

House Bill No. 1925

An act relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, Lake County; amending ch. 29222, Laws of Florida, 1953, as amended; changing the name of the authority to the Lake County Water Authority; increasing the number of members of the board of trustees; requiring that members be elected in nonpartisan elections conducted by the county supervisor of elections in accordance with the Florida Election Code; providing residence requirements; limiting the number of terms a member may serve; providing for transition; prohibiting any board member from serving as executive director of the authority; changing the number of board members required to constitute a quorum, to conform; conforming property assessment procedures to general law; providing for certification of millage to the county tax collector; providing a cap on millage; prescribing additional purposes of the Authority; authorizing the board to delegate duties to the Executive Director under certain conditions; authorizing the Authority to issue revenue bonds; providing for a referendum; requiring the Authority to prepare a plan and annual reports; repealing obsolete provisions; providing for future review of the authority; providing severability; providing effective dates.

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

Section 1. Chapter 29222, Laws of Florida, 1953, as amended by chapters 57-1484, 59-1466, 63-1507, 65-1787, and 69-1209, Laws of Florida, is amended to read:

Section 1. The Legislature finds:

(a) That Lake County has within its boundaries large acreage of highly developed agricultural land, including thousands of acres of citrus groves and fruit and vegetable producing land.

(b) That the problem of an adequate supply of fresh water for this developed land and for the remaining thousands of acres of undeveloped land in the county, as well as an adequate supply of safe and healthful fresh water for human and animal consumption, is of grave concern to the county and its citizens and taxpayers.

(c) That there are many streams, lakes, and canals in the county, including two chains of lakes, each having a large water storage capacity.

(d) That the proper control by drainage, irrigation, and storage of the fresh water in these streams, lakes, and canals is necessary to the material development in the county in which all of its citizens and taxpayers will be the beneficiaries.

(e) That the most important source of income of the people of Florida is the tourist business, and in Lake County the tourist business is second in

importance only to agriculture. Sport fishing and recreational boating are major factors in attracting tourists to Lake County and the orderly development and control of the streams, lakes, and canals in Lake County will materially increase the tourist business in the county and will likewise afford recreational facilities and opportunities to the citizens and taxpayers of the county and will preserve, protect, and improve the fish and wildlife of the county, all to the end of materially benefiting the citizens and taxpayers of the county.

Section 2. ~~That~~ For the purposes of (1) controlling and conserving the freshwater ~~fresh water~~ resources of Lake County; (2) fostering and improving the tourist business in the county by improvements to the streams, lakes, and canals in the county; (3) providing recreational facilities for the tourists and citizens and taxpayers of the county by a more efficient use of the streams, lakes, and canals in the county; ~~and~~ (4) preserving, protecting, and improving the fish and wildlife of the county; and protecting the freshwater resources of Lake County through assisting local governments in treatment of stormwater runoff, there is ~~hereby~~ created and incorporated a special taxing district extending territorially throughout the present limits of Lake County, Florida. The district shall be known and designated as “The Lake County Water Authority Oklawaha Basin Recreation and Water Conservation and Control Authority in Lake County,” but shall hereafter in this act, for convenience, be referred to as “the Authority.”

Section 3. ~~That~~ Each of the purposes for which the Authority is created, as set out in section 2 of this act, is ~~hereby~~ declared to be a county purpose, for the accomplishment of which taxes upon all real and personal property within the territorial limits of the Authority are by this act authorized to be levied, assessed, and collected.

