

1 A bill to be entitled
2 An act relating to Tohopekaliga Water Authority,
3 Osceola County; amending ch. 2003-368, Laws of
4 Florida, as amended; revising legislative findings;
5 providing a definition; providing for the Polk County
6 Board of County Commissioners to appoint one member of
7 the board under an interlocal agreement; providing for
8 additional members of the board in certain
9 circumstances; providing for term limits; requiring
10 board members to elect a chairperson; deleting
11 compensation and reimbursement for board members;
12 updating cross references; providing additional powers
13 of the authority; revising authority power to increase
14 rates and acquire water or wastewater facilities or
15 systems; requiring the board to adopt or update a
16 master plan every 4 years; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsections (2), (3), and (4) of section 2,
22 subsections (6) through (9) of section 3, subsection (2) of
23 section 4, subsections (1), (2), (3), (5), (7), and (8) of
24 section 6, section 8, section 9, paragraph (m) of subsection (1)
25 of section 10, subsection (4) of section 12, subsection (6) of

26 | section 13, subsections (1) and (5) of section 18, subsection
27 | (1) of section 19, and section 20 of chapter 2003-368, Laws of
28 | Florida, as amended by chapters 2013-266 and 2007-287, Laws of
29 | Florida, are amended, and a new subsection (6) is added to
30 | section 3 of that chapter, to read:

31 | Section 2. Legislative Findings.

32 | (2) It is declared as a matter of legislative
33 | determination that the extensive growth of population and
34 | attendant commerce throughout Osceola County and surrounding
35 | counties has caused affected general purpose local governments
36 | within Osceola County to recognize the need to consider,
37 | advance, and develop a regional approach to the governmental
38 | delivery and provision of potable water, wastewater, nonpotable
39 | water, and reclaimed water facilities and services, the
40 | protection of the environment, and the use of valuable water
41 | resources.

42 | (3) Each of the affected general purpose local governments
43 | within Osceola County and surrounding counties must meet the
44 | comprehensive planning requirements of chapter 163, Florida
45 | Statutes, which mandate that local governments coordinate their
46 | plans for future growth with available resources of funding and
47 | availability of infrastructure. The provision of potable and
48 | nonpotable water and wastewater services and facilities is a
49 | major factor in such infrastructure coordination. A focused
50 | regional approach to local governmental ownership and provision

51 of potable and nonpotable water and wastewater utility
52 facilities is desirable and will readily allow Osceola County
53 and the City of Kissimmee, and certain adjacent areas upon
54 approval of any affected general purpose local government, to
55 more effectively meet their statutory mandate with respect to
56 the utilities element of their respective comprehensive plans.

57 (4) The Authority was created and established by the
58 Legislature in 2003. It was, and continues to be, ~~is~~ the intent
59 of the Legislature to create an independent special district in
60 Osceola County that, with the concurrence and approval of
61 affected general purpose local governments, can address and
62 carry out the provision of potable and nonpotable water and
63 wastewater services and facilities in certain areas of Osceola
64 County and certain adjacent areas upon the approval of any
65 affected general purpose local government, as hereinafter
66 provided, to provide economies of scale; eliminate duplicative
67 functions and expenditures; protect the local and regional
68 environment; more efficiently use, preserve, address, protect,
69 and have standing in all respects to use, preserve, address, and
70 protect, valuable local and regional water resources; and
71 advance regional and comprehensive planning.

72 Section 3. Definitions. When used in this act, unless a
73 different meaning appears clearly from the context:

74 (6) "Partial term" means, in relation to the designated 3-
75 year term of a member on the Board of Supervisors, any term in

76 | which a person appointed to the Board of Supervisors serves or
 77 | takes office as a result of resignation, removal, or vacancy,
 78 | and serves or fulfills less than the 3-year term of office. For
 79 | the purposes of determining term limitations, however, service
 80 | of 548 days or more of any partial term shall be construed as
 81 | service of a full term.

82 | (7)-(6) "Pledged funds" means:

83 | (a) The revenues, fees, charges, special assessments, and
 84 | other moneys received by the Authority or its designee relating
 85 | to its ownership or operation of the Authority facilities, or
 86 | some portion thereof.

87 | (b) Until applied in accordance with the terms of the
 88 | financing documents, all moneys in the funds, accounts, and sub-
 89 | accounts established thereby, including investments therein.

