



Local Administration Subcommittee

January 16, 2020
9:00 AM – 11:00 AM
Webster Hall (212 Knott)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Local Administration Subcommittee

Start Date and Time: Thursday, January 16, 2020 09:00 am

End Date and Time: Thursday, January 16, 2020 11:00 am

Location: Webster Hall (212 Knott)

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 355 Pasco County by Zika

HB 855 Special Districts by Payne

HB 947 Volusia County by Leek

HB 989 Broward County by Jacobs

Consideration of the following proposed committee substitute(s):

PCS for HB 925 -- Manatee County

NOTICE FINALIZED on 01/14/2020 4:05PM by Rundles.Victoria

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 355 Pasco County

SPONSOR(S): Zika

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee		Moehrle	Miller
2) State Affairs Committee			

SUMMARY ANALYSIS

Chapter 70-876, Laws of Fla., requires the Pasco County Board of County Commissioners (BOCC) to make its agenda for any official meeting available to the public no later than the Friday prior to any such meeting. Any amendment, deletion or insertion to such agenda after it has been noticed shall be made by the board only if there is a declaration of emergency. Actions taken by the Pasco County BOCC are valid only if the board complies with this law.

The bill repeals the local law requiring the Pasco County BOCC to notice its meeting agenda on the Friday before an official meeting. The board would continue to be subject to the general laws governing notices for public meetings of county commissions.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Meetings

The Florida Constitution requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.¹ Access to government meetings is governed by statute. All meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken must be open to the public at all times.² The board or commission must provide reasonable notice of all public meetings.³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.⁵

Due Public Notice

Reasonable notice is required for regular and special meetings of any board of county commissioners.⁶ Once the board of county commissioners (BOCC) gives proper public notice, meetings of the board may be held at any appropriate public place in the county.⁷ Presently, there is no definition of "due public notice" in Florida Statutes. The Florida Attorney General has opined that there is no precise definition or formula of what constitutes "due notice" for a public meeting.⁸ Rather, due notice is a relative term, "the meaning and sufficiency of which can be ascertained only in reference to the particular facts and circumstances upon which it bears."⁹ Notice that is adequate under normal circumstances may be impossible or impractical in emergency situations. The purpose of notice is to apprise the general public of the "pendency of matters which may affect their personal or property rights and afford them the opportunity to appear and present their views."¹⁰ The notice must reasonably convey all necessary information and must afford a reasonable period of time for interested persons to appear at the meeting.¹¹

Public Meeting Agendas

Current law does not require a posted agenda for a public meeting. A meeting agenda plots the orderly conduct of business to be taken up at a properly noticed public meeting as provided by a county or municipality charter or ordinance.¹² Section 286.011, F.S., neither addresses the need for public entities to post meeting agendas nor does it require that each item be placed on the agenda before being considered at a public meeting. One court observed: "[a]lthough the drawing up of an agenda is a

¹ Art. I, s. 24(b), Fla. Const.

² S. 286.011(1), F.S.

³ *Id.*

⁴ S. 286.011(6), F.S.

⁵ S. 286.011(2), F.S.

⁶ S. 125.001, F.S.

⁷ S. 125.001(1), F.S.

⁸ 73-170 Fla. Op. Att'y Gen. 1 (1973).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See *Yarbrough v. Young*, 462 So. 2d 515 (Fla. 3d DCA 1985) (holding that mayor announcing special council meeting three days prior to the meeting constituted due public notice as evidenced by the fact that all but one commissioner attended the meeting, and city staff and members of the local media attended the meeting).

¹² *Hough v. Stembidge*, 278 So. 2d 288, 290 (Fla. 3d DCA 1973).

matter related to a noticed public meeting, it essentially is an integral part of the actual mechanics and procedures for conducting that meeting and, therefore, aptly relegated to local practices and procedures as prescribed by city charters and ordinances.”¹³ Mandating that items appear on an agenda before they could be heard at a meeting “would foreclose easy access to such meeting to members of the general public who wish to bring specific issues before the governing body.”¹⁴

Pasco County Meeting Agendas

Chapter 70-876, Laws of Fla., requires the Pasco BOCC to provide public notice of its agenda for any official meeting no later than the Friday prior to any such meeting. Any amendment, deleting or insertion to such agenda after it has been publicly noticed can only be made by the board upon a declaration of emergency.¹⁵ Any action taken by the BOCC without complying with this law is declared to be illegal.¹⁶

Effect of Proposed Changes

The bill repeals ch. 70-876, Laws of Fla., which requires Pasco County to publicly notice its meeting agenda the Friday before any official BOCC meetings. This will result in Pasco County no longer being required to notice its meeting agenda and instead it will only have to provide due public notice of its meetings in compliance with general law governing public meetings of county commissions.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 70-876, Laws of Fla.

Section 2: Provides the act is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 1, 2019.

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pasco County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

¹³ *Id.* at 290-91.

¹⁴ *Id.* at 291.

¹⁵ Ch. 70-876, Laws of Fla.

¹⁶ *Id.*

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 355

2020

1 A bill to be entitled
2 An act relating to Pasco County; repealing ch. 70-876,
3 Laws of Florida, relating to the meeting agenda of the
4 board of county commissioners; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Chapter 70-876, Laws of Florida, is repealed.
10 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 855 Special Districts
SPONSOR(S): Payne
TIED BILLS: **IDEN./SIM. BILLS:** SB 1466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee		Rivera	Miller
2) Oversight, Transparency & Public Management Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Special districts are units of local government used to provide a variety of local services. Independent districts typically are created by special act and operationally are independent of any local general-purpose government. Dependent districts generally are created by local ordinance and are subject to the control of a local general-purpose government. Governed by chapter 189, Florida Statutes, special districts are required to maintain an official website and post certain information including an annual budget and any recent audit reports.

State and local government websites are subject to Title II of the Americans with Disabilities Act (ADA), which prohibits state and local governments from discriminating against a qualified disabled person because of a disability unless a modification is unreasonable, alters the nature of the service, or causes the government an undue financial or administrative burden. The U.S. Department of Justice (DOJ) administers Title II. While the DOJ has not provided any regulations on how state and local government websites can comply with the ADA, it has issued an ADA Best Practices Tool Kit for State and Local Governments which provides suggestions and checklists.

The federal government and its agencies follow standards for public and employee website access under section 508 of the Rehabilitation Act of 1973 (Section 508). Currently, federal agencies must follow the Worldwide Web Consortium's (W3C) Web Content Accessibility Guidelines 2.0 (WCAG 2.0). Since 2006, Florida state agencies are required by statute to conform their electronic information access to Section 508 and related federal rules. However, the requirements of Section 508 do not extend to local governments.

The Federal government has not waived sovereign immunity under Section 508, and petitioners can only seek administrative remedies with the offending federal agency. However, under Title II of the ADA, state and local governments may be sued and have recently faced increased litigation outlining the boundaries of ADA compliance for state and local government website access. There are two competing legal theories emerging in Title II website access case law: some courts rely on the standing analysis for private entities crafted under Title III of the ADA, while other courts have begun crafting a new standard for Title II cases (known as the Price factors) relying more on the plaintiff's connection to the challenged local government.

The bill will allow special districts to satisfy the statutory requirement to post the most recent financial audit by providing a link to the report maintained on the state's Auditor General's website. The bill also removes the requirement for districts to post facility reports and meeting materials online, only requiring the district to post a meeting or event agenda. The facility reports and meeting materials will continue to be available for inspection and copying.

The bill may have a limited fiscal impact to the extent special districts would no longer be required to place specific public documents on their websites while remaining responsible to provide access to the documents.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”¹ Special districts provide a wide variety of services, such as mosquito control,² beach facilities,³ children’s services,⁴ fire control and rescue,⁵ or drainage control.⁶

Special districts are classified as “dependent special districts”⁷ or “independent special districts.”⁸ A dependent special district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;⁹
- All members of its governing body are appointed by the governing body of a single county or a single municipality;¹⁰
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms;¹¹ or
- The district’s budget requires approval or can be vetoed by the governing body of a single county or a single municipality.¹²

An “independent special district” is any special district that does not meet the definition of “dependent special district.”¹³ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely with the borders of a single municipality.¹⁴

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts list, the state currently has 1,749 special districts. There are 1,116 independent districts and 633 dependent districts.¹⁵

Special districts are governed generally by the Uniform Special District Accountability Act (Act).¹⁶ The Act, initially passed in 1989,¹⁷ created ch. 189, F.S., to centralize provisions governing special districts. Chapter 189 applies to the formation,¹⁸ governance,¹⁹ administration,²⁰ supervision,²¹ merger,²² and

¹ S. 189.012(6), F.S.

² S. 388.021(1), F.S. (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2)).

³ *See* s. 189.011, F.S.

⁴ S. 125.901(1), F.S.

⁵ S. 191.002, F.S.

⁶ S. 298.01, F.S.

⁷ S. 189.012(2), F.S.

⁸ S. 189.012(3), F.S.

⁹ S. 189.012(2)(a), F.S.

¹⁰ S. 189.012(2)(b), F.S.

¹¹ S. 189.012(2)(c), F.S.

¹² S. 189.012(2)(d), F.S.

¹³ S. 189.012(3), F.S.

¹⁴ *Id.*

¹⁵ *See* Department of Economic Opportunity, *Official List of Special Districts Online, Special District Statewide Totals as of December 12, 2019*, available at <http://specialdistrictreports.floridajobs.org/webreports/StateTotals.aspx> (last visited December 12, 2019).

¹⁶ S. 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

¹⁷ Ch. 89-169, Laws of Fla.

¹⁸ *See* s. 189.02, F.S. (creation of dependent special districts), s. 189.031, F.S. (creation of independent special districts).

¹⁹ *See* s. 189.0311, F.S. (charter requirements for independent special districts).

²⁰ *See* s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

²¹ *See* s. 189.034, F.S. (oversight for special districts created by special act of the Legislature).

²² Ss. 189.071, 189.074, F.S.

dissolution²³ of special districts, unless otherwise expressly provided in law.²⁴ The Act also provides an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and promote more effective communication and coordination in the monitoring of required reporting.²⁵

Reporting Requirements

Special districts are subject to oversight and review by state and local governments to better determine the need for the continued existence of a district, the appropriate future role and focus of a district, improvements to the function or service by a district, and the need for any transition, adjustment, or special implementation periods or provisions.²⁶

Special districts created by special act are subject to review by the Legislative Auditing Committee at a public meeting for not complying with reporting requirements under ch. 189, F.S., as well as oversight matters in general.²⁷ Special districts created by local ordinance or resolution are subject to review by the chair, or the equivalent, of the local governing body.²⁸ Special districts created or established by rule of the Governor and Cabinet may be reviewed as directed by the Governor and Cabinet.²⁹ Special districts not subject to other oversight may be reviewed as directed by the President of the Senate and the Speaker of the House of Representatives.³⁰

State agencies administering funding programs to eligible special districts are responsible to oversee the use of such funds by the special district, including reporting the existence of the program to the Special District Accountability Program of the Department of Economic Opportunity (DEO) and annually submitting a list of special districts participating in a state funding program to the Special District Accountability Program.³¹

Maintaining Official Websites

Special districts are required to maintain an official website and list certain information on the website.³² An independent special district is required to maintain a website separate from the local governing body's official website.³³ A dependent special may maintain a separate website but is only required to be prominently displayed on the homepage of the local general purpose government's website with a hyperlink to the pages that provide the information required by statute.³⁴

Every special district is required to post, at a minimum, the following information on its official website:

1. The full legal name, mailing address, e-mail address, telephone number, and website uniform resource locator of the special district.
2. The public purpose of the special district.
3. The primary contact information for the special district for purposes of communication from the department.
4. The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the governing body of the special district.
5. The fiscal year of the special district.
6. The full text of the special district's charter, the date of establishment, the establishing entity, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established. Community development districts may

²³ Ss. 189.071, 189.072, F.S.

²⁴ See, e.g., s. 190.004 (Ch. 190, F.S. as "sole authorization" for creation of community development districts).

²⁵ S. 189.06, F.S.

²⁶ S. 189.068(1), F.S. Any final recommendations from the oversight review process which are adopted and implemented by the appropriate level of government may not be implemented in a manner that would impair the obligation of contracts.

²⁷ S. 189.0651(2), F.S.

²⁸ S. 189.0652(2), F.S. Dependent special districts, not created by special act, may be reviewed by the local general-purpose government upon which it is dependent. See s. 189.068(2)(c), F.S.

²⁹ S. 189.068(2)(d), F.S.

³⁰ S. 189.068(2)(e), F.S.

³¹ Ss. 189.065(1) & (2), F.S. The list of participating special districts must indicate if a district is not in compliance with state funding program requirements.

³² S. 189.069(1), F.S.

³³ S. 189.069(1)(a), F.S.

³⁴ S. 189.069(1)(b), F.S.

reference chapter 190 as the uniform charter but must include information relating to any grant of special powers.

7. A description of the boundaries or service area of, and the services provided by, the special district.
8. A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts for the fiscal year and the statutory authority for the levy of the tax, fee, assessment, or charge (not including patient charges by a hospital or other health care provider).
9. A code of ethics adopted by the special district, if applicable, and a hyperlink to generally applicable ethics provisions.
10. The budget of the special district and any amendments thereto in accordance with s. 189.016, F.S.
11. The final, complete audit report for the most recently completed fiscal year and audit reports required by law or authorized by the governing body of the special district.
12. A listing of its regularly scheduled public meetings as required by s. 189.015(1), F.S.
13. The public facilities report, if applicable.
14. The link to the Department of Financial Services' website as set forth in s. 218.32(1)(g), F.S.
15. At least 7 days before each meeting or workshop, the agenda of the event, along with any meeting materials available in an electronic format, excluding confidential and exempt information. The information must remain on the website for at least 1 year after the event.³⁵

Noncomplying Special Districts

If an independent special district fails to file required reports or information regarding registered agents³⁶, public meetings³⁷, public facilities³⁸, or its budget³⁹ with the local general-purpose government or governments in which it is located, the local government is only permitted to notify the district's registered agent, grant a 30-day extension upon request, or notify the Department of Economic Opportunity (DEO).⁴⁰

If a dependent special district fails to file such reports with the local governing authority to which it is dependent, the local governing authority is obligated to take the necessary steps to enforce the special district's accountability, including, as authorized, withholding funds, removing the governing body members at will, vetoing the special district's budget, conducting the oversight review process,⁴¹ or amending, merging, or dissolving the special district in accordance with the provisions contained in the ordinance that created the dependent special district.⁴²

If a special district fails to file the reports or information relating to notice of bond issues⁴³ with the appropriate state agency, the agency must notify DEO, and DEO will send a certified technical assistance letter to the special district summarizing the requirements and compelling the district to take steps to prevent future noncompliance.⁴⁴ If a special district fails to file the reports or information required relating to actuarial reports with the appropriate state agency, the agency must notify DEO which must proceed under s. 189.067(1), F.S.⁴⁵ If a special district fails to file the reports or information required under s. 218.32 or s. 218.39 with the appropriate state agency or office, the state agency or office must, and the Legislative Auditing Committee may, notify DEO and DEO must proceed pursuant to s. 189.067, F.S.

³⁵ S. 189.069(2)(a), F.S.

³⁶ S. 189.014, F.S.

³⁷ S. 189.015, F.S.

³⁸ S. 189.08, F.S.

³⁹ S. 189.016(9), F.S.

⁴⁰ S. 189.066(1), F.S.

⁴¹ As set out in s. 189.068, F.S.

⁴² S. 189.066(2), F.S.

⁴³ S. 218.38, F.S.

⁴⁴ S. 189.066(3), F.S.

⁴⁵ S. 189.066(4), F.S. DEO must send a certified letter to the special district, and, if the special district is dependent, send a copy of that letter to the chair of the local governing authority. The letter must include a description of the required report, including statutory submission deadlines, a contact telephone number for technical assistance to help the special district comply, a 60-day deadline for filing the required report with the appropriate entity, the address where the report must be filed, and an explanation of the penalties for noncompliance. *See* s. 189.067(1)(a), F.S.

