District. The approval of the electors residing in the District is not necessary except when required by the State Constitution.

Bonds. The District is authorized to issue bonds at public or private sale after such advertisement, if any, as the Board may deem advisable but not in any event at less than 90 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the District as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the Board in its discretion may determine.

Any general obligation bonds, special assessment bonds, or revenue bonds may be authorized by resolution or resolutions of the Board which must be adopted by a majority of all the members thereof then in office. The Board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom must be expended; the rate or rates of interest, not to exceed the maximum rate allowed by general law; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which must not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state at which payment must be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds.

Interim certificates; replacement certificates. Pending the preparation of definitive bonds, the Board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the Board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

Issuance of additional bonds. If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the Board may authorize the issuance of additional bonds, upon such terms and conditions as the Board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

Refunding bonds. The District is authorized to issue bonds to provide for the retirement or refunding of any bonds or obligations of the District that at the time of such issuance are or subsequent thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the Board. Refunding bonds may be issued at any time that in the judgment of the Board such issuance will be advantageous to the District. No approval of the qualified electors residing in the District is required for the issuance of refunding bonds except when voter approval is required by the State Constitution.

Revenue bonds. The District is authorized to issue revenue bonds without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity

of the District; from special assessments; or from benefit special assessments; or from any other source or pledged security. Such bonds do not constitute an indebtedness of the District, and the approval of the qualified electors is not required unless such bonds are additionally secured by the full faith and credit and taxing power of the District.

General obligation bonds. The District is authorized to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the District as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the District is pledged. Except for refunding bonds, no general obligation bonds may be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Elections must be called to be held in the District by the Board of County Commissioners of Manatee and Sarasota Counties upon the request of the District Board. The expenses of calling and holding an election is an expense of the District, and the District must reimburse the counties for any expenses incurred in calling or holding such election.

The District may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the District, to the extent necessary for the payment thereof, without limitation as to rate or amount.

Bonds as legal investment or security. Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this bill constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and must be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

Validation proceedings. The power of the District to issue bonds may be determined, and any of the bonds of the District maturing over a period of more than 5 years must be validated and confirmed, by court decree, under the provisions of ch. 75, F.S., and laws supplementary thereto.

Pledge by the state to the bondholders of the District. The state pledges to the holders of any bonds issued under this bill that it will not limit or alter the rights of the District to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

Default. A default on the bonds or obligations of a District does not constitute a debt or obligation of the state or any general-purpose local government or the state.

Taxes and Special Assessments

Ad Valorem Taxation. When the entire Board is elected by qualified electors of the District, the Board is authorized to levy and assess an ad valorem tax on all the taxable property in the District to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the District; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the Board for operating purposes, exclusive of debt service on bonds, may not exceed 3 mills. The ad valorem tax provided for herein is in addition to county and all other ad valorem taxes provided for by law. Ad valorem taxes must be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of

ad valorem taxes must be approved by referendum as required by s. 9 of Art. VII of the State Constitution.

Benefit special assessments. The Board must determine, order, and levy an annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. Each annual installment of benefit special assessments is a lien on the property against which assessed until paid and is enforceable in like manner as county taxes. The amount of the assessment is determined by the Board based upon a report of the District's engineer and assessed by the Board upon such lands, which may be part or all of the lands within the District benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The Board may, if it determines it is in the best interests of the District, set forth in the proceedings initially levying benefit special assessments or in subsequent proceedings a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, will constitute a prepayment of all future annual installments of such benefit special assessments and that the payment of which amount with respect to such tax parcel must relieve and discharge such tax parcel of the lien of such benefit special assessments and any subsequent annual installment thereof. The Board may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, the prepayment amount of all future annual installments of benefit special assessments as determined in the preceding sentence will be and become immediately due and payable together with such delinquent annual installment.

Non-ad valorem maintenance taxes. If and when authorized by general law, to maintain and to preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the District pursuant to this bill, to repair and restore any one or more of them, when needed, and to defray the current expenses of the District, including any sum which may be required to pay state and county ad valorem taxes on any lands which may have been purchased and which are held by the District under the provisions of this bill, the Board may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the Board by the engineer of the Board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the District, to be known as a "maintenance tax." This non-ad valorem maintenance tax must be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction.

