

House Bill No. 471

An act relating to Monroe County; creating the Key Largo Wastewater Treatment District; creating a short title; providing definitions; creating a district charter; creating an independent special district; providing a district boundary; providing for amendment only by special act; providing powers, functions, and duties; providing for a governing board, elections, qualification, term of office, staggering terms of office, removal from office, and filling vacancies; providing for election of chair, vice chair, and secretary-treasurer; providing for board member compensation and reimbursement of expenses; providing a quorum; providing requirements for meetings and notice; providing requirements for reports, budgets, and audits; prohibiting creation of state, county, or municipal debt; providing for liberal construction; providing limitation of state authority; prohibiting conflict of interest; providing for termination of district; authorizing levy of ad valorem taxes for a certain time period subject to approval of electors; specifying method of collection and enforcement of taxes; authorizing property appraiser's and tax collector's fees or commissions; amending chapter 76-441, Laws of Florida, as amended, and terminating certain jurisdiction of the Florida Keys Aqueduct Authority; providing for severability; prohibiting conflict of interest; providing an effective date.

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

Section 1. The Key Largo Wastewater Treatment District and its charter are created to read:

Section 1. Short title.—This act may be cited as the “Key Largo Wastewater Treatment District Act.”

Section 2. Definitions.—When used in this act, unless a different meaning appears clearly from the context:

(1) “District” means the Key Largo Wastewater Treatment District and, unless the context indicates otherwise, means the special district created by this act and identified in section 3 to be known as the district and the territory included within the special district.

(2) “Project” means and includes a wastewater management system, including any and all parts thereof, and all appurtenant and related facilities necessary or convenient for the complete acquisition or establishment, management, operation, and maintenance of such wastewater management system, and business facilities incidental thereto; all appurtenant to and located within the special district.

(3) “Wastewater” means the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

(4) “Wastewater management system” means and includes sewage disposal systems, including wastewater reuse systems, or sanitary sewer systems, including facilities and land used or useful in providing service and any integral part thereof, whether inside or outside the district, and shall include, but not be limited to, sewage disposal plants or facilities, sanitary sewers, pumping stations, intercepting or trunk or lateral sewers, and any other properties or works or equipment necessary for the collection, treatment, and disposal of sewage and wastewater, including wastewater reuse.

Section 3. District; creation, jurisdiction, and purpose.—

(1) The district is hereby created and incorporated as an independent special district, pursuant to chapter 189, Florida Statutes, to be known as the Key Largo Wastewater Treatment District (district), in Monroe County, which special district shall be a public body corporate and politic.

(2) The district boundaries shall embrace and include the territory consisting of Key Largo, including all lands east of Tavernier Creek, including Tavernier, Key Largo, and Cross Key, with the exception of Ocean Reef, all in Monroe County, Florida.

(3) The district is created for all purposes set forth in this act and chapter 189, Florida Statutes, as the same may be amended from time to time.

(4) The district charter created by this act may be amended only by special act of the Legislature.

(5) The purpose of the district shall be to perform such acts as shall be necessary for the sound planning, acquisition, development, operation, and maintenance of a wastewater management system within the district, including all business facilities necessary and incidental thereto. The district shall have exclusive jurisdiction over the acquisition, development, operation, and management of a wastewater management system in and for the district boundaries.

Section 4. District powers, functions, and duties.—

(1) In addition to any powers, functions, and duties set forth in this act, the district shall likewise exercise such powers, functions, and duties as may be set forth in chapter 189, Florida Statutes, as the same may be amended from time to time.

(2) The district is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) To adopt rules pursuant to chapter 120, Florida Statutes, as necessary for implementation, regulation, and enforcement, consistent with the purposes of the district.

(c) To adopt an official seal for the district and to alter the same at its pleasure.

(d) To plan, develop, purchase or otherwise acquire, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any wastewater management system and facilities within the territorial limits of the district.

(e) To acquire by grant, loan, purchase, gift, or devise or by the exercise of the right of eminent domain all property, real or personal, or any estate or interest therein necessary, desirable, or convenient for the purposes of this act, and to sell, convey, lease, rent, or assign all or any part thereof and to exercise all of its powers and authority with respect thereto. The exercise of eminent domain shall be as provided for by applicable general law.

(f) To assess and impose ad valorem taxes, and non-ad valorem assessments, upon the lands in the district, as provided by this act and chapter 197, Florida Statutes.

(g) To issue revenue bonds, pursuant to section 189.4085, Florida Statutes, and otherwise by general law, to pay the cost of purchasing or otherwise acquiring, constructing, reconstructing, improving, extending, enlarging, or equipping a wastewater management system.

