

House Bill No. 1079

An act relating to Palm Beach, Hendry, and Glades Counties; providing for codification of special laws relating to the Everglades Agricultural Area Environmental Protection District, a special tax district in Palm Beach, Hendry, and Glades Counties; providing legislative intent; amending, codifying, reenacting, and repealing chapters 89-423 and 90-423, Laws of Florida, relating to the Everglades Agricultural Area Environmental District; re-creating and reenacting the district's charter; providing district status and boundaries; providing for applicability of chapters 373 and 403, Florida Statutes, and other general laws; providing for ratification of prior acts; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; providing an effective date.

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

Section 1. Intent.—Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Everglades Agricultural Area Environmental Protection District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act.

Section 2. Chapters 89-423 and 90-423, Laws of Florida, relating to the Everglades Agricultural Area Environmental Protection District, are codified, reenacted, amended, and repealed as provided herein.

Section 3. The Everglades Agricultural Area Environmental Protection District is re-created and the charter for the district is re-created and reenacted to read:

Section 1. Status and boundaries of Everglades Agricultural Area Environmental Protection District.—The Everglades Agricultural Area Environmental Protection District is hereby declared to be an independent special district and political subdivision of the State of Florida. The district is created and established for purposes of ensuring environmental protection by means of conducting scientific research on environmental matters related to air, water, and land management practices and implementing the financing, construction, and operation of works and facilities designed to prevent, control, abate, or correct environmental problems and improve the environmental quality of air and water resources. All district activities shall be conducted to protect, restore, and enhance air and water quality and the natural resources of the state and shall be consistent with chapters 373 and 403, Florida Statutes, including rules and Surface Water Improvement Management Plans adopted thereunder. The lands lying within the area described as follows in Palm Beach, Hendry, and Glades Counties, Florida, shall hereby constitute the Everglades Agricultural Area Environmental Protection District:

BEGINNING at a point in Section 10, Township 41 South, Range 37 East, Palm Beach County, Florida, where the Easterly right-of-way line of the Herbert Hoover Dike Levee of Lake Okeechobee intersects with the Southerly right-of-way line of Levee L-8 of the formerly Central and Southern Florida Flood Control District, now known as the South Florida Water Management District and hereinafter referred to as SFWMD;

thence Easterly along said Southerly right-of-way line of Levee L-8 to a point near the West line of Section 12 of said Township 41 South, Range 37 East, where the said right-of-way line turns North;

thence Northerly along the Easterly right-of-way line of said Levee L-8 to a point near the Northwest corner of said Section 12, where said right-of-way line turns East;

thence Easterly along the Southerly right-of-way line of said Levee L-8 to a point near the Northeast corner of Section 7, Township 41 South, Range 38 East where said right-of-way line turns Southeasterly;

thence continue Southeasterly along the Southwesterly right-of-way line of said Levee L-8 to a point near the Southeast corner of Section 8, Township 43 South, Range 40 East where said right-of-way line turns South;

thence continue Southerly along the Westerly right-of-way line of said Levee L-8 to a point of intersection with the Northerly right-of-way line of State Road 80 in Section 32, Township 43 South, Range 40 East;

thence Westerly along the Northerly right-of-way line of said State Road 80 to a point in said Section 32 where the Northerly right-of-way line of State Road 80 intersects with the Northeasterly prolongation of the Northwesterly right-of-way line of the SFWMD Levee L-7;

thence Southwesterly along said Northwesterly right-of-way line of said Levee L-7 and its Northeasterly prolongation to a point near the Northwest corner of Section 3, Township 45 South, Range 39 East, where said right-of-way line turns South;

thence Southerly along the Westerly right-of-way line of said Levee L-7 to a point of intersection with the Northwesterly right-of-way line of SFWMD Levee L-6 near the East line of Section 4, Township 46 South, Range 39 East;

thence Southwesterly along the Northwesterly right-of-way line of said Levee L-6 and its Southwesterly extension to a point of intersection with the Easterly termination of the Northerly right-of-way line of SFWMD Levee L-5 near the Southwest corner of Section 22, Township 47 South, Range 38 East;

thence Westerly along the Northerly right-of-way line of said Levee L-5 to a point in Section 6, Township 48 South, Range 36 East where the right-of-way of said Levee L-5 widens;

