

## House Bill No. 1115

An act relating to Brevard County; providing for codification of existing special laws relating to the creation, powers, and duties of the Melbourne-Tillman Water Control District, a dependent special district in Brevard County, as provided in chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida, except as amended by this act; providing legislative purpose; amending definitions of "District," "general obligation bonds," and "revenue bonds"; amending scope of revenue sources allowed to be bonded; clarifying provisions relating to liens, collection, and foreclosure to include special assessments and stormwater management user fees; amending liability of District where lands are made available to public for outdoor recreational purposes, as defined therein; providing editorial revisions; establishing obstruction or impeding of a drainage canal or watercourse as a criminal offense; providing for civil damages for obstruction and impeding drainage canal or watercourse; amending, codifying, reenacting, and repealing chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida; re-creating the District and re-creating and reenacting the charter; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Melbourne-Tillman Water Control District. 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 against the taxable property in the district a tax not to exceed 0.2 mills on the dollar of assessed valuation.

Section 2. Chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida, are amended, codified, reenacted, and repealed as herein provided.

Section 3. The charter for the Melbourne-Tillman Water Control District is re-created and reenacted to read:

Section 1. Legislative intent.—It is hereby declared and determined by the Legislature that a special district within the definition of sections 165.031(5) and 200.001(8)(d), Florida Statutes, to be known as the Melbourne-Tillman Water Control District, would be the most responsive, efficient, and effective local government entity to secure, operate, and maintain an adequate, dependable surface water management system within the boundaries set forth in Section 3 herein. It is, therefore, the intent of the Legislature that such special district shall possess the full power and authority to implement, finance, and operate all existing surface water management system facilities, and those to be constructed within the boundaries of the District, subject to being granted all permits required by the laws, rules, and regulations of federal, state, and regional regulatory agencies.

Section 2. Definitions.—As used in this act:

(1) “District” means the Melbourne-Tillman Water Control District, a special district created by this act.

(2) “Surface water management system” means all drainage facilities whereby surface waters are collected, controlled, conveyed, channeled, diverted, impounded, obstructed, stored, detained, or retained, or other surface water management capabilities or combination of capabilities. The term “facilities” includes all necessary devices, improvements, natural systems, rights-of-way, appurtenant works, and works required to accomplish the above. “Facilities” also includes all dams, levees, berms, weirs, control structures, impoundments, ponds, lakes, streams, canals, ditches, swales, culverts, pipes, subsurface systems of pipes, inlets, and culverts, erosion control, floodways, greenbelts, access and maintenance ways, or similar items to accomplish the above.

(3) “Cost,” as applied to the construction or maintenance of a surface water management system, or extensions, additions, or improvements thereto, includes the cost of construction, reconstruction, acquisition, purchase, or replacement; the cost of maintenance, operation, and repair; the cost of all labor, materials, machinery, and equipment; the cost of all lands and interest therein, property, rights, easements, and financing charges; interest prior to and during construction; the creation of initial reserve or debt service funds; bond discount; cost of plans, specifications, surveys, and estimates of costs and revenues; cost of engineering, financial, and legal services, and all other expenses necessary or incidental in determining the feasibility or practicability of such construction, reconstruction, or acquisition, maintenance, operation, and repair; administrative expenses; such other expenses as may be necessary or incidental to financing authorized by this act; and reimbursement to any municipality, county, or any other person, firm, or corporation for any moneys advanced to the District for any expenses incurred by the District in connection with any of the foregoing items of cost or the creation of the District.

(4) “Revenue bonds” means bonds, notes, or other obligations secured by and payable from the revenue derived from a pledge of the proceeds of special assessments levied against benefited properties and/or stormwater management user fees.

(5) “General obligation bonds” means bonds or other obligations secured by the full faith and credit and taxing power of the District and payable from ad valorem taxes levied and collected on all taxable property within the boundaries of the District, without limitation of rate or amount, and may be additionally secured by the pledge of the proceeds of special assessments levied against benefited property and/or stormwater management user fees.

(6) “City” means the City of Palm Bay and/or the City of West Melbourne, as may be indicated.

(7) “County” means Brevard County.

(8) "Board of Directors" means a seven (7) member board comprising three (3) members appointed by the Brevard County Commission, three (3) members appointed by the City of Palm Bay City Council, and one (1) member appointed by the City of West Melbourne City Council.

(9) "Owner," as used in this act, means the owner of the fee simple estate, as appears by the deed of record, and it shall not include reversioners, remaindermen, trustees, or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under this act.

