

CHAPTER 97-40

Committee Substitute for House Bill No. 501

An act relating to drainage districts; amending ss. 298.005, 298.11, 298.12, 298.15, 298.16, 298.22, 298.23, 298.24, 298.25, 298.26, 298.28, 298.36, 298.47, and 298.59, F.S.; creating ss. 298.225, 298.301, 298.305, 298.329, 298.333, 298.337, 298.341, 298.345, 298.349, and 298.353, F.S.; providing definitions; deleting references to Melbourne-Tillman Water Control District; providing for the water management plan to be renamed the water control plan; providing for the water control plan to serve the functions of the former plan of reclamation; providing for the jurisdictional water management district to provide certain review responsibilities previously provided by the Department of Environmental Protection; providing for the appointment of certain supervisors by the Governor; revising powers of water control district supervisors; substituting power to adopt policies and resolutions for power to adopt rules; providing revised water control plan adoption and amendment requirements; providing for assessment of lands; providing duties for district engineer and district attorney; providing for the levy and enforcement of non-ad valorem assessments; authorizing the issuance of bonds; providing for liens; providing for a uniform initial acreage assessment for payment of expenses; authorizing districts to designate financial units; amending s. 190.013, F.S.; correcting a cross reference; repealing s. 298.07, F.S., which provides for the water management plan; repealing s. 298.27, F.S., which provides for the plan of reclamation; repealing s. 298.29, F.S., which provides for the levy and collection of taxes; repealing s. 298.30, F.S., which provides for appraisal of lands; repealing s. 298.31, F.S., which provides for appointment of commissioners; repealing s. 298.32, F.S., which provides for duties of commissioners, district attorney, and district engineer; repealing s. 298.33, F.S., which provides for notice of report; repealing s. 298.34, F.S., which provides for exceptions to report; repealing s. 298.35, F.S., which provides for plan of reclamation; repealing s. 298.467, F.S., which prohibits the Department of Environmental Protection from borrowing money; repealing s. 298.55, F.S., which provides for readjustment of assessment of benefits; providing an effective date.

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

Section 1. Section 298.005, Florida Statutes, is amended to read:

298.005 Definitions ~~The word “owner” defined.~~—As used in this chapter, the term:

(1) “Jurisdictional water management district” means the chapter 373 water management district or districts within which the lands encompassed by a water control district are located.

(2) “Owner” means the owner of the freehold estate, as appears by the deed record. The term does not include reversioners, remaindermen, or mortgagees, who are not to be counted and need not be notified by publication or served by process, but are to be represented by the present owners of the freehold estate in any proceeding under this chapter.

(3) “Water control district” means a special district established in accordance with s. 298.01 and operating under this chapter.

(4) “Water control plan” means the comprehensive operational document that describes the activities and improvements to be conducted by a water control district authorized under this chapter. Alternatively described as a “plan of reclamation” or “water management plan” prior to October 1, 1998, a water control plan details the system of water management implemented by a water control district. The word “owner,” as used in this chapter, shall mean the owner of the freehold estate, as appears by the deed record, and it shall not include reversioners, remaindermen, trustees or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under this chapter.

Section 2. Section 298.11, Florida Statutes, is amended to read:

298.11 Election of board of supervisors; duties of Department of Environmental Protection and Governor duties.—

(1) Within 20 days after the effective date of a special act creating a district, notice of a landowners’ meeting shall be given as provided in the special act. The notice shall be published any district shall have been organized and incorporated under the provisions of this chapter, the clerk of the circuit court in which the petition has been filed shall, upon giving notice by causing publication thereof to be made once a week for 2 consecutive weeks in a some newspaper of general circulation published in each county in which lands of the district are located situate, the last publication insertion to be not less than 10 nor more than 15 days before the date day of the such meeting. The, call a meeting of the owners of the lands located situate in the said district shall be scheduled, at a day and hour specified, at some public place in the county within in which most of the district lands are located was organized, for the purpose of electing a board of three supervisors, to be composed of owners of the lands in the said district and residents of the county or counties in which the such district is located situate.

(2) The landowners, when assembled, shall organize by the election of a chair and secretary of the meeting, who shall conduct the election. At the such election, each and every acre of land in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy in writing duly signed, for every acre of land owned by him or her in the such district, and the three persons receiving the highest number of votes shall be declared elected as supervisors. The appointment of proxies shall comply with s. 607.0722. Landowners owning less than 1 acre in the aggregate shall be entitled to one vote. Landowners with more than 1 acre are entitled to one additional vote for any fraction of an acre owned, when all of the landowners’ acreage has been aggregated for purposes of voting. The landowners

shall at such election determine the length of the terms of office of each supervisor so elected by them, which shall be respectively 1, 2, and 3 years, and they shall serve until their successors shall have been elected and qualified.

(3) The Department of Environmental Protection, at any such meeting, may represent the state, and shall have the right to vote for supervisors, or upon any matter that may come properly before said meeting to the extent of the acreage owned by the state in such district, provided such acreage is subject to assessment by the water control district, which vote may be cast by any person designated by said department. Guardians may represent their wards, executors and administrators may represent estates of deceased persons, and private corporations may be represented by their officers or duly authorized agents. The owners of a majority of the acreage included in such district shall be necessary to constitute a quorum for the purpose of holding such election, or any election thereafter, and in case the owners of a majority of the acreage included in such district are not present in person or duly represented, at the time and the place stated in the notice calling such meeting, then no election shall be held, and notice of such failure shall be given in writing by any person interested to the Governor, who department, which shall as soon as practicable appoint three competent persons who own land in such district as such supervisors for the term of 1, 2, and 3 years respectively, and who shall hold their office until their successors are elected or appointed and qualified.

