

Council Substitute for House Bill No. 1535

An act relating to the Sebastian River Drainage District, Indian River County; codifying, amending, and reenacting special acts relating to the district; renaming the district as the Sebastian River Improvement District; providing purposes of the district; providing boundaries; providing for applicability of ch. 298, F.S.; providing powers of the district; providing for compliance with county plans and regulations; providing for the election of a board of supervisors; providing for organization, powers, duties, terms of office, and compensation of the board; providing for meetings; providing for compensation of certain county officers under certain circumstances; providing for the levy of non-ad valorem assessments; providing for costs; providing for collection, enforcement, and penalties; providing for issuance of revenue bonds, assessment bonds, and bond anticipation notes; providing severability; repealing chapters 12258 (1927), 20478 (1941), 57-1109, 59-768, 63-820, 65-809, and 70-739, Laws of Florida, relating to the district; providing an effective date.

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

Section 1. (1) The reenactment of existing law in this act shall not be construed as a grant of additional authority to or to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of the district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law in this act shall be construed to affect the ability of the district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 2. Chapters 12258 (1927), 20478 (1941), 57-1109, 59-768, 63-820, 65-809, and 70-739, Laws of Florida, are codified, amended, reenacted, and repealed as provided in this act.

Section 3. The Sebastian River Drainage District is re-created, and the charter for such district is re-created and reenacted to read:

Section 1. District renamed.—The Sebastian River Drainage District shall henceforth be known as the Sebastian River Improvement District.

Section 2. District created; boundaries.—For the purposes of providing public infrastructure and services; the assessment, levy, and collection of taxes, non-ad valorem assessments, and fees; the operation of district facilities and services; and all other purposes stated in this act consistent with chapters 189 and 298, Florida Statutes, and other applicable general law, an independent improvement district is hereby created and established in Indian River County, Florida, to be known as the Sebastian River Improvement District, the territorial boundaries of which shall be as follows, to wit:

Beginning at a point on the Northeast corner of Section 1, Township 32 South, Range 38 East, in Indian River County, Florida, thence run East along the Township line to the Southeast corner of the West half of Section 32, Township 31 South, Range 39 East;

Thence run North on the center line of Sections to the Northeast corner of the Southwest quarter of Section 20, Township 31 South, Range 39 East;

Thence run West through center of sections to the Northwest corner of the Southwest quarter of Section 26, Township 31 South, Range 38 East;

Thence run South on Section line to the Southwest corner of Section 35, Township 32 South, Range 38 East;

Thence run East along Township line to the Southeast corner of Township 32 South, Range 38 East;

Thence run North along Range line to the Northeast corner of Township 32 South, Range 38 East to the point of beginning.

All of the S½ of Sections 25 and 26, and all of Sections 35 and 36 of Township 31 South, Range 38 East.

The SW¼ of Section 29; the S½ of Section 30; all of Section 31; and the W½ of Section 32; all in Township 31 South, Range 39 East.

All of Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, in Township 32 South, Range 38 East.

Section 3. Provisions of law made applicable.—The provisions of chapter 298, Florida Statutes, are hereby declared to be applicable to the Sebastian River Improvement District. The Sebastian River Improvement District shall have all of the powers and authorities mentioned in or conferred by chapter 298, Florida Statutes.

Section 4. Powers of the district; compliance with county plans and regulations.—

(1) The district shall have the following powers:

(a) To sue and be sued by its name in any court of law or in equity, to make contracts, and to adopt and use a corporate seal and to alter the same at pleasure;

(b) To acquire by purchase, gift, or condemnation real or personal property within or without the district and to convey and dispose of such real or personal property as may be necessary or convenient to carry out the purposes of this act and chapter 298, Florida Statutes;

(c) To construct, operate, and maintain canals, ditches, drains, levees, lakes, ponds, and other works for water management and control purposes;

(d) To acquire, purchase, operate, and maintain pumps, plants, and pumping systems for water management and control purposes;

(e) To construct, operate, and maintain irrigation works, machinery, and plants;

(f) To construct, improve, pave, and maintain roadways and roads necessary and convenient for the exercise of the powers or duties of the district or the supervisors thereof and to include as a component of roads, parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system;

(g) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for providing transportation throughout the district, including private or contract carriers, buses, vehicles, railroads, and other transportation facilities, to meet the transportation requirements of the district in activities conducted within the district;

(h) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain parking facilities within the district boundaries;

(i) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses;

(j) To acquire, construct, finance, operate, and maintain water plants and systems to produce, purify, and distribute water for consumption;