90 | (c) Such other property, assets, and moneys of the
 91 | Authority as shall be pledged pursuant to the financing
 92 | documents, in each case to the extent provided by the Board of
 93 | Supervisors pursuant to the financing documents. The funds
 94 | pledged to one series of obligations may be different than the
 95 | funds pledged to other series of obligations. Pledged funds
 96 | shall not include any ad valorem tax revenues or general fund
 97 | account of the Authority unless first approved by a vote of the
 98 | qualified electors within the service area of the Authority.

99 | (8)-(7) "Project" means any structure, property, or
 100 | facility which the Authority, from time to time, may determine

101 to construct or acquire as part of its Authority facilities,
102 together with all improvements, equipment, structures, and other
103 facilities necessary or appropriate in connection therewith.
104 This term is to be broadly construed so as to include the lawful
105 undertaking which will accrue, or is reasonably expected to
106 accrue, to the benefit of the Authority facilities, including
107 joint ventures and acquisitions of partial interests or
108 contractual rights. "Project" shall include, but not be limited
109 to, acquisition or transfer of any water or wastewater utility
110 system, water or wastewater utility assets, or securing the
111 right to provide any water or wastewater utility service as
112 provided for in one or more interlocal agreements between the
113 Osceola County Board of County Commissioners and the City
114 Commission of the City of Kissimmee or any other governmental
115 body. "Project" may also include working capital, as well as any
116 costs or judgments associated with litigation.

117 (9)~~(8)~~ "Ratepayer" means any natural person who pays
118 rates, fees, or charges on a recurring basis to the Authority,
119 or who is an official, officer, member, or employee of any
120 entity, public or private, that pays rates, fees, or charges on
121 a recurring basis to the Authority.

122 (10)~~(9)~~ "Service area" means the geographic boundaries
123 within which the Authority provides, or is otherwise authorized
124 pursuant to the provisions of this act to provide, water or
125 wastewater services or facilities.

126 Section 4. District Establishment and Creation.

127 (2) The District boundary shall embrace and include:

128 (a) The territory within Osceola County consisting of the
 129 incorporated area of the City of Kissimmee and including those
 130 areas served or provided with water and wastewater service by
 131 the City of Kissimmee on June 26, 2003 ~~the effective date~~
 132 hereof.

133 (b) All unincorporated areas within Osceola County, less
 134 and except any areas included within the Reedy Creek Improvement
 135 District, on June 26, 2003, ~~the effective date hereof~~, and less
 136 and except the territory within Osceola County consisting of the
 137 incorporated area of the City of St. Cloud, and including those
 138 unincorporated areas authorized by law to be served or provided
 139 with water and wastewater service by the City of St. Cloud on
 140 June 26, 2003 ~~the effective date hereof~~. This act shall not be
 141 construed to prohibit or inhibit the City of St. Cloud from
 142 lawfully extending, expanding, or providing authorized municipal
 143 services and facilities as provided for in section 180.02(3),
 144 Florida Statutes. The Authority shall be estopped in any future
 145 proceeding conducted pursuant to section 180.03 or section
 146 180.04, Florida Statutes, by the City of St. Cloud, or any
 147 action arising therefrom, from asserting or claiming the
 148 willingness and ability to provide potable water or wastewater
 149 service to:

150 1. All lands in Osceola County, Florida, lying in Section
 151 8, Township 25 South, Range 31 East.

152 2. All lands in Osceola County, Florida, lying in Section
 153 5, Township 25 South, Range 31 East lying easterly of the
 154 eastern boundary of Fells Cove Subdivision, according to the
 155 plat recorded in the Public Records of Osceola County, Florida,
 156 (including specifically the Floridian R.V. Park).

157 3. All lands in Osceola County, Florida lying within
 158 Florida Turnpike right-of-way in the Northwest quarter (NW1/4)
 159 Section 36, Township 27 South, Range 30 East (Canoe Creek DOT
 160 facility).

161
 162 The District boundary may be expanded to include any service
 163 area within the boundaries of an affected general purpose local
 164 government upon the adoption of a resolution by the governing
 165 body of the affected general purpose local government
 166 authorizing the Authority to provide its service and facilities
 167 therein.