(4) Any elected or appointed such supervisor ~~so appointed by the department~~ may be removed by the Governor for malfeasance, misfeasance, department for dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this chapter, and any vacancies which may occur in any such office so filled by appointment shall be filled by the Governor ~~said department~~ as soon as practicable.

~~(5) The Melbourne-Tillman Water Control District shall have five supervisors. Three supervisors shall be elected by the landowners pursuant to the applicable provisions of this section. Two supervisors, who are district residents, shall be appointed by the Brevard County Board of County Commissioners by majority vote at a regularly scheduled commission meeting for a term of 3 years. The commission may publish notice of this meeting and may take any public testimony which, in its discretion, it feels might bear upon such appointments. Should the landowners fail to elect a supervisor for any reason, the department shall not have power to appoint; instead, the Brevard County Board of County Commissioners shall appoint a competent person who owns land in said district within 30 days. A supervisor so appointed shall hold office until a successor is elected or appointed. Any supervisor appointed by the Brevard County Board of County Commissioners may be removed by the board for dishonesty, incompetency, or failure to perform the duties imposed on him or her by this chapter.~~

Section 3. Subsection (1) of section 298.12, Florida Statutes, is amended to read:

298.12 Annual election of supervisors; term of office; vacancy.—

(1) Every year in the same month after the time for the election of the first board of supervisors, it shall call a meeting of the landowners in the district in the same manner as is provided for in s. 298.11, and the owners of land in such district shall meet at the stated time and place and elect one supervisor therefor, or in case of their failure to elect, the Governor Department of Environmental Protection shall appoint such supervisor, in like manner as prescribed in s. 298.11, who shall hold the supervisor's office for 3 years or until his or her successor is elected and qualified; and in case of a vacancy in any office of supervisor elected by the landowners, the remaining supervisors, or if they fail to act within 30 days, the Governor Department of Environmental Protection, may fill such vacancy until the next annual meeting, when a successor shall be elected for the unexpired term.

Section 4. Section 298.15, Florida Statutes, is amended to read:

298.15 Record of proceedings.—The board of supervisors of any district organized under this chapter shall cause to be kept a well-bound book, entitled “record of board of supervisors of district,” in which shall be recorded minutes of all meetings, proceedings, certificates, bonds given by all employees and any and all corporate acts, which record shall at all times be open to the inspection of anyone interested, whether taxpayer or bondholder. Copies of the record of proceedings shall be filed ~~with the clerk of the circuit court of the county or counties in which district lands are located and~~ with the jurisdictional water management district upon request ~~Department of Environmental Protection~~. Any interested person, whether landowner or not, shall be permitted to inspect the record of proceedings.

Section 5. Subsections (2) and (3) of section 298.16, Florida Statutes, are amended to read:

298.16 Appointment of chief engineer; engineer's bond and duties.—

(2) The chief engineer shall have control of the engineering work in said district and may, whenever he or she deems it necessary, confer with ~~the chief engineer of this state, or the jurisdictional water management district~~ Department of Environmental Protection, and he or she may, by and with the consent of the board of supervisors, consult any eminent engineer and obtain his or her opinion and advice concerning the reclamation of lands in said districts. The said engineer shall make all necessary surveys of the lands within the boundary lines of said district, as described in the petition, and of all lands adjacent thereto that will be improved or reclaimed in part or in whole by any system of drainage that may be outlined and adopted.

(3) The engineer shall make a report in writing to the board of supervisors, with maps and profiles of said surveys, which report shall contain a full and complete water control plan for draining and reclaiming the lands described in the petition, or adjacent thereto, from overflow or damage by water, with the length, width, and depth of such canals, ditches, dikes or levees, or other works that may be necessary, in conjunction with any canals, drains, ditches, dikes, levees or other works heretofore constructed or built by the Board of Trustees of the Internal Improvement Trust Fund, or any other person, that may now be in process of construction, or which may

be hereafter built by them, that may be necessary or which can be advantageously used in such water control plan for reclamation; and also, an estimate of the costs of carrying out and completing the water control plan of reclamation, including the cost of superintending the same and all incidental expenses in connection therewith. Maps and profiles shall also indicate so far as necessary the physical characteristics of the lands, and location of any public roads, railroads and other rights-of-way, roadways and other property or improvements located on such lands. A copy of the report required by this section shall be filed with the jurisdictional water management district Department of Environmental Protection.

Section 6. Section 298.22, Florida Statutes, is amended to read:

~~298.22 Powers of given supervisors to effect reclamation of land in district.—In order to effect the drainage, protection, and reclamation of the land in the district subject to tax, The board of supervisors of the district has full power and authority to excavate, construct, and complete 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:~~

(1) May employ persons and purchase machinery to directly supervise, construct, maintain, and operate the works and improvements described in the water control plan, or may contract with others for the supervision, construction, maintenance, and operation of such works and improvements either as a whole or in part. Contracts must be advertised and let to the lowest and best bidder, who shall give a good and approved bond, with ample security, upon the condition that he or she will well and promptly carry out the contract for the described works and improvements. Each contract must be in writing and have attached to it complete plans and specifications for the work to be done and improvements to be made under the contract, which plans and specifications must be prepared by the chief engineer of the district. Each contract shall be prepared by the attorney for the district, approved by the board of supervisors, and executed in duplicate by its president and the contractor. The chief engineer of the district must be the superintendent of all district works and improvements.