Maintenance special assessments. To maintain and preserve the facilities and projects of the District, the Board may levy a maintenance special assessment. The amount of the maintenance special assessment is determined by the Board based upon a report of the District's engineer and assessed by the Board upon such lands, which may be all of the lands within the District benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Enforcement of taxes. The collection and enforcement of all taxes levied by the District must be at the same time and in like manner as county taxes, and the provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith must be applicable to the District to the same extent as if such statutory provisions were expressly set forth in the bill. All taxes are subject to the same discounts as county taxes. All taxes become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Assessments constitute liens; collection. Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments authorized by this bill, special assessments, and maintenance taxes if authorized by general law, constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These assessments may be collected, at the District's discretion, under s. 197.3631, F.S., by the tax collector pursuant to the provisions of ss. 197.3632 and

197.3635, F.S., or in accordance with other collection measures provided by law. These assessments may also be enforced pursuant to the provisions of ch. 173, F.S.

Special Assessments. As an alternative method to the levy and imposition of special assessments pursuant to ch. 170, F.S., pursuant to the authority of s. 197.3631, F.S., or pursuant to other provisions of general law, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this bill, the Board may levy and impose special assessments to finance the exercise of any of its powers permitted under this bill using certain uniform procedures set forth in the bill. The procedures include a noticed meeting of the Board to consider an engineer's report on the costs of the systems, facilities, and services to be provided, a preliminary assessment methodology, and a preliminary roll based on acreage or platted lands, depending upon whether platting has occurred.

The assessment methodology must address and discuss and the Board must consider whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It is fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services which give rise to unique, special, and peculiar benefits to property of the same or similar characteristics under the assessment methodology so long as such fixed proportion does not exceed the unique, special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

The Board may determine and declare by an initial assessment resolution to levy and assess the assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting such assessable improvements, the information in the engineer's cost report, the information in the assessment methodology as determined by the Board at the noticed meeting and referencing and incorporating as part of the resolution the engineer's cost report, the preliminary assessment methodology, and the preliminary assessment roll as referenced exhibits to the resolution by reference.

If the Board determines to declare and levy the special assessments by the initial assessment resolution, the Board must adopt and declare a notice resolution which must provide that the initial assessment resolution be published once a week for a period of 2 weeks in newspapers of general circulation published in Manatee and Sarasota Counties. The Board resolution must fix a time and place at which the owner or owners of the property to be assessed or any other persons interested therein may appear before the Board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. The notice must include the amount of the assessment and must be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the District manager or engineer deems reliable. The notice must describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the manager of the District.

At the time and place named in the noticed resolution, the Board must meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial assessment resolution on the property. Following the testimony and questions from the members of the Board or any professional advisors to the District of the preparers of the engineer's cost report, the assessment methodology, and the assessment roll, the Board must make a final decision on whether to levy and assess the particular assessments. Thereafter, the Board must meet as an

equalizing board to hear and to consider any and all complaints as to the particular assessments and must adjust and equalize the assessments on the basis of justice and right.

When equalized and approved by resolution or ordinance by the Board, to be called the final assessment resolution, such assessment must stand confirmed and remain legal, valid, and binding first liens on the property against which such assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, service, project, improvement, works, or infrastructure, the District must credit to each of the assessments the difference in the assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no event may the final assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. The Board, in its sole discretion, may, by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any assessments during such period prior to the time such financing costs are incurred as may be specified by the Board in the resolution.

District assessments may be made payable in installments over no more than 30 years from the date of the payment of the first installment thereof, and may bear interest at fixed or variable rates.

Notwithstanding any provision of this bill or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is not applicable to any District assessments, whether imposed, levied, and collected pursuant to the provisions of this bill or other provisions of Florida law, including, but not limited to ch. 170, F.S. In addition, the District is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of assessments.

