

House Bill No. 1679

An act relating to the Hendry/Hilliard Water Control District, Hendry County; providing for codification of all special acts relating to the Hendry/Hilliard Water Control District; providing legislative intent; amending, codifying, and reenacting chapter 86-394, Laws of Florida; providing for repeal of all prior special acts related to the Hendry/Hilliard Water Control District; providing for severability; providing for control in the event of a conflict of provisions; providing an effective date.

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

Section 1. Pursuant to chapter 97-255, Laws of Florida, and chapter 98-320, Laws of Florida, this act constitutes the codification of all special acts relating to the Hendry/Hilliard Water Control District, an independent special district and political subdivision of the State of Florida. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the District, including all current legislative authority granted to the District by its several legislative enactments and any additional authority granted by this act. It is further the intent of this act to preserve all District authority.

Section 2. Chapter 86-394, Laws of Florida, relating to the Hendry/Hilliard Water Control District of Florida, is codified, reenacted, amended, and repealed as herein provided.

Section 3. The Hendry/Hilliard Water Control District is re-created and the charter for such district is re-created and reenacted to read:

Section 1. Minimum charter requirements.—In accordance with section 189.404(3), Florida Statutes, the following shall constitute the charter of Hendry/Hilliard Water Control District:

(1) The District is organized and exists for all purposes set forth in this act and chapter 298, Florida Statutes, as they may be amended from time to time.

(2) The powers, functions, and duties of the District regarding non-ad valorem assessments, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements shall be as set forth in chapters 189, 197, and 298, Florida Statutes, this act, or any other applicable general or special law, as they may be amended from time to time.

(3) The District was created by chapter 86-394, Laws of Florida, 1986, a special legislative act.

(4) The District's charter may be amended only by special act of the Legislature.

(5) In accordance with chapter 298, Florida Statutes, the District is governed by a Board of Supervisors. The membership and organization of the Board shall be as set forth in this act and chapter 298, Florida Statutes, as they may be amended from time to time.

(6) The compensation of Board members shall be governed by this act and chapter 298, Florida Statutes, as they may be amended from time to time.

(7) The administrative duties of the Board shall be as set forth in this act and chapter 298, Florida Statutes, as they may be amended from time to time.

(8) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in chapters 112, 189, 286, and 298, Florida Statutes, as they may be amended from time to time.

(9) The procedures and requirements governing the issuance of bonds, notes, and other evidence of indebtedness by the District shall be as set forth in chapters 189 and 298, Florida Statutes, and applicable general laws, as they may be amended from time to time.

(10) The procedures for conducting District elections and for qualification of electors shall be pursuant to chapters 189 and 298, Florida Statutes, and applicable general laws as they may be amended from time to time.

(11) The District may be financed by any method established in this action, chapters 189 and 298, Florida Statutes, or any applicable general laws, as they may be amended from time to time.

(12) In accordance with chapter 298, Florida Statutes, the District may continue to levy upon all of the real taxable property in the District a special tax each year as maintenance tax.

(13) The method for collecting non-ad valorem assessments, fees, or service charges shall be as set forth in chapters 197 and 298, Florida Statutes, as they may be amended from time to time.

(14) The District's planning requirements shall be as set forth in chapters 189 and 298, Florida Statutes, as they may be amended from time to time.

(15) That all acts and proceedings done and performed by the Board of Supervisors, agents, and officers of the District, acting for and on behalf of the District, are and each of them is, hereby ratified, validated, confirmed, and declared to be legal, valid, and binding.

(16) The geographic boundary limitations are as set forth in section 2.

Section 2. District creation and boundaries.—For the purposes of comprehensive water management and control and developing the land herein-after described and managing said lands and water by means of the construction and maintenance of canals, ditches, levees, dikes, pumping plants,

and other water control works and improvements, and for the purpose of making the lands within said District available and habitable for settlement and agriculture, and for the public convenience, welfare, utility, and benefit, and for the other purposes stated in this act, a water control district is hereby created and established in Hendry County, Florida, to be known as the Hendry/Hilliard Water Control District, the territorial boundaries of which shall be as follows, to wit:

That part of Section 7 south of State Road 80 right-of-way and east of the Hilliard Canal; that part of Section 8 south of State Road 80 right-of-way; all of Section 17; that part of Section 18 east of Hilliard Canal; and all of Section 20, all in Township 43 South, Range 32 East, Hendry County, Florida

All of Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, all in Township 44 South, Range 31 East, Hendry County, Florida.

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33, and all of Section 21, all in Township 44 South, Range 32 East, Hendry County, Florida.