(2)(1) May clean out, straighten, open up, widen, or change the course and flow, alter or deepen any canal, ditch, drain, river, watercourse, or natural stream; and concentrate, divert, or divide the flow of water in or out of said district; construct and maintain main and lateral ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations, and siphons, and may connect same, or any of them, with any canals, drains, ditches, levees, or other works that may have been heretofore, or which may be hereafter constructed by the Department of Environmental Protection or jurisdictional water management district, and with any natural stream, lake, or watercourse in or adjacent to said district.

(3)(2) 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, sell, convey, transfer or otherwise provide for pumping stations, including pumping machinery, mo-

tive equipment, electric lines and all appurtenant or auxiliary machines, devices or equipment.

(4)(3) May contract for the purchase, construction, operation, maintenance, use, sale, conveyance and transfer of the said pumping stations, machinery, motive equipment, electric lines and appurtenant equipment, including the purchase of electric power and energy for the operation of the same.

(5)(4) May construct or enlarge, or cause to be constructed or enlarged, any and all bridges that may be needed in or out of said district, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, track, grade, fill or cut; construct roadways over levees and embankments; construct any and all of said works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill or cut, in or out of said district; remove any fence, building or other improvements, in or out of said district.

(6)(5) Shall have the right to hold, control and acquire by donation or purchase and if need be, condemn any land, easement, railroad right-of-way, sluice, reservoir, holding basin or franchise, in or out of said district, for right-of-way, holding basin for any of the purposes herein provided, or for material to be used in constructing and maintaining said works and improvements for drainage, protecting and reclaiming the lands in said district.

(7)(6) May condemn or acquire, by purchase or grant, for the use of the district, any land or property within or without said district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages, and shall follow the procedure set out in chapter 73. Such powers to condemn or acquire any land or property within or without the district shall also be available for implementing requirements imposed on those districts subject to s. 373.4592.

(8)(7) May adopt resolutions and policies rules to implement the purposes of this chapter.

(9)(8) May assess and collect reasonable fees for the connection to and use of the works of the district.

(10)(9) May implement and authorize the comprehensive water control activities, including flood protection, water quantity management, and water quality protection and improvement, described construction of only those improvements outlined in the water control plan of reclamation.

Section 7. Section 298.225, Florida Statutes, is created to read:

298.225 Water control plan; plan development and amendment.—

(1) Effective October 1, 1998, any plan of reclamation or water management plan developed and implemented by a water control district created by this chapter or by special act of the Legislature will be referred to as a "water control plan."

(2) By October 1, 2000, the board of supervisors of each water control district must develop or revise the district's water control plan to reflect the minimum requirements set forth in subsection (3).

(3) Each water control plan must contain, at a minimum:

(a) Narrative descriptions of the statutory responsibilities and powers of the water control district.

(b) A map delineating the legal boundary of the water control district and identifying any subdistricts or units within the district.

(c) Narrative descriptions of land use within the district and all existing district facilities and their purpose and function, and a map depicting their locations.

(d) Engineering drawings and narrative sufficient to describe each facility's capacity for the management and storage of surface waters and potable water supply, if applicable.

(e) A description of any environmental or water quality program that the water control district has implemented or plans to implement.

(f) A map and narrative description of any area outside the water control district's legal boundary for which the district provides services.

(g) Detailed descriptions of facilities and services that the water control district plans to provide within 5 years.

(h) A description of the administrative structure of the water control district.

(i) Copies of any agreements between the water control district and other governmental entities.

(j) The engineer's report prepared for plan adoption or revision.

(k) The water control district's budget and revenue sources for the current year.

(4) Before final adoption of the water control plan or plan amendment under s. 298.301, the board of supervisors must submit the plan to the jurisdictional water management district for review. Within 90 days after receipt of the water control plan, the governing board of the jurisdictional water management district, or the executive director or designee, if delegated, must review the plan 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 plan 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.

(5) The review or approval of the water control plan by the applicable water management district shall not constitute the granting of any permit necessary for the construction or operation of any water control district work and cannot be relied upon as any future agency action on a permit application.

(6) The board of supervisors must review the water control plan at least every 5 years following its initial development and adoption, and to the extent necessary, amend the plan in accordance with s. 298.301.

(7) If the preparation of a water control plan under this section does not result in revision of the district's current plan or require the alteration or increase of any levy of assessments or taxes, 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.

Section 8. Section 298.23, Florida Statutes, is amended to read:

298.23 Supervisors authorized to take land for rights-of-way, etc.; payment.—The board of supervisors of a district organized under this chapter shall not have the right to enter upon, or appropriate, any land for rights-of-way, holding basins or other works of the district, until the prices awarded to the owners of such land shall have been paid to such owners, or into the hands of the clerks of the circuit courts of the county or counties within which the respective lands are located ~~organizing such district~~ for the use of such owners; and if the sums awarded be not so paid within 5 years from the date of filing the ~~engineer's commissioner's~~ reports, all proceedings as to the taking of such property for rights-of-way, holding basins and other works, not so paid for, shall abate at the cost of said district. Whenever any land is acquired by any district under the provisions of this chapter and the price of such property has been paid the owner by the district, the title, use, possession and enjoyment of such property shall pass from the owner and be vested in the district, and subject to its use, profit, employment and final disposition. The price awarded for all lands acquired by any district for rights-of-way, holding basins, or other works, and the amount of damage assessed by the board of ~~supervisors commissioners~~ and confirmed by the court to any tract or parcel of land or other property in the district, shall be paid in cash to the owner thereof or to the clerk of the court for the use of such owner, and that portion of any tract or parcel of land not taken for use of the district shall be assessed for the benefits accruing in accordance with the provisions in this chapter.