(k) To acquire, construct, finance, operate, and maintain sewer systems for the collection, disposal, and reuse of waste and to prevent water pollution in the district;

(l) To levy non-ad valorem assessments and to prescribe, fix, establish, and collect rates, fees, rentals, fares, or other charges, and to revise the same from time to time, for the facilities and services furnished or to be furnished by the district and to recover the cost of making connection to any district facility or system;

(m) To provide for the discontinuance of service and reasonable penalties, including attorney's fees, against any user or property for any such rates, fees, rentals, fares, or other charges that become delinquent and require collection. However, no charges or fees shall be established until after a public hearing of the board at the district at which all affected persons shall be given an opportunity to be heard;

(n) To enter into agreements with any person, firm, or corporation for the furnishing by such person, firm, or corporation of any facilities and services of the type provided for in this act;

(o) To enter into impact fee credit agreements with local general purpose governments. In the event the district enters into an impact fee credit agreement with a local general purpose government where the district constructs or makes contributions for public facilities for which impact fee credits would be available, the agreement may provide that such impact fee credits shall inure to the landowners within the district in proportion to their

relative assessments, and the district shall, from time to time, execute such instruments, such as assignments of impact fee credits, as may be necessary or desirable to accomplish or confirm the foregoing:

(p) To construct and maintain facilities for and take measures to control mosquitoes and other arthropods of public health importance;

(q) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property;

(r) To borrow money and issue negotiable or other bonds of said district as hereinafter provided; to borrow money, from time to time, and issue negotiable or other notes of said district therefor, bearing interest at not exceeding the maximum interest allowable by law, in anticipation of the collection of taxes, levies, and assessments or revenues of said district and to pledge or hypothecate such taxes, levies, assessments, and revenues to secure such bonds, notes, or obligations and to sell, discount, negotiate, and dispose of the same;

(s) To provide public safety, including, but not limited to, security, guard-houses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any police power but may contract with the appropriate local general purpose government agencies for an increased level of such service within the district boundaries;

(t) To provide systems and facilities for fire prevention and control and emergency medical services, including the construction or purchase of fire stations, water mains and plugs, fire trucks, and other vehicles and equipment;

(u) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, and maintain additional systems and facilities for school buildings and related structures, which may be leased, sold, or donated to the school district for use in the educational system when authorized by the district school board;

(v) To establish and create such departments, committees, boards, or other agencies, including a public relations committee, as from time to time the board of supervisors may deem necessary or desirable in the performance of the acts or other things necessary to the exercise of the powers provided in this act, and to delegate to such departments, committees, boards, or other agencies such administrative duties and other powers as the board of supervisors may deem necessary or desirable; and

(w) To exercise all other powers necessary, convenient, or proper in connection with any of the powers or duties of the district stated in this act. The powers and duties of the district shall be exercised by and through the board of supervisors thereof, which board shall have the authority to employ engineers, attorneys, agents, employees, and representatives as the board of

supervisors may from time to time determine and to fix their compensation and duties. However, in addition thereto, the district shall have all of the powers provided for in chapter 298, Florida Statutes. All powers and authority of the district shall extend and apply to the district as a whole and to each unit of development as from time to time may be designated by the board of supervisors.

(2) Notwithstanding any authority contained within this section, the development, operation, or maintenance of any district facilities or services shall comply with the adopted comprehensive plan for Indian River County and any land development regulations adopted thereunder that apply within the geographic boundaries of the district.

Section 5. Board of supervisors; organization, powers, duties, and terms of office.—

(1) There is hereby created a board of supervisors of the Sebastian River Improvement District, which shall be the governing body of the district. The board of supervisors shall consist of three persons who, except as herein otherwise provided, shall hold office for a term of 3 years and until their successors are duly elected and qualified.

(2) Each year during the month of June, a supervisor shall be elected, as hereinafter provided, by the landowners of the district to take the place of the retiring supervisor. All vacancies or expirations on the board shall be filled as required by this act and chapter 298, Florida Statutes. The supervisors of the Sebastian River Improvement District shall be residents of the State of Florida and citizens of the United States. In case of a vacancy in the office of any supervisor, the remaining supervisors may fill such vacancy until the next annual meeting of the landowners, when his or her successor shall be elected by the landowners for the unexpired term. As soon as practicable after their election, the board of supervisors shall organize by choosing one of their number as president of the board of supervisors and by electing some suitable person as secretary, who may or may not be a member of the board. The board of supervisors shall adopt a seal, which shall be the seal of the district. At each annual meeting of the landowners of the district, the board of supervisors shall report all work undertaken or completed during the preceding year and the status of the finances of the district.