If a special district fails to comply after DEO has exhausted its attempt to assist under s. 189.067(1), F.S., the failure is deemed final action by the district⁴⁶ and the district is then subject to the oversight process headed by either the Legislative Auditing Committee (LAC)⁴⁷ or the local governing body,⁴⁸ as appropriate.

If the noncompliance involves actuarial reports⁴⁹ or LAC requests,⁵⁰ DEO will attempt to assist under s. 189.067(1), F.S., if the district is not already receiving assistance, or initiate legal proceedings in circuit court requesting declaratory, injunctive, other equitable relief, or any remedy provided by law.⁵¹ In such proceedings, the court must award the prevailing party reasonable attorney's fees and costs unless affirmatively waived by all parties.⁵²

Federal and State Laws Regulating Access to Records by Disabled Individuals

The Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990 (ADA) was enacted to place persons with disabilities on an equal, not advantageous, footing to those without disabilities.⁵³ The ADA has three parts: Title I⁵⁴ applies to employers, Title II applies to public entities, and Title III applies to private entities.

The ADA does not restrict the imposition of greater protection for individuals by other federal, state, or local laws,⁵⁵ and does not require covered entities to accommodate or modify their processes for individuals who are not actually disabled.⁵⁶

Public Entities

Title II of the ADA prohibits public entities from excluding the participation in or denying the benefits of their services, programs, or activities to qualified individuals with a disability,⁵⁷ or otherwise discriminating against such individuals, because of the disability.⁵⁸ "Public entities" includes state and local governments, state and local agencies, and special districts.⁵⁹ To meet the definition of a qualified individual with a disability, the person must be eligible for receipt of the public benefit with or without a reasonable modification.⁶⁰

If the need is obvious or upon request,⁶¹ a public entity must:

- 1) Make reasonable modifications to its rules, policies, or practices;
- 2) Remove architectural, communication, or transportation barriers; or
- 3) Provide auxiliary aids and services when necessary to accommodate an individual with a disability.⁶²

A public entity must provide auxiliary aids and services in a timely manner and in an accessible format, and must protect the privacy and independence of the individual.⁶³ An accommodation or modification

⁴⁶ S. 189.067(2), F.S.

⁴⁷ Ss. 189.067(2) and 189.0651, F.S.

⁴⁸ Ss. 189.067(2) and 189.0652, F.S.

⁴⁹ S. 112.63, F.S.

⁵⁰ S. 11.40(2)(b), F.S.

⁵¹ S. 189.067(3), F.S.

⁵² S. 189.067(4), F.S.

⁵³ *Kornblau v. Dade Cty.*, 86 F.3d 193 (11th Cir. 1996) (holding disabled individual was not entitled to parking space in private employee parking lot closest to county government services building).

⁵⁴ Title I is beyond the scope of this memo.

⁵⁵ 42 U.S.C. s. 12201(b).

⁵⁶ 42 U.S.C. s. 12201(h).

⁵⁷ A person is a 'qualified' individual with a disability with respect to licensing if he or she, with or without reasonable modifications, 'meets the essential requirements' for the receipt of services or the participation in programs or activities provided by a public entity. 42 U.S.C. s. 12131(2). See also *The Fla. Bar v. Clement*, 662 So. 2d 690, 700 (Fla. 1995), as amended (November 28, 1995).

⁵⁸ 42 U.S.C. s. 12132.

⁵⁹ 42 U.S.C. s. 12131(1)

⁶⁰ 42 U.S.C. s. 12131(2)

⁶¹ See *McCullum v. Orlando Regional Healthcare*, No. 6:11-cv-1387-Orl-31GJK, 2013 WL 1212860, at *4 (M.D.Fla.2013); see also *Smith v. Rainey*, 747 F.Supp.2d 1327, 1338 (M.D.Fla.2010).

⁶² See 42 U.S.C. s. 12131(2).

⁶³ 28 C.F.R. s. 35.160(b).

that fundamentally alters the nature of the activity, service, or program, or that causes the public entity an undue financial or administrative burden is not reasonable or necessary.⁶⁴

In contrast, Title III prohibits certain private entities⁶⁵ from discriminating against an individual on the basis of a disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation. A private entity may provide a different or separate benefit if necessary to effectively provide benefits.⁶⁶

A private entity must make reasonable modifications to its policies, practices, or procedures, or take any steps necessary to ensure individuals are not denied services, segregated or otherwise treated differently due to the absence of an aid or service. A modification or step that will fundamentally alter the nature of the product or service, or pose a direct danger to others is not required. When readily achievable,⁶⁷ a private entity must

- 1) Remove any existing architectural, structural communication, or transportation barrier; or
- 2) Offer access to its product or service through alternative methods.⁶⁸

Federal Law

The Department of Justice (DOJ) is responsible for administering Title II and Title III.⁶⁹ In 2010, DOJ took the position that internet website access fell within the scope of the ADA, even in the absence of explicit language. Therefore, public entities communicating through web-based applications or otherwise providing internet services must ensure that individuals with disabilities have equal access to such services or information unless it would alter the nature of the product or cause the entity an undue burden. To date, DOJ has promulgated no regulations on this issue.⁷⁰

From December 2006 to June 2007, the Civil Rights Division of DOJ released a Best Practices Tool Kit for State and Local Governments.⁷¹ Chapter 5 addresses web accessibility under Title II. DOJ provides suggestions for how governments may design their websites and recommends referencing the Worldwide Web Consortium's (W3C) Web Content Accessibility Guidelines 2.0 (WCAG 2.0), an internationally accepted resource, for conformance standards. State and local governments are not required to use the Tool Kit. However, DOJ intends to provide a reasonable approach to achieve compliance through the Tool Kit. For documents posted online, DOJ suggests governments posting documents online in Portable Document Format (PDF), or other image-based format, also post a version in Rich Text Format (RTF), or other text-based format, to allow compatibility with assistive technologies. The Tool Kit includes a checklist to help local governments assess the accessibility of their websites.

Section 508 of the Rehabilitation Act of 1973

Federal agency website accessibility is not regulated under the ADA but primarily under section 508 of the Rehabilitation Act of 1973 (Section 508).⁷² Public entities are not required to follow these guidelines. However, Florida requires its state agencies, which includes the executive, legislative, and

⁶⁴ See *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 603, 119 S. Ct. 2176 (1999).

⁶⁵ A private entity is defined as any entity other than a public entity. 42 U.S.C. s. 12181 (6). Private entities that own, lease, or operate places of public accommodation fall under Title III.

⁶⁶ See 42 U.S.C. s. 12182.

⁶⁷ Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. 42 U.S.C. s. 12181(9).

⁶⁸ 42 U.S.C. s. 12182. See also *A.L. by & through D.L. v. Walt Disney Parks & Resorts US, Inc.*, 900 F.3d 1270 (11th Cir. 2018)(holding that the Defendant's blanket accommodation for all cognitively disabled theme park guests was not per se ADA violation).

⁶⁹ See 28 CFR parts 35 (Title II) and 36 (Title III).

⁷⁰ DOJ stated in its 2010 comments, "The Department expects to engage in rulemaking relating to website accessibility under the ADA in the near future." Department of Justice, *2010 Guidance and Section-by-Section Analysis (Attorney General's Comments)*, available at https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35102 (last visited December 17, 2019).

⁷¹ DOJ, ADA Best Practices Tool Kit for State and Local Governments, Chapter 5, available at <https://www.ada.gov/pcatoolkit/chap5toolkit.htm> (last visited December 17, 2019). The Tool Kit contains a notice that some chapters may not fully reflect the current ADA

⁷² See 29 U.S.C. s. 794d, s. 508 of the Rehabilitation Act; 47 U.S.C. s. 255, and s. 255 of the Telecommunications Act. There is proposed legislation currently in the U.S. Congress that would research the best guidance for state and local governments providing website access. See H.R. 4099 (2019).

judicial branches, to follow Section 508 when providing public and employee access to electronic information and data.⁷³

Under Section 508, when federal agencies develop, procure, maintain, or use electronic and information technology, they must give employees and members of the public with disabilities access to that information that is comparable to the access available to those without disabilities. The U.S. Access Board (Access Board) is responsible for developing federal accessibility standards.⁷⁴ The Access Board updated its rules in 2018 and currently incorporates the WCAG 2.0 into its regulation.⁷⁵

W3C released a newer version in the WCAG 2.1 just after the Access Board updated its rules. Compliance with the newer standards will satisfy the WCAG 2.0.⁷⁶ The WCAG guidelines are primarily intended for Web content developers (page authors, site designers, etc.), Web authoring tool developers, Web accessibility evaluation tool developers, and others who want or need a standard for web accessibility, including for mobile accessibility.

State Law

Chapter 282, F.S., regulates the accessibility of electronic information among state agencies.⁷⁷ Executive, legislative, and judicial branches of state government must ensure that state employees with disabilities have access to and are provided with electronic information and data comparable to the access and use by state employees who do not have disabilities unless an undue burden would be imposed on the agency.⁷⁸ Similarly, individuals with disabilities who are members of the public must be provided with access to and use of electronic information and data comparable to that provided to nondisabled members of the public, unless an undue burden would be imposed on the agency.⁷⁹

Each state agency must develop, procure, maintain, and use accessible electronic information and information technology in conformance with federal law,⁸⁰ absent an undue burden. If an agency claims compliance will impose an undue burden, it must provide proof an alternative method allows the individual to use the information and data.⁸¹ The statute does not extend its requirements to local governments.⁸²

Case Law involving Access to Electronic Information

Section 508 does not authorize a private, non-administrative right of action.⁸³ Individuals seeking to enforce Section 508 must file an administrative complaint with the offending federal agency.⁸⁴ However,

Title II of the ADA validly abrogates state sovereign immunity under the Eleventh and Fourteenth Amendments to the U.S. Constitution, insofar as it creates a private cause of action for damages against a state for conduct that actually violates the Fourteenth Amendment.⁸⁵ The Eleventh Amendment to the U.S. Constitution does not extend its immunity to units of local government that are subject to private claims for damages under the ADA without limitation to Fourteenth Amendment claims.⁸⁶

⁷³ See ss. 282.601-606, F.S.

⁷⁴ See 29 U.S.C. s. 794d; 36 CFR s. 1194. See also U.S. General Services Administration, *IT Accessibility Laws and Policies*, <https://www.section508.gov/manage/laws-and-policies> (last visited December 17, 2019).

⁷⁵ See 36 CFR Parts 1193 and 1194, Appendix C to Part 1194. See also U.S. General Services Administration, *IT Accessibility Laws and Policies*, <https://www.section508.gov/manage/laws-and-policies> (last visited December 17, 2019).

⁷⁶ Worldwide Web Consortium (W3C), *Abstract*, <http://www.w3.org/TR/2018/REC-WCAG21-20180605/> (last visited December 17, 2019).

⁷⁷ Ss. 282.601-606, F.S.

⁷⁸ S. 282.601(1), F.S.

⁷⁹ S. 282.601(2), F.S.

⁸⁰ Including Section 508 and 36 C.F.R. part 1194.

⁸¹ S. 282, 603, F.S.

⁸² See ch. 282, F.S.

⁸³ See 29 U.S.C. s. 794(d) and *Latham v. Brownlee*, 2005 WL 578149, at *9 (W.D. Tex.2005).

⁸⁴ 29 U.S.C. s. 794(d).

⁸⁵ *U.S. v. Georgia*, 546 U.S. 151 (2006).

⁸⁶ *Bd. of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356 (2001).

To establish a claim under Title II, a plaintiff must establish he or she had a disability, was denied a public benefit or other discrimination, and the denial of benefits or discrimination was by reason of the plaintiff's disability.⁸⁷ A plaintiff has standing where there is an injury-in-fact, a causal connection between the asserted injury-in-fact and challenged action of the defendant, and the injury will be redressed by a favorable decision. Standing to seek injunctive relief also requires an allegation of facts giving rise to an inference that the plaintiff will suffer future discrimination by the defendant.⁸⁸

The scope of public entities subject to Title II of the ADA includes public prisons,⁸⁹ universities,⁹⁰ courts,⁹¹ and legislative chambers.⁹² Additionally, states may be held accountable for discrimination by private entities that lease government-owned property.⁹³

While currently there appears to be no Florida appellate court decision resolving a challenge to state agency website accessibility, there have been a number of federal cases in recent years. In *Nat'l Assn. of Deaf v. State*, hearing impaired individuals sued the Florida Senate and House of Representatives claiming the failure to put closed captions on live and archived videos of Florida legislative sessions violates the ADA.⁹⁴ The case survived a motion dismiss because the Court found the right to participate in the democratic process is a fundamental right that properly abrogates the state's Eleventh Amendment immunity.⁹⁵

Local governments are facing continued federal litigation in the absence of official rules on ADA compliance for government website and electronic document access. The case law is new and unsettled, but there are two emerging legal theories currently being used to determine if a case is viable. Some courts have relied on the standing analysis in Title III website access cases to resolve Title II cases.⁹⁶ Other courts have adopted a new Title II rubric based, in part, on the connection the plaintiff has with the defendant-government.⁹⁷

The Title III standing analysis requires impeded access to a physical public accommodation in order to find a plaintiff has standing to bring suit.⁹⁸ The new three-factor standing analysis for Title II website access cases considers, in addition to totality of the relevant facts:

- (1) The plaintiff's connection with the defendant governmental entity;
- (2) The type of information that is inaccessible; and
- (3) The relation between the inaccessibility and the plaintiff's alleged future harm.⁹⁹

Some governments argued that these cases are not ripe for adjudication because DOJ has not yet promulgated regulations. Courts have generally dismissed this argument, with one court emphasizing that DOJ has had eight years to comment further or promulgate rules on website accessibility compliance but failed to do so.¹⁰⁰

Effects of Proposed Bill

The bill will allow special districts to post the most recent financial audit by providing a link to the report maintained on the Auditor General's website. The bill also removes the requirement for districts to post

⁸⁷ *Kornblau v. Dade Cty.*, 86 F.3d 193 (11th Cir. 1996).

⁸⁸ *Shotz v. Cates*, 256 F.3d 1077 (11th Cir. 2001).

⁸⁹ *Pennsylvania Dep't of Corr. v. Yeskey*, 524 U.S. 206 (1998); *Edison v. Douberly*, 604 F.3d 1307 (11th Cir. 2010).

⁹⁰ *Bd. of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356 (2001).

⁹¹ *Tennessee v. Lane*, 541 U.S. 509 (2004).

⁹² *Nat'l Ass'n of Deaf v. State*, 318 F. Supp. 3d 1338, Case no. 18-cv-21232-UU (S.D. Fla. 2018).

⁹³ *See Haas v. Quest Recovery Servs., Inc.*, 549 U.S. 1163 (2007).

⁹⁴ *Nat'l Ass'n of Deaf v. State*, 318 F. Supp. 3d 1338, Case no. 18-cv-21232-UU (S.D. Fla. 2018)(case is pending).

⁹⁵ "Order of Motion to Dismiss Based on Sovereign Immunity," *Id.* (June 18, 2018).

⁹⁶ *See Gil v. Broward Cty.*, No. 18-60282-CIV, 2018 WL 4941108 (S.D. Fla. 2018)

⁹⁷ *See Price v. City of Ocala*, 375 F. Supp. 3d 1264 (M.D. Fla. 2019)(reasoning Title III analysis is the wrong standard to apply to Title II website access cases because Title III requires a nexus between a physical place and the alleged violation), and *Gil v. City of Pensacola, Fla.*, 392 F. Supp. 3d 1493 (N.D. Fla. 2019).

⁹⁸ *See Gil v. Broward Cty., Fla.*, 2018 WL 4941108 (S.D. Fla. 2018).

⁹⁹ *See Price v. City of Ocala, Fla.*, 375 F. Supp. 3d 1264 (M.D. Fla. 2019).

