

CHAPTER 2018-174

House Bill No. 1089

An act relating to the East Mulloch Drainage District, Lee County; providing an exception to general law; creating the East Mulloch Water Control District as a dependent special district; providing that the charter of the district shall be subject to amendment or repeal by the county commission; providing the district charter; providing boundaries; providing powers; providing for the county commission to appoint the board of supervisors; providing for staggered terms; providing authority and duties of the board; providing for compensation; providing for assessments by the district; repealing chs. 63-930, 65-912, 83-443, 83-455, 84-464, 86-425, and 88-480, Laws of Florida; dissolving the East Mulloch Drainage District; transferring all assets and liabilities of the East Mulloch Drainage District to the East Mulloch Water Control District; providing that liabilities of the district are not liabilities of the county; providing construction; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

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

Section 1. The East Mulloch Water Control District is created as a dependent special district of Lee County and a body corporate and politic.

Section 2. Upon becoming a law, section 3 shall become a separate chapter of the Lee County Code of Ordinances and shall be subject to revision, amendment, or repeal by the Board of County Commissioners of Lee County.

Section 3. The charter for the East Mulloch Water Control District is created to read:

Section 1. Name and corporate status.—

(1) The name of the district is the “East Mulloch Water Control District.”

(2) The district shall be a dependent special district of Lee County and a body corporate and politic within the county.

Section 2. District boundaries.—The lands incorporated within the East Mulloch Water Control District consist of the following described lands in Lee County:

Commencing at the Northeast corner of Section 9, Township 46 South, Range 25 East in Lee County, run South 50 feet along the East line of Section 9 to the point of beginning; thence run West 50 feet South of and parallel to the North line of Section 9 to the West line of Section 9; thence run South along the West line of said Section 9 to the Northeast corner of the South ½ of the Southeast ¼ of Section 8; thence run West

along the North line of said South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 8 to the Northwest corner of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 8; thence run South along the West line of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 8 to the Southwest corner of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 8; thence run East along the South line of Section 8 to the Northwest corner of Section 16; thence run South along the West line of Section 16 to the center of said West line of Section 16; thence run West along the North line of the South $\frac{1}{2}$ of Section 17 to the Northwest corner of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 17; thence run South along the West line of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 17, to the Southwest corner of the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 17, thence run East to the North-South centerline of Section 17; thence run South along the centerline of Section 17 to the Southwest corner of the Southeast $\frac{1}{4}$ of Section 17; thence run West on the South line of Section 17 to the Easterly Right of way of U.S. Highway 41; thence run Southeasterly along the Easterly right of way of U.S. Highway 41 to a point 200.27 feet Northwesterly of a point on said Right of way due West from the center of the East line of Section 20; thence run East to the East line of Section 20; thence run North along said East line of Section 20 to the Southwest corner of Section 16; thence run East along the South line of Section 16 to the Southeast corner of Section 16; thence run South along the West line of Section 22 to the Southwest corner of the Northwest $\frac{1}{4}$ of Section 22; thence run East along the South line of the Northwest $\frac{1}{4}$ of Section 22 to the Southeast corner of the Northwest $\frac{1}{4}$ of Section 22; thence run North along the East line of the Northwest $\frac{1}{4}$ of Section 22 to the Northeast corner of the Southwest $\frac{1}{4}$ of Section 15; thence run West along the North line of the Southwest $\frac{1}{4}$ of Section 15 to the Southeast corner of the West $\frac{3}{4}$ of the Northwest $\frac{1}{4}$ of Section 15; thence run North along the East line of the West $\frac{3}{4}$ of the Northwest $\frac{1}{4}$ of Section 15 to the Southwest corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 15; thence East along the South line of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 15 to the Southeast corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 15; thence run North along the East line of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 15 to the Northeast corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 15; thence run North along the East line of the Southwest $\frac{1}{4}$ of Section 10 to the Northeast corner of the Southwest $\frac{1}{4}$ of Section 10; thence run West along the North line of the Southwest $\frac{1}{4}$ of Section 10 to the Northwest corner of the Southwest $\frac{1}{4}$ of Section 10; thence run North on the East line of Section 9 to the Northeast corner of Section 9 to the point of beginning.