Section 4. ~~That~~ A governing body for the Authority is ~~hereby~~ created, consisting of ~~seven~~ three members who are residents of Lake County, Florida, which body shall be known and designated as the “Board of Trustees of the Lake County Water Authority Oklawaha Basin recreation and water conservation and control authority in Lake county,” but which shall ~~hereinafter,~~ be referred to as “the board.” Five of the members must each reside in a geographic area identical to a county commission district, to be elected by the electors of the county at large. Two of the members will be elected by the electors of the county at large without regard to their residence. On the second Tuesday following the general election in 2000, the term of office of each person serving on the board immediately before that date expires, and the members of the board shall be elected by the electors of Lake County in nonpartisan elections conducted by the supervisor of elections pursuant to section 189.405, Florida Statutes, in accordance with the Florida Election Code, chapters 97 through 106, Florida Statutes, beginning with the general election in 2000, for terms of 4 years beginning on the second Tuesday following the general election. For purposes of staggering terms, the members elected in 2000 from odd-numbered areas and the at-large member receiving the higher number of votes shall be elected to 4-year terms and the members elected from even-numbered areas and the at-large member receiving the lower number of votes shall be elected to 2-year terms. Thereafter, each member shall be elected for a term of 4 years, except that a person

~~may not be elected to more than two consecutive 4-year terms. At the first meeting in December of each year appointed by the governor and confirmed by the senate of the state of Florida, and shall hold office for four years; provided, that in appointing the members of the first board, the governor shall appoint the members for the following terms, to-wit: one member for a two-year term, one member for a three year term, and one member for a four year term, and thereafter each member shall be appointed for a four-year term. Immediately upon their appointment and in January of each succeeding year the members of the board shall meet and select one of their number as Chair Chairman and one as Vice Chair Chairman of the board. The Clerk of the Circuit Court of Lake County, Florida shall act as Secretary and Treasurer of the board without any additional compensation. In the event the provision pertaining to the duties of the Clerk of the Circuit Court is for any reason held to be invalid, the board may select one of its members to serve as its Secretary and Treasurer, or it may appoint a nonmember non-member of the board as its Secretary and Treasurer, and such nonmember member of non-member shall receive compensation commensurate with the duties and responsibilities as determined by the board. The board ~~shall~~ may select one of its members or a nonmember non-member to serve as Executive a Director of the Authority, and such nonmember member or non-member shall receive compensation commensurate with the responsibilities as determined by the board. In the event of the appointment of a member of the board as director, he shall not be entitled to receive pay "per diem" as compensation for his services except as provided in section 8 of this act. The board shall require a surety bond of any person, including the Clerk of the Circuit Court, who shall act as Secretary and Treasurer of the board, in an amount to be fixed by the board, which bond in the case of the appointment of the Clerk of the Circuit Court or a member of the board shall be in addition to the bond furnished by such person ~~him~~ as Clerk of the Circuit Court or as a member of the board, and the premium thereon shall be paid by the board as a necessary expense of operation.~~

Section 5. ~~That~~ Each member of the board, before assuming his or her duties, shall give a good and sufficient surety bond in the sum of ~~twenty-five hundred dollars (\$2,500.00)~~, payable to the Governor of the State of Florida and his or her successors in office, conditioned upon the faithful performance of his duties as a member of the board. Such bond shall be approved by and filed with the Comptroller of the State of Florida, and the premium or premiums thereon shall be paid by the board as a necessary expense of ~~said Authority.~~

Section 6. ~~Four~~ ~~That~~ ~~two~~ members of the board shall constitute a quorum for the transaction of business, and a majority vote of all members present shall be necessary in order to authorize any action by the board. The Chair Chairman shall be entitled to vote on all questions.

Section 7. Each member of the board shall receive ~~twenty-five dollars (\$25.00)~~ per day as compensation for his or her service when performing his or her duties.

Section 8. ~~That~~ Each member of the board, its engineers, auditors, attorneys, agents, and employees, shall be paid their actual expenses incurred

when engaged on business of the Authority, but such expenses shall not be paid unless payment has been authorized and approved by the Board. The board may authorize and approve the payment of any expense; or it may delegate to the Executive Director the power to authorize such payment as long as, at the time it makes the delegation, it approves parameters, including, but not limited to, parameters on the amount that may be expended, within which the Executive Director may exercise that power. A separate delegation must be made with respect to any expenditure or class of expenditures.