Section 9. Section 298.24, Florida Statutes, is amended to read:

298.24 Bridge construction.—All bridges contemplated by this chapter and all enlargements of bridges already in existence shall be built and

enlarged according to and in compliance with the plans, specifications and orders made or approved by the chief engineer of the district. If any such bridge shall belong to any corporation, or be needed over a public highway or right-of-way of any corporation, the secretary of said board of supervisors shall give such corporation notice by delivering to its agent or officer, in any county wherein said district is situate, a copy of the order of the board of supervisors of said district declaring the necessity for the construction or enlargement of said bridge. A failure to construct or enlarge such bridge, within the time specified in such order, shall be taken as a refusal to do said work by said corporation, and thereupon the said board of supervisors shall proceed to let the work of constructing or enlarging the same at the expense of the corporation for the cost thereof, which costs shall be collected by said board of supervisors from said corporation, by suit therefor, if necessary. But before said board of supervisors shall let such work, it shall give some agent or officer of said corporation, authorized by the laws of this state to accept service of summons, or upon whom service of summons for said corporation might be made, at least 20 days' actual notice of the time and place of letting such work. Any owner of land, within or without the district, may, at the owner's expense, and in compliance with the terms and provisions of this chapter, construct a bridge across any drain, ditch, canal, or excavation in or out of said district. Each district shall have full authority to construct and maintain any ditch or lateral provided in its water control plan, "~~plan of reclamation,~~" across any of the public highways of this state, without proceedings for the condemnation of the same, or being liable for damages therefor. Within 10 days after a dredge boat or any other excavating machine shall have completed a ditch across any public highway, a bridge shall be constructed and maintained over such drainage ditch where the same crosses such highway; provided, however, the word corporation as used in this section shall not apply to counties.

Section 10. Section 298.25, Florida Statutes, is amended to read:

298.25 Type of bridges over drains in large counties.—Whenever any district cuts or digs a drain, canal or ditch across any public highway, in counties having a population of not less than 130,000, according to the last preceding state census, the style, type and character of such bridge shall be determined by the engineer of the county and the chief engineer of the district, and approved by a majority of the board of county commissioners ~~as soon as the plan of reclamation, locating such canals, drains or ditches, is filed in the office of the clerk of the circuit court of the county or counties in which the lands within the district are located; and the cost of the same, as estimated by the chief engineer of the district, shall be included by the commissioners of the district~~ board of supervisors in the assessment for the construction of the water control plan of reclamation.

Section 11. Section 298.26, Florida Statutes, is amended to read:

298.26 Chief engineer to make annual reports to supervisors; approval of reports; water control management plan.—The chief engineer shall make a report in writing to the board of supervisors once every 12 months ~~or as directed by the board and oftener, if said board shall so require. The report shall describe the progress made and activities undertaken in furtherance~~

~~of the water control plan, and may include suggestions and recommendations to the board as the chief engineer deems appropriate. Upon receipt of the final report of said engineer concerning the surveys made of the lands contained in the district organized and the lands adjacent thereto and for reclaiming the same, the board of supervisors shall adopt such report, or any modification thereof approved by the chief engineer, after consulting with him or her or someone representing the chief engineer. Thereafter such adopted report shall be the plan for draining or reclaiming such lands from overflow or damage by water, and it shall, after such adoption, be part of known and designated as the water control management plan, which plan shall be filed with the secretary of the board of supervisors and copied by the secretary into the records of the district. A copy of all such annual reports and the water management plan shall be filed with the Department of Environmental Protection. At least once each 5 years the department shall review the water management plan and propose such modifications as it may deem proper.~~

Section 12. Section 298.28, Florida Statutes, is amended to read:

298.28 Watercourses to be connected with drainage of district; connecting drains after completion of plan of drainage.—At the time of the construction, in any district incorporated under this chapter, of the water control plan “~~the plan of reclamation~~”, all canals, ditches or systems of drainage already constructed in said district and all watercourses shall, if necessary to the drainage of any lands in said district, be connected with and made a part of the works and improvements of the plan of drainage of said district, but no canals, ditches, drains, or systems of drainage constructed in said district, after the completion of the aforesaid plan of drainage of said district, shall be connected therewith, unless the consent of the board of supervisors shall be first had and obtained; which consent shall be in writing and shall particularly describe the method, terms and conditions of such connection, and shall be approved by the chief engineer. Said connection, if made, shall be in strict accord with the method, terms, and conditions laid down in said consent. If the landowners wishing to make such connection are refused by the board of supervisors, or decline to accept the consent granted, the said landowners may file a petition for such connection in the circuit court having jurisdiction in said district, and the matter in dispute shall in a summary manner be decided by said court, which decision shall be final and binding on the district and landowners. No connection with the works or improvements of said plan of drainage of said district, or with any canal, ditch, drain or artificial drainage, wholly within said district, shall be made, caused or affected by any landowners, company or corporation, municipal or private, by means of, or with, any ditch, drain, cut, fill, roadbed, levee, embankment or artificial drainage, wholly without the limits of said district, unless such connection is consented to by the board of supervisors, or in the manner provided for in this chapter.