(10) "Primary" means all existing numbered canals within District rights-of-way, to include facilities such as dams, weirs, control structures, culverts, pipes, and any future works so designated by the Board.

(11) "Secondary" means all drainage facilities that convey surface water to primary system by crossing District rights-of-way lines.

(12) "Tertiary" means all drainage facilities associated with and located within rights-of-way of public roadways, driveways, parking lots, etc., that convey surface water to secondary systems.

Section 3. Special district.—There is hereby created and incorporated the Melbourne-Tillman Water Control District, a dependent special district, for the purpose of constructing, reconstructing and repairing, maintaining, and operating a surface water management system. The boundaries of the District are:

All of Township 29 South, Range 36 East, and portions of Township 29 South, Range 37 East, Township 28 South, Range 36 East and Township 28 South, Range 37 East in Brevard County, Florida being more particularly described as follows:

Township 29 South, Range 37 East:

The West ½ of Sections 3, 27 and 34, and all of Sections 4 through 9, 16 through 21, and 28 through 33, and the West ½ of the Southwest ¼ of the Northeast ¼ of Section 34.

Township 28 South, Range 36 East:

The South ½ of Sections 1 through 5, the Southeast ¼ of Section 6, and all of Sections 7 through 36.

Township 28 South, Range 37 East:

The Southwest ¼ of Section 6, the West ½ and Southeast ¼ of Section 7, the West ½ of Section 17, the South ½ of Section 21, a portion of the Southwest ¼ of Section 22 described as the West ½ of the Northwest ¼ of the Southwest ¼, less Parcel 543, the South ½ of Section 27, less a portion of the North ½ of the South ½ described as the area bounded by the west section line, then southerly along the section line to a point 419 feet distant, then easterly to a point along the east section line 450 feet southerly of the midpoint of the east section line, then northerly along the section line to the midpoint of the section line, then westerly to the

midpoint of the west section line, the point of beginning, the West  $\frac{1}{2}$ , Northeast  $\frac{1}{4}$  and a portion of the Southeast  $\frac{1}{4}$  described as the North  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  and Lot 4 and the West  $\frac{1}{2}$  of Lot 3, all within Section 34, the West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  and Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 35, and all of Sections 18 through 20, and 28 through 33.

The District shall constitute a dependent special district under the laws of the state.

Section 4. Board of Directors; composition.—The District shall be governed by a seven (7) member Board comprising three (3) members appointed by the Brevard County Commission, three (3) members appointed by the City of Palm Bay City Council, and one (1) member appointed by the City of West Melbourne City Council. The initial Board of Directors shall be appointed in accordance with the above and shall take office on October 1, 1986. Initially, in appointment of members to the Board of Directors, in order to ultimately achieve staggered terms to have continuity, the County and City of Palm Bay shall appoint their three (3) members for terms of one (1) year, two (2) years, and three (3) years, respectively. The City of West Melbourne shall appoint its member for a term of three (3) years. As the initial terms expire, subsequent appointments shall be for full three (3) year terms. The members of the Board of Directors shall be residents of the District during their tenure as members of the Board.

Section 5. Board of Directors' oath of office.—Each member, before entering upon his or her official duties, shall take and subscribe to an oath, before some officer authorized by law to administer oaths, that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office, as a member of the Board of Directors of the District to which he or she was appointed, and that he or she will not neglect any of the duties imposed upon him or her by virtue of acceptance of the office.

Section 6. Organization of Board; compensation of members of Board.—Immediately after their appointment, the Board members shall meet at some convenient place; elect one of their number to serve as president of the Board together with any other officers the Board may choose to elect; and elect as secretary some suitable person, who may or may not be a member of the Board, and who may be required to execute bond for the faithful performance of his or her duties, as the Board members may require. Such Board shall adopt a seal with a suitable device. The members of the Board shall be reimbursed for their traveling expenses pursuant to section 112.061, Florida Statutes, but shall receive no compensation for their service.

Section 7. Board of Directors to keep record of proceedings, etc.—The Board of the District shall cause to be kept complete books and records together with minutes of all meetings, proceedings, bonds given by all employees, and any and all corporate acts. The record shall at all usual business times be open to the inspection of anyone interested, whether taxpayer or bondholder.

Section 8. Powers given the Board to effect a surface water management system within District boundaries.—In order to responsibly, efficiently, and

effectively secure, operate, and maintain an adequate, dependable surface water management system, the Board of Directors, consistent with and supportive of the state water policy, the state water use plan, the state land development plan, and the regional policy plan, shall:

(1) Establish a water management system which will accomplish objectives as follows:

(a) Prevent damage from flood, soil erosion, and excessive drainage.