¹⁰⁰ *See Open Access for All, Inc. v. Town of Juno Beach, Fla.*, "Order Denying Defendant's Motion to Dismiss," Case no. 9:19-CV-80518-ROSENBERG/REINHART, 2019 WL 3425090 (S.D. Fla. July 29, 2019)(case dismissed on other grounds August 15, 2019).

facility reports and meeting materials online, only requiring the district to post a meeting or event agenda.

B. SECTION DIRECTORY:

Section 1. Amending s. 189.069, F.S., revising certain website reporting requirements for special districts.

Section 2. Providing an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a negative impact on private companies maintaining special district websites due to local governments no longer needing companies to ensure ADA compliance status of the specific online documents.

D. FISCAL COMMENTS:

There may be a positive financial impact on special districts that are no longer required to post and maintain certain meeting materials and documents online.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to special districts; amending s.
 3 189.069, F.S.; revising the method by which a special
 4 district may post its final audit report on its
 5 website; deleting a requirement that each special
 6 district's public facilities report be posted on the
 7 special district's website; deleting a requirement
 8 that certain meeting materials be posted on website;
 9 providing an effective date.

10

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

12

13 Section 1. Paragraph (a) of subsection (2) of section
 14 189.069, Florida Statutes, is amended to read:

15 189.069 Special districts; required reporting of
 16 information; web-based public access.—

17 (2)(a) A special district shall post the following
 18 information, at a minimum, on the district's official website:

- 19 1. The full legal name of the special district.
- 20 2. The public purpose of the special district.
- 21 3. The name, official address, official e-mail address,
 22 and, if applicable, term and appointing authority for each
 23 member of the governing body of the special district.
- 24 4. The fiscal year of the special district.
- 25 5. The full text of the special district's charter, the

26 | date of establishment, the establishing entity, and the statute
27 | or statutes under which the special district operates, if
28 | different from the statute or statutes under which the special
29 | district was established. Community development districts may
30 | reference chapter 190 as the uniform charter but must include
31 | information relating to any grant of special powers.

32 | 6. The mailing address, e-mail address, telephone number,
33 | and website uniform resource locator of the special district.

34 | 7. A description of the boundaries or service area of, and
35 | the services provided by, the special district.

36 | 8. A listing of all taxes, fees, assessments, or charges
37 | imposed and collected by the special district, including the
38 | rates or amounts for the fiscal year and the statutory authority
39 | for the levy of the tax, fee, assessment, or charge. For
40 | purposes of this subparagraph, charges do not include patient
41 | charges by a hospital or other health care provider.

42 | 9. The primary contact information for the special
43 | district for purposes of communication from the department.

44 | 10. A code of ethics adopted by the special district, if
45 | applicable, and a hyperlink to generally applicable ethics
46 | provisions.

47 | 11. The budget of the special district and any amendments
48 | thereto in accordance with s. 189.016.

49 | 12. The final, complete audit report for the most recent
50 | completed fiscal year and audit reports required by law or

51 authorized by the governing body of the special district. If the
52 special district has submitted its most recent final, complete
53 audit report to the Auditor General, the governing body may
54 satisfy this requirement by providing a link to the audit report
55 on the Auditor General's website.

56 13. A listing of its regularly scheduled public meetings
57 as required by s. 189.015(1).

58 ~~14. The public facilities report, if applicable.~~

59 ~~14.15.~~ The link to the Department of Financial Services'
60 website as set forth in s. 218.32(1)(g).

61 ~~15.16.~~ At least 7 days before each meeting or workshop,
62 the agenda of the event, ~~along with any meeting materials~~
63 ~~available in an electronic format, excluding confidential and~~
64 ~~exempt information.~~ The information must remain on the website
65 for at least 1 year after the event.

66 Section 2. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 947 Volusia County

SPONSOR(S): Leek

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee		Moehrle	Miller
2) State Affairs Committee			

SUMMARY ANALYSIS

Florida Statutes generally prohibit vehicular traffic on “dunes or native stabilizing vegetation of the dune system of coastal beaches.” With certain exceptions, vehicular traffic is prohibited on coastal beaches except where a local government with jurisdiction over a coastal beach or portions of a coastal beach “authorized such traffic, by at least a three-fifths vote of its governing body, on all or portions of the beaches under its jurisdiction...” prior to 1985. This does not apply to counties that adopted unified countywide beach regulations prior to January 1, 1988, pursuant to a county home rule charter.

A local government that authorized vehicular traffic on all or portions of its beaches may later prohibit such traffic on all or portions of the beaches under its jurisdiction. Local governments may charge a reasonable fee for vehicular traffic beach access. The revenues from any fees shall only be used for “beach maintenance; beach-related traffic management and parking; beach-related law enforcement and liability insurance; or beach-related sanitation, lifeguard or other staff purposes.” Except where authorized by the local government, any person driving any vehicle on, over, or across the beach shall be guilty of a second degree misdemeanor. As authorized by law, Volusia County regulates vehicular access to the county’s coastal beaches.

Although a lawful and traditional activity in Volusia County, beach driving has the potential to impact sea turtles and their nesting habitat, as well as the critical wintering habitat of the piping plover, a threatened species. These impacts are prohibited “takings” under the federal Endangered Species Act (ESA), for which Volusia County was required to apply for an Incidental Take Permit (ITP) in February 1996. The ITP authorizes the “taking” of federally protected species, incidental to beach driving and vehicular beach access-related activities regulated and/or managed by the county. The County was also required to have a Habitat Conservation Plan (HCP) as part of its application for the ITP. The HCP describes the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP is to be funded.

The bill allows Volusia County to permit, by ordinance, vehicular traffic upon a portion of coastal beach where vehicular traffic was not previously permitted, for the sole purpose of a low-speed reenactment of a historic automobile race on the original beach race course.

The bill does not appear to have a fiscal impact on the state. According to the Economic Impact Statement Volusia County would expend \$9,768 annually to help facilitate the event on the beach.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Beach Regulations

Florida law¹ limits construction and physical activity in Florida's coastal areas, regulates how that construction and activity can occur, and provides enforcement mechanisms for violations. In the 1970s, the Legislature added provisions regulating the construction seaward of a "costal construction control line" to be established by the Department of Environmental Protection (DEP).² The purpose in adopting these provisions was to protect beaches and coastal barrier dunes from imprudent construction.³

Florida law requires DEP to establish coastal construction control lines on a county-by-county basis along the coasts of the state.⁴ These control lines are to "be established so as to define that portion of the beach-dune system, which is subject to severe fluctuations based on 100-year storm surge, storm waves, or other predictable weather conditions."⁵ Once a control line is established, it is unlawful to "construct any structure whatsoever seaward thereof, make any excavation, remove any beach material, or otherwise alter existing ground elevations; [or] drive any vehicle on, over, or across any sand dune or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward" unless one has a permit issued by DEP.⁶

In 1985, the Coastal Zone Protection Act⁷ established minimum standards governing the location of construction in coastal areas and mandated that any such construction produce the "minimum adverse impact"⁸ on the "beach"⁹ and "dune system."¹⁰ In the Coastal Zone Protection Act, the Legislature found that coastal areas serve important aesthetic, ecological, and public health, safety, and welfare functions and have become subject to increasing growth pressures.¹¹ The minimum construction standards do not limit DEP's power to require permits or to adopt and enforce standards for construction that are more restrictive than the minimum construction standards.¹² The statute provides for enforcement of those minimum standards and requires sellers of coastal properties subject to the law to make certain disclosure.¹³

Vehicular Traffic on Beaches

¹ Ch. 161, parts I and II, F.S., known as the Dennis L. Jones Beach and Shore Preservation Act, first adopted in 1965. *See* ch. 65-408, Laws of Fla.

² S. 161.053, F.S.

³ S. 161.05(1)(a), F.S.

⁴ S. 161.053(1)(a), F.S.

⁵ *Id.*; S. 161.053(2)(a), F.S.

⁶ S. 161.053(2)(a), F.S.

⁷ Ch. 161, part III, F.S.

⁸ S. 161.55, F.S.

⁹ "Beach" means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. S. 161.54(3), F.S.

¹⁰ "Dune" means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach and deposited by any natural or artificial mechanism. S. 161.54(3), F.S.

¹¹ S. 161.53(1)-(5), F.S.

¹² S. 161.56(1), F.S.

¹³ Ss. 161.56(2) & 161.57, F.S.

Florida Statutes provide that vehicular traffic,¹⁴ except that necessary for purposes such as cleanup, repair, public safety, or traffic upon authorized local or state dune crossovers, is prohibited on dunes or native stabilizing vegetation of the dune system of coastal beaches.¹⁵ Except as otherwise provided in statute, any person driving any vehicle on, over, or across any dune or native stabilizing vegetation of the dune system commits a second degree misdemeanor.¹⁶ On coastal beaches, vehicular traffic is prohibited except that necessary for cleanup, repair, public safety, or to maintain existing licensed and permitted traditional commercial fishing activities or existing authorized public accessways. Vehicular traffic is also permitted on a coastal beach where a local government with jurisdiction over all or portions of the beach, by at least a three-fifths vote of its governing body, has authorized such traffic prior to 1985. The local government must have determined by October 1989, in accordance with the DEP rules, that less than 50 percent of the peak user demand for off-beach parking was available.¹⁷ However, these requirements do not apply to counties that have adopted unified countywide beach regulations pursuant to a county home rule charter prior to January 1, 1988.¹⁸

A local government that so authorized such vehicular traffic on all or portions of its beaches may later prohibit such vehicular traffic on all or portions of the beaches under its jurisdiction, by a vote of at least three-fifths of its governing body.¹⁹ Local governments may charge a reasonable fee for vehicular traffic access, if the fee is adopted by a three-fifths vote of its governing body.²⁰ The revenues from such fees shall be used only for beach maintenance or beach-related traffic management, parking, law enforcement, liability insurance sanitation, or lifeguard or other staff purposes.²¹ Unless authorized by the local government, any person driving any vehicle on, over, or across the beach shall be guilty of a second degree misdemeanor.²²

Best Management Practices for Operating Vehicles on the Beach

For local governments authorized to allow vehicular traffic on their beaches, the Florida Fish and Wildlife Conservation Commission (FWC) has published a best management practices for operating vehicles on the beach. The FWC advises people to avoid driving on the beach during sea turtle nesting season²³ (May 1 through October 31) and beach-nesting bird season (active from mid-February through the end of August).²⁴ FWC advises individuals driving on the beach to take the following precautions:

- Enter the beach only at designated access points and proceed directly to the hard-packed sand near or below the high tide line. Avoid driving on the upper beach whenever possible, and never drive over any dunes or over beach vegetation. If beach conditions require driving above the high tide line, avoid those areas with known sea turtle nests or shorebird breeding areas.
- Avoid the wrack line²⁵ or areas of dense seaweed, which may contain sea turtle hatchlings or baby birds;

¹⁴ The term “vehicular traffic” is not statutorily defined. *See City of Treasure Island v. Tahitian Treasure Island*, 253 So. 3d 649, 657 (Fla. 2d DCA Oct. 27, 2019) (“We are confident that vehicular traffic denotes the movement of vehicles as though it were happening along a public street or highway. We reach this conclusion because the alternative—the interpretation that vehicular traffic reaches any movement of vehicles—would put section 161.58’s regulation of vehicular traffic on coastal beaches in substantial conflict with the authority granted the department in part I to authorize by permit construction and other activity on those same beaches.”).

¹⁵ S. 161.58(1), F.S.

¹⁶ *Id.*

¹⁷ S. 161.58(2), F.S.

¹⁸ S. 161.58(2)(b), F.S.

¹⁹ S. 161.58(3), F.S.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Before you drive on the beach*, Florida Fish and Wildlife Conservation Commission, myfwc.com/conservation/you-choose/wildlife/beach-driving (last visited Jan. 9, 2020). While May through October is considered sea turtle nesting season, some species of sea turtles have been known to nest as early as February, and hatchlings can emerge from their nests as late as the mid-winter months.

²⁴ *Id.*

²⁵ Beach wrack is the line of debris that gets pushed onshore by ocean tides and is an important component in the beach/dune ecosystem. *Beach Wrack what is it?*, Discover Palm Beach, discover.pbcgov.org/erm/Publications/BeachFactSheet.pdf (last visited Jan. 9, 2020).

- Minimize ruts on the dry sandy beach by lowering tire pressure and using 4WD, particularly in front of sea turtle or bird nests;
- Drive slowly in order to observe any bird eggs, chicks, or sea turtle hatchlings in the vehicle's line of travel;
- Whenever possible, avoid driving on the beach at night;
- Do not park vehicles adjacent to nests or posted areas, and if driving at night, turn headlights off when parking; and
- If you observe a sea turtle crawling out of the surf, stop the vehicle and turn off all lights.²⁶

Vehicular Beach Traffic in Volusia County

Volusia County is authorized to regulate vehicular access to the county's coastal beaches.²⁷ Driving on the beaches of Daytona Beach and New Smyrna Beach in Volusia County is a tradition dating back to the early days of the automobile.²⁸ Volusia County's charter provides that the public has a right of access to the beaches and a right to use the beaches for recreation and other customary purposes.²⁹ The charter directs the county council, as permitted by law, to authorize vehicular access to any part of the beach not reasonably accessible from public parking facilities.³⁰ Daytona Beach and New Smyrna Beaches are open to vehicles from 8:00 am to 7:00 p.m. or sundown (whichever is earlier) from May 1 through October 31, and between sunrise and sunset from November 1 to April 30, tides permitting.³¹ The driving areas are designated by signs and wooden posts and drivers are required to drive only in those designated areas, observe the speed limit of 10 miles per hour (MPH)³², and parking is allowed east, or seaward of the wooden posts.³³

The diagram below indicates these designated areas:

²⁶ Florida Fish and Wildlife Conservation Commission, *supra* note 23.

²⁷ S.161.58, F.S.; *See Loggerhead Turtle v. Cnty Council of Volusia Cnty*, 896 F. Supp 1170, 1174 (M.D. Fla. 1995).

²⁸ *Beach driving and Parking*, Volusia County, volusia.org/services/public-protection/beach-safety/beach-driving-and-parking.shtml (last visited Jan. 8, 2020).

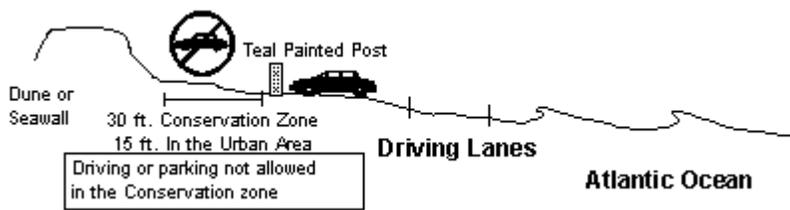
²⁹ VOLUSIA COUNTY FLA., CHARTER, S. 205.1 (1996), available at Volusia.org/government/county-council/how-county-government-works/home-rule-charter-details.shtml.

³⁰ *Id.*

³¹ VOLUSIA COUNTY, FLA. CODE OF ORDINANCES, S. 20-173 (2015), library.municode.com/fl/Volusia_county/code/code_of_ordinances?nodeID=PTIICOOR_CH20BECO_ARTVITRVE (last visited Jan. 8, 2019). Vehicular traffic is prohibited in the following areas of beach, which are established as traffic-free zones: (1) all the beach north of the northernmost boundary of the extension of Granada Avenue in Ormond Beach, from the southernmost boundary of the extension of Emelia Avenue in Daytona Beach Shores to the northernmost boundary of the extension of Beach Street in the Town of Ponce Inlet, from 100 feet north of the north jetty of the Ponce deLeon jetty southward to the southernmost limits of the Town of Ponce Inlet; north of the rock jetty along that portion of the beach boarding the south side of the Ponce deLeon Inlet channel, from the southernmost boundary of the extension of 27th Street in New Smyrna Beach south to Canaveral National Seashore Park, from the southern boundary of the extension of Seabreeze Boulevard to the northern boundary of the extension of International Speedway Boulevard, and from a point 300 feet south of the southernly extension of University Boulevard extending southward 410 feet.