Fractional Sections 3 and 4; Sections 9, 10, 16, 21, 22, 23, 26, 27, 28, 33, 34, and 35; the Southwest one-quarter of Section 15, all in Township 43 South, Range 32 East, Hendry County, Florida.

It is hereby determined, declared, and enacted that said lands in their present condition require comprehensive water control and management for proper agricultural use, and that water control for the purpose of irrigation, reclamation, and flood protection of said lands, making said lands available for agricultural and settlement purposes, and the creation of the District with the power vested in it by this act, is in the interest of and conducive to public welfare, health, and convenience.

Section 3. Provisions of other laws made applicable.—The Hendry/Hilliard Water Control District hereby created shall be a public corporation of this state. The provisions of Florida law applicable to water control districts or subdistricts which are embodied in chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereafter enacted, so far as not inconsistent with this act, are hereby declared to be applicable to the Hendry/Hilliard Water Control District. The Hendry/Hilliard Water Control District shall have all of the powers and authorities conferred by chapter 298, Florida Statutes, and acts amendatory thereof, except as herein otherwise provided.

Section 4. Powers of the District.—The District shall have the power to sue and be sued in its name in any court of law or in equity; to make contracts; to adopt and use a corporate seal and to alter the same at pleasure; to acquire by purchase, gift, or condemnation real and personal property, either or both, within or without the District, and to convey and dispose of such real and personal property, either or both, as may be necessary or convenient to carry out the purposes, or any of the purposes, of this act, and chapter 298, Florida Statutes; to construct, operate, and maintain canals, ditches, drains, levees, and other works for water control purposes; to ac-

quire, purchase, operate, and maintain pumps, plants, and pumping systems for water control purposes; to construct, operate, and maintain irrigation works, machinery, and plants; to borrow money and issue negotiable or other bonds of the District as hereinafter provided; to borrow money, from time to time, and issue negotiable or other notes of the District therefor, in anticipation of the collection of taxes, levies, and assessments or revenues of the District, and to pledge or hypothecate such taxes, levies, assessments, and revenues to secure such bonds, notes, or obligations, and to sell, discount, negotiate, and dispose of the same; and to exercise all other powers necessary, convenient, or proper in connection with any of the powers or duties of the District stated in this act. The powers and duties of the District shall be exercised by and through the Board of Supervisors thereof, which Board shall have the authority to employ engineers, attorneys, agents, employees, and representatives as the Board of Supervisors may from time to time determine, and to fix their compensation and duties. In addition, the District shall have all of the powers provided for in chapter 298, Florida Statutes.

Section 5. Board of Supervisors; appointment of Board; organization, powers, duties, and terms of office.—There is created a Board of Supervisors of Hendry/Hilliard Water Control District, which shall be the governing body of the District. The Board of Supervisors shall consist of three persons who, except as herein otherwise provided, shall hold office for a term of 3 years and until their successors shall be duly elected and qualified. Each year during the month of June, a supervisor shall be elected, as hereinafter provided, by the landowners of said District to take the place of the retiring supervisor. All vacancies or expirations on the Board shall be filled as required by this act. The supervisors of the Hendry/Hilliard Water Control District need not be residents of the District or of the State of Florida, and they may or may not be owners of lands or property within the District. In case of a vacancy in the office of any supervisor, the remaining supervisors may fill such vacancy until the next annual meeting of the landowners, when his or her successor shall be elected by the landowners for the unexpired term. As soon as practicable after their election, the Board of Supervisors of the District shall organize by choosing one of their number as President of the Board of Supervisors and by electing some suitable person as Secretary, who may or may not be a member of the Board. The Board of Supervisors shall adopt a seal which shall be the seal of the District. At each annual meeting of the landowners of the District, the Board of Supervisors shall report all work undertaken or completed during the preceding year and the financial status of the District. All supervisors shall hold office until their successors shall be elected and qualified. Whenever any election is authorized or required by this act to be held by the landowners at any particular stated time or day, and if for any reason such election shall not or cannot be held at such time or on such day, then in such event and in all and every such event, the power or duty to hold such election shall not cease or lapse, but such election shall be held thereafter as soon as practicable and consistent with this act.

Section 6. Compensation of Board.—Each supervisor shall be paid a per diem for his or her services, in an amount to be determined by the landowners at the annual landowners' meeting, for each day actually engaged in

work pertaining to the District. The amount shall not exceed that provided for by chapter 298, Florida Statutes, and amendments thereto, except that, in addition to per diem, they shall receive reimbursement for travel and expenses as provided by law.