Together with:

A tract of land lying in Section 15, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Beginning at the Northwest corner of the Southeast quarter of said Section 15, run S. 84°08'36" E. for 356.42 feet; thence S. 63°23'58" E. for 417.26 feet; thence S. 74°58'32" E. for 53.83 feet; thence N. 13°30'24" W. for 241.56 feet; thence N. 76°29'36" E. for 264.18 feet; thence S. 13°30'24" E. for 483.39 feet; thence S. 11°00'00" E. for 246.44 feet; thence Southerly along the arc of a curve to the right through a central angle of 55°40'01" (Radius of 920.00 feet; chord bearing S. 16°50'01" W.; chord length 859.10 feet) for 893.85 feet; thence S. 44°40'01" W. for 222.08 feet; thence Southwesterly along the arc of a curve to the left through a central angle of 13°39'14" (Radius of 920.00 feet; chord bearing S. 37°50'24" W.; chord length 218.72 feet) for 219.24 feet; thence S. 89°40'01" W. for 590.43 feet to the West line of the said Southeast quarter; thence N. 0°19'59" W. for 1808.93 feet to the Point of Beginning. Said lands containing 40.81 acres, more or less. Bearings used herein refer to the said West line of the Southeast quarter of Section 15 as being N. 0°19'59" W.

and further together with:

A tract of land in the North Half (N ½) of Section 10,

Township 46S, Range 25E, Lee County, Florida, lying southerly of the Alico Road right-of-way line and westerly of the I-75 right-of-way line. Said lands in this paragraph containing 140 acres, more or less.

Section 3. Powers of the district.—The district shall have all authority, powers, and duties granted by this charter and by chapters 189 and 197, Florida Statutes.

(1) The district shall have authority, power, and duties to provide drainage and water control as provided and limited by the following:

(a) In exercising its authority for drainage and water control, the district shall have the authority provided by, and be subject to, ss. 298.16, 298.17, 298.18, 298.20, 298.21, 298.22, 298.225, 298.23, 298.24, 298.25, 298.26, 298.28, 298.301, 298.305, 298.329, 298.333, 298.341, 298.345, 298.353, 298.36, 298.365, 298.366, 298.401, 298.41(1), 298.465, 298.47, 298.48, 298.49, 298.50, 298.52, 298.54, 298.56, 298.59, 298.61, 298.62, 298.63, and 298.66, Florida Statutes.

(b) The district shall have the power to employ a person as manager of the district and to vest such authority in, delegate the performance of such duties to, and provide compensation to such person as may be determined by the board of supervisors. The manager shall have charge to manage the works of said district and its construction, operation, and maintenance. The district may require the manager to furnish bond with good and sufficient surety in such amount as the board of supervisors may by resolution determine.

(c) The district is authorized to appoint or employ such agents, engineers, attorneys, or employees as may be required to carry out the provisions of this charter.

(d) The district may operate and maintain pumping plants and stations, including pumping machinery, motive equipment, and all appurtenant or auxiliary machines, devices, or equipment, contract for the operation and maintenance of said pumping plants and stations, and acquire all property and services necessary for the maintenance and operation of the same.

(2) As provided by general law or county ordinance, the district may grant permits to owners of land within the district for the installation of water control structures.

(3) The district may borrow money and issue notes for such indebtedness as provided by general law or county ordinance.

(4) As provided by general law and this charter, the district and its agents and employees are authorized at all reasonable times to enter upon the lands adjacent to the drainage works maintained and operated by the district, including, without limitation, canals, drains, levees, dikes, dams, locks, reservoirs, pumping stations, water control structures, and other works and improvements.

Section 4. Board of supervisors.—

(1) The authority, power, business, and affairs of the district shall be exercised and administered by the Board of Supervisors of the East Mulloch Water Control District.

(2) The following provisions control the East Mulloch Water Control District:

(a) The board of supervisors shall be composed of three persons who reside in the district and are appointed by the board of county commissioners.

(b) The members of the board of supervisors shall serve terms of 3 years each. The terms of supervisors shall be staggered so that no more than one supervisor is reappointed or replaced each year.

(c) If a vacancy occurs on the board of supervisors, the board of county commissioners shall appoint a replacement for the remainder of the term.

(d) The board of county commissioners may remove from the board of supervisors any supervisor who has three or more consecutive, unexcused absences from regularly scheduled meetings.

(e) Each supervisor shall be entitled to receive a per diem of \$5 for attending meetings of the board of supervisors, provided that the compensation of any supervisor shall not exceed the sum of \$25 during any 1 month.

Supervisors shall be reimbursed for their expenses pursuant to s. 112.061, Florida Statutes.

(f) Each year, the board of supervisors shall hold an annual organizational meeting and elect a chair, vice chair, and treasurer, whose duties shall be established by resolution of the board of supervisors.

(3) The board of supervisors shall have the administrative duties set forth in this charter and chapter 189, Florida Statutes.

(4) A quorum of the board of supervisors shall be a majority of its members. Official action requires a majority of those voting members present.