Certifications of Indebtedness. The Board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be, and separate certificates must be issued against each part or parcel of land or property assessed, which certificates must state the general nature of the improvement for which the assessment is made. The certificates are payable in annual installments in accordance with the installments of the special assessment for which they are issued. The Board may determine the interest to be borne by the certificates, not to exceed the maximum rate allowed by general law, and may sell the certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates must recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of the certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

The District may also issue assessment bonds, revenue bonds, or other obligations payable from a special fund into which the certificates of indebtedness may be deposited or, if such certificates of indebtedness have not been issued, the District may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this bill unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein may be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The

District is authorized to covenant with the holders of such assessment bonds, revenue bonds, or other obligations that it will diligently and faithfully enforce and collect all the special assessments, and interest and penalties thereon, for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

Tax Liens. All taxes of the District, except together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, must, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes must be levied. A sale of any of the real property within the District for state and county or other taxes does not operate to relieve or release the property so sold from the lien for subsequent District taxes or installments of District taxes, which lien may be enforced against such property as though no such sale thereof had been made. In addition to, and not in limitation of, the preceding sentence, for purposes of s. 197.552, F.S., the lien of all special assessments levied by the District must constitute a lien of record held by a municipal or county governmental unit. The provisions of ss. 194.171, 197.122, 197.333, and 197.432, F.S., are applicable to District taxes with the same force and effect as if such provisions were expressly set forth in this bill.

Payment of taxes and redemption of tax liens. The District is authorized to pay any delinquent state, county, District, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the District and to redeem or purchase any tax sales certificates issued or sold on account of any state, county, District, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the District.

Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the District, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, constitute a lien in favor of the District of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the District may be foreclosed in the manner provided in the Act.

In any sale of land pursuant to s. 197.542, F.S., the District may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the District upon the lands sought to be sold, and the District must share in the disbursement of the sales proceeds in accordance with the provisions of this bill and under the laws of the state.

Foreclosure of Liens. Any lien in favor of the District arising under this bill may be foreclosed by the District by foreclosure proceedings in the name of the District in a court of competent jurisdiction as provided by general law in like manner as is provided in ch. 173, F.S. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under ch. 173, F.S., may be performed by such officer or agent of the District as the Board may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien may be foreclosed against any political subdivision or agency of the state. Other legal remedies remain available.

Mandatory Use of District Systems. To the full extent permitted by law, the District must require all lands, buildings, premises, persons, firms, and corporations within the District to use the water management and control facilities and water and sewer facilities of the District.

Fees, Rentals, and Charges. The District is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, for the systems, facilities, and services furnished by the District, within the limits of the District, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any District service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

No rates, fees, rentals, or other charges for any of the facilities or services of the District may be fixed until after a noticed public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges must be adopted under the administrative rulemaking authority of the District, but do not apply to District leases. After the public hearing, the schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of the rates, fees, rentals, or charges as finally adopted must be kept on file in an office designated by the Board and be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served must be extended to cover any additional users or properties thereafter served which fall in the same class, without the necessity of any notice or hearing.

Rates, fees, rentals, and charges must be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the Board on an equitable basis.

Rates, fees, rentals, or other charges prescribed must be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

1. To provide for all expenses of operation and maintenance of the facility or service.
2. To pay when due all bonds and interest thereon for the payment of which such revenues are, or have been, pledged or encumbered, including reserves for such purpose.
3. To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this bill.

In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the District in a civil action.

In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the Board is authorized, under such reasonable rules and regulations as the Board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the Board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the District limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses, may be recovered by the District, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

Enforcement and Penalties. The Board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this bill, including injunctive relief to enjoin or restrain any person violating the provisions of this bill or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this bill. In case any building or structure

is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this bill or of any code, order, resolution, or other regulation made under authority conferred by this bill or under law, the Board or any citizen residing in the District may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

District Immunity. Any suit or action brought or maintained against the District for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, must be subject to the limitations provided in s. 768.28, F.S.

Exemption of District Property from Execution. All District property is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against such property, nor may any judgment against the District be a charge or lien on its property or revenues; however, nothing contained herein may apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the District in connection with any of the bonds or obligations of the District.

Termination, Contraction, or Expansion of District. The Board may ask the Legislature through its local legislative delegations in and for Manatee and Sarasota Counties to amend the charter created by this bill to contract, to expand or to contract, and to expand the boundaries of the District. The District will remain in existence until the District is terminated and dissolved by the Legislature or the District has become inactive pursuant to s. 189.4044, F.S. The inclusion of any or all territory of the District within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the District.

