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CS/HB 1315

2017 Legislature

1  
2 An act relating to the Lake County Water Authority,  
3 Lake County; amending ch. 2005-314, Laws of Florida;  
4 revising purpose of the authority; deleting obsolete  
5 language; removing power of the governing board and  
6 the authority to acquire land through eminent domain  
7 or condemnation; removing power of the board relating  
8 to certain state land; providing for the county or a  
9 municipality to acquire private property through  
10 eminent domain under certain circumstances; providing  
11 powers of the board relating to navigation and  
12 blockage of certain waterways in the county;  
13 prohibiting the board from expending public funds to  
14 promote recreation and tourism; providing powers of  
15 and restrictions on the authority and the board  
16 relating to parks; requiring certain documents to be  
17 published on the authority's website; providing an  
18 effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:  
21

22 Section 1. Sections 1, 4, 9, 15, 16, and 17 of section 3  
23 of chapter 2005-314, Laws of Florida, are amended to read:

24 Section 1. Purpose.—For the purposes of controlling and  
25 conserving the freshwater resources of Lake County; fostering

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26 | ~~and improving the tourist business in the county by improvements~~  
27 | ~~to streams, lakes, and canals in the county; providing~~  
28 | ~~recreational facilities for tourists and citizens and taxpayers~~  
29 | ~~of the county by a more efficient use of the streams, lakes, and~~  
30 | ~~canals in the county;~~ improving the fish and aquatic wildlife of  
31 | the county by improving the streams, lakes, and canals in the  
32 | county; and protecting the freshwater resources of Lake County  
33 | through assisting local governments in treating of stormwater  
34 | runoff ~~by conserving fresh water to improve the streams, lakes,~~  
35 | ~~and canals in the county,~~ there is created and incorporated a  
36 | special taxing district extending territorially throughout the  
37 | present limits of Lake County, Florida. The district shall be  
38 | known and designated as the "Lake County Water Authority," but  
39 | shall hereafter in this act, for convenience, be referred to as  
40 | "the authority."

41 | Section 4. Governing board; elections; surety.—A governing  
42 | body for the authority is created, consisting of seven members  
43 | who are residents of Lake County, which body shall be known and  
44 | designated as the "Board of Trustees of the Lake County Water  
45 | Authority," but which shall be referred to as "the board." Five  
46 | of the members must each reside in a separate geographic area  
47 | identical to a county commission district, to be elected by the  
48 | electors of the county at large; no two such members shall  
49 | reside in the same county commission district. Two of the  
50 | members will be elected by the electors of the county at large

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51 | without regard to their residence. ~~On the second Tuesday~~  
52 | ~~following the general election in 2000, the term of office of~~  
53 | ~~each person serving on the board immediately before that date~~  
54 | ~~expires, and~~ The members of the board shall be elected by the  
55 | electors of Lake County in partisan elections. ~~conducted by the~~  
56 | ~~supervisor of elections pursuant to section 189.405, Florida~~  
57 | ~~Statutes, in accordance with the Florida Election Code, chapters~~  
58 | ~~97 through 106, Florida Statutes, beginning with the general~~  
59 | ~~election in 2000, for terms of 4 years beginning on the second~~  
60 | ~~Tuesday following the general election. For purposes of~~  
61 | ~~staggering terms, the members elected in 2000 from odd-numbered~~  
62 | ~~areas and the at-large member receiving the higher number of~~  
63 | ~~votes shall be elected to 4-year terms and the members elected~~  
64 | ~~from even-numbered areas and the at-large member receiving the~~  
65 | ~~lower number of votes shall be elected to 2-year terms.~~  
66 | ~~Thereafter,~~ Each member shall be elected for a term of 4 years,  
67 | except that a person may not be elected to more than two  
68 | consecutive 4-year terms. At the first meeting in December of  
69 | each year or, during a year in which there is a general  
70 | election, at a meeting held no later than 30 days after the  
71 | general election if the meeting and the election of officers  
72 | have been advertised properly, the board shall select one of  
73 | their number as chair and one as vice chair of the board. The  
74 | Clerk of the Circuit Court of Lake County shall act as secretary  
75 | and treasurer of the board without any additional compensation.

