

CHAPTER 2017-218

Committee Substitute for House Bill No. 1315

An act relating to the Lake County Water Authority, Lake County; amending ch. 2005-314, Laws of Florida; revising purpose of the authority; deleting obsolete language; removing power of the governing board and the authority to acquire land through eminent domain or condemnation; removing power of the board relating to certain state land; providing for the county or a municipality to acquire private property through eminent domain under certain circumstances; providing powers of the board relating to navigation and blockage of certain waterways in the county; prohibiting the board from expending public funds to promote recreation and tourism; providing powers of and restrictions on the authority and the board relating to parks; requiring certain documents to be published on the authority's website; providing an effective date.

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

Section 1. Sections 1, 4, 9, 15, 16, and 17 of section 3 of chapter 2005-314, Laws of Florida, are amended to read:

Section 1. Purpose.—For the purposes of controlling and conserving the freshwater resources of Lake County; fostering ~~and improving the tourist business in the county~~ by improvements to streams, lakes, and canals in the county; ~~providing recreational facilities for tourists and citizens and taxpayers of the county by a more efficient use of the streams, lakes, and canals in the county;~~ improving the fish and aquatic wildlife of the county by improving the streams, lakes, and canals in the county; and protecting the freshwater resources of Lake County through assisting local governments in treating of stormwater runoff ~~by conserving fresh water to improve the streams, lakes, and canals in the county,~~ there is created and incorporated a special taxing district extending territorially throughout the present limits of Lake County, Florida. The district shall be known and designated as the “Lake County Water Authority,” but shall hereafter in this act, for convenience, be referred to as “the authority.”

Section 4. Governing board; elections; surety.—A governing body for the authority is created, consisting of seven members who are residents of Lake County, which body shall be known and designated as the “Board of Trustees of the Lake County Water Authority,” but which shall be referred to as “the board.” Five of the members must each reside in a separate geographic area identical to a county commission district, to be elected by the electors of the county at large; no two such members shall reside in the same county commission district. Two of the members will be elected by the electors of the county at large without regard to their residence. ~~On the second Tuesday following the general election in 2000, the term of office of each person serving on the board immediately before that date expires, and~~ The members of the board shall be elected by the electors of Lake County in partisan

~~elections conducted by the supervisor of elections pursuant to section 189.405, Florida Statutes, in accordance with the Florida Election Code, chapters 97 through 106, Florida Statutes, beginning with the general election in 2000, for terms of 4 years beginning on the second Tuesday following the general election. For purposes of staggering terms, the members elected in 2000 from odd-numbered areas and the at-large member receiving the higher number of votes shall be elected to 4-year terms and the members elected from even-numbered areas and the at-large member receiving the lower number of votes shall be elected to 2-year terms. Thereafter, Each member shall be elected for a term of 4 years, except that a person may not be elected to more than two consecutive 4-year terms. At the first meeting in December of each year or, during a year in which there is a general election, at a meeting held no later than 30 days after the general election if the meeting and the election of officers have been advertised properly, the board shall select one of their number as chair and one as vice chair of the board. The Clerk of the Circuit Court of Lake County shall act as secretary and treasurer of the board without any additional compensation. In the event the provision pertaining to the duties of the clerk of the circuit court is for any reason held to be invalid, the board may select one of its members to serve as its secretary and treasurer, or it may appoint a nonmember of the board as its secretary and treasurer, and such nonmember shall receive compensation commensurate with the responsibilities as determined by the board. The board shall select a nonmember to serve as executive director of the authority, and such nonmember shall receive compensation commensurate with the responsibilities as determined by the board. The board shall require a surety bond of any person, including the clerk of the circuit court, who shall act as secretary and treasurer of the board. The amount of the surety bond will be determined by the board. This bond shall be in addition to any bond furnished by such person as clerk of the circuit court or as a member of the board. The premium of the bond shall be paid by the board as a necessary expense of operation.~~