thence continue Westerly following said Northerly right-of-way line of the widened right-of-way of said Levee L-5 to a point of intersection with the Easterly termination of the Northerly right-of-way line of SFWMD Levee L-4;

thence continue Westerly along the North line of said Levee L-4 to the Southwest corner of Section 6, Township 48 South, Range 35 East, said section corner marking the Southwest corner of the Palm Beach County limits; said section corner also being the point of intersection of the Northerly right-of-way line of said Levee L-4 with the Northeasterly right-of-way line of SFWMD Levee L-3;

thence continue through Hendry County Northwesterly along the Northeasterly right-of-way line of said Levee L-3; following Said right-of-way line, wherever it may change to a point near the Southwest corner of Section 9, Township 47 South, Range 34 East where said right-of-way line turns North;

thence continue Northerly along the Easterly Right-of-way line of said Levee L-3, following said right-of-way line wherever it may change to a point of intersection with the Southern terminus of the Easterly right-of-way line of SFWMD Levee L-2 near the Southwest corner of Section 16, Township 46 South, Range 34 East;

thence continue Northerly along the Easterly right-of-way line of said Levee L-2 to a point near the Northwest corner of Section 4, Township 45 South, Range 34 East;

thence continue along the right-of-way line of said Levee L-2 to a point of intersection with the Easterly right-of-way line of SFWMD Levee L-1;

thence continue Northerly along the Easterly right-of-way line of said Levee L-1 to a point near the Northwest corner of Section 16, Township 44 South, Range 34 East; where said right-of-way line turns West;

thence continue Westerly along the Northerly right-of-way line of said Levee L-1 to a point near the Southwest corner of Section 12, Township 44 South, Range 33 East; where said right-of-way line turns North;

thence continue Northerly along the Easterly right-of-way line of said Levee L-1 to a point near the Northwest corner of Section 12, Township 44 South, Range 33 East, where said right-of-way line turns West;

thence Westerly along the Northerly right-of-way line of said Levee L-1 to a point in the West line of Section 1, Township 44 South, Range 33 East;

thence Northerly along the West line of said Section 1, and along the West line of Sections 36, 25, 24, 13 and 12 of Township 43 South, Range 33 East to a point of intersection with the Northerly right-of-way line of U.S. Highway No.27;

thence Westerly along the Northerly right-of-way line of said U.S. Highway No. 27 to a point in the West line of Section 10, Township 43 South, Range 33 East;

thence Northerly along the West line of said Section 10 to the Northwest corner of said Section 10;

thence Northerly along the Northerly prolongation of the West line of said Section 10 a distance of 1100 feet more or less to a point on the Northwest bank of the presently existing nine mile canal in Section 31, Township 42 South, Range 33 East, in Glades County;

thence Westerly, following the North bank of the said nine mile canal to a point of intersection with the North-South one-quarter Line of Section 31 of said Township 42 South, Range 33 East;

thence Northerly along the North-South one-quarter Section Line of said Section 31 and the North-South one-quarter Section Lines of Sections 30, 19 and 18 of said Township 42 South, Range 33 East to a point of intersection with the Southerly right-of-way line of aforementioned Herbert Hoover Dike Levee of Lake Okeechobee;

thence Southeasterly, Easterly and Northeasterly along said right-of-way line of the Herbert Hoover Dike Levee through Glades County, Hendry County and Palm Beach County to the POINT OF BEGINNING.

LESS, the following described parcel: All that portion of Sections 4 and 9 of Township 45 South, Range 34 East, Hendry County, Florida, lying East of the Easterly Right of Way Line of Levees L-1 and L-2 of the former Central and Southern Florida Flood Control District.

This boundary is intended to define the general area of the district and does not imply any legislative intent with regard to future land or water management decisions affecting state lands that fall within the boundaries of this district.

Section 2. Definitions.—As used in this act, the term:

(1) “Assessable improvements” means, without limitations, any and all public improvements that the district is empowered to provide in accordance with this act.

(2) “Board” or “board of supervisors” means the governing board of the district.

(3) “Cost,” when used with reference to any project, includes, but is not limited to:

(a) The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

(b) The cost of research, surveys, estimates, plans, and specifications.

(c) The cost of improvements.