~~Section 9(a).~~ That The board shall have all the powers of a body corporate, including the power to sue and be sued; to make contracts; to adopt and use a common seal and to alter the same as may be deemed expedient; to buy, acquire by condemnation or eminent domain in the manner prescribed for use by counties in Florida, sell, own, use, control, operate, improve, and lease all land and personal property as the board may deem necessary or proper in carrying out the provisions of this act; to appoint and employ, and dismiss at pleasure such engineers, auditors, attorneys, and other employees and agents as the board may require, and to fix and pay the compensation thereof; to establish an office for the transaction of its business in the City of Tavares, ~~Lake County, Florida~~ or any other municipality in Lake County; to pay all necessary costs and expenses incident to the administration and operation thereof, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this act.

~~Section 9(b).~~ Each year a budget shall be prepared by the Authority ~~Oklawaha basin recreation and water conservation and control authority in Lake County,~~ and a millage, not to exceed 0.5 mills sufficient to meet the budget within the provisions of law shall be certified to the ~~board of county commissioners of Lake County~~ Tax Collector for assessment.

~~Section 9(c).~~ The board shall have the authority to grant licenses or permits for the construction and excavation of canals and ditches connecting with navigable waters; to establish, promulgate, and administer rules and regulations governing the construction and excavation of canals and ditches with authority to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the authority was established; to do any and all other acts and things hereinafter authorized or required to be done; and to do any and all things, whether or not included in the enumerated powers of this act, necessary to accomplish the purposes of this act.

~~Section 9(d).~~ The Authority shall control all streams, including slow moving streams, flowing from any of the water reservoirs in Lake County, whether natural or constructed, into the system of lakes and streams in or adjacent to Lake County for the protection of the natural water reservoirs and the adjacent and neighboring areas.

Section 10. ~~That~~ The Authority is ~~hereby~~ authorized and empowered to acquire by purchase, gift, lease, condemnation, ~~or~~ eminent domain, or any other manner, such lands within the territorial extent of the Authority as

may be reasonably necessary, for constructing and maintaining the works and making the improvements required to carry out the intent of this Act, including without limitation ~~limiting the meaning of the foregoing general terms~~, the right to acquire by condemnation or eminent domain such lands and any interest therein, reasonably necessary for any such purpose ~~which that~~ may already be devoted to public use for county, municipal, district, railroad, or public utility purposes where and to the extent that the same may cross, intersect, or be situate upon or within the area of such land hereinbefore referred to, and the Authority shall also have the right to acquire by purchase, gift, lease, condemnation, or eminent domain, or in any other manner, land, timber, earth, rock, and other materials or property, and property rights, including riparian rights, in such amounts as may be reasonably necessary or useful in the development of the works or improvements before referred to. Condemnation or eminent domain proceedings shall be maintained by and in the name of the Authority, and the procedure shall be, except insofar as is altered hereby, that prescribed for use by counties in Florida.

Section 11. ~~That~~ The Authority shall have the right to take, exclusively occupy, use, and possess, insofar as may be necessary for carrying out the provisions of this Act, any areas of land owned by the state of Florida and within the territorial extent of the Authority, not in use for state purposes, including, without limitation ~~limiting the foregoing general terms~~, swamps and overflowed lands, bottoms of streams, lakes, and rivers, and the riparian rights thereto pertaining, and, when so taken and occupied, due notice of such taking and occupancy having been filed with the Trustees of the Internal Improvement Fund of the State of Florida by the Authority, such areas of land are ~~hereby~~ granted to and shall be the property of the Authority. For the purposes of this section, the meaning of the term "use" shall include the removal of material from and the placing of material on any such land. In case it ~~is~~ shall be held by any court of competent jurisdiction that there are any lands owned by the state ~~that~~ of Florida ~~which~~ may not be so granted, then the provisions of this section shall continue in full force and effect as to all other lands owned by the state of Florida and granted to the Authority under this section hereunder. The provisions of this Section are subject to all laws and regulations of the United States of America with respect to navigable waters.