168 Section 6. Governing Body.

169 (1) The governing body of the Authority shall consist of
 170 voting five permanent members, appointed as provided herein, and
 171 ~~one or more interlocal members, as may be appointed,~~ acting as
 172 the Board of Supervisors, each of whom shall serve a term of 3
 173 years commencing on October 1, provided the procedure for
 174 appointment of the voting members of the Board of Supervisors

175 and their respective ~~initial~~ terms of office shall be as
 176 follows:

177 (a) Board Supervisor No. 1 and Board Supervisor No. 2
 178 shall serve initial terms ending on September 3, 2020, and
 179 staggered 3-year terms each 3 years thereafter ~~for initial~~ terms
 180 ~~of approximately 2 years, ending on September 30, 2005~~. Board
 181 Supervisor No. 1 shall be appointed by the Osceola County Board
 182 of County Commissioners. Board Supervisor No. 2 shall be
 183 appointed by the City Commission of the City of Kissimmee.

184 (b) Board Supervisor No. 3 and Board Supervisor No. 4
 185 shall serve initial terms ending on September 30, 2018, and
 186 staggered 3 year terms each 3 years thereafter ~~initial terms of~~
 187 ~~approximately 3 years, ending on September 30, 2006~~. Board
 188 Supervisor No. 3 shall be appointed by the Osceola Board of
 189 County Commissioners. Board Supervisor No. 4 shall be appointed
 190 by the City Commission of the City of Kissimmee.

191 (c) Board Supervisor No. 5 shall serve an initial term ~~of~~
 192 ~~approximately 4 years, ending September 30, 2018, and staggered~~
 193 3 year terms each 3 years thereafter ~~2007~~. Board Supervisor No.
 194 5 shall be ~~collectively~~ appointed by ~~joint resolution of the~~
 195 Polk ~~Osceola~~ County Board of County Commissioners ~~and the City~~
 196 ~~Commission of the City of Kissimmee and shall serve as the~~
 197 ~~Chairperson of the Board of Supervisors~~. At the expiration or
 198 termination without replacement of an interlocal agreement
 199 between Polk County and the Authority authorizing the Authority

200 to provide its potable or nonpotable water or wastewater
 201 management or delivery services or programs to retail customers
 202 within Polk County, the term of Board Supervisor No. 5 shall
 203 terminate immediately, creating a vacancy. At the conclusion of
 204 the term in which a vacancy is created by operation of this
 205 paragraph, Board Supervisor No. 5 shall be appointed by the
 206 Osceola Board of County Commissioners.

207 (d) By resolution, ~~one~~ additional members of the Board of
 208 Supervisors ~~Supervisor~~ may be appointed by Polk County or an
 209 ~~each~~ additional general-purpose local government that has
 210 adopted a resolution authorizing the Authority to provide
 211 services and facilities within a service area within its
 212 boundaries and that has entered into an interlocal agreement
 213 with the Authority authorizing the Authority to provide its
 214 potable or nonpotable water or wastewater management or delivery
 215 services or programs to retail customers within such service
 216 area, provided such interlocal agreement expressly provides for
 217 the appointment of such interlocal voting member of the Board of
 218 Supervisors. Such appointment shall be effective only for so
 219 long as the interlocal agreement is effective. Any interlocal
 220 voting member appointed to the Board of Supervisors shall serve
 221 an initial term of not more than 3 years, ending on September 30
 222 of the final year of the term. The final year of any such term
 223 shall be determined such that successive terms are staggered so
 224 no more than a minimum of members of the Board of Supervisors

225 are ever due to be appointed in any year.

226 (2) All members of the Board of Supervisors shall be
 227 ratepayers and qualified electors of Osceola County or of the
 228 service area ~~adjacent to Osceola County~~ in which the District
 229 has been authorized to operate. Each of the general purpose
 230 local governments responsible for appointing members shall
 231 consider but is not required to appoint members with business,
 232 real estate development, engineering, accounting, financial,
 233 scientific, utility, governmental, or public service
 234 backgrounds.

235 (3) Board members shall not be appointed to or serve no
 236 more than three 3 consecutive 3-year terms, not including any
 237 partial initial term which may be held or is served for fewer
 238 than 548 days as provided for herein. No board member shall
 239 serve more than 9 consecutive years, regardless of whether the
 240 service results from full terms or a combination of partial and
 241 full terms. If a member would complete less than 9 years at the
 242 time the member's current term would end, and appointment to
 243 another term would result in service exceeding 9 consecutive
 244 years, then such member may not be reappointed to the
 245 consecutive term.