(3) All supervisors shall hold office until their successors are elected and qualified. Whenever any election is authorized or required by this act to be held by the landowners at any particular or stated time or day but for any reason is not or cannot be held at such time or on such day, then the power or duty to hold such election shall not cease or lapse, but such election shall be held thereafter as soon as practicable and consistent with this act.

Section 6. Compensation of board.—Each supervisor shall be paid for his or her services a per diem of \$25 for each day actually engaged in work pertaining to the district. In addition to such per diem, supervisors shall be paid travel and related expenses at rates authorized by general law for public officials pursuant to chapter 112, Florida Statutes.

Section 7. Meetings of landowners; election of supervisors.—Each year during the month of June, a meeting of the landowners of the district shall be held for the purpose of electing a supervisor to take the place of the retiring supervisor and hearing reports of the board of supervisors. Elections shall be conducted in accordance with applicable provisions of chapter 298, Florida Statutes.

Section 8. Non-ad valorem assessments.—

(1) NON-AD VALOREM ASSESSMENTS.—Non-ad valorem assessments for the construction, operation, or maintenance of district facilities, services, and operations shall be assessed, levied, and collected pursuant to chapter 298, chapter 170, or chapter 197, Florida Statutes.

(2) TAXES, ASSESSMENTS, AND COSTS, A LIEN ON LAND AGAINST WHICH ASSESSED, ETC.—All taxes and assessments provided for in this act, together with all penalties for default in payment of the same and all costs in collecting the same, shall, from the date of assessment thereof until paid, constitute a lien of equal dignity with the liens for county taxes, and other taxes of equal dignity with county taxes, upon all the lands against which such taxes shall be levied as provided in this chapter.

(3) COMPENSATION OF PROPERTY APPRAISER, TAX COLLECTOR, AND CLERK OF THE CIRCUIT COURT.—The property appraiser, tax collector, and clerk of the circuit court of Indian River County shall be entitled to compensation for services performed in connection with taxes and assessments of the district as provided by general law.

(4) LEVIES OF NON-AD VALOREM ASSESSMENTS ON LAND LESS THAN 1 ACRE.—In levying and assessing all assessments, each tract or parcel of land less than 1 acre in area shall be assessed as a full acre, and each tract or parcel of land more than 1 acre in area that contains a fraction of an acre shall be assessed at the nearest whole number of acres, a fraction of one half or more to be assessed as a full acre.

Section 9. Delinquent and unpaid taxes and assessments; penalty.—All taxes and assessments provided for in this act shall be and become delinquent and bear penalties on the amount of said taxes in the same manner as county taxes.

Section 10. Enforcement of taxes and assessments.—The collection and enforcement of all taxes and assessments levied by the 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 procedure in connection therewith shall be applicable to the district and the delinquent and unpaid taxes of the district to the same extent as if said statutory provisions were expressly set forth in this act. All taxes and assessments shall be subject to the same discounts as county taxes.

Section 11. Issuance of revenue bonds, assessment bonds, and bond anticipation notes.—

(1) In addition to the other powers provided to the district, and not in limitation thereof, the district shall have the power, pursuant to chapter 298, Florida Statutes, and applicable general law, at any time, and, from time to time, after the issuance of any bonds of the district shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue.

(2) Pursuant to chapter 298, Florida Statutes, and applicable general law, the district shall have the power to issue assessment bonds and revenue bonds, from time to time, without limitation as to amount for the purpose of financing those systems and facilities provided for in section 4. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required.

(3) Any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects and the fixing and revising of the rates, fees, and charges, the custody, safeguarding, and application of all moneys, and the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation.

(4) Bonds of each issue shall be dated; shall bear interest at such rate or rates, including variable rates, which interest may be tax exempt or taxable for federal income tax purposes; shall mature at such time or times from their date or dates; and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be determined by the board.

(5) The district shall have the power to issue bonds for the purpose of refunding any outstanding bonds of the district.

Section 4. In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situations, circumstances, or person shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this

act or the application of such sections or provisions to any other situation, circumstance, or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any unconstitutional application.

Section 5. Chapters 12258 (1927), 20478 (1941), 57-1109, 59-768, 63-820, 65-809, and 70-739, Laws of Florida, are repealed.

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

Approved by the Governor June 26, 2007.

Filed in Office Secretary of State June 26, 2007.