Section 13. Section 298.301, Florida Statutes, is created to read:

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

(1) District infrastructure and works must be implemented pursuant to a water control plan. In the execution of the powers and authorities granted in this chapter, the district's action must be consistent with any adopted local government comprehensive plan within which the lands of the district are located. The board of supervisors may, by resolution at a regularly scheduled meeting, consider the adoption of a district water control plan or plan amendment. Notice, hearing, and final adoption of any proposed water control plan or plan amendment must comply with the provisions of this chapter. Lands may be added to or deleted from a district only by legislative modification of the special act that contains the charter of the district.

(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 regularly 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 regularly 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 property to be taken, assessing benefits and damages, and estimating the cost of improvement 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 within 60 days after filing of the engineer's report with the secretary of the district.

Date of first publication:, 19....

.....
(Chairman, Board of Supervisors)
..... County, Florida

(3) In addition to the publication of notice, a copy of the notice shall be served by first class mail on any owner of land within the district as shown

on the current tax rolls, the water management district created under chapter 373 within which the district is located, the board of county commissioners of the county, and the governing body of any municipality within which the district is located.

(4) The engineer may at any time call upon the attorney of the district for legal advice and information relative to his duties. The engineer shall proceed to view the premises and determine the value of all lands, within or without the district, to be acquired by purchase or condemnation and used for rights-of-way, or other works set out in the proposed plan or plan amendment. The engineer shall assess the amount of benefits and the amount of damages, if any, that will accrue to each subdivision of land (according to ownership), from carrying out and putting into effect the proposed plan or plan amendment. The engineer shall assess only those benefits that are derived from the construction of the works and improvements set out in the proposed plan or plan amendment. The engineer has no power to change the proposed plan or plan amendment without board approval.

(5) The engineer shall prepare a report arranged in tabular form, the columns of which are to be headed as follows: column one, "owner of property assessed"; column two, "description of property assessed"; column three, "number of acres assessed"; column four, "amount annual assessment assessed"; column five, "total assessments"; column six, "number of acres to be taken for rights-of-way, district works, etc."; column seven, "increased value of property from improvement." The engineer shall also, by and with the advice of other employees and consultants of the district, estimate the cost of the works set out in the proposed plan or plan amendment, including the cost of and the probable expense of organization and administration. If the engineer's estimate of increased property value exceeds the total amount of assessments to be levied against a parcel, benefits are deemed to exceed damages. A maintenance assessment recommendation must also be included in each engineer's report. However, the maintenance assessment may not be considered as part of the costs of installation or construction specified by the proposed plan or plan amendment in determining whether benefits exceed damages. The report shall be signed by the engineer and filed in the office of the secretary of the district. The secretary of the district, or deputy thereto, shall assist as needed in preparation of the report.

(6) Upon the filing of the engineer's report, the board of supervisors shall give notice thereof by arranging the publication of the 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. 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 assess benefits and damages to the property and lands situated in the district and to appraise the cash value of the land necessary to be taken for rights-of-way and other works of the district, within or without the

limits of the district, under the proposed water control plan or plan amendment, filed his report in the office of the secretary of the district, located at ... (list address of district offices), ... on the day of, 19...., 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 assessment schedule).... If approved, the assessment will be collected by the county tax collector. 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 30 days after the last scheduled publication of this notice, but no later than 60 days after filing of the engineer's report)....

Date of first publication:, 19....

.....
(Chairman, Board of Supervisors)
..... County, Florida

(7) Any party identified in subsection (3) may file written objections with the secretary of the district to any part or all of the engineer's report and the proposed plan or plan amendment, within 20 days after the last published notice of filing of the engineer's report.

(8) All objections 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, that the estimated cost of construction of improvements contemplated in the plan or plan amendment is less than the benefits assessed against the lands in the district, the board of supervisors shall approve and confirm the engineer's report; but, if the board of supervisors determines that any of the objections should be sustained, it shall order the report changed to conform with its findings, and when changed the board of supervisors shall approve and confirm or disapprove, as appropriate, the report and enter its order approving or disapproving, as appropriate, the report and proposed plan or plan amendment. 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.

(9) Any party identified in subsection (3) may challenge the decision of the board in the manner and time provided by the Florida Rules of Civil and Appellate Procedure. If it is determined by court order that any tract or lot of land or parts thereof, upon which a non-ad valorem assessment is authorized and levied, will not be benefited by or receive any benefit from the completion of the plan or plan amendment, or will be burdened disproportionately to other similarly benefited land, then the non-ad valorem assessment may not be levied against that land.

Section 14. Section 298.305, Florida Statutes, is created to read:

298.305 Assessing land for development; apportionment of assessment.—

(1) After the engineer's report has been approved by the board of supervisors, the proposed water control plan or plan amendment has been finally adopted, and the lists of lands with the assessed benefits have been filed in the office of the secretary of the district, then the board of supervisors shall levy a non-ad valorem assessment as approved by the board on all lands in the district to which benefits have been assessed, to pay the costs of the completion of the proposed works and improvements, as shown in the adopted plan or plan amendment and in carrying out the objectives of the district; and, in addition thereto, 10 percent of the total amount for contingencies. The assessment must be apportioned to and levied on each assessable tract of land in the district. Under s. 298.54, the board of supervisors may also levy a maintenance assessment on all lands in the district to which benefits have been assessed as may be necessary to operate and maintain the district works and activities and to defray the current expenses of the district. A maintenance assessment recommendation for the operation and maintenance of the district works and activities must be included in each engineer's report considered by the board.