Section 12. ~~That~~ In addition to all other power conferred upon by the board by this act, the board may ~~shall have the power to and is hereby authorized in its discretion to~~ enlarge, change, modify, or improve any stream, lake, or canal within the territorial limits of the Authority and to clean out, straighten, enlarge, or change the course of any waterway, or canal, natural or artificial, within the territorial limits of the Authority; to provide such canals, locks, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, buildings, bridges, highways, and other works and facilities ~~that which~~ the board deems ~~may deem~~ necessary; to cross any highway or railway with works of said district and to hold, control, and acquire by donation, lease, or purchase, or otherwise any land or personal property needed for carrying out the purpose of this act and may remove any building or other obstruction necessary for the construction, maintenance, and operation of such ~~said~~ works. The improvements made or

to be made under this act are sometimes referred to in this act as “the works” of the board of Authority. The board shall also have power to operate any and all works and improvements of the Authority. The provisions of this section are subject to all laws and regulations of the United States of America with respect to navigable waters.

Section 13. ~~That~~ The board shall have authority to take possession of and control and use and operate and maintain all streams, lakes and canals, dams, locks, levees, dikes, sluiceways, reservoirs, holding basins, floodways, pumping stations, buildings, bridges, highways, navigation, and conservation works and other works and facilities, within the territorial limits of the Authority to the extent only that such possession, control, and use shall be deemed by the Board, in its sole discretion, to be useful and necessary in carrying out the purposes of this Act; provided that such possession, control, and use shall be subject to the rights of persons, firms, and corporations, and the rights of Lake County, ~~Florida~~ and municipalities, districts, and political bodies in Lake County, ~~Florida~~ (which rights may be acquired by the Authority by condemnation or eminent domain as provided for by this act).

Section 14. ~~That~~ Lake County, ~~Florida~~ and all municipalities, districts, political bodies, and political subdivisions of the state of ~~Florida~~, in Lake County, ~~Florida~~ are hereby severally authorized to grant, convey, transfer to, and permit the use of by the Authority upon such terms and conditions as are agreeable to the governing bodies thereof of real and personal property belonging to them or either of them, that may be necessary or useful to the Authority in carrying out the purposes of this act.

Section 15. ~~That~~ The board shall have power to enter into any agreement or contract with the Federal Government or the state of ~~Florida~~, or any agency, political subdivision, or instrumentality of either, and counties adjoining Lake County, ~~Florida~~, and municipalities and taxing districts in Lake County and in counties adjoining Lake County, ~~Florida~~, for the purpose of carrying out, or which in the judgment of the board may assist it in carrying out, the purposes of this act.

Section 16. ~~That~~ All Authority funds shall be deposited in a bank or banks or federal or state savings and loan association to be designated by the board, but before any Authority moneys are deposited in such depository or depositories, security, shall be furnished the Authority ample to protect such deposits to the full extent and amount that such deposits shall not be otherwise protected or insured by Federal Deposit Insurance Corporation, or Federal Savings and Loan Insurance Corporation. Funds of the Authority shall be paid out only upon warrant signed by the Treasurer of the Authority and countersigned by the ~~Chair~~ Chairman or Vice ~~Chair~~ Chairman. No warrants shall be drawn or issued disbursing any of the funds of the Authority except for a purpose authorized by this act, and only when the account or expenditure for which the same is to be given in payment has been audited and approved by the board.

Section 17. The board shall have and is hereby granted the power to determine, annually on or before July 15, by resolution the amount of money that will be required to carry out the purposes of this act for the next ensuing