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76 | In the event the provision pertaining to the duties of the clerk  
77 | of the circuit court is for any reason held to be invalid, the  
78 | board may select one of its members to serve as its secretary  
79 | and treasurer, or it may appoint a nonmember of the board as its  
80 | secretary and treasurer, and such nonmember shall receive  
81 | compensation commensurate with the responsibilities as  
82 | determined by the board. The board shall select a nonmember to  
83 | serve as executive director of the authority, and such nonmember  
84 | shall receive compensation commensurate with the  
85 | responsibilities as determined by the board. The board shall  
86 | require a surety bond of any person, including the clerk of the  
87 | circuit court, who shall act as secretary and treasurer of the  
88 | board. The amount of the surety bond will be determined by the  
89 | board. This bond shall be in addition to any bond furnished by  
90 | such person as clerk of the circuit court or as a member of the  
91 | board. The premium of the bond shall be paid by the board as a  
92 | necessary expense of operation.

93 | Section 9. Powers of board and authority.-

94 | (a) The board has all the powers of a body corporate,  
95 | including, but not limited to, the power to sue and be sued; to  
96 | make contracts; to adopt and use a common seal and to alter the  
97 | same as deemed expedient; to buy, acquire ~~by condemnation or~~  
98 | ~~eminent domain in the manner prescribed for use by counties in~~  
99 | ~~Florida~~, sell, own, use, control, operate, improve, and lease  
100 | all land and personal property as the board deems necessary or

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101 | proper in carrying out the provisions of this act; to appoint  
 102 | and employ, and dismiss at pleasure, such engineers, auditors,  
 103 | attorneys, and other employees and agents as the board may  
 104 | require, and to fix and pay the compensation thereof; to  
 105 | establish an office for the transaction of its business in Lake  
 106 | County and to pay all necessary costs and expenses incident to  
 107 | the administration and operation thereof; and to pay all other  
 108 | costs and expenses reasonably necessary or expedient in carrying  
 109 | out and accomplishing the purposes of this act.

110 |       (b) The authority may acquire by purchase, gift, lease,  
 111 | ~~condemnation, eminent domain,~~ or in any other manner other than  
 112 | condemnation or eminent domain such lands within the territorial  
 113 | extent of the authority as are reasonably necessary for  
 114 | constructing and maintaining the works and making the  
 115 | improvements required to carry out the intent of this act,  
 116 | ~~including, without limitation,~~ the right to acquire ~~by~~  
 117 | ~~condemnation or eminent domain~~ such lands and any interest  
 118 | therein reasonably necessary for any such purpose which may  
 119 | already be devoted to public use for county, municipal,  
 120 | district, railroad, or public utility purposes where and to the  
 121 | extent that the same may cross, intersect, or be situate upon or  
 122 | within the area of such land hereinbefore referred to. The  
 123 | authority shall also have the right to acquire by purchase,  
 124 | gift, lease, ~~condemnation, or eminent domain,~~ or in any other  
 125 | manner other than condemnation or eminent domain, land, timber,

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126 earth, rock, and other materials or property, and property  
127 rights, including riparian rights, in such amounts as are  
128 reasonably necessary or useful in the development of the works  
129 or improvements before referred to. The board may sell or  
130 otherwise reasonably dispose of property deemed by the authority  
131 as no longer useful to its purpose or works. ~~Condemnation or~~  
132 ~~eminent domain proceedings shall be maintained by and in the~~  
133 ~~name of the authority, and the procedure shall be, except~~  
134 ~~insofar as is altered hereby, that prescribed for use by~~  
135 ~~counties in Florida.~~

136 ~~(c) The authority may take, exclusively occupy, use, and~~  
137 ~~possess, insofar as is necessary for carrying out the provisions~~  
138 ~~of this act, any areas of land owned by the state and within the~~  
139 ~~territorial jurisdiction of the authority, not in use for state~~  
140 ~~purposes, including, without limitation, swamps and overflowed~~  
141 ~~lands, bottoms of streams, lakes, and rivers, and the riparian~~  
142 ~~rights thereto pertaining, and, when so taken and occupied, due~~  
143 ~~notice of such taking and occupancy having been filed with the~~  
144 ~~Trustees of the Internal Improvement Trust Fund of the state by~~  
145 ~~the authority, such areas of land are granted to and shall be~~  
146 ~~the property of the authority. For the purposes of this section,~~  
147 ~~the meaning of the term "use" shall include the removal of~~  
148 ~~material from and the placing of material on any such land. In~~  
149 ~~case it is held by any court of competent jurisdiction that~~  
150 ~~there are any lands owned by the state which may not be so~~