(2) The board of supervisors may issue bonds in accordance with s. 298.47 to pay the cost of the works and improvements described in the water control plan. Upon such determination, the board of supervisors shall levy a non-ad valorem assessment in a sum not less than an amount, 90 percent of which shall be equal to the principal of said bonds. In no event shall the total amount of all bonds to be issued by the district exceed 90 percent of the benefits assessed upon the lands of the district. Bonds issued under this section shall draw interest at a rate provided by general law and shall be made payable at such time and place as the board of supervisors may determine. The amount of the interest that will accrue on the bonds, as estimated by the board of supervisors, shall be included and added to the assessment, but the interest to accrue on the bonds shall not be included as part of the cost of construction in determining whether or not the expenses and costs of making the improvements shown in the water control plan are equal to, or in excess of, the benefits assessed.

Section 15. Section 298.329, Florida Statutes, is created to read:

298.329 When works insufficient, supervisors have power to make a new or amended plan; additional levy; issuance of bonds; procedure.—

(1) If the works set out in the district water control plan are found insufficient to develop, in whole or in part, any or all of the lands of the district, the board of supervisors shall have the right to formulate a new or amended water control plan, containing new or modified public infrastructure or other authorized works, and additional assessments may be made in conformity with s. 298.305, the same to be made in proportion to the increased benefits accruing to the lands because of the additional works. Such new or amended plan shall be subject to review by the applicable water management district in accordance with subsection 298.225(4).

(2) If the board of supervisors determines at any time that the amount of total assessments levied under this chapter or the funds derived from the sale of bonds are insufficient to pay the cost of works set out in the water control plan, the board of supervisors may make an additional levy to provide funds to complete the works and, in addition, up to 10 percent of the total amount for contingencies; and, may issue bonds to finance the increased cost of completing the works described in the water control plan; however, the principal amount of the additional bonds and the principal amount of any bonds previously issued to finance the works must not, in the aggregate, exceed 90 percent of the benefits assessed.

(3) If the board of supervisors determines at any time that the water control plan requires modification and that the amount of the total assessments levied under this chapter or the funds derived from the sale of bonds are insufficient to carry out the water control plan with the proposed modification, the board of supervisors may initiate plan amendment proceedings.

(4) After the engineer's report has been approved and the resolution amending the water control plan adopted by the board of supervisors, the board may levy a non-ad valorem assessment on all lands in the district to which benefits have been assessed to pay the increased cost of completing the works and improvements described in the water control plan as amended. The assessment may include the cost of maintaining and operating the facilities and all incidental expenses in connection therewith, plus an additional 10 percent of the total amount for contingencies. The additional assessments authorized to be levied under this section must be levied and collected in the same manner as the original assessments.

(5) The issuance of bonds under the provisions of this section must comply with the provisions of s. 298.47. Any additional tax authorized to be levied for completion of the works and improvements described in the water control plan must be apportioned to and levied upon each tract of land in the district in proportion to the benefits assessed against it and not in excess thereof; and, if bonds are issued, the amount of the interest that will accrue on the bonds, as estimated by the board of supervisors, must be included and added to the additional levy. The interest to accrue on the bonds must not be included as part of the cost of construction in the determination of whether or not the expenses and costs of making the improvements shown in the water control plan are equal to or in excess of the benefits assessed.

Section 16. Section 298.333, Florida Statutes, is created to read:

298.333 Assessments and costs; a lien on land against which levied.—All non-ad valorem assessments provided for in this chapter, together with all penalties for default in payment of the same and all costs in collecting the same, constitutes, from the date of assessment thereof until paid, 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 assessments have been levied and assessed, pursuant to s. 197.3632.

Section 17. Section 298.337, Florida Statutes, is created to read:

298.337 Levies of assessments on land less than 1 acre.—In levying assessments based upon acreage, each tract or parcel of land less than 1 acre in area is to be assessed as a full acre.

Section 18. Section 298.341, Florida Statutes, is created 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 constitute a lien until paid on the property against which assessed and are enforceable in the same manner as county taxes.

Section 19. Section 298.345, Florida Statutes, is created to read:

298.345 Enforcement of non-ad valorem assessments.—The collection and enforcement of all non-ad valorem 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 procedures in connection therewith, apply to the district and the delinquent and unpaid assessments and taxes of the district to the same extent as if the statutory provisions were expressly set forth in this chapter. All non-ad valorem assessments are subject to the same discounts as county taxes.

Section 20. Section 298.349, Florida Statutes, is created to read:

298.349 Uniform initial acreage assessment for payment of expenses.—There is levied upon each acre of land within a water control district created on or after July 1, 1997, a uniform initial assessment of \$50 per acre for the year in which the district is created, to be used by the district, through its board of supervisors, for the purpose of district administration, paying expenses incurred or to be incurred in making surveys of the lands in the district, assessing benefits and damages, and other expenses necessarily incurred, as estimated or determined by the board of supervisors, before the board collects or receives funds under the remaining provisions of this chapter. The assessment constitutes a lien upon the lands in the district from the effective date of the special act creating the district and must be collected by the district. If the board of supervisors determines that it is necessary to obtain funds to pay any expenses incurred or to be incurred in organizing the district, or any other expenses relating to the conduct and operation of the district, before a sufficient sum can be obtained by collecting the acreage assessment levied by this section, the board may borrow a sufficient sum of money for any of those purposes, may issue notes or bonds therefor, and may pledge any and all assessments of the initial acreage assessment levied under the provisions of this section for the repayment thereof. The board of supervisors may issue notes or bonds to any person or persons performing work or services or furnishing anything of value in the organization of the district or for any other expenses necessarily incurred before the receipt of funds arising from assessments or benefits.