(b) Promote the conservation, development, and proper utilization of surface and ground water.

(c) Preserve natural resources, fish, and wildlife.

(d) Maintain water quality in the District and the receiving waters from the District.

(e) Preserve and protect the natural systems in the District, Turkey Creek, the Indian River, and the St. Johns River.

(f) Purchase and establish conservation areas and passive recreation areas to protect the natural resources, including the sloughs, wetlands, and natural areas, which exist in the District or along the receiving waters, where the District finds it is appropriate for environmental protection or conservation of the natural resources. The District shall utilize the best management practices in implementing and operating its water management system.

(2) Clean out, straighten, open up, widen, or change the course and flow of, alter, or deepen any canal, ditch, drain, river, watercourse, or natural stream; and concentrate, divert, or divide the flow of water in or out of the District boundaries; construct and maintain main and lateral ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations and siphons, and may connect same, or any of them, with any canals, drains, ditches, levees, or other works that may have been heretofore, or which may be hereafter, constructed.

(3) Build and construct any other works and improvements deemed necessary to preserve and maintain the works within said District boundaries; acquire, construct, operate, maintain, use, sell, convey, transfer, or otherwise provide for pumping stations, including pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment; control excessive drainage, reflow lands previously reclaimed, and dechannelize and reverse previous diversions accomplished in the past; all with emphasis upon modern water management principles and standards.

(4) Contract for the purchase, construction, operation, maintenance, use, sale, conveyance, and transfer of the said pumping stations, machinery, motive equipment, electric lines, and appurtenant equipment, including the purchase of electric power and energy for the operation of the same.

(5) Construct or enlarge, or cause to be constructed or enlarged, at its expense, any and all bridges or culverts that are needed in said District, as a result of the construction or modification of the works of the District, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, track, grade, fill, or cut, in or out of said District boundaries; remove any fence, building, or other improvements.

(6) Hold, control, and acquire by donation or purchase and, if need be, condemn any land easement, railroad right-of-way, sluice, reservoir, holding basin or franchise, right-of-way, or holding basin for any of the purposes herein provided, or material to be used in constructing and maintaining said works and improvements for implementing authorized improvements for water management.

(7) Implement and authorize improvements to the surface water management plan as may from time to time be recommended by the engineer and approved and permitted by the applicable rules and regulations of all state and regional regulatory agencies.

(8) Sue and be sued in the name of the District and restrain, enjoin, or otherwise prevent the violation of this act or of any resolution, rule, or regulation adopted pursuant to the powers granted by this act.

(9) Establish and define, in conjunction with other public entities, all surface water management areas within the boundaries of the District to determine which facilities within surface water management areas of the District shall be maintained by the District. In such establishing and/or defining, the definitions of "primary," "secondary," and "tertiary" in subsections (10), (11), and (12) of Section 3 herein shall serve as guidelines in making such determination.

(10) Enter into agreements with other units of government for such units of government to perform any function on behalf of the District which is authorized by this act.

(11) Exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(12)(a) Levy, assess, and collect an annual stormwater management user fee to carry out the purposes of the District, beginning with the 1990-1991 budget year. Such fee must be just and equitable and shall be based upon the impact that a given parcel of land imposes on the stormwater management system.

(b) A fee may not be finally set by the Board of Directors or approved by the Board of County Commissioners of Brevard County during its annual budget review until after a public hearing is held by the Board of County Commissioners. The Board of County Commissioners must hold a special public hearing within the boundaries of the District. At the public hearing, all owners of property in the District shall have an opportunity to be heard concerning the proposed fee.

(c) Notice of such public hearing for the 1990-1991 budget year must be given in the manner prescribed in subsection (2) of Section 16. Thereafter, notice must be given by publication in a newspaper of general circulation in Brevard County at least 7 days before the date of the hearing. The stormwater management user fee, when established, shall be deemed to be reasonable and necessary to carry out the obligations, responsibilities, and duties of the District. All of the proceeds of the fee are in payment for the use of the District stormwater management system. The fee must be established by resolution of the Board of Directors and approved by a majority vote of the Board of County Commissioners of Brevard County, with each County Commissioner whose county commission residency area lies wholly or partially within the District voting in the affirmative.

(d) The stormwater management user fee structure shall have three land classifications: Residential, Agricultural, and Commercial. The Board of Directors, in establishing the annual fee, must use the Brevard County Land Use Code Index as the basis for land classification. The annual stormwater management user fee shall be levied on the parcels, as the Brevard County Land Use Code Index has them designated, for that respective budget year.