³² VOLUSIA COUNTY, FLA. CODE OF ORDINANCES, S. 82-49(b)(2) (2011), https://library.municode.com/fl/volusia_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH82PARE_ARTIIRURECOLA_S82-49MOVE (last visited Jan. 11, 2020). Vehicular traffic is limited to 10 MPH on conservation lands.

³³ Volusia County, *supra* note 29.



Volusia County requires all persons driving on the beach to purchase either a daily or annual beach pass, which is displayed on the vehicle’s windshield.³⁴ The following fees and passes are available at beach toll locations and inlet parks:

- \$20 daily beach entry per vehicle (one free re-entry/day/same vehicle)
- \$10 daily inlet park entry per vehicle at Lighthouse Point and Smyrna Dunes Park (one free re-entry/day/same vehicle)
- \$25 resident annual beach pass (unlimited beach entry- 365 days from date of purchase)
- \$20 annual inlet park pass (unlimited beach entry- 365 days from date of purchase)
- \$100 non-resident annual beach pass (unlimited beach entry- 365 days from date of purchase)
- \$45 resident combo pass (beach and inlet parks unlimited entry- 365 days from date of purchase)
- \$120 non-resident combo pass (beach and inlet parks unlimited entry- 365 days from date of purchase).³⁵

The Endangered Species Act and Incidental Take Permits

The Endangered Species Act (ESA) prohibits the “taking” of listed species through direct harm or habitat destruction.³⁶ The ESA defines the term “take” to mean activities that “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.”³⁷ Congress has authorized the U.S. Fish and Wildlife Service (USFWS) (through the Secretary of the Interior) to issue permits for the “incidental taking” of endangered and threatened wildlife species.³⁸ Incidental Take Permit (ITP) holders may engage in a legal activity but that results in the “incidental” taking of a listed species.³⁹ Entities seeking an ITP are required to have a Habitat Conservation Plan (HCP) as part of the application.⁴⁰ The HCP describes the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP will be funded.⁴¹ HCPs can apply to both listed and non-listed species, including those that are candidates or have been proposed for listing.⁴² The HCP is required to meet the following permit issuance criteria of the ESA:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the taking;
- The applicant will ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- Other measure, as required by the Secretary, will be met.⁴³

³⁴ *Id.*

³⁵ *Id.*

³⁶ 16 U.S.C. § 1538(A)(1)(B).

³⁷ 16 U.S.C. § 1532(19).

³⁸ *Id.*; *Endangered Species Permits*, U.S. Fish & Wildlife Service, fws.gov/Midwest/endangered/permits/hcp/index.html (last visited Jan. 8, 2019).

³⁹ *Id.* There are no Federal prohibitions under the ESA for the “taking” of listed plants on non-Federal lands, unless taking of those plants is in violation of state law. However, before the USFWS issues a permit, the effects of the permit on listed plants must be analyzed because of section 7 of the ESA requires that issuance of a HCP permit must not jeopardize any listed species, including plants.

⁴⁰ *Habitat Conservation Plans under the Endangered Species Act*, U.S. Fish & Wildlife Service, fws.gov/endangered/esa-library/pdf/hcp.pdf (last visited Jan. 8, 2020).

⁴¹ *Id.*

⁴² *Id.*

⁴³ 16 U.S.C. § 1539(a)(2)(B)

HCP's are also required to comply with the Five Points Policy⁴⁴ by including:

- 1) Biological goals and objectives, which define the expected biological outcome for each species covered by the HCP;
- 2) Adaptive management, which includes methods for addressing uncertainty and also monitoring and feedback for biological goals and objectives;
- 3) Monitoring for compliance, effectiveness, and effects;
- 4) Permit duration which is determined by the time-span of the project and designed to provide the time needed to achieve biological goals and address biological uncertainty; and
- 5) Public participation according to the National Environmental Policy Act.⁴⁵

The applicant or entity seeking an ITP in addition to completing a HCP must also complete a standard application form,⁴⁶ and Implementation Agreement (if applicable),⁴⁷ the application fee, and a draft National Environmental Policy Act (NEPA) analysis.⁴⁸ The USFWS Regional Director decides whether to issue an ITP, based on whether the HCP meets the criteria mentioned above. A 30-day period for public comments on an application for an ITP is also required.⁴⁹ If the HCP addresses all of those requirements, as well as those of other applicable laws,⁵⁰ the USFWS will issue the permit.⁵¹ The elements of a HCP are made binding through the ITP. While an ITP will contain an expiration date the mitigation identified in the HCP can be permanent in certain cases.⁵² USFWS policy assures state and private landowners that if unforeseen circumstances arise the USFWS will not require a commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water; or other natural resources beyond the level agreed to in the HCP without the consent of the permit holder.⁵³

⁴⁴ The Five Points Policy initiative was designed to improve the HCP program to address monitoring, adaptive management, measurable biological goals, permit duration and increased public participation. *See* Agencies Focus on “No Surprises” and 5-Point Policy Initiative to Strengthen Endangered Species Conservation Partnerships, [FWS.gov/pacific/news/1998/9819nr.htm](https://www.fws.gov/pacific/news/1998/9819nr.htm) (last visited Jan. 9, 2020).

⁴⁵ U.S. Fish & Wildlife Service, *supra* note 40; The National Environmental Policy Act (NEPA), codified as 42 U.S.C. § 4321, was enacted to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment. NEPA requirements are invoked when airports, buildings, military complexes, highways, parkland purchases, and other federal activities are proposed. Environmental Assessments (EAs) and Environmental Impact Statements (EISs), which are assessments of the likelihood of impacts from alternative courses of action, are required from all Federal agencies and are the most visible NEPA requirements. *See Summary of the National Environmental Policy Act*, United States Environmental Protection Agency, [epa.gov/laws-regulations/summary-national-environmental-policy-act](https://www.epa.gov/laws-regulations/summary-national-environmental-policy-act) (last visited Jan. 9, 2020).

⁴⁶ *Federal Fish and Wildlife Permit Application Form*, U.S. Fish and Wildlife Service (Oct. 2017), [fws.gov/forms/3-200-56.pdf](https://www.fws.gov/forms/3-200-56.pdf) (last visited Jan. 9, 2019).

⁴⁷ Implementing agreements are made between the permit applicant and the USFWS to assure that the permit applicant will follow through on their obligation to implement the mitigation plan identified by the HCP. Elements of an Implementation Agreement include: a definition of the obligations and benefits of all signatories and other parties to the HCP; assignment of responsibilities for implementing HCP measures; and specific monitoring requirements for USFWS. Implementing agreements are no longer mandatory for all HCPs, such as a low-effect HCP (minor or negligible effects of federally listed, proposed or candidate species and their habitats), unless specifically required by the permit applicant. In other HCPs, the development of the implementing agreement will depend on the size and scope of the HCP and is left to the discretion of the FWS's Regional Director or the National Marine Fisheries Service Regional Administrator. Implementing agreements are recommended for regional or other large-scale HCPs that address significant portions of a species' range or involve numerous activities or landowners, or for HCPs with long-term mitigation and monitoring programs. *See Final Handbook for Habitat Conservation Planning and Incidental Take Permitting Process*, Federal Register (Dec. 2, 1996), available at [govinfo.gov/content/pkg/FR-1996-12-02/pdf/96-30610.pdf](https://www.govinfo.gov/content/pkg/FR-1996-12-02/pdf/96-30610.pdf).

⁴⁸ U.S. Fish & Wildlife Service, *supra* note 40. An NEPA analysis may result in a categorical exclusion, an environmental assessment, or an environmental impact statement.

⁴⁹ *Id.* In addition, because NEPA requires public comment on certain documents, the USFWS operates the two comment periods concurrently. Generally, the comment period is 30 days for a low-effect HCP, 60 days for an HCP that requires an environmental assessment, and 90 days for an HCP that requires an environmental impact statement. The USFWS considers public comments in permit decisions.

⁵⁰ *Id.* USFWS complies with the requirements of NEPA and all other statutes and regulations, including state and local environmental/planning laws.

⁵¹ *Id.*

⁵² *Habitat Conservation Plans Section 10 of the Endangered Species Act*, U.S. Fish & Wildlife Service, [fws.gov/Midwest/endangered/permits/hcp/hcp_wofactsheet.html](https://www.fws.gov/Midwest/endangered/permits/hcp/hcp_wofactsheet.html) (last visited Jan. 9, 2020).

⁵³ *Habitat Conservation Plans: Frequently Asked Questions*, U.S. Fish & Wildlife Service, [fws.gov/endangered/what-we-do/hcp-faq.html](https://www.fws.gov/endangered/what-we-do/hcp-faq.html) (last visited Jan. 9, 2019).

Once an ITP is issued the permit holder is responsible for ensuring all required monitoring.⁵⁴ The ESA or any party designated as responsible in the HCP, such as the state wildlife agency or a local government, will monitor the project for compliance with the terms of the ITP and HCP.⁵⁵ Monitoring plans for HCPs should establish target milestones, to the extent practicable, or reporting requirements throughout the life of the HCP.⁵⁶ The USFWS reviews the monitoring reports and coordinates with the ITP holder if any action is needed.⁵⁷ Violations of the terms of an ITP result in an “illegal taking” under section 9 of the ESA.⁵⁸

Volusia County's Incidental Take Permit

Although a lawful and traditional activity in Volusia County, beach driving has the potential to impact sea turtles and their nesting habitat as well as the critical wintering habitat of the federally threatened piping plover.⁵⁹ Additionally, the Southeastern Beach Mouse historically lived on barrier islands from Palm Beach County north to Ponce Inlet in Volusia County.⁶⁰ In 2001, the USFWS designated 168 acres in the Ponce Inlet area as critical habitat for wintering piping plovers.⁶¹ Operating vehicles on the beach can destroy wildlife habitats and can be harmful or fatal to wildlife.⁶² Three species of sea turtles regularly nest on Volusia County beaches: the Loggerhead, Green, and Leatherback, while two others are rare nesters, the Hawksbill and Kemp's Ridley.⁶³ Because these impacts qualify as prohibited “takings” under the ESA, Volusia County applied for an ITP in February 1996 to authorize the taking incidental to beach driving and vehicular beach access-related activities regulated and/or managed by the county.⁶⁴ A corresponding HCP was prepared and submitted to the USFWS as part of the permitting process. After public comments an ITP was issued to Volusia County on November 22, 1996. The ITP was amended 11 times, the most recent of which extended its expiration term until December 31, 2030.⁶⁵

⁵⁴ U.S. Fish & Wildlife Service, *supra* note 40.

⁵⁵ See U.S. Fish & Wildlife Service, *supra* note 52. If another party is responsible for monitoring compliance with the permit, the USFWS will require periodic reporting from such party in order to maintain overall oversight responsibility for the implementation of the HCP's terms and conditions. For regional and other large-scale or long-term HCPs, monitoring programs must provide long-term assurances that the HCP will be implemented correctly, that actions will be monitored, and that such actions will work as expected. This should include periodic accountings of take, surveys to determine species statuses in project areas or mitigation habitats, and progress reports on fulfillment of mitigation requirements (e.g. habitat acres acquired).

⁵⁶ *Id.*

⁵⁷ U.S. Fish & Wildlife Service, *supra* note 53.

⁵⁸ U.S. Fish & Wildlife Service, *supra* note 52. Any person who knowingly violates a provision of an issued permit may be assessed a civil penalty by the Secretary of not more than \$25,000 for each violation. Any person who otherwise violates a permit may be assessed a civil penalty by the Secretary of not more than \$500 for each such violation. Each violation shall be a separate offense. See 16 U.S.C. § 1540(a)(1). Any person who knowingly violates any permit shall, upon conviction, be fined not more than \$50,000 or imprisoned for not more than one year, or both. See 16 U.S.C. § 1540(b)(1). The head of any Federal agency which has issued a permit may immediately modify, suspend, or revoke each permit or other agreement. See 16 U.S.C. § 1540(b)(2). If the FWS deems the violation as technical or inadvertent it may send the permit holder a notice of noncompliance or may recommend alternative actions so that the permit holder may regain compliance with the terms of the ITP.

⁵⁹ *Habitat Conservation Plan: A plan for the protection of sea turtles on the beaches of Volusia County, Florida*, Ecological Associates, Inc., (Nov. 2016- last revised June 2008), volusia.org/core/fileparse.php/6466/urlt/HCB.pdf (last visited Jan. 9, 2020). The piping plover is a small, highly mobile, beach-dwelling bird of the plover family. The Atlantic Coast population was listed as threatened by the USFWS in 1986 (50 FR 50726-50734). The piping plover is also protected under Federal regulations through the Migratory Bird Treaty Act (MTBA) of 1918.

⁶⁰ *Id.* The Southeastern Beach mouse was afforded Federal protection as a threatened species in 1989 (53 FR 20598-20602).

⁶¹ *Id.*; See 50 C.F.R. 17.

⁶² Florida Fish and Wildlife Conservation Commission, *supra* note 23. The eggs and flightless young of beach-nesting birds can be virtually invisible, especially from a vehicle. Sea turtles coming ashore to nest may be scared away by vehicles and hatchlings are vulnerable to being run over. Both adult and hatchling sea turtles can be disoriented by any form of artificial light, including headlights. Ruts made by vehicles can trap and disorient turtle hatchlings and baby birds.

⁶³ *Id.* The Loggerhead turtle, was federally listed on July 28, 1978 as a threatened species under the USA (43 FR 32800), the Green turtle in Florida and on the Pacific Coast of Mexico was federally listed as endangered in 1978 (43 FR 32800), the leatherback turtle was federally listed as an endangered species in 1970 (35 FR 8491), the Hawksbill turtle was federally listed as endangered in 1970 (35 FR 8491), and the Kemp's Ridley sea turtle was listed as endangered under U.S. law in 1970 (35 FR 18320).

⁶⁴ Ecological Associates, Inc., *supra* note 60.

⁶⁵ *Id.*

Between 1997 and 2001, only six sea turtle hatchlings were reported to have been directly impacted and one unmarked nest was reportedly run over by a public safety vehicle. Indirect impacts to sea turtles have been limited primarily to hatchling encounters with vehicle ruts. However, there is no evidence to suggest that vehicular activity has affected either nesting success (the percentage of turtle crawls resulting in nests) or hatchling productivity.⁶⁶ In 2018, there were 2,167 Loggerhead nests, 142 Green nest, and 11 Leatherback nests, in Volusia County⁶⁷

The HCP plan area encompasses the entire Volusia County coastline from the Flagler/Volusia County Line to the Volusia/Brevard County Line, including the sandy beaches bordering the Ponce De Leon Inlet.⁶⁸ Under the HCP, vehicles used for emergency responses, public safety, or engaged in activities necessary to implement the terms and conditions of the ITP are allowed unlimited access to all county beaches and may access other beaches within the Plan Area in support of public safety operations, if requested.⁶⁹ Vehicles involved in sanitation, beach maintenance, and permitted coastal construction projects may also access all areas, but under specific constraints governing access times, access locations and operating procedures.⁷⁰ With few exceptions, concessionaires, commercial fishermen, and the general public may only access certain areas of the beach and only during daylight hours.⁷¹

The HCP segregated turtles from vehicles through four basic mechanisms:

- Public access is limited to daylight hours and public safety vehicles that operate at night must follow specific guidelines;
- Public driving is limited primarily to those areas where nest densities are lowest;
- In those areas where public driving is permitted, all driving and parking must occur outside a marked Conservation Zone near the dune, where the majority of nests are typically deposited; and
- All nests are conspicuously marked so they can be avoided.⁷²

Legends Beach Parade

Before Daytona International Speedway opened in 1959 stock car racing in Volusia County occurred primarily on Daytona Beach and Ormond Beach.⁷³ In 2013, the first reenactment of a historic beach race occurred, called the Legends Beach Parade, which was conducted annually at the North Turn Beach from 2013 - 2018.⁷⁴

Effect of Proposed Changes

The bill allows Volusia County by ordinance to allow vehicular traffic on its beaches for the sole purpose of reenacting the historic beach race, upon a portion of coastal beach, where vehicular traffic has not previously been permitted.⁷⁵

⁶⁶ *Id.*

⁶⁷ 2018 Statewide Nesting Totals, Florida Fish and Wildlife Conservation Commission, myfwc.com/research/wildlife/sea-turtles/nesting/statewide (last visited Jan. 9, 2020).