Section 21. Section 298.353, Florida Statutes, is created to read:

298.353 Unit development; powers of board of supervisors to designate units of district; financing assessments for each unit.—The board of supervisors of the district may designate areas of parts of the district as separate administrative and financial “units.” Units must be created or modified as a part of and through the adoption of a water control plan or plan amendment as provided in this chapter. The units into which the district is divided must be given appropriate numbers or names by the board of supervisors so that the units can be readily identified and distinguished. The board may fix and determine the location, area, and boundaries of the lands to be included in each unit, the type and amount of work required in the unit and the order of development, and the method of carrying on the work in each unit. The unit system provided by this section may be conducted, and all the proceedings by this section and this chapter authorized in respect to such unit or units may be carried on and conducted, whenever the board of supervisors finds that it is appropriate. If the board finds that it is advisable to implement the district infrastructure and service plans by units, as authorized by this section, the board shall, by resolution duly adopted and entered upon its minutes, declare its purpose to conduct the work accordingly, and shall proceed through the water control plan adoption or amendment process described in s. 298.301 to fix the number, location, boundaries, and description of lands within each unit or units and give them appropriate numbers or names. All provisions of this chapter shall apply within all units, and the enumeration of or reference in this section to specific powers or duties of the supervisors does not limit or restrict the application of any and all of the proceedings and powers in this chapter within all units. For water control plans applicable to one or more units, but to less than the entire district, the notices to district landowners required under s. 298.301 need be provided only to owners of lands within the affected unit or units and immediately contiguous properties within the district. All assessments, levies, taxes, bonds, and other obligations made, levied, assessed, or issued for or in respect to any unit or units constitute a lien and charge solely and only upon the lands in the unit or units, respectively, for the benefit of which the same have been levied, made, or issued, and not upon the remaining units or lands in the district. The board of supervisors may at any time amend the location and description of lands in any unit or units by proceeding in accordance with the provisions of this section for the original creation of the unit or units. If, after the approval of the engineer’s report of benefits in any unit or units or the issuance of bonds or other obligations that are payable from taxes or assessments for benefits levied upon lands within any unit or units, the board of supervisors finds that the infrastructure or service plan for the unit or units is insufficient or inadequate for efficient development, the plan may be amended or changed and the unit or units may be amended or changed as provided in this section, by changing the location and description of lands in the unit or units, by detaching lands therefrom, or by adding lands thereto pursuant to this chapter. However, a change or amendment to a designated unit is not authorized if it has the effect of impairing a debt or other obligation of the unit or the district.

Section 22. Section 298.36, Florida Statutes, is amended to read:

298.36 Assessing land for reclamation; apportionment of tax; lands belonging to state assessed; drainage tax record.—

~~(1) After the lists of lands, with the assessed benefits and the decree and judgment of court, have been filed in the office of the clerk of the circuit court as provided in s. 298.34, then the board of supervisors shall, without any unnecessary delay, levy a tax of such portion of said benefits, on all lands in the district to which benefits have been assessed, as may be found necessary by the board of supervisors to pay the costs of the completion of the proposed works and improvements, as shown in said plan of reclamation and in carrying out the objects of said district; and, in addition thereto, 10 percent of said total amount for emergencies. The said tax shall be apportioned to, and levied on, each tract of land in said district in proportion to the benefits assessed, and not in excess thereof.~~

~~(2) In case bonds are issued, as provided in this chapter, a tax shall be levied in a sum not less than an amount, 90 percent of which shall be equal to the principal of said bonds. The amount of bonds to be issued for paying the cost of the works as set forth in the plan of reclamation shall be ascertained and determined by the board of supervisors; provided, however, that the total amount of all bonds to be issued by the district shall in no case exceed 90 percent of the benefits assessed upon the lands of the district. The amount of the interest (as estimated by said board of supervisors), which will accrue on such bonds, shall be included and added to the said tax, but the interest to accrue on account of the issuing of said bonds shall not be construed as a part of the costs of construction in determining whether or not the expenses and costs of making said improvements are equal to, or in excess of, the benefits assessed.~~

~~(1)(3) The benefits, and all lands in said district belonging to the state, shall be assessed to, and the taxes thereon shall be paid by, the state out of funds on hand, or which may hereafter be obtained, derived from the sale of lands belonging to the state. This provision shall apply to all taxes in any district including maintenance and ad valorem taxes, either levied under this or any other law, and to taxes assessed for preliminary work and expenses, as provided in s. ~~298.34~~ 298.29, as well as to the taxes provided for in this section.~~

~~(2)(4) The secretary of the board of supervisors, as soon as said total tax is levied, shall, at the expense of the district, prepare a list of all taxes levied, in the form of a well-bound book, which book shall be endorsed and named "DRAINAGE TAX RECORD OF WATER CONTROL DISTRICT COUNTY, FLORIDA," which endorsement shall be printed or written at the top of each page in said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of said secretary.~~