(h) To issue refunding bonds, pursuant to section 189.4085, Florida Statutes, and otherwise by general law, to refund any bonds then outstanding which shall have been issued under the provisions of this act.

(i) To lease, rent, or contract for the operation of all or any part of any wastewater management system facilities.

(j) To fix and collect rates, rentals, fees, and charges for the use of any wastewater management system facilities. The district may provide for reasonable penalties against any user for any such rates, fees, rentals, or other charges that are delinquent. In the event that such delinquency occurs and such fees, rentals, or other charges are not paid and remain delinquent for 30 days or more, the district may discontinue and shut off services until such fees, rentals, or other charges, including interest, penalties, and charges for shutting off, discontinuing, and restoring such services, are fully paid. The district may enter on lands, waters, and premises of any person, firm, corporation, or other body for the purpose of discontinuing and shutting off services under such circumstances. Further, such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for shutting off, discontinuing, and restoring such services, and reasonable attorneys' fees and other expenses may be recovered by the district by suit in any court of competent jurisdiction. The district may also enforce payment by any other lawful method of enforcement.

(k) To make and enter into contracts and agreements necessary or incidental to the performance of the duties imposed and the execution of the powers granted under this act, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, and attorneys, and such employees and agents as may, in the judgment of the district, be necessary, and to fix their compensation, provided that all such expenses shall be payable solely from funds made available under the provisions of this act.

(l) To establish, or otherwise make available, a plan for retirement, disability, death, hospitalization, and other appropriate benefits for officers and employees of the district.

(m) To enter into contracts with the government of the United States or the State of Florida or any agency or instrumentality of either thereof, or with any county, municipality, district, corporation, public or private, or individual providing for or relating to wastewater management system facilities.

(n) To borrow money for any district purpose and may execute notes, mortgages, or deeds, to secure debt, trust deeds, trust agreements, and such other instruments as may be necessary or convenient to evidence and secure such borrowing.

(o) To invest surplus funds of the district consistent with the "Investment of Local Government Surplus Funds Act," part IV, chapter 218, Florida Statutes.

(p) To do all acts or things necessary or convenient to carry out the powers expressly granted in this act.

Section 5. Governing board.—

(1) The business and affairs of the district shall be conducted and administered by a five-member governing board elected pursuant to chapter 189, Florida Statutes, by the electors of the district in a nonpartisan election held at the time and in the manner prescribed for holding general elections in section 189.405(2)(a), Florida Statutes, as the same may be amended from time to time.

(2) Any individual desiring to be elected to the governing board must qualify pursuant to section 189.405(2)(c), Florida Statutes, as the same may be amended from time to time. Additionally, in accordance with section 189.4051, Florida Statutes, as the same may be amended from time to time, each member of the governing board shall be a registered elector, residing within the boundaries of the district at the time he or she qualifies and continually through his or her term.

(3) At the initial election of the governing board, the candidates receiving the highest five vote totals, consistent with section 189.405(4), Florida Statutes, as the same may be amended from time to time, shall be deemed elected to the initial governing board. Thereafter, at the time of subsequent elections, available governing board positions shall be filled by those candidates receiving the highest vote totals.

(4) The term of office shall be 4 years and shall begin and end on the same dates as do the terms of the members of the Monroe County Board of County Commissioners; however, at the initial election, in order to stagger terms of office, the governing board members elected with the two lowest vote totals shall each serve a term of only 2 years. Thereafter, all governing board member terms shall be for 4 years.

(5) Any member of the governing board may be removed by a majority vote of the governing board for misfeasance, malfeasance, or neglect of duty.

(6) Any vacancy in the membership of the governing board resulting from the death, resignation, change of residence, or removal of any such board member or from any other cause shall be filled, for the remainder of the term, by election within 30 days after the occurrence of such vacancy. However, in the event that the remaining term is 60 days or less, the vacancy shall be filled by election at the next general election pursuant to section 189.405(2)(a), Florida Statutes, as the same may be amended from time to time.

(7) The governing board shall have those administrative duties set forth in this act and chapter 189, Florida Statutes, as the same may be amended from time to time.

Section 6. Chair, vice chair, secretary-treasurer.—At the first meeting of the governing board, the governing board members shall elect one of their members to be, respectively, the chair, vice chair, and secretary-treasurer of the board. Thereafter, the chair, vice chair, and secretary-treasurer shall be so elected on an annual basis.