For the 1990-1991 budget year, the residential fee may not exceed \$10 per acre or portion thereof, the agricultural fee may not exceed \$3.50 per acre or portion thereof, and the commercial fee may not exceed \$21 per acre or portion thereof.

Thereafter, the stormwater management fee for residential parcels, agricultural parcels, or commercial parcels may not be more than 10 percent above the fee for the preceding year. However, the maximum fee per acre or portion thereof for residential parcels may not exceed \$25, the maximum fee per acre or portion thereof for agricultural parcels may not exceed \$8.50, and the maximum fee per acre or portion thereof for commercial parcels may exceed \$52.50.

(13) Levy and assess ad valorem taxes without limitation of rate or amount on all taxable property within the boundaries of the District for the purpose of paying principal of and interest on any general obligation bonds by the Board of County Commissioners and which may be issued for the purposes of this act after approval of the issuance of such bonds by referendum of the electors.

(14) Levy and impose special assessments against the real property within the boundaries of the District upon a determination that the construction, reconstruction, repair, maintenance, and operation of the surface water management system provides a benefit to such real property. The benefits shall be assessed upon the property specially benefited by the construction of improvements or provision of operation and maintenance services in proportion to the benefits to be derived therefrom, and the special benefits shall be determined and prorated by a method prescribed by the Board of Directors.

(a) The Board of Directors, if it elects to assess a special assessment, shall declare by a resolution the nature of the proposed improvement or the services provided to existing improvements, designate the location of the

improvement or the service provided to existing improvements, and state the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made, when said assessments are to be paid, and what part, if any, shall be apportioned to be paid from the funds of the District. The resolution shall also designate the lands upon which the special assessment shall be levied, and, in describing said lands, it shall be sufficient to describe them as "all lands and lots abutting and contiguous to or bounding and abutting upon such improvements, or where services are to be provided to existing improvements specifically benefited thereby and further designated by the assessment plat herein provided for." The resolution shall state the total estimated cost of the improvement or service to be provided to existing improvements. Such estimated cost may include the cost of construction or reconstruction; the cost of all labor and materials; the cost of equipment and maintenance and operation thereof; the cost of all lands, property, rights, and easements acquired; financing charges; interest; cost of all engineering, legal, financial, and other services; all other expenses necessary or incidental to determine the feasibility or practicability of such construction or reconstruction or provision of service; administrative expenses; operating expenses; and such other expenses as may be necessary or incidental to the financing herein authorized.

(b) Upon the adoption of the resolution, the Board of Directors shall cause said resolution to be published one time in a newspaper of general circulation published in Brevard County.

(c) Upon the adoption of the resolution, the Board of Directors shall cause to be made an assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed and filed with the records of the Board of Directors as promptly as possible. The lots and lands assessed, the amount for the benefit to and the assessment against each lot or parcel, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall be entered and shown on said assessment roll.

(d) On the completion of said assessment roll, the Board of Directors shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein, may appear before said Board of Directors and be heard as to the propriety and advisability of making such improvements or providing said services, as to the cost thereof, as to the amount of payment therefor, and as to the amount thereof to be assessed against each property so improved. Notice in writing of such time and place shall be given to such property owners.

(e) At a time and place named in the notice provided for in paragraph (d), the Board of Directors of the District shall meet as an equalization board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on the basis of justice and right. After the special assessments are so equalized and approved by resolution, such assessments shall stand confirmed and, until paid, shall remain legal, valid, and binding first liens upon the property against which such assessments are made; however, upon completion of the improvement, acquisition

of equipment, or provision of service, the Board of Directors shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed and the proportionate part of the actual cost of the improvement, equipment, or service to be paid by special assessments as finally determined on the completion of the improvement or service, but in no event shall the final assessments exceed the amount of benefits originally assessed. Promptly after confirmation, the assessments shall be recorded in the public records of Brevard County and the record of the lien shall constitute prima facie evidence of its validity.

(f) The special assessments shall be payable at the time and in the manner stipulated in the resolution authorizing the improvement, equipment, or service. Such assessments shall remain liens, coequal with the lien of all state, county, or other district taxes, and municipal taxes, and superior in dignity to all other liens, titles, and claims, until paid. Such assessments shall bear interest at a rate prescribed by the Board of Directors in the resolution which it adopts.