(5) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in chapters 112, 119, 189, and 286, Florida Statutes.

(6) The board of supervisors shall have the power to contract; to sue and be sued in the name of the district; to acquire, hold, and control by gift, exchange, purchase, or other means, any property real, personal, or mixed, which may be needed to carry out the provisions of this charter or the purposes for which the district is created; and to sell, lease, or otherwise dispose of any such property as provided by general law or this charter.

Section 5. Annual maintenance assessment.—Notwithstanding any other provision of law, for the purpose of paying the cost of administering the affairs of the district; for the purpose of maintaining, operating, preserving, rendering efficient, repairing, or restoring the water control structures of the district; and for the purpose of defraying the current expenses of the district, the board of supervisors is authorized, empowered, and directed to levy and impose upon all lands lying within the boundaries of the district an assessment not to exceed \$30.10 per acre, per annum. The board of supervisors shall levy annually, within the limits set by this charter, an amount sufficient to pay promptly all obligations incurred or to be incurred by the district.

(1) The East Mulloch Water Control District confers benefits on all lands situated within the district in an amount at least equal to the assessments imposed under this charter.

(2) Annual installment assessments levied pursuant to s. 298.36, Florida Statutes, shall be due and collected each year at the same time that county taxes are due and collected, pursuant to s. 298.36, Florida Statutes, chapter 197, Florida Statutes, and this charter. Said assessments shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

(3) The methods for assessing and collecting non-ad valorem assessments, fees, or service charges shall be as set forth in this charter and

chapter 170, chapter 189, chapter 197, or chapter 298, Florida Statutes. The receipt and collection of these charges or fees shall be in the manner prescribed by resolution.

(4) There is established the East Mulloch Water Control District maintenance fund, into which the district shall deposit all assessments collected under this section.

(5) The board of supervisors is authorized to establish such other funds for the moneys of the district as the board determines to be necessary.

(6) The maintenance fund shall be used exclusively for the purposes for which assessments are authorized under this charter to be levied.

Section 6. Finances.—

(1) The district shall have no power or authority to impose or collect ad valorem taxes.

(2) The methods for assessing and collecting non-ad valorem assessments shall be as set forth in this charter and chapter 170, chapter 189, chapter 197, or chapter 298, Florida Statutes. The receipt and collection of these assessments shall be in the manner prescribed by resolution.

(3) Notwithstanding s. 298.36(2), Florida Statutes, the board of supervisors, as soon as said total assessment is levied, shall, at the expense of the district, prepare a list of all assessments levied and store said list in an electronic format.

(4) The board of supervisors annually shall prepare, consider, and adopt a district budget pursuant to the applicable requirements of this charter and chapter 189, Florida Statutes. The fiscal year shall be from October 1 through September 30.

(5) All warrants for the payment of labor, equipment, materials, and other allowable expenses incurred by the board of supervisors in carrying out this charter shall be payable on accounts and vouchers approved by the board of supervisors.

Section 4. Chapters 63-930, 65-912, 83-443, 83-455, 84-464, 86-425, and 88-480, Laws of Florida, are repealed.

Section 5. The East Mulloch Drainage District is dissolved as of October 1, 2018.

Section 6. As of July 1, 2018, the members of the former Board of Supervisors of the East Mulloch Drainage District shall constitute the Board of Supervisors of the East Mulloch Water Control District only until the earlier of the expiration of their current terms or January 1, 2019, or until the Board of County Commissioners of Lee County appoints new members to the board of supervisors pursuant to section 4 of the charter.

Section 7. As of July 1, 2018, all property, whether real, personal, or mixed, which is owned, possessed, or controlled by the East Mulloch Drainage District and all other assets, contracts, obligations, and liabilities of the East Mulloch Drainage District are transferred and vested in the East Mulloch Water Control District. All contracts and obligations of the East Mulloch Drainage District existing on July 1, 2018, shall remain in full force and effect, and this act shall in no way affect the validity of such contracts or obligations. All liabilities of the East Mulloch Drainage District outstanding on July 1, 2018, are transferred to the East Mulloch Water Control District and at no time become liabilities of Lee County.

Section 8. As of July 1, 2018, the East Mulloch Drainage District shall take only those further actions necessary to wind down its affairs; shall not incur any further debt, obligations, or liabilities; and shall take all steps necessary for the orderly transfer of its assets and liabilities to the East Mulloch Water Control District.

Section 9. The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act in the interest of the public health, welfare, and safety of the public served by the district.

Section 10. In the event of a conflict between any provision of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.

Section 11. This act shall take effect July 1, 2018.

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.