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151 ~~granted, the provisions of this section shall continue in full~~  
 152 ~~force and effect as to all other lands owned by the state and~~  
 153 ~~granted to the authority under this section. The provisions of~~  
 154 ~~this section are subject to all laws and regulations of the~~  
 155 ~~United States of America with respect to navigable waters.~~

156 (c) ~~(d)~~ In addition to all other powers conferred upon the  
 157 board by this act, the board may enlarge, change, modify, or  
 158 improve any stream, lake, or canal within the territorial limits  
 159 of the authority and may clean out, straighten, enlarge, or  
 160 change the course of any waterway or canal, natural or  
 161 artificial, within the territorial limits of the authority; may  
 162 provide such canals, locks, levees, dikes, dams, sluiceways,  
 163 reservoirs, holding basins, floodways, pumping stations,  
 164 buildings, bridges, highways, and other works and facilities  
 165 that the board deems necessary; may cross any highway or railway  
 166 with works of the district and hold, control, and acquire by  
 167 donation, lease, purchase, or in any other manner other than  
 168 condemnation or eminent domain ~~otherwise~~ any land or personal  
 169 property needed for carrying out the purpose of this act and may  
 170 remove any building or other obstruction necessary for the  
 171 construction, maintenance, and operation of such works. The  
 172 improvements made or to be made under this act are sometimes  
 173 referred to in this act as "the works" of the board. The board  
 174 shall also have power to operate any and all works and  
 175 improvements of the authority. The provisions of this section

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176 are subject to all laws and regulations of the United States of  
 177 America with respect to navigable waters.

178 ~~(c) The board may take possession of and control, use,~~  
 179 ~~operate, and maintain all streams, lakes, canals, dams, locks,~~  
 180 ~~levees, dikes, sluiceways, reservoirs, holding basins,~~  
 181 ~~floodways, pumping stations, buildings, bridges, highways,~~  
 182 ~~navigation, and conservation works, and other works and~~  
 183 ~~facilities within the territorial limits of the authority to the~~  
 184 ~~extent only that such possession, control, and use have been~~  
 185 ~~deemed by the board, in its sole discretion, to be useful and~~  
 186 ~~necessary in carrying out the purposes of this act. Such~~  
 187 ~~possession, control, and use are subject to the rights of~~  
 188 ~~persons, firms, and corporations and the rights of Lake County~~  
 189 ~~and municipalities, districts, and political bodies in Lake~~  
 190 ~~County (which rights may be acquired by the authority by~~  
 191 ~~condemnation or eminent domain as provided for by this act).~~

192 (d) ~~(f)~~ The authority shall control all streams, including  
 193 slow-moving streams, flowing from any of the water reservoirs in  
 194 Lake County, whether natural or constructed, into the system of  
 195 lakes and streams in or adjacent to Lake County for the  
 196 protection of the natural water reservoirs and the adjacent and  
 197 neighboring areas.

198 (e) The board may attempt, when technically,  
 199 environmentally, and economically feasible, to remove  
 200 significant hazards to navigation and blockages from the major

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201 public waterways of Lake County, whenever those hazards and  
202 blockages substantially affect public navigation on large lakes  
203 and their connecting streams and canals. Generally, such work  
204 shall be limited to streams, lakes, and canals that have legal  
205 authorized access by the general public.

206 ~~(f)(g)~~ The board ~~may grant licenses or permits for the~~  
207 ~~construction and excavation of canals and ditches connecting~~  
208 ~~with navigable waters; may establish, adopt, and administer~~  
209 ~~rules governing the construction and excavation of canals and~~  
210 ~~ditches with authority to prohibit any construction deemed by~~  
211 ~~the board to be detrimental to the best interests of the public~~  
212 ~~or purposes for which the authority was established; may do any~~  
213 and all things hereinafter authorized or required to be done;  
214 and may do any and all things, whether or not included in the  
215 powers enumerated in this act, necessary to accomplish the  
216 purposes of this act.