(g) Each annual installment provided for shall be paid upon the date specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and, on the failure of any property owner to pay any annual installment due or any part thereof, or any annual interest on deferred payments, the Board of Directors shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee, to be assessed as part of the costs, and, in the event of default in the payment of any installments of any assessment or any accrued interest on said installment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown or nonresident defendants may be had by publication as now provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages.

(h) If any special assessment made under the provisions of this section to defray the whole or any part of the expense of any improvement or provision of any service is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Board of Directors of the District is satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board of Directors omitted to make such assessment when it might have done so, the Board shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or service provided or against any property benefited by any improvement or service provided, following as nearly as possible the provisions of this act, and, in case such second assessment shall be annulled, said Board of Directors may obtain and make other assessments until a valid assessment is made.

(i) An informality or any irregularity in the proceedings in connection with the levy of any special assessment under this act shall not affect the validity of the same where the assessment roll has been confirmed by the

Board of Directors, and the assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of said assessment roll were duly had, taken, and performed as required by this act; no variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby.

Section 9. The Board of Directors to establish budget.—The present Board of Directors of the Melbourne-Tillman Water Control District shall establish a proposed budget to be submitted to the Brevard County Commission by July 1, 1986, to provide the initial operating expenses until such time as the District receives revenue from user fees, taxes, and/or special assessments as provided herein. The term “operating expenses” means all contemplated capital and operating costs and expenses of the District necessary to carry out any of the purposes of the District provided under this act. The initial proposed budget shall be modified or approved by the Brevard County Commission at the times and in the manner in which the annual County budget is approved by the Board of County Commissioners of Brevard County. Thereafter, the Board of Directors of the new District shall establish an annual operating expense budget for each fiscal year, which shall commence on the first day of October and terminate on the last day of September of the next year. The Board of Directors shall adopt a tentative annual operating expense budget prior to July 1 of each year, to be approved by the Board of County Commissioners in the manner contemplated under section 200.001(8)(d), Florida Statutes, and deliver a copy of such tentative annual operating expense budget to the Board of County Commissioners of Brevard County, to the City Council of the City of Palm Bay, and to the City Council of the City of West Melbourne. Such budget shall be modified or approved by the Brevard County Commission at the times and in the manner in which the annual County budget is approved by the Board of County Commissioners of Brevard County.

Section 10. Appointment of engineers, attorneys, accountants, surveyors, financial or other experts, District manager, and other agents and employees.—The Board of Directors shall appoint such engineers, attorneys, accountants, treasurer, surveyors, financial or other experts, and other agents and employees as the District may require or the Board of Directors deems necessary to effectuate the purpose of this act as set forth herein. The persons, partnerships, or corporations so appointed or agents and employees so employed shall perform such duties and have such responsibilities as they may from time to time be given or assigned by the Board of Directors. The terms and conditions, including compensation, under which such appointment or employment is undertaken shall be, except for employees of the District, evidenced by an agreement in writing.

Section 11. Appointment and duties of treasurer of District.—The Board of Directors shall select and appoint some competent person, or bank or trust company organized under the laws of the state, as treasurer of the District, who shall receive and receipt for the taxes collected by the county collector or collectors. Said treasurer shall give bond in such amount as shall be fixed by the Board of Directors, conditioned that he or she will well and truly

account for and pay out, as provided by law, all moneys received by him or her as taxes from the county collector, and the proceeds from tax sales for delinquent taxes, and from any other source whatever on account or claim of said District, which bond shall be signed by at least two sureties, or by some surety or bonding company, approved and accepted by said Board of Directors. Said treasurer shall keep all funds received by him or her from any source whatever deposited at all times in some bank, banks, or trust company to be designated by the Board of Directors. All interest accruing on such funds shall, when paid, be credited to the District. The Board shall provide for an annual financial audit of the accounts and records of the District and make a report thereof at a regularly scheduled meeting in November of each year.

Section 12. Board may remove officers and employees.—The Board of Directors may at any time remove any officer, attorney, engineer, employee, or agent appointed or employed by said Board within the bounds of any agreement with such person, firm, partnership, or corporation.

Section 13. When existing system inadequate, Board has power to make new plans.—In the event that the Board of Directors determines that the existing water management system of the District is inadequate to accomplish the purposes set forth in this act, the Board shall proceed to develop and adopt new plans for modifying its surface water management system, assess for benefits, and apportion and levy taxes as follows:

(1) The Board shall cause to be made by the District engineer, or such other engineers as the Board may employ for that purpose, complete and comprehensive water management and control plans for all or a portion of the lands located within the District that will be improved in any part or in whole by any system of facilities that may be outlined and adopted, and the engineer shall make a report in writing to the Board with maps and profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

(2) Upon the completion of such plans, the Board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for two (2) consecutive weeks in a newspaper of general circulation published in the general area of the District, and shall permit the inspection of the plan at the office of the District by all persons interested. All objections to the plan shall be filed at or before the time fixed in the Notice of Hearing and shall be in writing.