Sale of Property Within the District. Subsequent to the creation of the District, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the District must include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE LAKEWOOD RANCH STEWARDSHIP DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Notice of District Creation. Within 30 days after the election of the first Board, the District must cause to be recorded in the grantor-grantee index of the property records in Sarasota and Manatee Counties a "Notice of Creation and Establishment of the Lakewood Ranch Stewardship District." The notice must, at a minimum, include the legal description of the property within the District's boundaries.

District Public Property and Fees. Any system, facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax exempt bonding issued by the District, is public; and the District by rule may regulate, and may impose reasonable charges or fees for, the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

C. SECTION DIRECTORY:

Section 1. Provides short title of the Act.
Section 2. Provides legislative intent and definitions.
Section 3. Provides minimum charter requirements, creates the District, and provides for exclusive charter.

Section 4. Sets forth District boundaries.
Section 5. Provides for the District governing board and its administration.
Section 6. Provides for the general duties of the governing board; general and special powers of the District; bonds; ad valorem taxation; special assessments; non-ad valorem maintenance taxes; tax liens; fees, rentals, and charges; and other administrative provisions.
Section 7. Provides for severability.
Section 8. Provides that the bill takes effect upon becoming a law, except that the provisions regarding the levy of ad valorem taxes are not effective until approved at a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 30, 2005

WHERE? Sarasota Herald-Tribune, Sarasota County, Florida, in the Sarasota Edition and the Manatee Edition in Manatee County

B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? The bill takes effect upon becoming a law; however, the provisions authorizing the levy of ad valorem taxation do not take effect until express approval by a majority vote of qualified electors of the District voting in a referendum election held at such time as all members of the District's governing board are qualified electors who are elected by qualified electors of the District.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Constitutional Notice Requirements

Article III, section 10 of the Florida Constitution provides that "[n]o special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected." This bill does not require a referendum to create the District or authorize the District to levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; maintenance special assessments; and, benefit special assessments, nor does the bill require a referendum of the landowners or voters prior to the levy of such fees or assessments.

Chapter 11, F.S., provides general law requirements applicable to the notice for special laws. Section 11.02, F.S., requires the notice to "state the substance of the contemplated law." Therefore, the notice must be broad enough to include all matters contained in the body of the proposed legislation, although the specific contents need not be listed in detail. The function of the notice is to provide reasonable notice to a person whose interests may be affected by the proposed legislation so that he or she may inquire further into the detail of the local bill.

The bill states that "[a]ll notices for the enactment by the Legislature of this special act have been provided pursuant to the State Constitution, the laws of Florida, and the Rules of the Florida House of Representatives and of the Florida Senate. " This provision appears to be a legislative "ratification" of the

published notice for this bill. However, if the published notice is challenged in a court of competent jurisdiction, it is uncertain whether this "ratification" by the Legislature will cure any constitutional deficiencies in the notice.

The published Notice of Intent indicates that this bill creates a new independent special district in Manatee and Sarasota counties designed to "fund, finance and provide infrastructure and services to persons and property within designated unincorporated areas." The notice further indicates that the legislation "would describe the district boundaries, create the district charter, provide for a governing board, establish district powers, provide for required referenda, and provide an effective date."

The published notice does not address the District's authority to levy user charges and fees; non-ad valorem maintenance taxes as authorized by general law; maintenance special assessments; and, benefit special assessments, nor does the bill require a referendum of the landowners or voters prior to the levy of such fees or assessments.

One-Acre, One-Vote Election Mechanism

It should be noted that the broad grants of power to the District *may* impact the permissibility of conducting elections on a "one-vote-per-acre" basis. In *State v. Frontier Acres Community Development District Pasco County, Florida*, 472 So.2d 455 (Fla.1985), the Florida Supreme Court upheld one-vote-per-acre voting for community development districts created under ch. 190, F.S., based on the decisions of the United States Supreme Court,[13] the narrow purpose of such districts, and the disproportionate effect district operations have on landowners:

> The powers exercised by these districts must comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments. Moreover, the limited grant of these powers does not constitute sufficient general governmental power so as to invoke the demands of Reynolds. Rather, these districts' powers implement the single, narrow legislative purpose of ensuring that future growth in this State will be complemented by an adequate community infrastructure provided in a manner compatible with all state and local regulations.