Section 7. Meetings of landowners; election of Supervisors.—Each year during the month of June, a meeting of the landowners of said District shall be held for the purpose of electing Supervisors to take the place of the retiring Supervisors and of hearing reports of the Board of Supervisors. The Board of Supervisors shall have the power to call special meetings of the landowners at any time to receive reports of the Board of Supervisors or consider and act upon any matter upon which the Board of Supervisors may request advice. Notice of all meeting of the landowners shall be given by the Board of Supervisors pursuant to chapters 189 and 298, Florida Statutes. The landowners, when assembled for the annual landowners' meeting, shall organize by electing a chair who shall preside at the meeting. The Secretary of the Board of Supervisors shall be the Secretary of such meeting. At all such annual landowners' meetings, each and every acre of land in the District shall represent one vote, and each owner shall be entitled to one vote in person or by written proxy for every acre of land owned by him or her in the District. The person receiving the highest number of votes for supervisor shall be declared and elected as such supervisor. At any landowners' meeting, a quorum shall constitute those landowners present in person or by proxy. Guardians may represent their wards, personal representatives may represent the estates of deceased persons, trustees may represent lands held by them in trust, and private corporations may be represented by their officers or duly authorized agents. Guardians, personal representatives, trustees, and corporations may vote by proxy.

Section 8. Taxes levied and apportioned, and the collection thereof.—

(1) INSTALLMENT TAXES.—Taxes shall be levied and apportioned as provided by chapter 298, Florida Statutes, and amendments thereto.

(2) MAINTENANCE TAX.—To maintain and preserve improvements made pursuant to this chapter and to repair and restore the same, and for the purpose of defraying the current expenses of the District, the Board of Supervisors may, pursuant to chapter 298, Florida Statutes, upon the completion of said improvements, in whole or in part as may be certified to the said Board by the Chief Engineer, levy annually a tax upon each tract or parcel of land within the District, to be known as a "maintenance tax." Said maintenance tax shall be apportioned upon the basis of the net assessments of benefits assessed or accruing for original construction.

(3) TAXES AND COSTS A LIEN ON LAND AGAINST WHICH TAXES LEVIED.—All taxes provided for in this chapter, together with all penalties for default in payment of the same and all costs in collecting the same, shall, from the date of assessment thereof until paid, constitute a lien of equal dignity with the liens for county taxes, and other taxes of equal dignity with county taxes, upon all the lands against which such taxes shall be levied as is provided in this chapter.

(4) COMPENSATION OF PROPERTY APPRAISER, TAX COLLECTOR, AND CLERK OF THE CIRCUIT COURT.—The Property Appraiser, Tax Collector, and Clerk of the Circuit Court of Hendry County shall be entitled to compensation of services performed in connection with taxes of said District as provided by chapter 298, Florida Statutes.

(5) LEVIES OF TAXES ON LAND LESS THAN ONE ACRE.—In levying and assessing all taxes, each tract or parcel of land less than 1 acre in area shall be assessed as a full acre, and each tract or parcel of land more than 1 acre in area which contains a fraction of an acre shall be assessed at the nearest whole number of acres, a fraction of one half or more to be assessed as a full acre.

Section 9. When unpaid taxes delinquent; penalty.—All taxes provided for in this act shall be and become delinquent and bear penalties on the amount of said taxes in the same manner as county taxes.

Section 10. Enforcement of taxes.—The collection and enforcement of all taxes levied by the District shall be at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certifications 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, shall be applicable to the District and the delinquent and unpaid taxes of the District to the same extent as if said statutory provisions were expressly set forth in this act. All taxes shall be subject to the same discounts as county taxes.

Section 11. Uniform acreage tax for payment of expenses.—There is hereby levied by the Legislature of the State of Florida upon each and every acre of land within the Hendry/Hilliard Water Control District as defined in this act, a uniform tax to be used by the District, through its Board of Supervisors, for the purpose of paying expenses incurred or to be incurred in making surveys of the lands in the District and assessing benefits and damages, and other expenses necessarily incurred, as may be estimated or determined by the Board of Supervisors, before the Board of Supervisors shall have funds under the subsequent provisions of this act. The tax shall become due and payable on the first day of November, and shall become delinquent 90 days thereafter. The tax shall be a lien upon the lands in the District from the date of the enactment of this act and shall be collected in the same manner as the annual installment of taxes. If it shall appear to the Board of Supervisors to be necessary to obtain funds to pay any expenses incurred or to be incurred in organizing the District, making said surveys, creating a unit, or preparing the water control plan, or any other expenses of the conduct and operation of the District before a sufficient sum can be obtained by the collection of the acreage tax levied by this section, the Board of Supervisors may borrow a sufficient sum of money for any of said purposes, may issue negotiable notes or bonds therefor signed by the members of said Board of Supervisors, and may pledge any and all assessments of said acreage tax levied under the provisions of this section for the repayment therefor. The Board of Supervisors may issue negotiable evidence of debt to any person or persons performing work or services or furnishing anything

of value in the organization of the District or making surveys of the same and assessing benefits or damages or preparing said water control plan and for any other expenses necessarily incurred before the receipt of funds arising from assessments or benefits.