(3) After the hearing, the Board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearings to a day certain for further consideration of the proposed plan or modifications thereof.

(4) When the Board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the District.

Section 14. Board may issue bonds; procedures.—The District is authorized to provide from time to time for the issuance of revenue bonds and

general obligation bonds of the District to pay all or any part of the cost of a surface water management system, improvements thereto, and any structures necessary to support said system. The principal of and interest on any such bonds shall be payable from revenue sufficient to pay the bond in the manner provided in the bond by the District, and may be secured by the full faith and credit and taxing power of the District and payable from ad valorem taxes levied and collected on all taxable property within the boundaries of the District in the manner provided in this act and the resolution authorizing such revenue bonds and all general obligation bonds. Revenue bonds may also be issued and secured by the pledge of special assessments and/or stormwater management user fees levied pursuant to this act. Any bonds which pledge the full faith and credit and ad valorem taxing power of the District shall be submitted to the qualified voters within the boundaries of the District as required by the State Constitution. Said bonds may be authorized by resolution or resolutions of the District, which may be adopted at the same meeting at which they are introduced by a majority of all the members thereof then in office and need not be published or posted. Said bonds shall bear interest at a rate or rates without limitation, except as provided by law, as determined by resolution of the Board, may be in one or more series, may bear such date or dates and may mature at any time or times not exceeding forty (40) years from their respective dates, may be payable in such medium of payment, at such place or places within or without the state, may carry such registration privileges, may be subject to such terms of prior redemption, with or without premium, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form otherwise as such resolution or subsequent resolutions shall provide. Said bonds may be sold or exchanged for refunding bonds, or delivered to contractors in payment for any part of the work or improvements financed by such bonds, or delivered in exchange for any properties, either real, personal, or mixed, to be acquired for such works or improvements, all at a time or in blocks from time to time, in such manner as the District in its discretion shall determine. Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such provisions as the District may determine may be issued to the purchaser or purchasers of the bonds issued hereunder. Said bonds and such interim certificates or receipts or temporary bonds shall be fully negotiable and shall be and constitute negotiable instruments within the meaning of and for all purposes of the law merchant and the uniform commercial code of the state or transferability may be subject to registration. The proceeds of the sale of any such bonds shall be used solely for the payment of the costs of the construction of a surface water management system, any structures necessary to support said system, or the reconstruction or construction or acquisition of extensions, improvements, and additions thereto, and shall be disbursed in such manner and under such restrictions as the District may provide in the authorizing resolution. The District may also provide for the replacement of any bonds which become mutilated or are destroyed or lost, upon proper indemnification. A resolution providing for the issuance of revenue bonds or general obligation bonds may also contain such limitations upon the issuance of additional bonds secured on a parity with the bonds theretofore issued, as the District may deem proper, and such additional bonds shall be issued under such authorizing resolution.

Section 15. Bonds issued secured by liens on lands benefited; assessment and collection of taxes may be enforced.—All bonds issued by the Board under the provisions of this act shall be secured by a lien on all lands and other property benefited, and the Board shall see to it that a tax and/or assessment is levied annually and collected under the provisions of this act, so long as it may be necessary to pay any bond issued or obligation contracted under its authority; and the making of said assessment and collection may be enforced by mandamus.

Section 16. Collection of stormwater management user fees, assessments, or taxes.—

(1) Annual stormwater management user fees, assessments, or taxes levied under this act shall become due and be collected during each year at the same time that county taxes are due and collected, and said annual levy shall be evidenced to and certified by the Board not later than August 31 of each year to the property appraiser of Brevard County. Said fee, assessment, or tax shall be extended by the county property appraisers on the county tax rolls and shall be collected by the tax collectors in the same manner and time as county taxes and the proceeds thereof paid to said District. Said fee, assessment, or tax shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

