

House Bill No. 1389

An act relating to water control districts; amending s. 298.22, F.S.; revising powers of the board of supervisors to execute water control plans; amending s. 298.225, F.S.; revising provisions for water control plan development and amendment; clarifying the authority of certain districts as exclusive providers of certain services and facilities; amending s. 298.301, F.S.; revising water control plan adoption procedures; amending s. 298.341, F.S.; revising provisions for assessment liens; amending s. 298.77, F.S.; providing for revision of the engineer's report pursuant to an assessment readjustment; providing an effective date.

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

Section 1. Subsection (3) of section 298.22, Florida Statutes, is amended to read:

298.22 Powers of supervisors.—The board of supervisors of the district has full power and authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan. Subject to the applicable provisions of chapter 373 or chapter 403, the board of supervisors:

(3) May build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of said district; acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including ~~or otherwise provide for~~ pumping stations, ~~including~~ pumping machinery, motive equipment, electric lines and all appurtenant or auxiliary machines, devices, or equipment.

Section 2. Subsections (5) and (8) of section 298.225, Florida Statutes, are amended to read:

298.225 Water control plan; plan development and amendment.—

(5) Before final adoption of the water control plan or plan amendment under s. 298.301, the board of supervisors must submit the proposed plan or amendment to the jurisdictional water management district for review. Within ~~60~~ 90 days after receipt of the proposed water control plan or amendment, the governing board of the jurisdictional water management district, or the executive director or designee, if delegated, must review the proposed plan or amendment for consistency with the applicable water resource plans and policies and recommend to the board of supervisors any proposed changes. If the jurisdictional water management district determines that the proposed plan or amendment is incomplete, it may notify the water control district and request additional information. Upon such request, the deadline for review may be extended as agreed by the water control district and the jurisdictional water management district. Within 60 days after receipt of the applicable water management district's recommended

changes, the board of supervisors shall include the recommendations in the water control plan or plan amendment to the extent practicable. If the recommendations are not incorporated, the board of supervisors must specify its reasons in the water control plan or plan amendment adopted. A copy of the water control plan must be filed with the jurisdictional water management district and each local general purpose government within which all or a portion of the district's lands are located. A district which has an adopted water control plan and is located entirely within an unincorporated portion of a county shall be the exclusive provider within the district for services and facilities as authorized by this chapter or special act and included in an adopted water control plan.

(8) If the preparation of a water control plan, engineer's report, or amendments thereto ~~amendment~~ under this section do ~~does~~ not result in revision of the district's current plan or require the ~~alteration or~~ increase of any levy of assessments or taxes beyond the maximum amount previously authorized by general law, special law, or judicial proceeding, a change in the use of said assessments or taxes, or substantial change to district facilities, the provisions of s. 298.301(2)-(9) do not apply to the plan adoption process. This section and s. 298.301 do not apply to minor, insubstantial amendments to district plans or engineer's reports, and such amendments or reports may be adopted by resolution of the board of supervisors. Minor, insubstantial amendments include amendments to the water control plan which replace, relocate, reconstruct, or improve and upgrade district facilities and operations consistent with the adopted water control plan, but which do not require increasing assessments beyond the maximum amount authorized by law, or amendments to engineer's reports which do not increase the total assessment of benefits.

Section 3. Subsections (2), (6), and (8) of section 298.301, Florida Statutes, are amended to read:

298.301 District water control plan adoption; district boundary modification; plan amendment; notice forms; objections; hearings; assessments.—

(2) Before adopting a water control plan or plan amendment, the board of supervisors must adopt a resolution to consider adoption of the proposed plan or plan amendment. As soon as the resolution proposing the adoption or amendment of the district's water control plan has been filed with the district secretary, the board of supervisors shall give notice of a public hearing on the proposed plan or plan amendment by causing publication to be made once a week for 3 consecutive weeks in a newspaper of general circulation published in each county in which lands and other property described in the resolution are situated. The notice must be in substantially the following form:

Notice of Hearing

To the owners and all persons interested in the lands corporate, and other property in and adjacent to the ...name of district... District.

You are notified that the ...name of district... District has filed in the office of the secretary of the district a resolution to consider approval of a water

control plan or an amendment to the current water control plan to provide ...here insert a summary of the proposed water control plan or plan amendment.... On or before its scheduled meeting of ...(date and time)... at the district's offices located at ...(list address of offices)... written objections to the proposed plan or plan amendment may be filed at the district's offices. A public hearing on the proposed plan or plan amendment will be conducted at the scheduled meeting, and written objections will be considered at that time. At the conclusion of the hearing, the board of supervisors may determine to proceed with the process for approval of the proposed plan or plan amendment and direct the district engineer to prepare an engineer's report identifying any property to be taken, determining benefits and damages, and estimating the cost of implementing the improvements associated with the proposed plan or plan amendment. A final hearing on approval of the proposed plan or plan amendment and engineer's report shall be duly noticed and held at a regularly scheduled board of supervisors meeting at least 25 days but no later than within 60 days after the last scheduled publication of the notice of filing of the engineer's report with the secretary of the district.