fiscal year (which fiscal year shall be the same as that of Lake County) and the millage ~~not exceeding, during the next five (5) years after this act takes effect, one and one-half (1 ½) mills on the dollar of the taxable real and personal property within the authority, and after said five (5) year period has elapsed the millage shall not exceed one (1) mill on the dollar on such property, that will be required to be levied to produce the said amount of money set forth in the resolution; provided that the determination of the amount of money to be raised and the millage to be levied may be delayed until the board receives from the county tax assessor and the comptroller the necessary information they are required to furnish the board as set out in this section of this act; immediately upon the adoption of the resolution a certified copy thereof shall be furnished to the board of county commissioners of Lake County, and the board of county commissioners of Lake County, shall, for the year named in the certified copy of the resolution, levy, assess, collect, and enforce taxes upon all taxable real and personal property within the authority; provided that in no event shall the board of county commissioners levy for the authority, taxes in any one (1) year in excess of one (1) mill on the dollar of all taxable real and personal property within the authority.~~ The procedure to be followed to accomplish the purpose of this section shall be as hereinafter set out, to-wit:

(a) ~~Assessment of property shall be as provided by general law. The County Tax Assessor of Lake County, Florida, each year beginning with the year 1953, immediately after the tax assessment roll of said county has been reviewed and equalized by the Board of County Commissioners of said county, shall report to the board the assessed valuation of all taxable real and personal property in the county, and the Comptroller of the State of Florida shall, annually, beginning with the year 1953, report to board, at the time he is required by law to report to the county Tax Assessors, the assessed valuation of all railroad lines, railroad property, telephone and telegraph lines, and telephone and telegraph property and all other taxable property within said Authority over which he has jurisdiction for valuation or assessment purposes. The sum of all assessments so reported by the County Tax Assessor of Lake County, Florida and the Comptroller of the State of Florida, shall be the assessed value of taxable property of said Authority for that year for the purposes of Authority taxes and taxation under the provisions of this act.~~

(b) ~~The board shall immediately, thereupon, by resolution, determine the total amount to be raised by taxation in such year upon the taxable property within the Authority, and shall, in and by such said resolution, fix and determine the millage on each dollar valuation of property on the said assessment rolls, which, when levied, will raise the said amount so determined as aforesaid as the total amount to be raised by taxation in that year, and in and by such said resolution the board shall direct the board of county commissioners to levy, assess, and fix such said millage as the rate of taxation upon all the taxable real and personal property within the Authority; provided that the Authority shall not direct the County Commissioners of Lake County, Florida to levy and assess any tax for any one year in excess of one mill on the dollar upon all taxable real and personal property within the Authority and the Board of County Commissioners shall not within any~~

one year levy and assess for the Authority more than one mill on the dollar upon the taxable real and personal property within the Authority.

(c) A certified copy of such tax resolution executed in the name of the Authority by its Chairman, or Vice Chairman, and attested by its Secretary, under its corporate seal, shall immediately be delivered to the Board of County Commissioners of Lake County, Florida.

(d) It shall be the duty of the said board of county commissioners, each year: (1) to levy, assess, and fix the millage and the rate of taxation upon all the taxable real and personal property within the Authority as set forth in the certified copy of the resolution of the said board, and (2) to certify the said millage to the Department of Revenue Comptroller of the State of Florida, and (3) to order the property appraiser Assessor of the said county to levy and assess, and the county tax collector to collect, a tax at the millage fixed by the said board of county commissioners upon all of the taxable real and personal property within the said Authority for the said year, and the said levies and assessments shall be included in the tax roll and warrant of the property appraiser Tax Assessor of the said county for each fiscal year thereafter. The tax collector of the said county shall collect such taxes so levied by the board of county commissioners for the said Authority in lawful money of the United States of America in the same manner and at the same time as county taxes are collected, and shall pay and remit the same upon collection to the board.