⁶⁸ Ecological Associates, Inc., *supra* note 60. The HCP is bounded on the east by the mean low water line and on the west by the bulkhead line or line of permanent vegetation. Within the plan area, the County exercises regulatory authority over those 35.6 miles of beaches extending from the southern boundary of the North Peninsula State Recreation Area (NPSRA) to the northern boundary of the Canaveral National Seashore (CNS).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* Additionally, the posting and enforcement of a 10 miles per hour speed limit for vehicles on the beach and the placement of signs warning drivers to look out for wildlife reduces the potential for collisions with the resting plovers. An annual winter census of piping plovers within the federally designated Critical Habitat is conducted to determine the extent of the habitat utilization by the bird species on county beaches.

⁷³ Florida Frontiers "Racing on the Beach," The Florida Historical Society, myfloridahistory.org/frontiers/article/131 (last visited Jan. 9, 2020).

⁷⁴ Casmira Harrison, *Volusia lawmakers to back Legends Beach Parade law*, Daytona Beach News-Journal (Nov. 20, 2019), <https://www.news-journalonline.com/news/20191120/volusia-lawmakers-to-back-legends-beach-parade-law> (last visited Jan. 9, 2020). According to the Economic Impact Statement, vehicles will travel at speeds of 5 to 10 MPH.

Attached in Appendix A is a map of the reenactment route.

B. SECTION DIRECTORY:

Section 1: Provides an exemption from s.161.58, F.S., to allow Volusia County by ordinance to allow vehicle traffic on areas of the beach currently closed to vehicular traffic for the sole purpose of reenacting a historical beach race.

Section 2: Provides the act is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 12, 2019

WHERE? The *News-Journal*, a daily newspaper of general circulation published in Volusia County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify which beaches a reenactment of a historic automobile race event may occur.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Appendix A



HB 947

2020

1 A bill to be entitled
2 An act relating to Volusia County; providing an
3 exception to general law; authorizing Volusia County
4 to permit vehicular traffic on a portion of coastal
5 beach not previously permitted for vehicular traffic
6 for a specified purpose; providing an effective date.

7

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

9

10 Section 1. Notwithstanding s. 161.58, Florida Statutes,
11 for the sole purpose of reenactment of a historic automobile
12 race event, Volusia County may by ordinance permit vehicular
13 traffic upon a portion of coastal beach where vehicular traffic
14 has not previously been permitted.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 989 Broward County

SPONSOR(S): Jacobs

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration Subcommittee		Rivera	Miller
2) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution creates five county constitutional offices: sheriff, tax collector, property appraiser, clerk of the circuit court, and supervisor of elections. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds, unless those duties are transferred as allowed in the Constitution.

Prior to January 8, 2019, the Florida Constitution permitted a county charter or special law approved by the county voters to transfer the county government duties of the clerk of the circuit court. In 1975, Broward County exercised this authority and adopted a county charter which transferred the county administrative duties of the clerk of the circuit to the county administrator and the clerk's county fiscal duties to the Broward County Department of Finance.

On November 6, 2018, the voters approved a proposed amendment that in part amended the State Constitution to authorize transfers of the county duties of the clerk of the circuit court only by a special law approved by the voters or as otherwise provided by section 16 of article V of the State Constitution. The constitutional amendment takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.

The bill creates a special act providing for the formal transfer of the duties of the clerk of the circuit court as ex officio clerk of the board of county commissioners, auditor, and custodian of all county funds to the Broward County administrator. The practical effect will be to continue the transfer of duties authorized in the 1975 Broward County Charter, with the exception of the duties of recorder, if a majority of the qualified electors voting approve the question in a referendum placed on the 2020 general election ballot. If the question is approved, the formal transfer is effective on January 7, 2025. If not approved, the bill authorizes the county commission to submit the question to the voters at a subsequent referendum.

The bill requires the recorder's duties to revert back to the clerk of the circuit court effective January 7, 2025 or earlier as agreed by the county commission and the office of clerk of the circuit court.

The Economic Impact Statement filed in support of the bill projects a decrease in revenue to the county of over \$8.1 million in FY 2024-2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties¹ and has the authority to choose to create municipalities.²

Pursuant either to general³ or special law, a county government may be adopted by charter approved by the county voters. A county without a charter has such powers of self-government as provided by general⁴ or special law.⁵ A county with a charter has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.⁶ Article VIII, s. 6(e), of the Florida Constitution incorporates by reference sections of the 1885 Constitution, retaining in the 1968 Constitution unique authorization⁷ for specific home rule charters including those of Duval⁸ and Miami-Dade Counties.⁹ Currently, twenty Florida counties have adopted charters.¹⁰

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court. The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds.¹¹

Before January 8, 2019, the Florida Constitution authorized changes to the manner in which the five county constitutional officers were selected and their respective scope of duties. A provision in county charter or special law approved by the county voters could change the manner in which a county constitutional officer was selected, abolish an office (provided the duties of that office were transferred to another office), or transfer the clerk of the circuit court's county duties to another office.¹²

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

³ S. 125.60, F.S.

⁴ Ch. 125, Part I, F.S.

⁵ Art. VIII, s. 1(f), Fla. Const.

⁶ Art. VIII, s. 1(g), Fla. Const.

⁷ Article VIII, s. 6(e), Fla. Const., states that specific provisions for Duval, Miami-Dade, Monroe, and Hillsborough Counties "shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article."

⁸ The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Fla., adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

⁹ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 State Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or county actions approved by referendum. *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

¹⁰ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. See Local Government Formation Manual 2018-2020, Appendix B, at 104-109.

¹¹ Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the Constitution requires counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const.

¹² Art. VIII, s. 1(d), Fla. Const. (as in effect prior to 1/8/2019). See State of Florida, Official Florida Statutes 2018, vol. 6 (Tallahassee 2018).

In its charter adopted in 1975, Broward County transferred the county administrative duties of the clerk of the circuit court to the county administrator and the clerk's fiscal duties were transferred to the Department of Finance (now known as the Department of Finance and Administrative Services).¹³

On November 6, 2018, the voters approved a proposed amendment that in part amended section 1(d) of article VIII of the Florida Constitution.¹⁴ The amendment removed the authority to change the manner of selecting a county constitutional officer or to abolish an office either in the county charter or by special act approved by the voters. The amendment also restricted the ability to transfer the county duties of the clerk of the circuit court either to a special law approved by the voters or as otherwise provided by section 16 of article V of the State Constitution.¹⁵ The amendment to article VIII, section 1(d) of the Florida Constitution takes effect statewide on January 5, 2021, except in Broward and Miami-Dade Counties, where the amendment takes effect on January 7, 2025.¹⁶ The effect of the amendment is to reinstate the elected, autonomous county constitutional officers¹⁷ in all counties with charters previously altering one or more of the constitutional offices, including transferring the county duties of the clerk of the circuit court.¹⁸

Effect of Proposed Changes

The bill creates a special act providing for the transfer of the duties of the clerk of the circuit court as ex officio clerk of the board of county commissioners, auditor, and custodian of all county funds to the Broward County Administrator, subject to general law, the county charter, special law, and county ordinances and regulations. The practical effect will be to maintain the transfer of such duties, except for the duties of the recorder, to Broward County government under the current county charter, but only if approved by a majority of the qualified electors voting in a referendum placed on the ballot during the 2020 general election. If approved, the formal transfer of the duties of the clerk of the circuit court takes effect on January 7, 2025. If the referendum is not approved, the County Commission may submit the question to the voters at a subsequent referendum. The duties of the recorder will revert back to the clerk of the circuit court on January 7, 2025 or earlier if agreed by interlocal agreement by the county and the clerk.

B. SECTION DIRECTORY:

Section 1. Provides findings; describes the transfer of certain county duties of the clerk of the circuit court; describes the impact on Broward County of the 2018 constitutional amendment.

Section 2. Provides for the transfer of certain county duties of the clerk of the circuit court to the County Administrator of Broward County, subject to approval by the electors of the county voting in a referendum; the remaining duties will revert back to the clerk of the circuit court; provides the section

¹³ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I, Charter, ss. 3.03.G & 3.06.B, *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances (last visited January 6, 2020).

¹⁴ See results for "State and Local Government Structure and Operation," at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=24> (last visited January 6, 2020).

¹⁵ Art. V, s. 16, Fla. Const., provides in pertinent part: "Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."

¹⁶ The amendment created a new art. VIII, s. 6(g), Fla. Const. (renumbering existing 6(g) as new 6(h)) providing for the delay in effect of the revisions to art. VIII, s. 1, Fla. Const. Under s. 6(g), the terms of the amendment apply to the elections conducted in 2020 except for Broward and Miami-Dade Counties, where the terms of the amendment apply to the elections in 2024. The revision to art. VIII, s. 6(g), Fla. Const., took effect on January 8, 2019. See art. XI, s. 5(e), Fla. Const.

¹⁷ As originally adopted in 1968, Article VIII of the State Constitution clearly was intended to apply to all counties and compel compliance with the provisions of its new sections, including provision for broad home rule. This is shown by the creation of art. VIII, s. 6(e), incorporating by reference four sections from the 1885 Florida Constitution (art. VIII, ss. 9, 10, 11, 24, Fla. Const. (1885, as amended)) to "remain in full force and effect as to each county affected, *as if this article had not been adopted...*" (emphasis supplied).

¹⁸ The charters of eight counties transferred the county duties of the clerk of the circuit court: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

takes effect on January 7, 2025, if approved by those voting in the referendum. The reversion of certain duties will transfer back to the clerk of the circuit court on January 7, 2025 or earlier by agreement.

Section 3. Requires the Board of County Commissioners to submit the act to a referendum of the voters at the general election to be held in November 2020; provides the Board may resubmit the question to the voters at other elections if the question fails to gain a majority of the electors voting in the referendum.

Section 4. Provides effective date upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 17, 2019

WHERE? Sun-Sentinel newspaper in Broward County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 3, 2020

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

C. The bill neither authorizes nor requires executive branch rulemaking.

D. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to Broward County; providing
 3 legislative findings; providing for the transfer of
 4 certain county-related functions and duties, including
 5 ex officio clerk of the board of county commissioners,
 6 county recorder, auditor, and custodian of county
 7 funds to the county government; providing that the
 8 County Auditor maintain power and authority as
 9 prescribed in the Broward County Charter; providing an
 10 exception to general law; providing for an interlocal
 11 agreement for the transfer of recorder functions and
 12 duties; providing for a referendum; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. (1) Broward County became a charter county on
 18 January 1, 1975, pursuant to a vote of the electors on November
 19 5, 1974. When approved by the county's electors, s. 7.06 of the
 20 Broward County Charter, relating to the County Comptroller Act,
 21 chapter 72-407, Laws of Florida, provided for the transfer of
 22 the county comptroller's functions, responsibilities, duties,
 23 and obligations to the county government, including ex officio
 24 clerk of the board of county commissioners, county recorder,
 25 auditor, and custodian of county funds. More specifically,

26 | Subsection C. of s. 2.03 of the county charter transferred to
27 | the County Administrator of Broward County all functioning
28 | duties prescribed by the State Constitution and general law for
29 | the clerk of the circuit court or county comptroller relating to
30 | their duties as ex officio clerk of the board of county
31 | commissioners. In addition, Subsection C. of s. 4.03 of the
32 | county charter transferred to the Department of Finance, now the
33 | Department of Finance and Administrative Services, all fiscal
34 | functions and duties prescribed by the State Constitution and
35 | general law for the clerk of the circuit court or county
36 | comptroller relating to their duties as the custodian of all
37 | county funds, auditor, and recorder of public documents.

38 | (2) The aforementioned county-related functions and duties
39 | continue to be performed by the Broward County government,
40 | including the auditor functions through the county's Department
41 | of Finance and Administrative Services, and an independent
42 | County Auditor, as provided in Article IV of the county charter,
43 | created by majority vote of the county's electors on November 5,
44 | 2002.

45 | (3) On November 6, 2018, Florida voters statewide approved
46 | Amendment 10, relating to state and local government structure
47 | and operation, which, in part, amended Article VIII, s. 1(d), of
48 | the State Constitution to eliminate the power by county charter
49 | to provide a different method of selecting certain county
50 | offices, the abolishment of such offices, and the transfer of

51 such county offices' functions and duties to another office.
52 Consequently, effective January 7, 2025, Broward County may be
53 required by Amendment 10 to return the functions of ex officio
54 clerk of the board of county commissioners, auditor, recorder,
55 and custodian of all county funds to the clerk of the circuit
56 court, unless otherwise provided by special law approved by the
57 electors of Broward County.

58 Section 2. (1) Notwithstanding any law to the contrary,
59 and subject to the approval a majority of the electors of
60 Broward County voting in a referendum called pursuant to section
61 3, the functions and duties now prescribed by the State
62 Constitution and general law for the office of the clerk of the
63 circuit court relating to the duties of ex officio clerk of the
64 board of county commissioners, auditor, and custodian of all
65 county funds shall be the responsibility of the County
66 Administrator of Broward County, who shall exercise any such
67 powers, functions, duties, and authorities in accordance with
68 general law, this act, the Broward County Charter, county
69 ordinances, and applicable administrative resolutions,
70 regulations, and procedures, or as otherwise required by law.
71 This act shall not be construed to affect adversely the power
72 and authority of the County Auditor, as prescribed in Article IV
73 of the Broward County Charter, or such duties as may be assigned
74 to such office by the county commission.

75 (2) The aforementioned county-related functions and duties

76 now prescribed by the State Constitution and general law for the
77 office of the clerk of the circuit court relating to the duties
78 of recorder shall be transferred by Broward County to the clerk
79 of the circuit court effective January 7, 2025, or an earlier
80 date agreed to by Broward County and the clerk of the circuit
81 court. To ensure an orderly transition of the recorder functions
82 and duties, Broward County and the clerk of the circuit court
83 may enter into an interlocal agreement providing for the
84 transfer of all hardcopy documents and files; all electronic
85 documents; all other files and related information; existing and
86 necessary furnishings, equipment, and personnel; all funding
87 appropriated by the Broward County Board of County Commissioners
88 relating to the recorder functions and duties in fiscal year
89 2024-2025 or an earlier date to which Broward County and the
90 clerk of the circuit court agree; and such other issues as may
91 be agreed to by Broward County and the clerk of the circuit
92 court to effectuate the orderly transfer of the recorder
93 functions and duties.

94 Section 3. (1) The Board of County Commissioners of
95 Broward County shall submit to a referendum election, on the
96 same date as the 2020 November general election, the question
97 concerning the approval of this special act. The ballot measure
98 shall comply with provisions of s. 101.161, Florida Statutes.

99 (2) Should the referendum question submitted to Broward
100 County electors pursuant to subsection (1) fail to receive

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101 | majority approval, the board of county commissioners may submit
102 | the question at other referendum elections as determined by the
103 | board of county commissioners, unless this act is repealed by
104 | the Legislature.

105 | Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: PCS for HB 925 Manatee County

SPONSOR(S): Gregory

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local Administration Subcommittee		Darden	Miller

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

The PCS would create the North River Ranch Improvement Stewardship District in Manatee County. The District's purpose is to install, operate, and maintain community infrastructure.

The Economic Impact Statement projects expenditures of \$100,000 in FY 2020-21 and \$150,000 in FY 2021-22 associated with startup costs for district administration and planning. The District is authorized to levy special assessments, fees, and non-ad valorem assessments. The District also is authorized to levy ad valorem taxes upon approval at referendum after the entire board is elected by qualified electors of the District. The amount of revenues that would be generated by these assessments, fees, and taxes is indeterminate. The District is authorized to perform numerous functions and undertake a wide range of projects within the District; therefore, expenditures are expected but the amount of expenditures is indeterminate.