Section 23. Subsection (1) of section 298.47, Florida Statutes, is amended to read:

298.47 Supervisors may issue bonds.—

(1) The board of supervisors may, if in their judgment it seems best, issue bonds not to exceed 90 percent of the total amount of the non-ad valorem assessments taxes, exclusive of the amount for interest, levied under the provisions of s. ~~298.305~~ 298.36, in denominations of not less than \$100, bearing interest from date at rate as provided by general law, payable semiannually, to mature at annual intervals within 30 years, commencing after a period of years not later than 10 years, to be determined by the board of supervisors, both principal and interest payable at some convenient banking house or trust company's office to be named in said bonds, which said bonds shall be signed by the president of the board of supervisors, attested with the seal of said district and by the signature of the secretary of the said board. Section 12, Art. VII of the State Constitution shall be complied with as to all such bonds as are within its purview. All of said bonds shall be executed and delivered to the treasurer of said district, who shall sell the same in such quantities and at such dates as the board of supervisors may deem necessary to meet the payments for the works and improvements in the district. Said treasurer shall, at the time of the receipt by him or her of said bonds, execute and deliver to the president of the board of said district, a bond with good and sufficient sureties to be approved by the said board of supervisors, conditioned that the treasurer shall account for and pay over, as required by law and as ordered to do by said board of supervisors, any and all money received by him or her on the sale of such bonds, or any of them, and that the treasurer will only sell and deliver such bonds to the purchaser or purchasers thereof, under and according to the terms herein prescribed, and that the treasurer will return, duly canceled, any and all bonds not sold to the board of supervisors when ordered by said board so to do, which said surety bond shall remain in the custody of the said president of said board of supervisors, who shall produce the same for inspection or for use as evidence whenever and wherever legally requested so to do.

Section 24. Section 298.59, Florida Statutes, is amended to read:

298.59 Supervisors authorized to obtain consent of United States.—In case the water control plan of reclamation of any district organized and incorporated under this chapter and the improvement provided thereunder be of such nature as requires the permission or consent of the Government of the United States, or any department or officer of the Government of the United States, the board of supervisors of the district may obtain the required permission or consent of the Government of the United States or any proper officer or department thereof; and to that end the board of supervisors may bind the district to comply with any conditions that may be attached to such permission or consent, including the giving of any bond or other obligation for the faithful performance of such conditions.

Section 25. Section 298.77, Florida Statutes, is amended to read:

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

(1) Whenever ~~the board of supervisors or the owners of 25 percent or more of the acreage of the land of any district situated wholly in a single county existing under the general drainage laws of this state, now this chapter, joined by the holders of not less than 95 percent of the indebtedness~~

outstanding against that district, shall file a petition with the board of supervisors clerk of the circuit court having jurisdiction over the district, stating that there has been a material change in the value of the property in the district since the last previous assessment of benefits, contributed to by the drainage system; that a relatively large portion or portions of the district have become nontaxable for the purpose of paying the indebtedness of such district; that a named person, corporation, or agency has purchased the obligations of the district at a discount and under circumstances whereby the district is expected to pay in discharge of its obligations a sum greatly less than the par value of such obligations; that improvements within the district made possible or practicable by the drainage effected have been such as to enhance values in a portion or portions thereof more than in other portions of the district; and that developments in all parts of the district are believed to have been retarded by the inability of property owners to pay assessments and discharge individual properties from the lien of the drainage tax; and praying for readjustment of the assessment of benefits for the purpose of making a more equitable basis for the levy of taxes to pay the indebtedness of such district and to maintain its drainage system, the board of supervisors clerk shall give notice of the filing and hearing of the petition in the manner and for the time provided for in s. 298.301 ~~298.07~~.

(2) Such notice may be in the following form:

NOTICE IS HEREBY GIVEN to all persons interested in the lands included within the Water Control District that a petition has been filed with the district in the office of the Clerk of the Circuit Court of County, Florida, praying for a readjustment of the assessment of benefits for the purpose of making a more equitable basis for the levy of taxes against the various pieces and parcels of land in said district to pay its indebtedness and maintain its drainage system, and that said petition will be heard by the board of supervisors ~~said circuit court~~ on the day of, 19.....

Dated, 19.....

...(Secretary of District Clerk of the Circuit Court)...
.... County

(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 court 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 court 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. Thereupon, the board of supervisors court shall proceed pursuant to 298.301 ~~appoint three commissioners possessing the qualifications of commissioners appointed under s. 298.30~~ 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, ~~in the manner provided in s. 298.32, and the commissioners shall make their report, and~~

~~the proceeding shall be had thereupon as nearly as may be as provided for the assessment of benefits accruing for original construction;~~ Provided, in making the readjustment of the assessment of benefits, the board of supervisors ~~commissioners~~ 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 26. Subsection (6) of section 190.013, Florida Statutes, is amended to read:

190.013 Water management and control plan.—In the event that the board assumes the responsibility for providing water management and control for the district as provided in s. 190.012(1)(a) which is to be financed by benefit special assessments, the board shall proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments, as follows:

(6) Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to s. 298.301 ~~ss. 298.30-298.34~~.

Section 27. Sections 298.07, 298.27, 298.29, 298.30, 298.31, 298.32, 298.33, 298.34, 298.35, 298.467, and 298.55, Florida Statutes, are repealed.

Section 28. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 1, 1997.

Filed in Office Secretary of State April 30, 1997.