Following this case, the 4th District Court of Appeal reached a similar conclusion with respect to water control districts which are governed by ch. 298, F.S., in *Stelzel v. South Indian River Water Control Dist.*, 486 So.2d 65 (Fla. 4th DCA 1986). In reaching its decision, the court evaluated the functions exercised by the water control district and found that the evidence established that the District does not exercise general governmental functions:

> While the record here contains evidence which tends to support appellants' claims that the District exercises municipal functions, it also demonstrates with equal clarity that each of the functions performed by the District directly relate either to its water control function or to its limited road maintenance authority.

These decisions, and the decisions of the United States Supreme Court, suggest a nexus between the nature and number of powers granted to a special district and whether voting may be conducted on a one-vote-per-acre basis. Thus, the more and varied powers a special district has, it seems more likely that one-vote-per acre voting would be unconstitutional, particularly if the district meets any of the following criteria upon which the courts have based their decisions:

- The district does not have to comply with all applicable policies and regulations of statutes and ordinances enacted by popularly elected state and local governments;
- The district has a grant of power that is not limited and which constitutes "sufficient general governmental power;"
- The district does not have a single, narrow legislative purpose; or
- The functions performed by the district do not directly relate to its single, narrow purpose.

B. RULE-MAKING AUTHORITY:

The bill authorizes the District to adopt and enforce rules and orders pursuant to ch. 120, F.S., the Florida Administrative Procedure Act, prescribing the duties, powers, and functions of the officers of the District, the conduct of the business of the District; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the District.[4]

The bill authorizes the District to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cares, which authorized by proper governmental agencies; however, the District may not exercise any powers of a law enforcement agency. Notwithstanding any provision of general law, the District may operate guardhouses for the limited purpose of providing security for the residents of the District and which serve a predominate public, as opposed to private, purpose. Such guardhouses shall be operated by the District or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.[5]

In addition, the District is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provides or provide for notice, levy, imposition, equalization, and collection of special assessments.[6]

Lastly, the bill requires rates, fees, rentals, and other charges imposed by the District to be adopted under the administrative rulemaking authority of the District.[7]

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- The bill establishes a process to transition the governing board from one elected by landowners only to a board elected by qualified electors of the District. The bill specifically provides that "[t]he transition process described herein is intended to be *in lieu of* the process set forth in section 189.4051, Florida Statutes."[8] [Emphasis added.]

- *Notwithstanding* any provision of this bill or ch. 170, F.S., that portion of s. 170.09, F.S., that provides that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority is *not applicable* to any District assessments, whether imposed, levied, and collected pursuant to the provisions of this bill or other provisions of Florida law, including, but not limited to ch. 170, F.S.[9]

- The bill authorizes the District to provide security, including guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cares, which authorized by proper governmental agencies; however, the District may not exercise any powers of a law enforcement agency. *Notwithstanding* any provision of general law, the District may operate guardhouses for the limited purpose of providing security for the residents of the District and which serve a predominate public, as opposed to private, purpose. Such guardhouses shall be operated by the District or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in ch. 120, F.S.[10]

[4] See line 1800 of the bill.
[5] See line 2099 of the bill.
[6] See line 2880 of the bill.
[7] See lines 3093 of the bill.
[8] See line 1590 of the bill.
[9] See line 2870 of the bill.
[10] See line 2092 of the bill.

- *Notwithstanding* any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.[11]

Transition of Landowner Elected Board to Board Elected by Qualified Electors

The initial governing Board of the District will be elected by landowners of the District on a one-acre/one-vote basis. As population in the District increases, Board members are elected by the qualified electors of the District based upon the number of qualified electors residing in the District. According to estimates provided by proponents of the bill, the population of qualified electors in the District may increase at the following rates:

YEAR	PROJECTED NUMBER OF ELECTORS	NUMBER OF BOARD MEMBERS ELECTED BY ELECTORS
2013 (8 years out)	10,000	1
2023 (18 years out)	20,000	2
2029 (24 years out)	30,000	3
2034 (29 years out)	40,000	4
2037 (32 years out)	45,000	5

As more fully discussed in the Effect of Proposed Changes section of this Analysis, the transition schedule provided in this bill appears to differ significantly from the transition procedures applicable to special districts under s. 189.4051, F.S., and to transition procedures applicable to community development districts governed by s. 190.006, F.S., in that the transition process permits landowners in the District to elect a majority of the governing board for a longer period of time. According to the projected population growth, a majority of the Board will not be elected by the qualified electors of the District for approximately 24 years. Therefore, it is possible that a small number of landowners who own a large number of acres may control the Board until 30,000 qualified electors reside within the District, which may not occur for 24 years.