The PCS takes effect upon becoming a law, except that provisions authorizing the levy of ad valorem taxes take effect only upon approval by a majority vote of qualified electors in a referendum to be held after such time when all members of the board are qualified electors of the District.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Independent Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.⁶ An "independent special district" is any district that is not a dependent special district.⁷

Formation and Charter of an Independent Special District

With the exception of community development districts,⁸ the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.⁹ Any special laws or general laws of local application relating to any special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;¹⁰
- Exempt district elections from the requirements of s. 189.04, F.S.;¹¹
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;¹²
- Exempt a district from certain requirements relating to¹³ issuing bonds if no referendum is required,¹⁴ requiring special district reports on public facilities,¹⁵ notice and reports of special district public meetings,¹⁶ or required reports, budgets, and audits;¹⁷ or
- Create a district for which a statement documenting specific required matters is not submitted to the Legislature. The statement must include:

¹ S. 189.031(3), F.S.

² *Id.*

³ S. 189.02(1), F.S.

⁴ S. 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

⁵ 2018 – 2020 *Local Gov't Formation Manual* at p. 64, available at

<https://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3074> (last visited Jan. 2, 2020).

⁶ S. 189.012(2), F.S.

⁷ S. 189.012(3), F.S.

⁸ S. 189.0311, F.S. *See* s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

⁹ Ss. 189.031(1), (3), F.S.

¹⁰ S. 189.031(2)(a), F.S.

¹¹ S. 189.031(2)(b), F.S.

¹² S. 189.031(2)(c), F.S.

¹³ S. 189.031(2)(d), F.S.

¹⁴ S. 189.051, F.S.

¹⁵ S. 189.08, F.S.

¹⁶ S. 189.015, F.S.

¹⁷ S. 189.016, F.S.

- The purpose of the proposed district;
- The authority of the proposed district;
- An explanation of why the district is the best alternative; and
- A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

These prohibitions were passed by a three-fifths majority in the House and Senate when ch. 189, F.S., originally was adopted.¹⁹ They may be amended or repealed only “by like vote.”²⁰

The charter of a newly-created district must state whether it is dependent or independent.²¹ Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.²²

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.²³

Election of Special District Boards

Members of a special district board are generally elected by the qualified electors of the district.²⁴ Some district boards, however, are elected according to a one-acre/one-vote methodology.²⁵

Section 189.041, F.S., provides a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.²⁶ A petition signed by 10 percent of the qualified electors must be filed with the governing body of the district requesting a referendum.²⁷ Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.²⁸

If the qualified electors approve of the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization of the district urban area map.²⁹ If the qualified electors do not approve of the transition, a new referendum may not be held for at least two years.³⁰

¹⁸ S. 189.031(2)(e), F.S.

¹⁹ Ch. 89-169, s. 67, Laws of Fla.

²⁰ Art. III, s. 11(a)(21), Fla. Const. (“SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: ... (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.”).

²¹ S. 189.031(5), F.S.

²² S. 189.031(3), F.S.

²³ Art. VII, s. 9(a), Fla. Const.

²⁴ See e.g. ch. 2015-202, s. 4(4)(2)(a), Laws of Fla. (election provisions for Lehigh Acres Municipal Services Improvement District).

²⁵ See s. 189.04(4), F.S. (providing an exception for special district governing board elected on a one-acre/one-vote basis); also see e.g. ch. 2007-306, s. 5, Laws of Fla. (election provisions for the Babcock Ranch Community Independent Special District).

²⁶ S. 189.041(2)(a)1.a., F.S.

²⁷ S. 189.041(2)(a)1.b., F.S.

²⁸ S. 189.041(2)(a)2., F.S.

²⁹ S. 189.041(2)(a)3., F.S.

³⁰ S. 189.041(2)(a)4., F.S.

Within 30 days after the transition referendum, the governing body of the district must direct the district's staff to prepare and present maps describing all urban areas contained in the district.³¹ For the purposes of this determination, an "urban area" is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

- 1.5 persons per acre, as defined the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or
- 1 single-family home per 5 acres within a recorded plat subdivision.³²

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.³³ The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.³⁴ If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.³⁵ After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.³⁶ A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.³⁷

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board pursuant to s. 189.041(3)(a), F.S.³⁸ The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.³⁹

The composition of the board is determined by the percentage of the district that is urban area, as follows:⁴⁰

Urban Area as Percentage of District	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

³¹ S. 189.041(2)(b)1, F.S.

³² S. 189.041(1)(b), F.S.

³³ S. 189.041(2)(b)2., F.S.

³⁴ Ss. 189.041(1)(b), (2)(b)3., F.S.

³⁵ S. 189.041(2)(b)3., F.S.

³⁶ S. 189.041(2)(b)4., F.S.

³⁷ S. 189.041(2)(b)5., F.S.

³⁸ S. 189.041(2)(b)6., F.S.

³⁹ S. 189.041(2)(b)8., F.S.

⁴⁰ S. 189.041(3)(a), F.S.

Governing board members elected by qualified electors serve four year terms, except for those elected at the first election and the first landowner’s meeting following the referendum, who serve the following terms:⁴¹

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1, 2, 3, and 4 year term	1 member serving a 4 year term
26%-50%	1 member serving each a 1, 2, and 3 year term	2 member serving a 4 year term
51%-70%	1 member serving each a 1 and 2 year term	2 members serving a 4 year term, 1 member serving a 2 year term
70%-90%	1 member serving a 1 year term	2 members serving a 4 year term, 2 members serving a 2 year term
More than 91%	n/a	3 members serving a 4 year term, 2 members serving a 2 year term

Annual landowners meetings continue to be held as long as at least one member of the board is elected on a one-acre/one-vote basis.⁴² There is no requirement for a majority of the acreage of the district to be represented by either owner or an owner’s proxy at the landowners meeting.⁴³ Landowner meetings must be held in the month preceding the month of the election of governing body members by electors.⁴⁴

Community Development Districts

Chapter 190, F.S., the “Uniform Community Development District Act of 1980,”⁴⁵ sets forth the exclusive and uniform procedures for establishing and operating a community development district (CDD).⁴⁶ This type of independent special district is an alternative method to manage and finance basic services for community development.⁴⁷ There are currently 622 active CDDs in Florida.⁴⁸

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.⁴⁹ CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act,⁵⁰ maintain an office, lease property, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.⁵¹

The statute also authorizes additional special powers to provide, construct, and maintain public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit

⁴¹ S. 189.041(3)(b), F.S.

⁴² S. 189.041(3)(c)1., F.S.

⁴³ S. 189.041(3)(c)2., F.S.

⁴⁴ S. 189.041(3)(c)3., F.S.

⁴⁵ S. 190.001, F.S.

⁴⁶ Ss. 190.004, 190.005, F.S.

⁴⁷ S. 190.003(6), F.S.

⁴⁸ Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx/> (last visited Jan. 2, 2020).

⁴⁹ S. 190.004(3), F.S.

⁵⁰ Ch. 120, F.S.

⁵¹ S. 190.011, F.S.

shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.⁵² With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for improvements such as parks and recreational areas, fire prevention and control, school buildings and related structures; security; control and elimination of mosquitoes and other arthropods of public health importance; waste collection and disposal.⁵³

The method for establishing a CDD depends upon its size. CDDs of more than 2,500 acres are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)⁵⁴ to adopt an administrative rule creating the district, while CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located.⁵⁵

Effect of Proposed Changes

The PCS creates the North River Ranch Improvement Stewardship District (District), an independent special district in Manatee County and provides a charter for the District. The District's purpose is to install, operate, and maintain community infrastructure in Manatee County. Section 1 of the PCS creates the charter for the district.

Legislative Findings, Legislative Intent and Policy (Charter Section 2)

The PCS provides legislative findings and intent, providing that the District will facilitate a comprehensive community development approach which integrates regional transportation, land use, and urban design elements to provide for a mix of housing, employment, and economic development opportunities.

The PCS states that a CDD created under ch. 190, F.S., would not serve the public interest due to the size of the proposed district, that the creation of multiple CDDs would result in inefficient and duplicative layers of local special-purpose government, and a separate independent special district is better able to integrate the management of state resources and allow for coordinated stewardship of natural resources.

The PCS states that the District does not have the power to engage in comprehensive planning, zoning, or development permitting and that the creation of the District is consistent with the Manatee County Comprehensive Plan. The PCS states that it is the intent and purpose of the District that no debt or obligation will be placed on Manatee without the county's consent.

The PCS requires the District to receive approval by resolution or official statement from the Manatee County Board of County Commissioners before requesting any amendment to its charter, in a similar manner as is required for the creation of a special district pursuant to s. 189.031(2)(e)4., F.S.

Charter Requirements, Creation, Establishment, Jurisdiction, and Charter (Charter Section 3)

The PCS provides a list of sections of the PCS that fulfill the requirements for the creation of a special district under s. 189.031(3), F.S.

⁵² S. 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. S. 190.005(1)(f), (2)(d), F.S.

⁵³ S. 190.012(2), F.S.

⁵⁴ Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.

⁵⁵ Ss. 190.005(1), (2), F.S.

The PCS states that the District is a “public body corporate and politic,” an independent special district, and that any additional power granted to a CDD under ch. 190, F.S., after January 1, 2020, also constitutes a power of the District to the extent such changes are not inconsistent with the provisions of the PCS. The PCS provides that the District may exercise its power within the boundaries of the District, or extraterritorially with the consent of Manatee County, as evidenced by an interlocal agreement or a development order.

District Boundaries (Charter Section 4)

The PCS provides the legal description of the boundaries of the District.

Membership, Powers, and Duties of the Board of Supervisors (Charter Section 5)

The PCS provides for a five-member board (Board), with each member serving a four-year term. Members of the Board must be both Florida residents and United States citizens.

A meeting of the landowners of the district must be held within 90 days after the effective date of the act. Notice of the meeting must be provided once a week for two consecutive weeks in a newspaper of general circulation in the area of the District. The landowners present at the meeting will elect a chair from among attendees to conduct the meeting. The chair may nominate candidates and make motions if that person is a landowner or holds the proxy of a landowner. The landowners present constitute a quorum, even if they represent less than 50 percent of the total acreage of the district, and may elect members of the governing board. The three candidates for the Board receiving the first, second, and third highest number of votes are elected to terms expiring November 17, 2024, while the two candidates receiving the fourth and fifth highest number of votes are elected to terms expiring November 20, 2022.

Each landowner is entitled to one vote for each acre owned. Any fractional acre is treated as one acre for the purposes of the landowner vote. Landowners who are unable to attend may cast their votes by proxy. Subsequent landowners elections must be announced at a public meeting at least 90 days before the landowners meeting and noticed in the same manner as the initial landowners meeting. Subsequent elections to the Board occur on the first Tuesday after the first Monday of November in every two years.

The PCS provides for a transition of the Board from being elected by landowners to the qualified electors residing in the district on the following schedule:

Number of Qualified Electors	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
0-3,462	5	0
3,463-6,925	4	1
6,926-10,388	3	2
10,389-13,851	2	3
13,852-14,999	1	4
15,000 or more	0	5

The PCS states that the transition to a Board seat elected by the qualified electors of the District does not require an election to occur prior to the expiration of the existing Board member’s term.

On or before June 1 of each election year, the Board must determine the number of qualified electors in the District as of April 15 of that year. The Board must consult the records of the Manatee County Supervisor of Elections, Property Appraiser, and Tax Collector when making this determination.

Members of the Board elected by qualified electors are selected at-large in non-partisan elections. Board members must be qualified electors of the District. Candidates to be elected by the qualified electors are required to abide by provisions of the Florida Election Code.

The PCS provides that the Governor may remove a Board member for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by the act. In the event of a vacancy, the remaining members of the Board may make an appointment to serve the remainder of the unexpired term, unless the vacancy was created by the Governor removing the Board member, in which case the Governor makes an appointment to fill the vacancy.

The Board is required to elect a chair and a secretary, as well as other officers the Board deems necessary. The secretary does not have to be a member of the board.

The Board is required to keep a record of its proceedings containing all meeting, resolutions, bonds, and any corporate acts. The record book and other district records must be open to inspection by the public as required by ch. 119, F.S.

Members of the Board may receive compensation up to the amount authorized for the supervisors of a community development district and are entitled to travel and per diem expenses as provided in s. 112.061, F.S.⁵⁶

Members of the Board must meet ethics and conflict of interest provisions under general law for local public officials.⁵⁷

The PCS prohibits the district from levying ad valorem taxes until such time all members of the Board are elected by qualified electors of the District.⁵⁸

General Duties of the Board (Charter Section 6)

District Manager and Treasurer

The Board is required to employ a district manager to oversee any improvements or facilities constructed by the District. The PCS specifies that employing a Board member, district manager, or other employee of a landowner as the district manager for the District does not constitute a conflict of interest under ch. 112, F.S. The district manager is permitted to hire additional employees as necessary and authorized by the board.

The Board is also required to hire a treasurer, who must be a resident of the state. The treasurer manages the finances of the district and may be granted other powers as the Board finds appropriate. The compensation of the treasurer is set by the Board and the Board may require the treasurer to post a surety bond. The PCS requires that the financial records of the Board be audited by an independent certified public accountant in accordance with general law requirements.⁵⁹ The Board, in conjunction with the treasurer, is required to select a qualified public depository for the funds of the District.

Budget and Reporting

The district manager is required to prepare a proposed budget on or before July 15 of each year for consideration by the Board. The budget must contain all expenditures of the District and estimates of projected revenues. The Board may make amendments to the proposed budget before approval. The Board is required to provide adequate notice of the budget hearing. The Board must adopt a final budget before October 1, the beginning of its fiscal year. The Board must submit a copy of the budget

⁵⁶ S. 190.006(8) provides that supervisors of a community development district may receive compensation of no greater than \$200 per meeting and no more than \$4,800 per year, unless a higher amount is approved by electors in a referendum.

⁵⁷ See Ch. 112, Part III, F.S. (code of ethics for public officers and employees),

⁵⁸ The Board must also receive voter approval before levying ad valorem taxes. See art. VII, s. 9, Fla. Const. (special districts may levy ad valorem taxes at a “millage authorized by law approved by vote of the electors.”)

⁵⁹ As an independent special district, the District will be required to maintain a public website on which it must post its annual budget and any amendments, all financial reports and audits of the District’s finances required by law, and a link to the Department of Financial Services’ website. Ss 189.016, 189.069, F.S. The District must file a separate annual financial statement with the Department of Financial Services, under s. 218.32, F.S., and periodic audited financial statements with the Florida Auditor General, under s. 218.39, F.S.

to the Manatee County Board of County Commissioners for informational purpose at least 60 days prior to its adoption.

The Board must provide the Manatee County Board of County Commissioners with a copy of the District's public facilities report as required by s. 189.08, F.S.

The District will provide full disclosure of its public financing and maintenance of improvements to real property to all existing and prospective residents of the District. The District must provide each developer of a residential development within the district with sufficient copies of the information to provide to each prospective purchaser. The District must also file the disclosure documents in the property records of the county.

The PCS provides that the District must maintain an official website by the end of its first full fiscal year, as required by s. 189.069, F.S.

General Powers

The PCS grants the District the following general powers to:

- Conduct business on behalf of the district, including suing or being sued, adopting a seal, and acquiring and disposing of property;
- Apply for Florida Retirement System coverage for its employees;
- Contract for professional services;
- Conduct financial transactions for district purposes;
- Adopt and enforce rules;
- Maintain an office;
- Hold, control, purchase, or dispose of public easements;
- Lease as lessor or lessee any type of project the District is authorized to undertake;
- Borrow money and issue bonds as authorized in the act and to levy taxes and assessments;
- Charge user fees as necessary to conduct District activities;
- Exercise eminent domain;⁶⁰
- Cooperate with other government entities;
- Assess and impose ad valorem taxes, as provided in the act;
- Levy and impose maintenance taxes, if authorized by general law;
- Levy and impose special assessments;
- Exercise special powers; and
- Exercise powers necessary and proper for fulfilling the special and limited purpose of the district as authorized by this act.