246 (5) The Board of Supervisors shall annually elect a
 247 Chairperson, Vice Chairperson, Secretary, and such other
 248 officers of the Authority as may be hereafter designated and
 249 authorized by the Board of Supervisors, each of whom shall serve

250 for 1 year commencing as soon as practicable after October 1 and
251 until his or her successor is chosen. The Chairperson, Vice
252 Chairperson, and Secretary shall conduct the meetings of the
253 Authority and perform such other functions as herein provided.
254 The Chairperson, ~~and~~ Vice Chairperson, and any other duly
255 appointed person shall take such actions and have all such
256 powers and sign all documents on behalf of the Authority in
257 furtherance of this act or as may be approved by resolution of
258 the Board of Supervisors adopted at a duly called meeting. The
259 Vice Chairperson, in the Chairperson's absence, shall preside at
260 all meetings. The Secretary, or his or her designee, shall keep
261 minutes of all meetings, proceedings, and acts of the Board of
262 Supervisors, but such minutes need not be verbatim. Copies of
263 all minutes of the meetings of the Authority shall promptly be
264 sent by the Secretary, or his or her designee, to all members of
265 the Board of Supervisors and to each general purpose local
266 government located within the District or the service area. The
267 Secretary may also attest to the execution of documents. The
268 Secretary shall have such other powers as may be approved by
269 resolution of the Board of Supervisors adopted at a duly called
270 meeting.

271 ~~(7) The members of the Board of Supervisors shall receive~~
272 ~~as compensation for their services a fee of \$100 per meeting,~~
273 ~~not to exceed 3 meetings per month. The amount of compensation~~
274 ~~shall be adjusted annually based upon the index provided in~~

275 ~~section 287.017(2), Florida Statutes, or its successor in~~
 276 ~~function. In addition, each member of the Board of Supervisors~~
 277 ~~shall be reimbursed for expenses as provided in section 112.061,~~
 278 ~~Florida Statutes, or otherwise approved by the Board of~~
 279 ~~Supervisors for travel on Authority business outside of the~~
 280 ~~boundaries of the District or service area of the District.~~

281 (7)~~(8)~~ A majority of the Board of Supervisors shall
 282 constitute a quorum for the transaction of business of the
 283 Authority. The affirmative vote of the majority of the members
 284 of the Board of Supervisors present and voting (exclusive of any
 285 member having a conflict) shall be necessary to transact
 286 business. However, any increase in rates, fees, or charges shall
 287 require the affirmative vote of a majority of the entire Board
 288 of Supervisors.

289 Section 8. Meetings; Notice. The Board of Supervisors
 290 shall hold meetings pursuant to section 189.015, ~~sections~~
 291 ~~189.416 and 189.417~~, Florida Statutes.

292 Section 9. Reports; Budgets; Audits. The District shall
 293 prepare and submit reports, budgets, and audits as provided in
 294 section 189.016, ~~sections 189.415 and 189.418~~, Florida Statutes.

295 Section 10. District Powers, Functions, and Duties.

296 (1) The Authority shall have all powers to carry out the
 297 purposes of this act and the functions and duties provided for
 298 herein, including the following powers which shall be in

299 addition to and supplementing any other privileges, benefits,
 300 and powers granted by this act or general law:

301 (m) To contract with private or public entities or persons
 302 to obtain, provide, treat, distribute, or receive potable and
 303 nonpotable water or to provide or receive wastewater disposal,
 304 collection, or treatment; and, to additionally enjoy all powers
 305 necessary to contract by interlocal agreement with the state or
 306 any general or special purpose local government to manage,
 307 treat, store, or provide for surface run-off or stormwater
 308 management, detention, retention, recovery, protection, use, or
 309 any similar activity which makes available, protects, conserves,
 310 or otherwise uses nonpotable water, including, but not limited
 311 to, the establishment or assistance in the operation of any
 312 reservoir or stormwater utility program, special or non-ad
 313 valorem assessment program, or the imposition, levy, billing,
 314 collection, and enforcement of payment for such projects or
 315 services for any associated rates, fees, or charges therefor.

