

House Bill No. 655

An act relating to the Florida Inland Navigation District; amending s. 374.984, F.S.; providing responsibility and authority of the Board of Commissioners of the Florida Inland Navigational District with respect to that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties; revising the list of acts authorizing and directing the improvement and maintenance of the Intracoastal Waterway and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties; providing an exception for maintaining the navigability of the Okeechobee Waterway under certain circumstances; providing an effective date.

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

Section 1. Section 374.984, Florida Statutes, is amended to read:

374.984 Purpose; powers and duties.—It is the purpose and intent of this act that the board perform and do all things which shall be requisite and necessary to comply with the requirements and conditions imposed upon a “local interest” by the Congress of the United States in the several acts authorizing and directing the improvement and maintenance of the Intracoastal Waterway from St. Mary’s River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties. Said acts include but are not limited to: the Rivers and Harbors Act approved January 21, 1927, as amended by the River and Harbor Act approved July 3, 1930; the River and Harbor Act of June 20, 1938; ~~the River and Harbor Act of March 2, 1945;~~ and s. 107 of the Federal River and Harbor Act of 1960. Pursuant thereto, the powers of the board shall include, but not be limited to:

(1) Obtaining by gift, donation, purchase, exchange, condemnation, or otherwise, and conveying, or causing to be conveyed, free of cost to the United States, necessary right-of-way property, and in addition thereto, suitable fee simple or easement areas (as determined by the board) for the deposit of dredged material in connection with the work of improving or constructing, or both, the aforementioned waterway and its subsequent maintenance, including future improvement of said Intracoastal Waterway, with a view to providing a general depth of 12 feet, more or less, depending upon specific local conditions, referred to the plane of local mean water, and a width appropriate to said depth and such improvements as may be authorized and adopted by the Congress of the United States, and in connection with the subsequent maintenance of said waterway so improved. Prior to acquiring any property for the deposit of dredged material, the district shall inform the county and, if applicable, the municipalities in which the property to be acquired is located of the district’s intent to acquire such property and the district shall further hold a public meeting to advise the residents of the area of its intent. Such public meeting shall be noticed in a paper of general circulation in the county in which the meeting is to be held not less

than 15 days prior to the meeting, said notice to contain the date, time, and place of the meeting and to identify the potential acquisition site or sites.

(2) Obtaining by gift, donation, purchase, exchange, condemnation, or otherwise, and furnishing, free of cost, to the United States, any property, property right of every description, easement, riparian right, interest in property, and suitable dredged material management areas outside of said right-of-way that may be necessary to the United States for the construction, maintenance, or operation of said waterway.

(3) Contracting for the purchase of any property to be acquired or obtained by the board under the provisions of this act and paying the purchase price therefor in a lump sum or in installments or deferred payments upon such terms as the board shall determine, said contract of purchase to provide for the payment of interest not to exceed the maximum interest rate permitted by law upon deferred payments. Any acquisition of property, other than by eminent domain, shall be pursuant to rules adopted by the board.

(4) Exercising and using the right of eminent domain, and condemning for the use of the district or to effect the purposes of this act, or both, any and all lands, easements, areas for deposit of dredged materials, right-of-way, riparian rights, and/or property rights of every description required for the public purposes and powers of the board. Such condemnation proceeding shall be maintained by and in the name of the district and the procedures shall be those prescribed and set forth in chapters 73 and 74, as amended from time to time, prescribing the procedure for condemnation by counties, and the same rights and powers shall accrue to said district under such procedures defined and set forth as accruing to the counties in chapters 73 and 74, as well as pursuant to any other general law pertaining thereto, and the district and the board are hereby vested with power and authority to pay such judgment or compensation awarded in any such proceedings out of any fund available for the purchase of right-of-way, areas for deposit of dredged material, or other property under the provisions of this act.

(5) Assuming and/or relieving the United States from the cost, expense, and/or obligation of constructing, reconstructing, maintaining, and/or operating any bridge over said Intracoastal Waterway, whenever, in the judgment of the board of commissioners, such action is necessary or proper upon its part to fully comply with the requirements and conditions imposed upon "local interests" by the Congress of the United States in the several acts authorizing and directing the improvement, navigability, and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties; the expense therefor to be paid as a necessary expense of the district. The board is authorized and empowered to contract with the board of county commissioners of each or any county in the district to the end that, for a consideration from the district, said board of county commissioners, or county, shall assume the responsibility for any or all of the following activities: the construction, reconstruction, maintenance, or operation of any such bridge. Any of said board of county commissioners or county is hereby authorized and empowered to enter into such a contract with the board of the district, and such

contract shall be binding and obligatory upon said county or counties and the district.