Section 12. Bonds may be issued under the provisions of chapter 298, Florida Statutes.—The Board of Supervisors may, if in their judgment it seems best, issue bonds under the provisions of chapter 298, Florida Statutes, bearing interest from date, after determining any discount thereon, payable annually or semiannually.

Section 13. Water control for public benefit.—It is hereby declared that in said District, surface waters, which shall include rainfall and the overflow of rivers and streams, shall be managed for a public benefit, and the District, and any individual or agency holding a permit to do so from the District, shall have the right to dike, dam, and construct levees to manage waters within the District.

Section 14. Unit development; powers of supervisors to designate units of District and adopt system of progressive drainage by units; water control plan and financing assessments, etc., for each unit.—The Board of Supervisors of Hendry/Hilliard Water Control District shall have the power and is hereby authorized in its discretion to manage water within the District by designating areas or parts of said District to be called “units.” The units into which said District may be so divided shall be given appropriate numbers or names by the Board of Supervisors so that the units may be readily identified and distinguished. The Board of Supervisors shall have the power to fix and determine the location, area, and boundaries of and lands to be included in each and all such units, the order of development thereof, and the method of carrying on the work in each unit. The unit system of water control provided by this section may be conducted, and all of the proceedings by this section and this act authorized in respect to such unit or units may be carried on and conducted, at the same time as or after implementation of the District water control plan. If the Board of Supervisors shall determine it is advisable to implement the District water control plan by units, as authorized by this section, the Board shall, by resolution duly adopted and entered upon its minutes, declare its purpose to conduct such work accordingly, and shall at the same time and manner fix the number, location, and boundaries of and description of lands within such unit or units and give them appropriate numbers or names. The Board of Supervisors may adopt a water control plan for, and in respect to, any or all such units, and to have the benefits and damages resulting therefrom assessed and apportioned by the District engineer, and the engineer’s report considered and confirmed, all in like manner as is provided by law in regard to water control plan for and assessments of benefits and damages of the entire District. With respect to the water control plan; notices; engineer’s report and notice and confirmation thereof; the levy of assessments and taxes, including maintenance taxes and the issuance of bonds; and all other proceedings as to each and all of such units, said Board shall follow and comply with the same procedure as is provided by law with respect to the entire District. All the provisions of this act shall apply to the water management and control within all of such units, and the enumeration of or reference to

specific powers or duties of the supervisors, or any other officers or other matters in this act as hereinabove set forth, shall not limit or restrict the application of any and all of the proceedings and powers herein to such units. All assessments, levies, taxes, bonds, and other obligations made, levied, assessed, or issued, or issued for or in respect to any such unit or units shall be a lien and charge solely and only upon the lands in such unit or units, respectively, for the benefit of which the same shall be levied, made, or issued, and not upon the remaining units or lands in said District. The Board of Supervisors may at any time amend its resolutions by changing the location and description of lands in any such unit or units; and provided, further, that if the location of or description of lands located in any such unit or units is so changed, proceedings shall be had and one in that regard as are provided in this section for the original creation of such unit or units, provided, however, no lands against which benefits shall have been assessed may be detached from any such unit after the confirmation of the engineer's report of benefits in such unit or units or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon the land within such unit or units. Provided, however, that if, after the confirmation of the engineer's report of benefits in such unit or units, or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon lands within such unit or units, the Board of Supervisors finds the water control plan for any such unit or units insufficient or inadequate for efficient development, the water control plan may be amended or changed as provided in chapter 298, Florida Statutes, and the unit or units may be amended or changed as provided in this section by changing the location and description of lands in any such unit or units, by detaching lands therefrom, or by adding lands thereto. In such event all assessments, levies, taxes, bonds, and other obligations made, levied, assessed, incurred, or issued for or in respect to any such unit or units may be allocated and apportioned to the amended unit or units in proportion to the benefits assessed by the engineer's report for the amended water control plan, and said report shall specifically provide for such allocation and apportionment. However, a change or amendment to a designated unit is not authorized if it has the effect of impairing a debt or other obligation of the unit or District.

Section 4. Chapter 86-394, Laws of Florida, is repealed.

Section 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 6. In the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2000.

Filed in Office Secretary of State June 7, 2000.