Special Powers

The PCS also grants the District special powers to implement its lawful and special purpose and to provide the following systems and infrastructure for those special and limited purposes:

- Water management and control, including irrigation systems and facilities, for the lands within the District and to connect some or any of such facilities with roads and bridges;
- Water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse;
- Bridges, culverts, wildlife corridors, or road crossings that may be needed across any drain, ditch, canal, floodway, holding basin, or other body of water;
- District roads equal to or exceeding specifications of the county in which the roads are located, and street lighting;

⁶⁰ The Board may exercise eminent domain within the boundaries of the District without additional approval. The Board may only exercise eminent domain outside the boundaries of the district with approval from a general purpose local government (the municipality, for lands in an incorporated area; the county, for lands in unincorporated areas).

- Buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage;
- Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District;
- Observation, mitigation, wetland creation, and wildlife habitat areas;
- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- School buildings and related structures, which may be leased, sold, or donated to the school district;
- Security;⁶¹
- Control and elimination of mosquitoes and other arthropods of public health importance;
- Enter into impact fee, mobility fee, or other similar credit agreements with Manatee County, other governmental bodies, or a landowner developer and to see or assign such credits, on terms the District deems appropriate;
- Buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or other authorized projects;
- Establish and create, at noticed meetings, such governmental departments of the governing board.
- Sustainable or green infrastructure improvements, facilities, and services;⁶²
- Any facilities or improvements that may otherwise be provided by a county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees;
- Waste collection and disposal,;
- Construction and operation of communications systems and related infrastructure;⁶³
- Health care facilities, including the ability to enter public-private partnerships and agreements as necessary to accomplish this task;
- Enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education; and
- Any other project within or without the boundaries of the district when the project is subject to an agreement between the District and the Manatee County Board of County Commissioners or with any other applicable public or private entity, and is not inconsistent with effective local comprehensive plans or the general of special powers contained in the PCS.

Financing and Bonds

The Board has the power to issue bond anticipation notes that will bear interest not to exceed the maximum rate allowed by law and that will mature no later than five years from issuance. The Board may also obtain loans and issue negotiable notes, warrants, or other evidence of debt, payable at such times and bearing such interest as the Board determines, but not to exceed the maximum rate allowed by general law and to be sold or discounted at such price or prices not less than 95 percent of par value. Bonds may be sold in blocks or installment at different times, at public or private sale after advertisement, at not less than 90 percent of the par value, together with accrued interest. The Board also has the authority to issue refunding bonds, revenue bonds, and general obligation bonds.⁶⁴

The PCS authorizes the Board to levy ad valorem taxes on all taxable property in the District, but only after the Board is elected by and consists of qualified electors of the district and the levy has been approved at a referendum as required by Art. VII, s. 9 of the Florida Constitution. This levy may not exceed 3.0 mills.

⁶¹ The District may contract with the appropriate local general purpose government agencies for an increased level of services within the district boundaries.

⁶² The PCS provides that this provision does not authorize the District to provide electric services or otherwise impair electric utility franchise agreements.

⁶³ The PCS provides that this provision does not authorize the District to provide communication services to retail customers or otherwise impair existing service provider franchise agreement.

⁶⁴ The charter specifies that a default on a bond or obligation of the district does not constitute a debt or obligation on behalf of the state or any general-purpose local government.

The Board annually must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments are collected annually in the same manner as county taxes. The board may determine a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment of all future annual installments of the benefit special assessment.

The Board is authorized to levy a non-ad valorem maintenance tax, if such tax is ever authorized by general law, to maintain and preserve physical facilities and services in the District and to defray current expenses. Upon the completion of the facilities and services, the District would be able to levy annually a non-ad valorem and non-millage tax upon each tract or parcel of land within the district, based on the net assessment of benefits accruing from the original construction of the improvements. This tax would be paid and enforceable in the same manner as county ad valorem taxes.

The Board may levy a maintenance special assessment to preserve the facilities and projects of the District. The amount of the assessment is determined by the Board upon a report of the District's engineer and assessed by the Board upon the land within the District benefited by the maintenance, or apportioned between the benefited lands in proportion to the benefits received by each tract of land. The assessment is a lien on the assessed property until paid and enforceable in the same manner as county taxes. However, this does not prohibit the District from using the method prescribed in ss. 197.363, 197.3631, or 197.3632, F.S., for enforcing and collecting these assessments.

The District may establish and collect rates, fees, rentals, or other charges, referred to as "revenues", for the system and facilities furnished by the District such as recreational facilities, water management and control facilities, and water, sewer, and reuse systems. The District must hold a public hearing concerning the proposed rates, fees, rentals, or other charges, which may not apply to District leases, prior to adoption under the administrative rulemaking authority of the District.

Any rates, fees, rentals, charges, or delinquent penalties not paid within 60 days, will be in default and the unpaid balance together with reasonable attorney fees and costs may be recovered by the District in a civil action. In addition, in the event fees, rentals, or other charges for water and sewer, or either of them, are not paid when due, the District may, under rules and regulations of the Board, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and restoration of service are fully paid.

Enforcement of Taxes and Assessments

The collection and enforcement of all taxes levied by the District is in the same manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes pertain to the collection of such taxes. Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632, F.S. Maintenance taxes are non-ad valorem taxes and not special assessments.

Any property of a governmental entity subject to a ground lease as described in s. 190.003(13), F.S., is not subject to lien or encumbrance on the underlying fee interest for a levy of ad valorem taxes or non-ad valorem assessments under this PCS.

Competitive Bidding and Public Notice Regarding District Purchases

Any contract for goods, supplies, or materials that exceeds \$195,000⁶⁵ is subject to competitive bidding through notice of bids published once in a newspaper of general circulation in Manatee County. In addition, if the Board seeks to construct or improve a public building, structure or other public works it must comply with the bidding procedures in s. 255.20, F.S., and other applicable general law. The Board must accept the bid of the lowest responsive and responsible bidder unless all bids have been rejected. The provisions of the Consultants Competitive Negotiation Act in s. 287.055, F.S., apply to

⁶⁵ See s. 287.017(1)(d), F.S. (creating purchasing categories for procurement of personal property and services).

contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services.

Contracts for maintenance services that exceed \$195,000⁶⁶ are subject to competitive bidding. All contracts for other services are not subject to competitive bidding unless the District adopts a rule, policy, or procedure to apply competitive bidding procedures to those contracts. The Board may require bidders to supply a bond.

Waiver of Sovereign Immunity

Any suits against the District for damages arising out of tort are subject to the limitations provided in s. 768.28, F.S.

Termination, Contraction, or Expansion of the District

The PCS requires the Board of the District to obtain a resolution or official statement of support from the Manatee County Board of County Commissioners before asking the Legislature to expand or contract the District. The PCS states that the District exists until dissolved by the Legislature or declared inactive by the Department of Economic Opportunity.⁶⁷

Notice to Purchasers of Property

After the creation of the District, each contract for initial sale of a residential unit within the District must include a disclosure statement informing the purchaser of the existence of the District and that the purchase will be liable for taxes, assessments, and fees imposed by the District.

Public Access

Any facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax exempt bonding issued by the District, is public. The District may establish rules regulating the use of the property and imposing reasonable charges or fees for such use.

Merger with Community Development Districts

The PCS provides that the District may merge with one or more community development districts situated wholly within its boundaries. Any community development district within the boundaries of the District may initiate the merger process by filing a written request for merger with the District and Manatee County.

The District, with Board approval, may enter into a merger agreement with the CDD to provide for the allocation and retirement of debt, transition of the CDD board, and the transfer of all financial obligations and operating and maintenance responsibilities to the District. The PCS provides execution of the merger agreement between the District and the CDD shall constitute consent by the landowners within each district.

The District and each CDD requesting merger is required to hold a public hearing within their respective boundaries to provide information and take public comment. The hearing must be held within 45 days after the execution of the merger agreement and must be noticed in a newspaper of general circulation in Manatee County at least 14 days before the hearing. At the conclusion of the hearing, the respective districts are required to adopt a resolution approving or disapproving of the proposed merger. If the merger is approved, the resolutions and merger agreement must be filed with Manatee County. Upon receipt of the resolutions and merger agreement, Manatee County is required to adopt an ordinance dissolving each CDD pursuant to s. 190.046(10), F.S.

⁶⁶ See *Id.*

⁶⁷ S. 189.062, F.S.

B. SECTION DIRECTORY:

- Section 1: Notwithstanding s. 189.031(2)(e), F.S., providing for the creation of North River Ranch Improvement Stewardship District,
- Section 2: Providing a charter for the North River Ranch Improvement Stewardship District.
- Section 3: Provides for severability of the act.
- Section 4: Provides that the PCS is effective upon becoming a law, except that the provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of qualified voters in a referendum to be held after such time when all members of the Board are qualified electors of the district.
- Section 5: Provides that the PCS shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 11, 2019.

WHERE? The *Bradenton Herald*, a daily newspaper of general circulation in Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? A referendum must be held when all members of the board are qualified electors, elected by qualified electors, if the board seeks to levy ad valorem taxes.

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The PCS requires rules and orders adopted by the District pertaining to the powers, duties, and functions of the officers of the district; the conduct of the business of the District; the maintenance of records; the form of certificates evidencing tax liens and all other documents and records of the District; and the operation of guardhouses by the District or any other unit of local government to serve security purposes, to be adopted and enforced pursuant to ch. 120, F.S., the Administrative Procedure Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions to General Law

Section 5(2) and 5(3) of Section 1 of the PCS provides for the composition of the Board of the District, including the process for transitioning from a Board elected on a one-acre/one-vote basis to an election

by the qualified electors of the District. The transition process provided by the PCS is in lieu of the process provided in s. 189.041, F.S.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

Powers of Community Development Districts

Although the District is created pursuant to ch. 189, F.S., the PCS proposes to give the district future powers that may be included in ch. 190, F.S., relating to CDDs as follows:

Any amendments to chapter 190, Florida Statutes, after January 1, 2020, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter contained in ss. 190.006-190.041, Florida Statutes, which are not inconsistent with this act, shall constitute a general power, special power, authority, or function of the North River Ranch Improvement Stewardship District.

Therefore, if the Legislature amends ch. 190, F.S., to grant CDDs additional authority at any time in the future, the PCS provides that such additional authority will be granted to the District without further Legislative review or enactment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to Manatee County; creating the North
 3 River Ranch Improvement Stewardship District;
 4 providing a short title, legislative findings and
 5 intent, and definitions; establishing compliance with
 6 minimum requirements in s. 189.031(3), F.S., for
 7 creation of an independent special district; providing
 8 for creation and establishment of the district;
 9 establishing the legal boundaries of the district;
 10 providing for the jurisdiction and charter of the
 11 district; providing for a governing board; providing
 12 for membership, election, and terms of office;
 13 providing for meetings; providing administrative
 14 duties of the board; providing a method for transition
 15 of the board from landowner control to control by the
 16 resident electors of the district; providing for a
 17 district manager and district personnel; providing for
 18 a district treasurer, selection of a public
 19 depository, and district budgets and financial
 20 reports; providing for the general powers of the
 21 district; providing for the special powers of the
 22 district to plan, finance, and provide community
 23 infrastructure and services within the district;
 24 providing for bonds; providing for borrowing;
 25 providing for future ad valorem taxation; providing

26 for special assessments; providing for issuance of
 27 certificates of indebtedness; providing for tax liens;
 28 providing for competitive procurement; providing for
 29 fees and charges; providing for amending the charter;
 30 providing for required notices to purchasers of
 31 residential units within the district; defining the
 32 term "district public property"; providing for merger;
 33 providing for construction; providing severability;
 34 providing for a referendum; providing an effective
 35 date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. The charter for the North River Ranch
 40 Improvement Stewardship District is created to read:

41 Section 1. This act may be cited as the "North River Ranch
 42 Improvement Stewardship District Act."

43 Section 2. Legislative findings and intent; definitions;
 44 policy.—

45 (1) LEGISLATIVE INTENT; PURPOSE OF THE DISTRICT.—

46 (a) The lands located wholly within Manatee County covered
 47 by this act contain many opportunities for thoughtful,
 48 comprehensive, responsible, and consistent development over a
 49 long period.

50 (b) There is a need to use a single special and limited

51 purpose independent special district unit of local government
52 for the North River Ranch Improvement Stewardship District lands
53 located within Manatee County to provide for a more
54 comprehensive community development approach, which will
55 facilitate an integral relationship among regional
56 transportation, land use, and urban design to provide for a
57 diverse mix of housing and regional employment and economic
58 development opportunities, rather than fragmented development
59 with underutilized infrastructure which is generally associated
60 with urban sprawl.

61 (c) There is a considerably long period of time during
62 which there is a significant burden to provide various systems,
63 facilities, and services to the initial landowners of the North
64 River Ranch Improvement Stewardship District lands, such that
65 there is a need for flexible management, sequencing, timing, and
66 financing of the various systems, facilities, and services to be
67 provided to these lands, taking into consideration absorption
68 rates, commercial viability, and related factors. Therefore,
69 extended control by the initial landowner with regard to the
70 provision of systems, facilities, and services for the North
71 River Ranch Improvement Stewardship District lands, coupled with
72 the special and single purpose of such district, is in the
73 public interest.

74 (d) While chapter 190, Florida Statutes, provides an
75 opportunity for previous community development services and

76 facilities to be provided by the continued use of community
 77 development districts in a manner that furthers the public
 78 interest, given the size of the North River Ranch Improvement
 79 Stewardship District lands and the duration of development
 80 continuing to utilize multiple community development districts
 81 over these lands which would result in an inefficient,
 82 duplicative, and needless proliferation of local special purpose
 83 governments, contrary to the public interest and the
 84 Legislature's findings in chapter 190, Florida Statutes, it is
 85 in the public interest that the long-range provision for, and
 86 management, financing, and long-term maintenance, upkeep, and
 87 operation of, services and facilities to be provided for
 88 ultimate development and conservation of the lands covered by
 89 this act be under one coordinated entity. The creation of an
 90 independent special district will assist in integrating the
 91 management of state resources and allow for greater and more
 92 coordinated stewardship of natural resources.

93 (e) The existence and use of a special and limited purpose
 94 local government for the North River Ranch Improvement
 95 Stewardship District lands, subject to the Manatee County
 96 comprehensive plan, will provide for a comprehensive and
 97 complete community development approach to promote a sustainable
 98 and efficient land use pattern for the North River Ranch
 99 Improvement Stewardship District lands with long-term planning
 100 for conservation and development; provide opportunities for the

101 mitigation of impacts and development of infrastructure in an
102 orderly and timely manner; prevent the overburdening of the
103 local general purpose government and the taxpayers; and provide
104 an enhanced tax base and regional employment and economic
105 development opportunities.

106 (f) The creation and establishment of the special district
107 will encourage local government financial self-sufficiency in
108 providing public facilities and in identifying and implementing
109 fiscally sound, innovative, and cost-effective techniques to
110 provide and finance public facilities while encouraging
111 coordinated development of capital improvement plans by all
112 levels of government, in accordance with the goals of chapter
113 187, Florida Statutes.

114 (g) The creation and establishment of a special and single
115 purpose independent district is a legitimate supplemental and
116 alternative method available to manage, own, operate, construct,
117 and finance capital infrastructure systems, facilities, and
118 services.

119 (h) In order to be responsive to the critical timing
120 required through the exercise of its special management
121 functions, an independent special district requires financing of
122 those functions, including bondable lienable and nonlienable
123 revenue, with full and continuing public disclosure and
124 accountability, funded by landowners, both present and future,
125 and funded also by users of the systems, facilities, and

126 services provided to the land area by the special district,
 127 without unduly burdening the taxpayers, citizens, and ratepayers
 128 of the state or Manatee County.

129 (i) The special district created and established by this
 130 act shall not have or exercise any comprehensive planning,
 131 zoning, or development permitting power; the establishment of
 132 the special district is not considered a development order
 133 within the meaning of part I of chapter 380, Florida Statutes;
 134 and all applicable planning and permitting laws, rules,
 135 regulations, and policies of Manatee County control the
 136 development of the land to be serviced by the special district.

137 (j) The creation by this act of the North River Ranch
 138 Improvement Stewardship District is not inconsistent with the
 139 Manatee County comprehensive plan.