Section 9. Powers of board and authority.—

(a) ~~The board has all the powers of a body corporate, including, but not limited to, the power to sue and be sued; to make contracts; to adopt and use a common seal and to alter the same as deemed expedient; to buy, acquire by condemnation or eminent domain in the manner prescribed for use by counties in Florida, sell, own, use, control, operate, improve, and lease all land and personal property as the board deems necessary or proper in carrying out the provisions of this act; to appoint and employ, and dismiss at pleasure, such engineers, auditors, attorneys, and other employees and agents as the board may require, and to fix and pay the compensation thereof; to establish an office for the transaction of its business in Lake County and to pay all necessary costs and expenses incident to the administration and operation thereof; and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this act.~~

(b) The authority may acquire by purchase, gift, lease, ~~condemnation, eminent domain,~~ or in any other manner other than condemnation or eminent domain such lands within the territorial extent of the authority as are reasonably necessary for constructing and maintaining the works and making the improvements required to carry out the intent of this act, including, ~~without limitation,~~ the right to acquire ~~by condemnation or eminent domain~~ such lands and any interest therein reasonably necessary for any such purpose which may already be devoted to public use for county, municipal, district, railroad, or public utility purposes where and to the extent that the same may cross, intersect, or be situate upon or within the area of such land hereinbefore referred to. The authority shall also have the right to acquire by purchase, gift, lease, ~~condemnation, or eminent domain,~~ or in any other manner other than condemnation or eminent domain, land, timber, earth, rock, and other materials or property, and property rights, including riparian rights, in such amounts as are reasonably necessary or useful in the development of the works or improvements before referred to. The board may sell or otherwise reasonably dispose of property deemed by the authority as no longer useful to its purpose or works. ~~Condemnation or eminent domain proceedings shall be maintained by and in the name of the authority, and the procedure shall be, except insofar as is altered hereby, that prescribed for use by counties in Florida.~~

(c) ~~The authority may take, exclusively occupy, use, and possess, insofar as is necessary for carrying out the provisions of this act, any areas of land owned by the state and within the territorial jurisdiction of the authority, not in use for state purposes, including, without limitation, swamps and overflowed lands, bottoms of streams, lakes, and rivers, and the riparian rights thereto pertaining, and, when so taken and occupied, due notice of such taking and occupancy having been filed with the Trustees of the Internal Improvement Trust Fund of the state by the authority, such areas of land are granted to and shall be the property of the authority. For the purposes of this section, the meaning of the term "use" shall include the removal of material from and the placing of material on any such land. In case it is held by any court of competent jurisdiction that there are any lands owned by the state which may not be so granted, the provisions of this section shall continue in full force and effect as to all other lands owned by the state and granted to the authority under this section. The provisions of this section are subject to all laws and regulations of the United States of America with respect to navigable waters.~~

(c)(d) In addition to all other powers conferred upon the board by this act, the board may enlarge, change, modify, or improve any stream, lake, or canal within the territorial limits of the authority and may clean out, straighten, enlarge, or change the course of any waterway or canal, natural or artificial, within the territorial limits of the authority; may provide such canals, locks, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, buildings, bridges, highways, and other works and facilities that the board deems necessary; may cross any highway or railway with works of the district and hold, control, and acquire by donation,

lease, purchase, or in any other manner other than condemnation or eminent domain otherwise any land or personal property needed for carrying out the purpose of this act and may remove any building or other obstruction necessary for the construction, maintenance, and operation of such works. The improvements made or to be made under this act are sometimes referred to in this act as “the works” of the board. The board shall also have power to operate any and all works and improvements of the authority. The provisions of this section are subject to all laws and regulations of the United States of America with respect to navigable waters.

~~(c) The board may take possession of and control, use, operate, and maintain all streams, lakes, canals, dams, locks, levees, dikes, sluiceways, reservoirs, holding basins, floodways, pumping stations, buildings, bridges, highways, navigation, and conservation works, and other works and facilities within the territorial limits of the authority to the extent only that such possession, control, and use have been deemed by the board, in its sole discretion, to be useful and necessary in carrying out the purposes of this act. Such possession, control, and use are subject to the rights of persons, firms, and corporations and the rights of Lake County and municipalities, districts, and political bodies in Lake County (which rights may be acquired by the authority by condemnation or eminent domain as provided for by this act).~~

~~(d)(f)~~ The authority shall control all streams, including slow-moving streams, flowing from any of the water reservoirs in Lake County, whether natural or constructed, into the system of lakes and streams in or adjacent to Lake County for the protection of the natural water reservoirs and the adjacent and neighboring areas.