(2) On the completion of said assessment roll, the Board of Directors shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein, may appear before said Board and be heard as to the propriety and advisability of making such improvements or providing said services, as to the cost thereof, as to the amount of payment therefor, and as to the amount thereof to be assessed against each property so improved. Notice in writing of such time and place shall be given to such property owners. Such notice may be given by placing in the U.S. Postal Service, at least ten (10) days prior to such hearing, a copy of such notice to each property owner at his or her last known address, the names and addresses of such property owners to be obtained from the records of the county property appraiser or from such other sources the Board deems reliable. The proof of such mailing shall be made by an affidavit of the president of the Board of Directors, said proof to be filed with the minutes of the Board. Failure to mail said notice or notices shall not invalidate any of the proceedings herein. Notice of the time and place of such hearing shall also be given by two (2) publications, a week apart, in a newspaper of general circulation in Brevard County. The last publication shall be at least seven (7) days prior to the date of the hearing. Said notice, which shall be published, shall contain a map showing the general area which will be specially benefited and shall contain the name and the amount to be assessed against each piece or parcel of property.

Section 17. When unpaid fees, assessments, and taxes delinquent; penalty.—All fees, assessments, and taxes provided for in this act shall be due and become delinquent and bear penalties on the amount of said fees, assessments, and taxes in the same manner as county taxes.

Section 18. Property appraisers and tax collectors; compensation; characterization of services.—

(1) The office of the property appraiser of the county where taxes are assessed on the county tax roll by the county property appraiser shall be paid an amount equal to one (1) percent of the total of taxes of the District assessed within his or her county, except errors, and one (1) percent on delinquent taxes when redeemed. The office of the tax collector of the county shall be paid an amount equal to one (1) percent of the total of taxes of the District collected, and one (1) percent upon delinquent taxes when collected.

(2) The services of the offices of the property appraiser and tax collector in assessing and collecting such District taxes are hereby declared to be special services performed directly for the District, and any payment therefor shall not be considered a part of the general income of the office nor come under the provisions of section 116.03, Florida Statutes. The personnel required to do said special work shall be paid for such special services from the receipts provided in subsection (1).

Section 19. Fees, assessments, and taxes and costs a lien on land against which fees, assessments, and taxes levied.—All fees, assessments, and taxes provided for in this act, together with all penalties for default in payment of the same, all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as costs in the action brought to enforce payment, shall, from the date of assessment of same until paid, constitute a lien of equal dignity with the liens for state and county taxes, and other taxes of equal dignity with state and county taxes, upon all the lands against which such fees, assessments, and taxes shall be levied as is provided in this act.

Section 20. District fees, assessments, and taxes; delinquent; discounts, etc.—The collection and enforcement of all fees, assessments, and taxes levied by said 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 certificates 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 said District and the delinquent and unpaid taxes of said District to the same extent as if said statutory provisions were expressly set forth in this act. All fees, assessments, and taxes shall be subject to the same discounts as county taxes.

Section 21. Lands may be acquired for rights-of-way and other purposes.—The District may acquire by gift, purchase, exchange, donation, or condemnation any lands within or without the said District for canal rights-of-way or for other general purposes of the said District, and if acquired by condemnation, the procedure shall be as prescribed in chapters 73 and 74 of the Florida Statutes.

Section 22. Obstruction of drainage canals, etc., prohibited; damages; civil and criminal penalties.—No person may willfully, or otherwise, obstruct any canal, drain, ditch, or watercourse or damage or destroy any surface water management facility within the District boundaries.

(1) Any person who shall willfully obstruct any canal, drain, ditch, or watercourse or shall damage or destroy any water control or management

facility constructed by the District shall be liable to any person injured thereby for the full amount of the injury occasioned to any land or other property by reason of such misconduct, and shall be liable to the District constructing the said work for double the cost of removing such obstruction or repairing such damage.

(2) Whoever shall willfully or otherwise obstruct any canal, drain, ditch, or watercourse, or impede or obstruct the flow of water therein, or shall damage or destroy any water control facility existing within the District boundaries, shall be guilty of a misdemeanor of the first degree as provided in sections 775.082 and 775.083, Florida Statutes, and punishable as provided therein.

Section 23. Modifications.—Any individual, corporation, or governmental entity within the boundaries of the District is prohibited from undertaking any permanent modification, alteration, or improvement to the surface water management system as they drain into the works of the District without the approval of the District. The District shall approve or disapprove any request for approval within 60 days after the receipt of such request and adequate information to evaluate the specific request.

Section 24. Expanded functions.—The Board of Directors may request that the function of the District be expanded. Said expanded functions shall be provided for by special act of the Legislature.

Section 25. District boundaries.—The Board of Directors of the District may expand or contract the boundaries of the District or merge with another District by special act of the Legislature.