In 2004, the Legislature created the Ave Maria Stewardship Community District (Ave Maria), an independent special district[12] encompassing 905 acres in Collier County.[13] The charter of Ave Maria provides that board members are elected on a one-acre/one-vote basis until there are at least 500 qualified electors in the District and a petition signed by 10% of the qualified electors is submitted to the board. The transition process followed by Ave Maria is basically the same as that provided in s. 189.4051, F.S. Ave Maria was granted powers and duties similar to those granted to the Lakewood District under this bill.

The following series of questions was posed to Vicki Weber, an attorney for the District:

Q: What is the rationale for requiring the specified number of qualified electors in the district prior to transitioning the board? In other words, how did you arrive at 10,000; 25,000; 35,000; 40,000; and 45,000?

A: We arrived at these numbers in consultation with the counties and after taking into consideration the size of the property, the potential density of development therein, and the length of time of development of significant infrastructure.

[11] See line 2420 of the bill.

[12] Ave Maria was not created as a community development district under ch. 190, F.S.

[13] Ch. 2004-461, L.O.F.

Q: How long do you anticipate that it will [take] before the District reaches each of these thresholds?
A: It is uncertain because the two counties will have control over the timing of development via the required interlocal agreements and subsequent development approvals.

Q: Why are the numbers so much greater than those contemplated in chs. 190 and 189 and Ave Maria?
A: The property at issue is significantly larger than a typical CDD. For example, if SMR were to continue developing this property using CDDs, it contemplates the need for 20 CDDs. The chapter 189 mechanism is untested—it is unclear how the triggers are determined thereunder. Apparently this was not an issue for Ave Maria due to the nature of the development contemplated.

Q: Do you consider this provision to be an "exemption" from s. 189.4051 (see line 1590)?
A: Yes, but the provisions of section 189.4051 are not among the listed minimum requirements under section 189 so the Legislature can grant the exemption by majority vote.

Q: Why aren't the elections provisions in ch 189 sufficient for the District's purposes? Why wouldn't a provision like the one in Ave Maria in Section 4(4) on p. 47 work for this District?
A: We could find no district in Florida that had used the Chapter 189 provisions. In analyzing them, the results appear to be very uncertain depending upon how one draws maps, especially when multiple counties are involved. The Lakewood Ranch opted for a more certain, and arguably less contentious turnover provision.

Broad Powers of the District

The "specialized functions and related prescribed powers," which are a defining characteristic for a special district, are extremely broad for this particular District, including the power to provide for and fund: water management and control, water supply, sewer, and wastewater management, reclamation, and reuse; privatization contracting; bridges or culverts; roadways and roads, parkways, hardscaping, landscaping, irrigation, bicycle lanes, jogging paths, street lighting, traffic signals, road striping; parking facilities; buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, related signage; costs associated with cleanup of actual or perceived environmental contamination within the District; observation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property; parks and facilities for indoor and outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings and related structures; security; mosquitoes and other public health nuisance arthropods control; waste, waste collection, and disposal; impact fee credit agreements with Sarasota and Manatee Counties; and provide buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or any other project authorized by this bill.

However, such broad powers, however, have been upheld by the courts as demonstrated by the leading case on this issue, *State v. Reedy Creek Imp.Dist.*, 216 So.2d 202 (Fla. 1968):

> So long as specific constitutional provisions are not offended, the Legislature in the exercise of its plenary authority may create a special improvement district encompassing more than one county and possessing multi-purpose powers essential to the realization of a valid public purpose. In the present case, the numerous and diverse powers granted to the District by the enabling act appear to be logically related and essential to the realization of the valid public purposes by the District. In reaching this conclusion, we reject the State's argument that the powers granted the District are commensurate in scope with those characteristic of a local municipal government rendering the enabling act a mere subterfuge to avoid the creation of a municipality.