Date of first publication:, ...(year)...

.....

(Chair or President, Board of Supervisors)

..... County, Florida

(6) Upon the filing of the engineer's report, the board of supervisors shall give notice thereof by arranging the publication of the notice of filing of the engineer's report together with a geographical depiction of the district once a week for 2 consecutive weeks in a newspaper of general circulation in each county in the district. A location map or legal description of the land shall constitute a geographical depiction. The notice must be substantially as follows:

Notice of Filing Engineer's Report for
..... District

Notice is given to all persons interested in the following described land and property in County (or Counties), Florida, viz.: ...(Here describe land and property)... included within the district that the engineer hereto appointed to determine benefits and damages to the property and lands situated in the district and to determine the estimated cost of construction required by the water control plan, within or without the limits of the district, under the proposed water control plan or plan amendment, filed her or his report in the office of the secretary of the district, located at ...(list address of district offices)..., on the day of, ...(year)..., and you may examine the report and file written objections with the secretary of the district to all, or any part thereof, on or before ...(enter date 20 days after the last scheduled publication of this notice, which date must be before the date of the final hearing).... The report recommends ...(describe benefits and damages).... A final hearing to consider approval of the report and proposed water control plan or plan amendment shall be held ...(time, place, and date

at least ~~25~~ 30 days but no later than 60 days after the last scheduled publication of this notice)....

Date of first publication:, ...(year)...

.....
(Chair or President, Board of Supervisors)

..... County, Florida

(8) All objections and proposed revisions to the engineer’s report, water control plan, or plan amendment must be heard and determined by the board of supervisors at the public hearing so as to carry out liberally the purposes and needs of the district. If the board of supervisors determines at the final public hearing, upon examination of the engineer’s report and upon hearing all of the objections or proposed revisions, that the estimated cost of construction of improvements contemplated in the plan or plan amendment is less than the benefits determined for the lands in the district, the board of supervisors may approve and confirm the engineer’s report and water control plan or plan amendment; or but, if the board of supervisors determines that any of the objections or proposed revisions to the engineer’s report, water control plan, or plan amendment should be sustained or implemented, it shall order the engineer’s report and water control plan or plan amendment changed to conform with its findings, and when changed, the board of supervisors shall approve and confirm or disapprove, as appropriate, the engineer’s report and water control plan or plan amendment and enter its order approving or disapproving, as appropriate, the engineer’s report and proposed water control plan or plan amendment as so revised. When any land or other property is shown by the engineer’s report to be needed for rights-of-way, or other works, the board of supervisors may institute proceedings under chapter 73 or chapter 74 in the circuit court of the proper county to condemn the lands and other property that must be taken or damaged in the making of improvements, with the right and privilege of paying into court a sum to be fixed by the circuit court judge and of proceeding with the work, before the assessment by the jury.

Section 4. Section 298.341, Florida Statutes, is amended to read:

298.341 When unpaid assessments delinquent; penalty.—All non-ad valorem assessments provided for in this chapter become delinquent and bear penalties on the amount of the assessments in the same manner as county taxes. The assessments shall, from January 1 of each year assessable property is liable for district assessments, constitute a lien until paid on the property against which assessed and are enforceable in the same manner as county taxes.

Section 5. Subsection (3) of section 298.77, Florida Statutes, is amended to read:

298.77 Readjustment of assessments; procedure, notice, hearings.—

(3) Any interested person may file an answer to the petition before the return day and, if so, shall be duly heard, but, if not, the cause shall proceed

ex parte. Upon the hearing of the petition, if the board shall find that there has been a material change in the values of the lands in the district since the last previous assessment of benefits, contributed to by the drainage system, and that the other material allegations of the petition herein required to be set forth are substantially true, the board of supervisors shall order that there be made a readjustment of the assessment of benefits for the purpose of providing a basis upon which to levy further and future taxes for the payment of the obligations of, and maintaining the drainage system in, the district, and shall order the engineer's report to be revised accordingly. Thereupon, the board of supervisors shall proceed pursuant to s. 298.301 to make such readjustment of assessment of benefits to each piece or parcel of land which has accrued or will accrue as a result of the drainage system. Provided, in making the readjustment of the assessment of benefits, the board of supervisors shall not increase the existing assessment, or unpaid portion thereof, on any piece or parcel of land; provided, further, that after the making of such readjustment, the limitation of 10 percent of the annual maintenance tax which may be levied shall apply to the amount of benefits as readjusted.

Section 6. This act shall take effect upon becoming law.

Approved by the Governor June 15, 2005.

Filed in Office Secretary of State June 15, 2005.