(d) Scientific engineering, planning, and fiscal and legal expenses and charges.

(e) The cost of all labor, materials, machinery, and equipment.

(f) The cost of all lands, properties, rights, easements, and franchises acquired.

(g) Financing charges.

(h) Working capital.

(i) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(j) Administrative expenses.

(k) Such other expenses as may be necessary or incidental to any project of the district.

(4) "Landowner" means the owner of a freehold estate or lessee of land, title to which is held by the State of Florida as appears by the deed record or lease instrument, including a trustee or a private corporation, which freehold or lease is classified by the property appraiser pursuant to section 193.461, Florida Statutes, as agricultural land.

(5) "Project" means any research or planning project, development, improvement, property, utility, facility, works, enterprise, or service undertaken or established under the provisions of this act.

Section 3. Board of supervisors; membership; meetings.—

(1) The board of supervisors of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five voting members and an ex officio, nonvoting member. The ex officio, nonvoting member shall be the executive director of the South Florida Water Management District or his or her designee. Each board member other than the executive director of the South Florida Water Management District shall hold office for a term of 4 years and until his or her successor is chosen and qualifies. The members of the board shall be residents of the state and citizens of the United States.

(2) Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting. At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and currently classified by the property appraiser pursuant to section 193.461, Florida Statutes, as agricultural land located within the district for each supervisor to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote.

(3) Notice and conduct of the meeting shall be as prescribed by subsection (2). The annual landowners' meeting to elect Supervisors shall be held in July.

(4) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by law. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the

term of office of an elected board member, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(5) A majority of the voting members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of the Everglades Agricultural Area Environmental Protection District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be open to inspection in the same manner as state, county, and municipal records pursuant to chapter 119, Florida Statutes. The record book shall be kept at the office or other regular place of business maintained by the board.

(8) Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$100 per day for each day spent on district duties. In addition, each supervisor shall receive travel and per diem expenses as set forth in section 112.061, Florida Statutes.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286, Florida Statutes.

Section 4. Board of supervisors; general duties; district manager.—

(1) The board may employ and fix the compensation of a district manager. The district manager may have charge and supervision of district programs and facilities and be responsible for implementation of any district projects or programs and the operation and maintenance of any improvement or facility constructed or erected pursuant to the provisions of this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It shall not be a conflict of interest under chapter 112, Florida Statutes, for a board member, the district manager, or another employee of the district to be a stockholder, officer, or employee of a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

(2) The board is authorized to select as a depository for its funds any qualified public depository as defined in section 280.02, Florida Statutes, which meets all the requirements of chapter 280, Florida Statutes, upon

such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

Section 5. Budget; reports and reviews.—

(1) The district shall provide financial reports in such form and manner as prescribed pursuant to this act and chapter 218, Florida Statutes.

(2) On or before each June 1, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from assessments provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for 2 consecutive weeks, except that the first publication shall be not fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted prior to August 1 of each year.

Section 6. General powers.—The district shall have, and the board may exercise, the following powers, provided such powers are exercised for the purpose specified herein:

(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(2) To apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the state retirement fund.

(3) To contract for the services of consultants to perform scientific, planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to the requirements of state law relating to public bidding.

(4) To borrow money for periods of up to 1 year and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes

in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(5) To adopt bylaws, rules, resolutions, and orders pursuant to the provisions of chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may adopt administrative rules and regulations with respect to any of the projects of the district and may define the area to be included therein on such notice as is required for elections and public hearings.

(6) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners.

(7) To hold, control, and acquire by donation or purchase any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(8) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(9) To borrow money and issue certificates, warrants, notices, or other evidence of indebtedness as hereinafter provided, and to levy such special assessments as may be authorized.

(10) To cooperate or contract with other governmental agencies within or outside the boundaries of the district, as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(11) To assess and impose upon lands in the district, not otherwise exempt as defined herein, special assessments as provided by this act.

(12) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(13) To develop and implement environmental protection programs or plans, including cooperative scientific research with public and private bodies, the construction or operation of facilities and works, and the award of grants-in-aid to other public or private bodies for the purpose of maintaining and improving air and water resource quality.

