

House Bill No. 1793

An act relating to the Devil's Garden Water Control District, Hendry County; providing for codification of special laws relating to the Devil's Garden Water Control District, a special tax district of the State of Florida; providing legislative intent; codifying, reenacting, and amending chapters 87-473 and 99-436, Laws of Florida; providing for minimum charter requirements; providing for supervisor qualifications; providing for provisions of other laws made applicable; providing for ratification of prior actions; repealing chapters 87-473 and 99-436, Laws of Florida, relating to the district, to conform; providing severability; providing an effective date.

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

Section 1. Pursuant to chapters 97-255 and 98-320, Laws of Florida, this act constitutes the codification of all special acts relating to the Devil's Garden 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, including the authority to annually assess and levy taxes and charges against the taxable property in the District.

Section 2. Chapters 87-473 and 99-436, Laws of Florida, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Devil's Garden Water Control District is re-created, and the charter for the District is re-created and reenacted to read:

Section 1. In accordance with section 189.404(3), Florida Statutes, the following are the minimum requirements for the charter of the Devil's Garden Water Control District:

(a) 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, except as otherwise provided in this act.

(b) 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.

(c) The District was created by the process contained in chapter 298, Florida Statutes.

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

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

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

(l) 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.

(m) 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.

(n) 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.

Section 2. The territorial boundaries of the District include lands in Hendry County, Florida, described as follows:

Beginning at the intersection of the North boundary line of Section 5, Township 45 South, Range 34 East, according to State Survey, and the West boundary line of the Right-of-Way of L-1 Levee of the Central and Southern Florida Flood Control District; thence westerly along the boundary line between Townships 44 South and 45 South to the Southeast corner of Section 31, Township 44 South, Range 31 East, thence North along the East boundary line of Sections 31, 30 and 19 in said

Township 44 South, Range 31 East to the Northeast corner of said Section 19, Township 44 South, Range 31 East; thence westerly along the North boundary of said Section 19 to the Northwest corner of Section 19, thence westerly along the North boundary of Section 24, T. 44 S., R.30 E., to the Northwest corner of said Section 24, thence continuing westerly along the North boundary of Section 23, T 44 S, R 30 E to a local Road known as "Twin Mills", thence southerly along a line described in Official Record 581, pages 430 thru 439 and Official Record 581, pages 443 thru 451 to County Road 832, thence easterly along SR 832 as described in Official Record 581, pages 443 thru 451 to a local Road known as "Wild Cow Road", thence southerly along Wild Cow Road, as described in Official Record 581, pages 443 thru 451 to the South boundary of Section 25, T 45 S, R 30 E, thence easterly along the South boundary of said Section 25 and along the South boundary of Section 30, T 44 S, R 31 E to the South ¼ corner of said Section 30, thence southerly along the North-South ¼ Section line of Section 31 to the South boundary of Section 31, T 45 S, R 31 E, thence easterly along the Township line between T 45 S and T 46 S; to the Northwest corner of Section 2, Township 46 South, Range 32 East; thence southerly along the West boundary of said Section 2 to the Southwest corner thereof; thence easterly along the South boundary of said Section 2 & 1 to the Southeast corner of Section 1; thence northerly along the easterly boundary of said Section 1 to the Northeast corner thereof; thence easterly along the South boundary of Township 45 South, Range 33 East to the Southeast corner of said Township 45 South, Range 33 East; thence northerly along the East boundary of said Township 45 South, Range 33 East to the Northeast corner of Section 12, Township 45 South, Range 33 East; thence easterly along the South boundaries of Section 5 and 6, Township 45 South, Range 34 East, to an intersection of the West boundary of the Right-of-Way of Levee L-I of the Central and Southern Florida Flood Control District; thence northerly along said Right-of-Way boundary of L-I along the approximate East boundary of Section 5, Township 45 South, Range 34 East, to the Point-of-Beginning of this description.

AND ALSO

TOWNSHIP 46 SOUTH, RANGE 34 EAST:

The West-half, and the West-quarter of the Northeast-quarter, and the West-quarter of the East-half of the West-half of the Northeast-quarter of Section 6, Less Road Right-of-Way. All of Section 7, Less Road Right-of-Way, and all Section 8, and the North-half of Section 17, and the North-half of Section 18, Less Road Right-of-Way.

Containing approximately 85,625 acres.

Section 3. Powers of the District.—In addition to the powers of the District under chapter 298, Florida Statutes, and other general laws, the District shall have the power to construct, finance, and maintain roads for ingress and egress to lands within the District, and to acquire, construct, and maintain pumping stations, water control facilities, levees, ponds, lakes, and other facilities for the retention of water. All power and authority of the District shall extend and apply to the District as a whole and to each unit of improvement as from time to time created.