(e) The board may attempt, when technically, environmentally, and economically feasible, to remove significant hazards to navigation and blockages from the major public waterways of Lake County, whenever those hazards and blockages substantially affect public navigation on large lakes and their connecting streams and canals. Generally, such work shall be limited to streams, lakes, and canals that have legal authorized access by the general public.

~~(f)(g) The board may grant licenses or permits for the construction and excavation of canals and ditches connecting with navigable waters; may establish, adopt, and administer rules governing the construction and excavation of canals and ditches with authority to prohibit any construction deemed by the board to be detrimental to the best interests of the public or purposes for which the authority was established; may do any and all things hereinafter authorized or required to be done; and may do any and all things, whether or not included in the powers enumerated in this act, necessary to accomplish the purposes of this act.~~

(g)(h) The board may enter into any agreement or contract with the Federal Government or the state, or any agency, political subdivision, or instrumentality of either; and counties adjoining Lake County; and

municipalities and taxing districts in Lake County and in counties adjoining Lake County for the purpose of carrying out, or which in the reasonable judgment of the board may assist it in carrying out, the purposes of this act.

(h) The board may recommend, by resolution to the Board of County Commissioners of Lake County or the governing body of a municipality in the county, the acquisition of private property using the power of eminent domain. Such recommendation shall specify the purpose under this act for which such acquisition is necessary. Within 90 days after receipt of such a recommendation, the county or municipality shall formally respond to such recommendation with its approval, disapproval, or a proposed modification. The authority and the county or municipality shall cooperate in the public interest. If the county or the municipality ultimately proceeds with the authority's recommended acquisition, the implementation of the purpose of this act for which the authority made the recommendation may be addressed through an interlocal agreement between the authority and the county or municipality.

(i) The board may promote the authority's purpose and works through board resolutions, press releases, electronic communications, and attendance at public events sponsored by other entities, but otherwise may not expend public funds to promote recreation and tourism in the county, including, but not limited to, hosting events, advertising, or marketing.

(j)(1)a. For purposes of this subsection, an "active park" means a park developed for the purpose of public recreation with man-made improvements, including, but not limited to, buildings for meetings and events; athletic fields; tennis, racquetball, and volleyball courts; swimming pools; recreational boat docks, boat houses, and related facilities; and similar capital facilities.

b. For purposes of this subsection, a "passive park" means a park developed for the purpose of allowing public observation of natural conditions and environmentally sensitive areas or providing public access to streams, lakes, and canals for waterborne activities, using limited man-made improvements, including, but not limited to, nature trails, equestrian trails, elevated boardwalks, boat ramps, and kayak and canoe launching pads.

(2) The authority may not develop, own, maintain, or operate active parks, with the exception of Hickory Point Park, but may develop, own, maintain, and operate passive parks on property owned by the authority for the purpose of this act, provided that such passive parks are not in conflict with the public purpose for which the authority acquired the property. Nothing in this act shall prohibit the continued use of the Disc Golf Course at Hidden Waters Preserve. The board may sell or donate land for parks to Lake County or a municipality in the county pursuant to an interlocal agreement.

Section 15. Financial statement.—At least once in each year the board shall publish on the authority’s website and in a ~~some~~ newspaper of general circulation published in Lake County a complete detailed statement of its financial condition, including a list of all moneys received and disbursed by the board during the preceding year.

Section 16. Construction.—It is the intention of the Legislature that the provisions of this act be reasonably ~~liberally~~ construed to accomplish its purposes.

Section 17. Plan; annual report.—

(a) The authority shall prepare and publish on the authority’s website a plan that describes the authority’s goals for the ensuing 5 years. The plan must include projects that will be undertaken within that period in furtherance of its goals. The authority shall update the plan periodically.

(b) The authority shall annually prepare and publish on the authority’s website a report that annually ~~which~~ includes an evaluation and assessment of the effectiveness of the authority’s activities in the preceding year. The report must address both ongoing activities of the authority and the progress in meeting goals and projects enumerated in the 5-year plan. The report shall be submitted to the Legislature, the St. Johns River Water Management District, and the Lake County Board of County Commissioners.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 6, 2017.

Filed in Office Secretary of State June 6, 2017.