Section 7. Governing board; compensation, expense reimbursement.—The members of the governing board shall receive as compensation for their services a fee of \$300 per meeting, not to exceed three meetings per month. The amount of compensation shall be adjusted annually based upon the index provided in section 287.017(2), Florida Statutes. In addition, each board member shall be reimbursed for expenses as provided in section 112.061, Florida Statutes.

Section 8. Quorum; transaction of business.—A majority of the members of the district governing board shall constitute a quorum for the transaction of the business of the district. The affirmative vote of a majority of the governing board members present and voting shall be necessary to transact business.

Section 9. Meetings, notice.—The governing board shall hold meetings pursuant to sections 189.416 and 189.417, Florida Statutes.

Section 10. Reports, budgets, audits.—The district shall prepare and submit reports, budgets, and audits as provided in sections 189.415 and 189.418, Florida Statutes.

Section 11. Creation of state, county, or municipal debts prohibited.—The district shall not be empowered or authorized in any manner to create a debt as against the state, county, or any or all of the cities, and may not pledge the full faith and credit of the state, county, or any of the cities. All revenue bonds or debt obligations shall contain on the face thereof a statement to the effect that the state, county, or any of the cities shall not be obligated to pay the same or the interest and that they are only payable from revenues of the project or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal

of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of this act shall not directly or indirectly or contingently obligate the state, county, or any of the cities to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

Section 12. Liberal construction of act.—This act, being for the purpose of developing and promoting the public good and the welfare of the district, the territory included in the special district, and the citizens, inhabitants, and taxpayers residing therein, shall be liberally construed to effect the purposes of the act.

Section 13. Limitation of state authority.—The state does hereby pledge to and agree with the holders of any debt obligations issued under this act, and with those parties who may enter into contracts with the district pursuant to the provision of this act, that the state will not limit or alter the rights hereby vested in the district until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the district.

Section 14. Conflicts of interest prohibited.—No member, officer, agent, or employee of the district, either for himself or herself, or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate or benefit directly or indirectly in or from any sale, purchase, lease, franchise, contract, or other transaction entered into by the district. If any such person violates the provisions of this section, he or she shall be guilty of a misdemeanor. The provisions of this section shall be cumulative to any general laws of the state which are from time to time applicable to members, officers, agents, or employees of the district, and which require the disclosure of, or prohibit, conflicts of interest.

Section 15. Termination of district.—If for any reason the district or its successors shall terminate, be terminated, or cease operation or existence for any cause or reason, then upon such termination or cessation, all property, real, personal, or mixed, tangible or intangible, of whatsoever kinds and wheresoever located, shall immediately become the property of the county, which is hereby authorized to exercise any or all powers herein granted the district for the purposes expressed herein, or for any other legal purpose.

Section 16. Ad valorem; millage rate.—The district is authorized to assess and impose ad valorem taxes for 3 years as follows: at the rate of 0.5 mill for fiscal year 2003-2004, 0.4 mill for fiscal year 2004-2005, and 0.3 mill for fiscal year 2005-2006 upon approval by referendum of electors of the district. Such ad valorem taxes shall be levied for, and applied to, the purposes of the district.

Section 17. Enforcement of taxes.—The collection and enforcement of all non-ad valorem assessments and taxes levied by the district shall be at the same time and in like manner as county taxes; and the provisions of general law 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 the district and the delinquent and unpaid assessments and taxes of the district to the same extent as if said statutory provisions were expressly set forth in this act. All taxes shall be subject to the same discounts as county taxes.

Section 18. Property appraiser and tax collector; fees or commissions.—The Property Appraiser and Tax Collector of Monroe County shall be entitled to applicable fees, commissions, and costs for the levy and collection of ad valorem taxes and non-ad valorem assessments pursuant to sections 197.3632 and 192.091, Florida Statutes.

Section 2. Amendment of chapter 76-441, Laws of Florida; termination of a geographic portion of the wastewater management jurisdiction of the Florida Keys Aqueduct Authority.—This act amends chapter 76-441, Laws of Florida, as amended. The jurisdiction of the Florida Keys Aqueduct Authority over wastewater management as re-created by chapter 76-441, Laws of Florida, as amended, is hereby terminated for the geographical area described in section 3 of the charter created by this act.

Section 3. The provisions of this act are severable, and it is the intention to confer the whole or any part of the powers herein provided for and if any of the provisions of this act or any of the powers granted by this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act or any of the remaining power granted by this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provision or power not been included therein.

Section 4. 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 5. This act shall take effect upon becoming a law.

Approved by the Governor May 23, 2002.

Filed in Office Secretary of State May 23, 2002.