316 Section 12. Adoption of Rates, Fees, and Charges.

317 (4) In the event the Authority acquires, purchases,
 318 assumes, or accepts ownership of any publicly or privately owned
 319 water or wastewater facilities or systems, the Authority may
 320 agree to set, freeze, and not increase any rates, fees, or
 321 charges to any affected class or customers of the acquired
 322 facilities for up to 4 full calendar years following such
 323 acquisition, and in exchange for such value and concessions as

324 the Board deems reasonable and appropriate. Provided, however,
 325 the Board shall not set and freeze such rates, fees, and charges
 326 for amounts less than similar rates, fees, and charges for
 327 amounts less than similar rates, fees, and charges then charged
 328 or imposed upon other Authority customers. ~~Except as required by~~
 329 ~~any covenant to timely meet, perform, or repay any obligations~~
 330 ~~under any financing documents or as described in subsections (7)~~
 331 ~~and (8), no rates, fees, or charges shall be increased or~~
 332 ~~adopted for 2 years after the effective date of this act, unless~~
 333 ~~the Authority causes a rate consultant to review its rates,~~
 334 ~~fees, charges, gross revenue, operating expenses, and methods of~~
 335 ~~operation and determines that such increase is either predicated~~
 336 ~~upon implementing an identified capital improvement plan or~~
 337 ~~meeting state or federal conservation or water demand management~~
 338 ~~requirements.~~

339 Section 13. System Development Charges; Impact Fees.

340 (6) Nothing in this act shall be construed to invalidate
 341 any system development charges, impact fees, or other capital
 342 contribution charges previously levied or collected by Osceola
 343 County, ~~or~~ the City of Kissimmee, or any other local government
 344 or under any implied authority to levy and collect such charges;
 345 such charges being in the nature of impact fees are hereby
 346 ratified and confirmed.

347 Section 18. Planning Requirements.

348 (1) At least once every 4 years after 2018, ~~Within 3 years~~
 349 ~~after the effective date of this act,~~ the Board of Supervisors
 350 shall adopt or update a master plan which, among other things:
 351 (a) Identifies current customers, projects, and future
 352 customers.
 353 (b) Profiles customers (residential and non-residential,
 354 e.g. commercial, industrial).
 355 (c) Reviews and generally inventories all existing
 356 infrastructure and treatment facilities within the boundaries of
 357 or served by the District.
 358 (d) Identifies a capital improvement program for the
 359 Authority.
 360 (e) Reviews all current permits and existing regulations
 361 to projected regulations.
 362 (f) Identifies and evaluates potential acquisitions or
 363 service expansions.
 364 (g) Evaluates Authority staffing.
 365 (h) Provides for detailed mapping of Authority facilities.
 366 (i) Provides for hydraulic analysis of Authority
 367 facilities, both existing and proposed.
 368 (j) Evaluates present and future sources of raw water and
 369 treatment requirements for those sources in terms of capacity,
 370 reliability, and economy.
 371 (k) Provides for an analysis of all available wastewater
 372 alternatives, including surface water discharge, wetlands

373 discharge, percolation facilities, spray irrigation, and deep
 374 well injection.

375 (l) Identifies reclaimed water storage alternatives and
 376 wet weather backup alternatives.

377 (m) Identifies current and potential high volume users of
 378 reclaimed water.

379
 380 ~~Thereafter,~~ The Board of Supervisors shall review and, if
 381 necessary, amend the master plan periodically, but no less often
 382 than every 4 years.

383 (5) The Authority shall comply with the provisions of part
 384 VI of chapter 189, sections 189.415 and 189.4155, Florida
 385 Statutes.

386 Section 19. Merger; Dissolution.

387 (1) In no event shall a merger involving the Authority be
 388 permitted unless otherwise approved by resolution of all
 389 affected general purpose local governments. ~~Upon the effective~~
 390 ~~date of this act, any governmental utility authority created by~~
 391 ~~interlocal agreement between Osceola County and the City of~~
 392 ~~Kissimmee as a separate legal authority pursuant to section~~
 393 ~~163.01(7)(g), Florida Statutes, may be merged into the Authority~~
 394 ~~and this act shall be the surviving charter for the Authority in~~
 395 ~~all respects.~~

396 Section 20. Effect of Incorporation or Presence of Another
 397 Special District. To the maximum extent permitted by law, the

398 subsequent incorporation or annexation of any area included
399 within the boundaries of the District or service area after June
400 26, 2003, or the presence or creation of any special district
401 within the boundaries of the District or service area, shall not
402 impair or alter the authority, power, obligations, or purpose of
403 the Authority or its successor in providing water and wastewater
404 services and facilities within any portion of the District's
405 boundaries or authorized service area ~~now~~ included within
406 Osceola County, any municipality, or special district or
407 subsequently included within any county, municipality, or
408 special district. Nothing herein shall be construed to limit or
409 affect the powers of any municipal services benefit unit or
410 dependent special district established by any charter county.

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