217 ~~(g)(h)~~ The board may enter into any agreement or contract  
218 with the Federal Government or the state, or any agency,  
219 political subdivision, or instrumentality of either; and  
220 counties adjoining Lake County; and municipalities and taxing  
221 districts in Lake County and in counties adjoining Lake County  
222 for the purpose of carrying out, or which in the reasonable  
223 judgment of the board may assist it in carrying out, the  
224 purposes of this act.

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225        (h) The board may recommend, by resolution to the Board of  
 226 County Commissioners of Lake County or the governing body of a  
 227 municipality in the county, the acquisition of private property  
 228 using the power of eminent domain. Such recommendation shall  
 229 specify the purpose under this act for which such acquisition is  
 230 necessary. Within 90 days after receipt of such a  
 231 recommendation, the county or municipality shall formally  
 232 respond to such recommendation with its approval, disapproval,  
 233 or a proposed modification. The authority and the county or  
 234 municipality shall cooperate in the public interest. If the  
 235 county or the municipality ultimately proceeds with the  
 236 authority's recommended acquisition, the implementation of the  
 237 purpose of this act for which the authority made the  
 238 recommendation may be addressed through an interlocal agreement  
 239 between the authority and the county or municipality.

240        (i) The board may promote the authority's purpose and  
 241 works through board resolutions, press releases, electronic  
 242 communications, and attendance at public events sponsored by  
 243 other entities, but otherwise may not expend public funds to  
 244 promote recreation and tourism in the county, including, but not  
 245 limited to, hosting events, advertising, or marketing.

246        (j) (1)a. For purposes of this subsection, an "active park"  
 247 means a park developed for the purpose of public recreation with  
 248 man-made improvements, including, but not limited to, buildings  
 249 for meetings and events; athletic fields; tennis, racquetball,

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250 and volleyball courts; swimming pools; recreational boat docks,  
251 boat houses, and related facilities; and similar capital  
252 facilities.

253 b. For purposes of this subsection, a "passive park" means  
254 a park developed for the purpose of allowing public observation  
255 of natural conditions and environmentally sensitive areas or  
256 providing public access to streams, lakes, and canals for  
257 waterborne activities, using limited man-made improvements,  
258 including, but not limited to, nature trails, equestrian trails,  
259 elevated boardwalks, boat ramps, and kayak and canoe launching  
260 pads.

261 (2) The authority may not develop, own, maintain, or  
262 operate active parks, with the exception of Hickory Point Park,  
263 but may develop, own, maintain, and operate passive parks on  
264 property owned by the authority for the purpose of this act,  
265 provided that such passive parks are not in conflict with the  
266 public purpose for which the authority acquired the property.  
267 Nothing in this act shall prohibit the continued use of the Disc  
268 Golf Course at Hidden Waters Preserve. The board may sell or  
269 donate land for parks to Lake County or a municipality in the  
270 county pursuant to an interlocal agreement.

271 Section 15. Financial statement.—At least once in each  
272 year the board shall publish on the authority's website and in a  
273 ~~some~~ newspaper of general circulation published in Lake County a  
274 complete detailed statement of its financial condition,

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275 including a list of all moneys received and disbursed by the  
 276 board during the preceding year.

277 Section 16. Construction.—It is the intention of the  
 278 Legislature that the provisions of this act be reasonably  
 279 ~~liberally~~ construed to accomplish its purposes.

280 Section 17. Plan; annual report.—

281 (a) The authority shall prepare and publish on the  
 282 authority's website a plan that describes the authority's goals  
 283 for the ensuing 5 years. The plan must include projects that  
 284 will be undertaken within that period in furtherance of its  
 285 goals. The authority shall update the plan periodically.

286 (b) The authority shall annually prepare and publish on  
 287 the authority's website a report that ~~annually~~ ~~which~~ includes an  
 288 evaluation and assessment of the effectiveness of the  
 289 authority's activities in the preceding year. The report must  
 290 address both ongoing activities of the authority and the  
 291 progress in meeting goals and projects enumerated in the 5-year  
 292 plan. The report shall be submitted to the Legislature, the St.  
 293 Johns River Water Management District, and the Lake County Board  
 294 of County Commissioners.

295 Section 2. This act shall take effect upon becoming a law.