(14) To appoint, in its discretion, an advisory council to assist the board in the development of environmental protection programs consistent with the requirements of chapters 373 and 403, Florida Statutes. The advisory

council shall consist of a scientific or technical representative from the South Florida Water Management District, the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Institute for Food and Agricultural Sciences, the Department of Agriculture and Consumer Services, and the agricultural industry, and such other members as the board may determine.

(15) At any time, and from time to time after the issuance of any bonds of the district have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue.

(16) To issue revenue bonds from time to time without limitation as to amount for the purpose of financing those systems and facilities provided for herein. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district. The district shall be authorized to issue bonds only upon approval by landowners' referendum. A meeting of the landowners shall be held for the purpose of conducting a landowners' referendum on the question of whether the district should be authorized to issue bonds. Notice, voting, and conduct of the meeting shall be as prescribed by of section 3(2).

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

(b) Bonds of each issue shall be dated; shall bear interest at such rate or rates, not to exceed the maximum rate allowed by law, including variable rates, which interest may be tax exempt or taxable for federal income tax purposes; shall mature at such time or times from their date or dates; and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be determined by the board.

(17) To issue bonds for the purpose of refunding any outstanding bonds of the district.

Section 7. Special assessments; exemptions.—

(1) The district board shall have the power to levy and assess a special assessment upon each and every assessable acre or fraction thereof, up to \$10 per acre, for the purposes of management and administration of the district, development, and implementation of the environmental protection plan, and to fund the construction, operation, and maintenance of assessable improvements. The benefit of implementation of said plan and other costs cited herein shall be deemed to exceed the damages of the special assessment authorized against all assessable land within the district.

(2) Annual special assessments levied pursuant to this act shall become due and be collected each year at the same time that county taxes are due and collected, and said annual assessment and levy shall be evidenced and certified by the board of supervisors not later than September 15 of each year to the tax collectors of counties in which lands of the district are situated. The district shall be exempt from all provisions of section 197.3632(3)(a), Florida Statutes, and the first-class United States mail provisions of section 197.3632(4)(b), Florida Statutes, and shall levy, assess, certify, and collect special assessments with the assistance of the county tax collectors as provided pursuant to all other applicable provisions of section 197.3632, Florida Statutes.

(3) All assessments provided for in this act, together with all penalties for default and payment of the same and all costs in collecting the same, shall, from the date of assessment thereof until paid, constitute a lien of equal dignity with the liens for county taxes, and other taxes of equal dignity with the county taxes, upon all the lands against which such assessments shall be levied as is provided in this act.

(4) All lands within the district classified by the property appraisers of Palm Beach, Hendry, or Glades Counties as agricultural pursuant to section 193.461, Florida Statutes, shall be liable for the assessments levied by the district for so long as said lands remain classified as agricultural. All lands within the district classified by the property appraisers for uses other than agricultural shall be exempt from district assessments so long as said lands are not classified as agricultural pursuant to section 193.461, Florida Statutes.

Section 8. Short-term borrowing.—The district at any time may obtain loans, in such amount and on such terms and conditions as the district board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear such interest as the district board may determine in compliance with general law, and may be payable from and secured by a pledge of such funds, revenues, and assessments as the district board may determine. The district shall not obtain loans for periods in excess of 1 year. The district may issue negotiable notes, warrants, or other evidence of debt to be payable at such times, to bear such interest as the district board may determine in compliance with general law, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the district board may deem advisable.

The district board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

Section 9. Ratification of prior acts.—All acts and proceedings of the circuit court taken by, for, and on behalf of the district since the creation thereof, and all of the acts and proceedings of the board of supervisors, the commissioners, and all other officers and agents of the district, and of the county, acting for and on behalf of the district, and any and all tax levies and assessments which have been made by the board of supervisors for and on behalf of the district, are each and every one of them, and each and every part thereof, hereby ratified, validated, and confirmed.

Section 10. Liberal construction.—It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this act, and where strict construction would permit or assist in the accomplishment of any part of the work authorized by this act, the liberal construction shall be chosen.

Section 4. In the event any section or provision of this act is determined to be invalid or unenforceable, such determination shall not affect the validity of or enforceability of each other section and provision of this act.

Section 5. In the event of a conflict of the provisions of this act with the provisions of any other act the provisions of this act shall control to the extent of such conflict.

Section 6. Chapters 89-423 and 90-423, Laws of Florida, are repealed.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.