Section 4. Units of improvement; powers of supervisors to designate units of District and adopt system of progressive water control by units; water control plans and financing assessments, etc., for each unit.—The Board of Supervisors of Devil’s Garden Water Control District shall have the power and is hereby authorized in its discretion to drain, irrigate, and reclaim or more completely and intensively to drain, irrigate, and reclaim the lands in the District by designated areas or parts of the District to be called “units.” The units into which the 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 of, area and boundaries of, and lands to be included in each and all such units, the order of improvement 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 the work of improving of the entire District has been or is being or shall be instituted or carried on under the provisions of this act. If the Board of Supervisors shall determine that it is advisable to conduct the work of improving the lands in the District 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 from time to time fix the number, location, and boundaries of and description of lands within such unit or units and give them appropriate numbers or names. As soon as practicable after the adoption and recording of such resolution, the Board of Supervisors shall publish notice once a week for two consecutive weeks in a newspaper published in Hendry County, Florida, briefly describing the units into which the District has been divided and the lands embraced in each unit, giving the name, number, or other designation of such units, requiring all owners of lands in the District to show cause in writing before the Board of Supervisors at a time and place to be stated in such notice why the division of the District into such units should not be approved, and the system of improvement by units should not be adopted and given effect by the Board, and why the proceedings and powers authorized by this section should not be had, taken, and exercised. At the time and place stated in the notice, the Board of Supervisors shall hear all objections or causes of objection (all of which shall be in writing) of any landowner in the District to the matters mentioned and referred to in such notice, and if no objections are made, or if the objections, if made, shall be overruled by the Board, then the Board shall enter in its minutes its finding an order confirming the resolution, and may thereafter proceed with the improvement of the District by units pursuant to such resolution and to the provisions of this act. If, however, the Board of Supervisors shall find as a result of such objections, or any of them, or the hearing thereon, that the division of the District into such units as aforesaid should not be approved, or that the system of improvement by units should not be adopted and given effect, or that the proceedings and powers authorized by this section should not be had, taken, or exercised, or that any other matter or thing embraced in the resolution would not be in the best interest of the landowners of the District or would be unjust or unfair to any landowner therein or otherwise inconsistent with fair and equal protection and enforcement of the rights of every

landowner in the District, then the Board of Supervisors shall not proceed further under such resolution, but the Board of Supervisors may, as a result of such hearing, modify or amend the resolution so as to meet such objections so made, and thereupon the Board may confirm the resolution as so modified or amended and may thereafter proceed accordingly. The sustaining of such objections and the rescinding of such resolutions shall not exhaust the power of the Board under this section; but, at any time not less than 1 year after the date of the hearing upon any such resolution, the Board of Supervisors may adopt other resolutions under this section and thereupon proceed on due notice in like manner as above. If the Board of Supervisors shall overrule or refuse to sustain any such objections in whole or in part made by any landowner in the District, or if any such landowner shall deem himself or herself aggrieved by any action of the Board of Supervisors in respect to any objections so filed, such landowner may, within 10 days after the ruling of the Board, file his or her complaint in the court of competent jurisdiction against the District, praying an injunction or other appropriate relief against the action or any part of such action proposed by such resolution or resolutions of the Board, and such suits shall be conducted like other suits. Upon the hearing of the cause, the court of competent jurisdiction shall have the power to hear the objections and receive the evidence thereon of all parties to such cause and approve or disapprove the resolutions and action of the Board in whole or in part, and to render such decree in such cause as right and justice require. When the resolutions creating the unit system shall be confirmed by the Board of Supervisors (or by the circuit court if such proposed action shall be challenged by a landowner by the judicial proceedings hereinabove authorized), the Board of Supervisors may adopt a water control plan or plans 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 plans for and assessments for 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, the Board shall follow and comply with the same procedure as is provided by law with respect to the entire District; and the Board of Supervisors shall have the same powers in respect to each and all of such units as is vested in them with respect to the entire District. All the provisions of this act shall apply to the improvement of each, any, and 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 the improvements of such units as fully and completely as if such unit or units were specifically and expressly named in every section and clause of this act where the entire District is mentioned or referred to. All assessments, levies, taxes, bonds, and other obligations made, levied, assessed, 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 the 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 are so changed, notice of such change shall be published as hereinabove required in this section for notice of the formation or organization of such unit or units, and all proceedings shall be had and done in that regard as are provided in this section for the original creation of such unit or units, provided, however, that 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 lands within each unit or units. However, if, after 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 improvement, the plan may be amended or changed as provided in chapter 298, Florida Statutes, as 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; and 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 the 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 5. Providing for District taxes.—All lands in the District receiving benefits shall be subject to District taxes notwithstanding any previous provisions of law or court order.

Section 6. The governing Board of the District shall be designated the “Board of Supervisors of Devil’s Garden Water Control District” and shall be composed of three persons, who shall be resident freeholders of the State of Florida.

Section 7. All acts and proceedings of the circuit court taken by, for, and on behalf of the District since the creation thereof, and all of the acts and proceedings of the Board of Supervisors, the Commissioners, and all other officers and agents of the District, and of the county, acting for and on behalf of the District, and any and all tax levies and assessments which have been made by the Board of Supervisors for and on behalf of the District, are each and every one of them, and each and every part thereof, hereby ratified, validated, and confirmed.

Section 4. Chapters 87-473 and 99-436, Laws of Florida, are repealed.

Section 5. In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situation, circumstances, or person shall for any reason be held to be unconstitutional, such

unconstitutionality shall not affect any other sections or provisions of this act or the application of such sections or provisions to any other situation, circumstances, or person, and it is intended that this act shall be construed and applied as if such section or provision had not been included in this act for any unconstitutional application.

Section 6. 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.