Section 26. Legislative intent.—It is the intent of the Legislature that the authority created by this act is a dependent special district within the definition of section 200.001(8)(d), Florida Statutes, and not an independent special district within the provisions of section 190.049, Florida Statutes, and sections 165.031(5) and 200.001(8)(e), Florida Statutes, or any other applicable provision of general law. In recognition of such legislative intent, it is hereby declared that the provisions of section 190.049, Florida Statutes, and sections 165.022 and 165.041, Florida Statutes, or any other applicable provision of general law shall not be construed or interpreted to prohibit or restrict the creation of the District by special law. Pursuant to the language of section 200.001(8)(d), Florida Statutes, it is the intent of the Legislature that the millage of the District shall be included in the millage computation of Brevard County as provided by law.

Section 27. Suits against the District.—Any suit or action brought or maintained against the District for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in section 768.26, Florida Statutes, and this act.

Section 28. Exemption of District property from execution.—All District property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property except as may be provided for in other sections of the Florida Statutes, nor

shall any judgment against the District be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the District in connection with any of the bonds or obligations of the District.

Section 29. Reservation of rights and obligations.—It is the express intent of this act to preserve and transfer over to the District created by this act simultaneously with the effective date any and all causes of action, suits, claims, counter-claims, demands, contracts, moneys due or owed, liens, agreements, rights, judgments, and settlements which the prior district had or has against all persons, firms, or corporations or which any and all persons, firms, or corporations may have against the prior district operating under chapter 298, Florida Statutes. The District shall recognize permits previously approved by the Melbourne-Tillman Water Control District, as well as those which have been or will be approved by the District prior to October 1, 1986, provided construction has commenced on the permitted facility in accordance with those plans and specifications and further that construction has begun prior to October 1, 1991.

Section 30. When any reference herein is made to any gender, such reference shall be deemed to include either masculine, feminine, or neuter, as appropriate, and any reference herein to any number shall be deemed to include both singular and plural where the context of this act shall permit or require.

Section 31. (1) The purpose of this section is to encourage Melbourne-Tillman Water Control District to make available land to the public for outdoor recreational purposes by limiting its liability to persons going thereon and to third persons who may be damaged by the acts or omissions of persons going thereon.

(2) Except as provided in subsection (4), if the District provides the public with land for outdoor recreational purposes, or allows access to District lands for outdoor recreational purposes, it owes no duty of care to keep the land safe for entry or use by others or to give warnings to persons entering or going on such land of any hazardous conditions, structures, or activities thereon. The District, when providing land for outdoor recreational purposes, does not, by providing that land, extend any assurance that such land is safe for any purpose, does not incur any duty of care toward a person who goes on the land, and is not responsible for any injury to persons or property caused by an act or omission of a person who goes on that land. This subsection does not apply if there is any charge made or usually made for entering or using the land, or if any commercial or other activity from which profit is derived from the patronage of the public is conducted on any such land or any part thereof.

(3)(a) Except as provided in subsection (4), if the District leases any land to any other governmental entity for outdoor recreational purposes, or enters into a joint use agreement of any kind, or provides access for outdoor recreational purposes, the District owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going

on that land of any hazardous conditions, structures, or activities thereon. If the District leases or enters into a joint use or similar agreement regarding any of its land with any other governmental entity for outdoor recreational purposes, the District does not, by giving such lease or agreement, extend any assurance that such land is safe for any purpose, incur any duty of care toward a person who goes on the leased land or land subject to the joint use or similar agreement, and is not responsible for any injury to persons or property caused by any act or omission of a person who goes on the land subject to any lease or joint use or similar agreement.

(b) This subsection applies to any person going on the leased land or land subject to a joint use or similar agreement, irrespective of whether the person goes as an invitee, licensee, or trespasser or in any other capacity.

(4) This section does not relieve the District of any liability that would otherwise exist for gross negligence or a deliberate, willful, or malicious injury to a person or property. This section does not create or increase the liability of the District or person beyond that which is authorized by section 768.28, Florida Statutes.

(5) The term "outdoor recreational purposes," as used herein, includes bicycling, hiking, and canoeing or activities similar thereto.

Section 4. In the event any section or provision of this act is determined to be invalid or unenforceable, such determination shall not affect the validity of or enforceability of each other section and provision of this act.

Section 5. In the event of a conflict of the provisions of this act with the provisions of any other act the provisions of this act shall control to the extent of such conflict.

Section 6. Chapters 86-418, 90-401, 91-341, 92-239, and 94-424, Laws of Florida, are repealed.

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

Approved by the Governor May 25, 2001.

Filed in Office Secretary of State May 25, 2001.