Modification of District Boundaries/Binding Future Legislatures

The bill specifies that the charter of the District, as created in this bill, may only be amended by special act of the Legislature. The bill provides that the Legislature may not consider an amendment of the District boundaries or the special powers of the District unless it is accompanied by a resolution or official statement as provided for in s. 189.404(2)(e)4., F.S. However, if a legislative amendment alters the District boundaries in only one county, or affects the District's special powers in only one county, it is necessary to secure the resolution or statement from only the affected county. Although this bill appears to prohibit future legislatures from amending District boundaries unless a resolution from the affected county is secured, this provision cannot "bind" future legislatures or limit the legislature's ability to amend the District's boundaries. Therefore, although this language may evidence intent of the parties, a future legislature that wishes to amend the boundaries of the District may do so without a resolution from an affected county.

Supremacy Clause

Section 3(4) of this bill includes a supremacy clause as follows:

> This special purpose District is created as a public body corporate and politic, and local government authority and power is limited by its charter, this act, and subject to the provisions of other general laws, including chapter 189, Florida Statutes, *except that an inconsistent provision in this act shall control* and the District has jurisdiction to perform such acts and exercise such projects, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein, including those necessary and incidental thereto.

Supremacy clauses are provisions that attempt to resolve conflicts between legislative enactments by assigning supremacy or prominence to one provision or set of provisions over another. If a bill includes a general supremacy clause, such as the one contained in this bill, the judiciary determines superiority between general and special law provisions, rather than the Legislature. In addition, general supremacy clauses do not inform interested persons or members of the Legislature of the specific laws containing potential conflicts. Unless the specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

Extraterritorial Services and Projects

Section 3(4) of the bill provides as follows:

> The jurisdiction of this District, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this District *and extraterritorially* when limited to, and as authorized expressly elsewhere in, the charter of the District as created in this act or applicable general law…The District shall exercise any of its powers extraterritorially within Manatee County only upon execution of an interlocal agreement between the District and Manatee County consenting to the District's exercise of any of such powers within Manatee County. The District shall exercise any of its powers extraterritorially within Sarasota County only upon execution of an interlocal agreement between the district and Sarasota County consenting to the District's exercise of any of such powers within Sarasota County.

The ability of the District to exercise its general and special powers *outside its boundaries* may raise questions regarding the levy of special assessments on property owners within the District if proceeds of

the special assessments, fees, or non-ad valorem taxes are used to fund projects outside the District. The charter is unclear as to when and under what circumstances the District may exercise its powers extraterritorially or how assessments, taxes, and fees will be apportioned to fund projects outside District boundaries.

According to an attorney for the District, "[t]he intent is to allow the District to make improvements outside the district boundaries when the county requires it to do so via development order or other regulatory requirement. For instance, if the development is conditioned upon road improvements required due to traffic impacts occurring beyond the district but due to development within the district."

New Powers to Community Development Districts

Although the District is created pursuant to chapter 189, Florida Statutes, Section 3(2) of the bill attempts to give the District future powers that may be included in ch. 190, F.S., relating to Community Development Districts as follows:

> Any amendments to chapter 190, Florida Statutes, after January 1, 2005, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power, authority, or function of the Lakewood Ranch Stewardship District; provided, however, that the exercise of any of such additional powers within Manatee County or Sarasota County shall be subject to the requirement that the district execute or amend an interlocal agreement with Manatee County or Sarasota County, respectively, consenting to the exercise of any of such additional powers as provided elsewhere in this act.

Therefore, if the Legislature amends ch. 190, F.S., to grant community development districts additional authority at any time in the future, that additional authority will be automatically granted to the District without further legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 13, 2005, the Council on Local Government adopted a strike-all amendment offered by Representative Reagan, which made several changes to the bill including modifying the terms of the initial board members so that no term exceeds four years, changing the number of qualified electors necessary in order to elect the second and third board members, and requiring an interlocal agreement prior to the exercise of any District powers extraterritorially or pursuant to new powers granted under ch. 190, F.S.