~~(e) It shall be the duty of the Comptroller of the State of Florida each year, to assess and levy upon all railroad lines and railroad property, telephone and telegraph lines and telephone and telegraph property, and all other taxable property within his jurisdiction and located within the Authority, a tax at the rate prescribed by the Board of County Commissioners of Lake County, Florida, and certified to him by the Board of County Commissioners of Lake County, Florida, and to collect in lawful money of the United States of America the tax thereupon in the same manner and at the same time as he is required by law to assess and collect such taxes for county purposes, and to remit the same when collected to the board.~~

~~(e)(f) The Property Appraiser Tax Assessor, Tax Collector, and Board of County Commissioners of Lake County, Florida, and the Department of Revenue Comptroller shall, when requested by the board, prepare from their official records and deliver to the board any and all information that may be requested from time to time from them regarding the tax valuations, levies, assessments, or collections in such county.~~

Section 18. ~~That~~ All taxes levied and assessed by the Board of County Commissioners of Lake County, Florida for the Authority (beginning with the year 1953) shall be collected and the enforcement thereof shall be at the same time and in the same manner as other county taxes are collected and enforced and when so collected shall be paid over to the board for its use pursuant to this act.

Section 19.(a) ~~That~~ The board is hereby authorized to borrow money at such time or times as it may deem necessary to carry out the purposes of this act and to execute and deliver its promissory note or notes therefor bearing

interest as fixed by the board; ~~however, provided that~~ the board shall not borrow any sum of money ~~or nor~~ give its promissory note therefor, for a period of time longer than 1 ~~one~~ year, and the total amount of money borrowed and outstanding shall not exceed ~~thirty-five thousand and no/100 dollars~~ (~~\$35,000.00~~) at any one time.

(b) The board may issue bonds payable solely from revenues of the Authority. The value of all such bonds outstanding at any time may not exceed an amount equal to one-third of the Authority's anticipated revenues for the period for which the bonds are outstanding. Revenue bonds may not be issued unless their issuance has been approved by a majority of those electors of the Authority voting in a referendum in which the ballot statement describes in detail the purpose for which the bonds will be issued.

Section 20. ~~That~~ At least once in each year the board shall publish in some newspaper published in Lake County, ~~Florida~~, a complete detailed statement of its financial condition, including a list of all moneys received and disbursed by the board during the preceding year.

Section 21. ~~That~~ All real and personal property owned, leased, controlled, or used by the Authority shall be exempt from all county, municipal, taxing district, and other ad valorem taxes and special assessments for benefits.

Section 22. ~~That~~ It is the intention of the Legislature that the provisions of this act shall be liberally construed to accomplish its ~~the~~ purposes ~~provided for herein~~.

Section 22A.(a) The Authority shall prepare a plan that describes the Authority's goals for the ensuing 5 years. The plan must include projects that will be undertaken within that period in furtherance of its goals. The Authority shall update the plan periodically.

(b) The Authority shall prepare a report annually which includes an evaluation and assessment of the effectiveness of the Authority's activities in the preceding year. The report must address both ongoing activities of the Authority and the progress in meeting goals and projects enumerated in the 5-year plan.

Section 23. ~~That if any Section, subsection, paragraph, subparagraph, sentence, clause, phrase or word of this Act is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of the Act, the Legislature hereby declaring that it would have passed this Act, and each and every Section, subsection, paragraph, subparagraph, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more other Sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases or words thereof may be declared to be unconstitutional or otherwise ineffective.~~

Section 24. ~~That notice for the passage of this Act has been published as required by Section 21 of Article III of the Constitution, and affidavit of proof of such publication, together with a true copy of the notice, was duly at-~~

tached to this Act when the bill therefor was introduced in the Legislature, and accompanied said bill throughout the Legislature, as required by law.

~~Section 25. That all laws and parts of laws, and specifically Chapter 10814, Laws of Florida, Acts of 1925, be and they are hereby repealed.~~

Section 2. The date on which the additional seats on the Board of Trustees of the Lake County Water Authority are created is the second Tuesday following the general election in 2000, and those seats will be filled initially on that date by persons elected at the general election in 2000 in the manner described in section 4, chapter 29222, Laws of Florida, 1953, as amended by this act.

Section 3. The Legislature shall review chapter 29222, Laws of Florida, as amended, prior to September 20, 2010, to evaluate the continuing mission, responsibility, and effectiveness of the Lake County Water Authority.

Section 4. 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 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 14, 2000.

Filed in Office Secretary of State June 14, 2000.