(6)(a) Contracting directly for, or entering into agreement from time to time with the district engineer of the Jacksonville, Florida, United States Army Corps of Engineers district, or other agency or party, to contribute toward the cost of dredging performed on the waterway, to construct retaining bulkheads, dikes, and levees, to construct ditches for the control of water discharged by the dredges, and to do all other work and/or things which, in the judgment of the board, shall be proper and necessary to produce economies in meeting the conditions with respect to right-of-way and dredged material management areas imposed upon a "local interest" by the Congress of the United States in the several acts authorizing and directing the improvement, navigability, and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties.

(b) In order to effectuate the purpose and intent of any law or laws that may heretofore have been, or may hereafter be, enacted by the Congress of the United States, authorizing and directing the Secretary of the Army to make preliminary examinations and surveys of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties, the board is authorized and empowered to collect, compile, and furnish to the Secretary of the Army, or his or her officers and agents, data, statistics, and other appropriate information bearing on the advantages, benefits, and increased usefulness that may be expected to accrue to the public and to the counties traversed by the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties, by reason of any improvement thereof, that may subsequently be authorized by the Congress of the United States.

(c) The board of county commissioners of Monroe County is hereby authorized and empowered to authorize the district to act as the board of county commissioners' agent in all matters pertaining to the extension of the inland waterway into Monroe County. The board of county commissioners of Monroe County is hereby authorized to levy an ad valorem tax not to exceed 1 mill for the purpose of defraying the expenses incurred by any action taken under this subsection. Moneys received as a result of this levy shall be paid into an inland waterway fund, the establishment of which is herewith authorized. The district is herewith authorized and empowered to act as the agent of Monroe County for extending the inland waterway into Monroe County, to make charges therefor, and to receive payment thereof.

(d) The board is hereby authorized and empowered to expend funds of the district for publicizing the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Miami-Dade County and that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties, and its availability to watercraft, and to print and distribute information as to the route, channel, available depth, and utility of said Intracoastal Waterway

and such other information and data as may, in the opinion of the board, be desirable, useful, or attractive to give full information regarding said waterway and/or to promote its use in navigation by watercraft of all kinds.

(e) In order to defray the necessary expenses of the district and/or provide funds for expenditures incident to obtaining right-of-way or other property or easements and/or to pay the purchase price of said property and/or to defray other necessary expenses of the district or its board, the board is hereby authorized to borrow moneys from time to time for said purpose or purposes in an amount or amounts such that not in excess of \$100,000 indebtedness will be outstanding at any one time.

(f) All land owned, now or hereafter, by the district shall be, and the same is, hereby exempted from taxation of all kinds.

(g) When the district desires to dispose of surplus land, it shall declare such land surplus by resolution of the board. Copies of said resolution shall be furnished to the Secretary of Environmental Protection, the chair of the county commissioners of the county in which the land is located, and, in the event the land is within a municipality, the mayor of said municipality. If any state agency, county, or municipality desires to utilize said land for outdoor recreation or conservation purposes and the Secretary of Environmental Protection finds that the land is required by the state, county, or city for its recreation or conservation program, it shall notify the district in writing within 60 days after receiving a copy of the resolution. Priority shall be in the state, county, and municipality in that order. The land may then be conveyed with or without consideration to the state agency, county, or municipality by the district; provided, however, that said land be used for outdoor recreation or conservation purpose in perpetuity by the appropriate county, municipal, or state agency. If the district does not receive notice as specified above, it may sell the land at public auction.

(h) The district is designated the local interest sponsor for the sole purpose of maintaining navigability of that portion of the Okeechobee Waterway located in Martin and Palm Beach Counties ~~County and extending from the Intracoastal Waterway to the St. Lucie lock.~~ The Legislature recognizes that the water level of Lake Okeechobee and the section of the Okeechobee Waterway within the lake are subject to natural weather cycles and lake management strategies that may adversely affect navigation. As such actions are outside of the district's control, the district shall not be required to undertake actions to restore navigation when lake levels are less than 12.56 feet National Geodetic Vertical Datum.

Section 2. This act shall take effect July 1, 2005.

Approved by the Governor May 10, 2005.

Filed in Office Secretary of State May 10, 2005.