140 (k) It is the legislative intent and purpose that no debt
 141 or obligation of the special district constitute a burden on
 142 Manatee County.

143 (2) DEFINITIONS.—As used in this act:

144 (a) "Ad valorem bonds" means bonds that are payable from
 145 the proceeds of ad valorem taxes levied on real and tangible
 146 personal property and that are generally referred to as general
 147 obligation bonds.

148 (b) "Assessable improvements" means, without limitation,
 149 any and all public improvements and community facilities that
 150 the district is empowered to provide in accordance with this act

151 that provide a special benefit to property within the district.

152 (c) "Assessment bonds" means special obligations of the
153 district which are payable solely from proceeds of the special
154 assessments or benefit special assessments levied for assessable
155 improvements, provided that, in lieu of issuing assessment bonds
156 to fund the costs of assessable improvements, the district may
157 issue revenue bonds for such purposes payable from assessments.

158 (d) "Assessments" means nonmillage district assessments
159 including special assessments, benefit special assessments, and
160 maintenance special assessments, and a nonmillage, non-ad
161 valorem maintenance tax if authorized by general law.

162 (e) "Benefit special assessments" are district assessments
163 imposed, levied, and collected pursuant to section 6.

164 (f) "Board of supervisors" or "board" means the governing
165 body of the district or, if such board has been abolished, the
166 board, body, or commission assuming the principal functions
167 thereof or to whom the powers given to the board by this act
168 have been given by general law.

169 (g) "Bond" includes "certificate," and the provisions that
170 are applicable to bonds are equally applicable to certificates.
171 The term also includes any general obligation bond, assessment
172 bond, refunding bond, revenue bond, bond anticipation note, and
173 other such obligation in the nature of a bond as is provided for
174 in this act.

175 (h) "Cost" or "costs," when used in reference to any

- 176 project, includes, but is not limited to:
- 177 1. The expenses of determining the feasibility or
- 178 practicability of acquisition, construction, or reconstruction.
- 179 2. The cost of surveys, estimates, plans, and
- 180 specifications.
- 181 3. The cost of improvements.
- 182 4. Engineering, architectural, fiscal, and legal expenses
- 183 and charges.
- 184 5. The cost of all labor, materials, machinery, and
- 185 equipment.
- 186 6. The cost of all lands, properties, rights, easements,
- 187 and franchises acquired.
- 188 7. Financing charges.
- 189 8. The creation of initial reserve and debt service funds.
- 190 9. Working capital.
- 191 10. Interest charges incurred or estimated to be incurred
- 192 on money borrowed before and during construction and acquisition
- 193 and for such reasonable period of time after completion of
- 194 construction or acquisition as the board may determine.
- 195 11. The cost of issuance of bonds pursuant to this act,
- 196 including advertisements and printing.
- 197 12. The cost of any bond or tax referendum held pursuant
- 198 to this act and all other expenses of the issuance of bonds.
- 199 13. The discount, if any, on the sale or exchange of
- 200 bonds.

201 14. Administrative expenses.

202 15. Such other expenses as may be necessary or incidental
 203 to the acquisition, construction, or reconstruction of any
 204 project, or to the financing thereof, or to the development of
 205 any lands within the district.

206 16. Payments, contributions, dedications, and any other
 207 exactions required as a condition of receiving any governmental
 208 approval or permit necessary to accomplish any district purpose.

209 17. Any other expense or payment permitted by this act or
 210 allowable by general law.

211 (i) "District" means the North River Ranch Improvement
 212 Stewardship District.

213 (j) "District manager" means the manager of the district.

214 (k) "District roads" means highways, streets, roads,
 215 alleys, intersection improvements, sidewalks, crossings,
 216 landscaping, irrigation, signage, signalization, storm drains,
 217 bridges, multi-use trails, lighting, and thoroughfares of all
 218 kinds.

219 (l) "General obligation bonds" means bonds which are
 220 secured by, or provide for their payment by, the pledge of the
 221 full faith and credit and taxing power of the district.

222 (m) "General-purpose local government" means a county,
 223 municipality, or consolidated city-county government.

224 (n) "Governing board member" means any member of the board
 225 of supervisors.

226 (o) "Land development regulations" means those regulations
 227 of the general purpose local government, adopted under the
 228 Community Planning Act, codified as part II of chapter 163,
 229 Florida Statutes, to which the district is subject and as to
 230 which the district may not do anything that is inconsistent
 231 therewith. Land development regulations are not considered
 232 specific management, engineering, operations, or capital
 233 improvement planning, needed in the daily management,
 234 implementation, and supplying by the district of systems,
 235 facilities, services, works, improvements, projects, or
 236 infrastructure, so long as they remain subject to and are not
 237 inconsistent with the applicable county codes.

238 (p) "Landowner" means the owner of a freehold estate as it
 239 appears on the deed record, including a trustee, a private
 240 corporation, and an owner of a condominium unit. "Landowner"
 241 does not include a reversioner, remainderman, mortgagee, or any
 242 governmental entity which is not counted and does not need to be
 243 notified of proceedings under this act. "Landowner" also means
 244 the owner of a ground lease from a governmental entity, which
 245 leasehold interest has a remaining term, excluding all renewal
 246 options, in excess of 50 years.

247 (q) "Maintenance special assessments" are assessments
 248 imposed, levied, and collected pursuant to section 6.

249 (r) "Non-ad valorem assessment" means only those
 250 assessments which are not based upon millage and which can

251 become a lien against a homestead as permitted in s. 4, Art. X
 252 of the State Constitution.

253 (s) "North River Ranch Improvement Stewardship District"
 254 means the special and single-purpose independent special
 255 district unit of local government and political subdivision
 256 created and chartered by this act, and limited to the
 257 performance of those general and special powers authorized by
 258 its charter under this act, the boundaries of which are set
 259 forth by the act, the governing board of which is created and
 260 authorized to operate with legal existence by this act, and the
 261 purpose of which is as set forth in this act.

262 (t) "Powers" means powers used and exercised by the board
 263 of supervisors to accomplish the special and limited purpose of
 264 the district, including:

265 1. "General powers," which means those organizational and
 266 administrative powers of the district as provided in its charter
 267 in order to carry out its special and limited purposes as a
 268 local government public corporate body politic.

269 2. "Special powers," which means those powers provided by
 270 the district charter to implement its specialized systems,
 271 facilities, services, projects, improvements, and infrastructure
 272 and related functions in order to carry out its special and
 273 limited purposes.

274 3. Any other powers, authority, or functions set forth in
 275 this act.

276 (u) "Project" means any development, improvement,
277 property, power, utility, facility, enterprise, service, system,
278 works, or infrastructure now existing or hereafter undertaken or
279 established under this act.

280 (v) "Qualified elector" means any person at least 18 years
281 of age who is a citizen of the United States and a legal
282 resident of the state and of the district and who registers to
283 vote with the Supervisor of Elections in Manatee County and
284 resides in Manatee County.

285 (w) "Reclaimed water" means water, including from wells or
286 stormwater management facilities, that has received at least
287 secondary treatment and basic disinfection and is reused after
288 flowing out of a domestic wastewater treatment facility or
289 otherwise reused as an approved use of surface water or
290 groundwater by the water management district.

291 (x) "Reclaimed water system" means any plant, well,
292 system, facility, or property, and any addition, extension, or
293 improvement thereto at any future time constructed or acquired
294 as part thereof, useful, necessary, or having the present
295 capacity for future use in connection with the development of
296 sources, treatment, purification, or distribution of reclaimed
297 water. The term includes franchises of any nature relating to
298 any such system and necessary or convenient for the operation
299 thereof including for the district's own use or resale.

300 (y) "Refunding bonds" means bonds issued to refinance

301 outstanding bonds of any type and the interest and redemption
 302 premium thereon. Refunding bonds may be issuable and payable in
 303 the same manner as refinanced bonds, except that no approval by
 304 the electorate shall be required unless required by the State
 305 Constitution.

306 (z) "Revenue bonds" means obligations of the district that
 307 are payable from revenues, including, but not limited to,
 308 special assessments and benefit special assessments, derived
 309 from sources other than ad valorem taxes on real or tangible
 310 personal property and that do not pledge the property, credit,
 311 or general tax revenue of the district.

312 (aa) "Sewer system" means any plant, system, facility, or
 313 property, and additions, extensions, and improvements thereto at
 314 any future time constructed or acquired as part thereof, useful
 315 or necessary or having the present capacity for future use in
 316 connection with the collection, treatment, purification, or
 317 disposal of sewage, including, but not limited to, industrial
 318 wastes resulting from any process of industry, manufacture,
 319 trade, or business or from the development of any natural
 320 resource. The term also includes treatment plants, pumping
 321 stations, lift stations, valves, force mains, intercepting
 322 sewers, laterals, pressure lines, mains, and all necessary
 323 appurtenances and equipment; all sewer mains, laterals, and
 324 other devices for the reception and collection of sewage from
 325 premises connected therewith; and all real and personal property

326 and any interest therein, and rights, easements, and franchises
327 of any nature relating to any such system and necessary or
328 convenient for operation thereof.

329 (bb) "Special assessments" means assessments as imposed,
330 levied, and collected by the district for the costs of
331 assessable improvements pursuant to this act, chapter 170,
332 Florida Statutes, and the additional authority under s.
333 197.3631, Florida Statutes, or any other provision of general
334 law, now or hereinafter enacted, which provide or authorize a
335 supplemental means to impose, levy, or collect special
336 assessments.

337 (cc) "Taxes" or "tax" means those levies and impositions
338 of the board of supervisors that support and pay for government
339 and the administration of general law and that may be:

340 1. Ad valorem or property taxes based upon both the
341 appraised value of property and millage, at a rate uniform
342 within the jurisdiction; or

343 2. If and when authorized by general law, non-ad valorem
344 maintenance taxes not based on millage that are used to maintain
345 district systems, facilities, and services.

346 (dd) "Water system" means any plant, system, facility, or
347 property, and any addition, extension, or improvement thereto at
348 any future time constructed or acquired as a part thereof,
349 useful, necessary, or having the present capacity for future use
350 in connection with the development of sources, treatment,

351 purification, or distribution of water. The term also includes
352 dams, reservoirs, storage tanks, mains, lines, valves, pumping
353 stations, laterals, and pipes for the purpose of carrying water
354 to the premises connected with such system, and all rights,
355 easements, and franchises of any nature relating to any such
356 system and necessary or convenient for the operation thereof.

357 (3) POLICY.—Based upon its findings, ascertainments,
358 determinations, intent, purpose, and definitions, the
359 Legislature states its policy expressly:

360 (a) The district and the district charter, with its
361 general and special powers, as created in this act, are
362 essential and the best alternative for the residential,
363 commercial, office, hotel, health care, and other similar
364 community uses, projects, or functions in the included portion
365 of Manatee County consistent with the effective comprehensive
366 plan, and designed to serve a lawful public purpose.

367 (b) The district, which is a local government and a
368 political subdivision, is limited to its special purpose as
369 expressed in this act, with the power to provide, plan,
370 implement, construct, maintain, and finance as a local
371 government management entity systems, facilities, services,
372 improvements, infrastructure, and projects, and possessing
373 financing powers to fund its management power over the long term
374 and with sustained levels of high quality.

375 (c) The creation of the North River Ranch Improvement

376 Stewardship District by and pursuant to this act, and its
 377 exercise of its management and related financing powers to
 378 implement its limited, single, and special purpose, is not a
 379 development order and does not trigger or invoke any provision
 380 within the meaning of chapter 380, Florida Statutes, and all
 381 applicable governmental planning, environmental, and land
 382 development laws, regulations, rules, policies, and ordinances
 383 apply to all development of the land within the jurisdiction of
 384 the district as created by this act.

385 (d) The district shall operate and function subject to,
 386 and not inconsistent with, the applicable comprehensive plan of
 387 Manatee County and any applicable development orders (e.g.
 388 detailed site plan development orders), zoning regulations, and
 389 other land development regulations.

390 (e) The special and single purpose North River Ranch
 391 Improvement Stewardship District does not have the power of a
 392 general-purpose local government to adopt a comprehensive plan
 393 or related land development regulation as those terms are
 394 defined in the Community Planning Act.

395 (f) This act may be amended, in whole or in part, only by
 396 special act of the Legislature. The board of supervisors of the
 397 district may not ask the Legislature to amend this act without
 398 first obtaining a resolution or official statement from the
 399 district and Manatee County as provided in s. 189.031(2)(e)4.,
 400 Florida Statutes, for the creation of an independent special

401 district.

402 Section 3. Minimum charter requirements; creation and
 403 establishment; jurisdiction; construction; charter.-

404 (1) Pursuant to s. 189.031(3), Florida Statutes, the
 405 Legislature sets forth that the minimum requirements in
 406 paragraphs (a) through (o) have been met in the identified
 407 provisions of this act as follows:

408 (a) The purpose of the district is provided in subsection
 409 (4) and this section.

410 (b) The powers, functions, and duties of the district
 411 regarding ad valorem taxation, bond issuance, other revenue-
 412 raising capabilities, budget preparation and approval, liens and
 413 foreclosure of liens, use of tax deeds and tax certificates as
 414 appropriate for non-ad valorem assessments, and contractual
 415 agreements are provided in section 6.

416 (c) The methods for establishing the district are provided
 417 in this section.

418 (d) The methods for amending the charter of the district
 419 are provided in this section.

420 (e) The membership and organization of the governing body
 421 and the establishment of a quorum are provided in section 5.

422 (f) The maximum compensation of board members is provided
 423 in section 6.

424 (g) The administrative duties of the governing body are
 425 provided in section 6.

426 (h) The requirements for financial disclosure, noticing,
427 and reporting are provided in section 6.

428 (i) The procedures and requirements for issuing bonds are
429 provided in section 6.

430 (j) The requirements for elections or referendums and
431 qualifications of an elector of the district are provided in
432 this section and section 6.

433 (k) The methods for financing the district are provided in
434 section 6.

435 (l) Other than taxes levied for the payment of bonds and
436 taxes levied for periods of up to 2 years when authorized by a
437 vote of the electors of the district, the authority to levy ad
438 valorem tax and the authorized millage rate are provided in
439 section 6.

440 (m) The methods for collecting non-ad valorem assessments,
441 fees, or service charges are provided in section 6.

442 (n) The requirements for planning are provided in this
443 section and section 6.

444 (o) The geographic boundary limitations of the district
445 are provided in sections 5 and 6.

446 (2) The North River Ranch Improvement Stewardship District
447 is created and incorporated as a public body corporate and
448 politic, an independent special and limited purpose local
449 government, an independent special district, under s. 189.031,
450 Florida Statutes, and as defined in this act and in s.

451 189.012(3), Florida Statutes, in and for portions of Manatee
452 County. Any amendments to chapter 190, Florida Statutes, after
453 January 1, 2020, granting additional general powers, special
454 powers, authorities, or projects to a community development
455 district by amendment to its uniform charter contained in ss.
456 190.006-190.041, Florida Statutes, which are not inconsistent
457 with this act, shall constitute a general power, special power,
458 authority, or function of the North River Ranch Improvement
459 Stewardship District. All notices for the enactment by the
460 Legislature of this special act have been provided pursuant to
461 the State Constitution, the Laws of Florida, and the rules of
462 the House of Representatives and of the Senate. A referendum
463 subsequent to the effective date of this act is not required as
464 a condition of establishing the district. Therefore, the
465 district, as created by this act, is established on the property
466 described in this act.

467 (3) The territorial boundary of the district shall embrace
468 and include all of that certain real property described in
469 section 6.

470 (4) The jurisdiction of the district, in the exercise of
471 its general and special powers, and in the carrying out of its
472 special and limited purposes, is both within the external
473 boundaries of the legal description of this district and
474 extraterritorially when limited to, and as authorized expressly
475 elsewhere in, the charter of the district as created in this act

476 or applicable general law. This special and limited purpose
477 district is created as a public body corporate and politic, and
478 local government authority and power is limited by its charter,
479 this act, and subject to other general laws, including chapter
480 189, Florida Statutes, except that an inconsistent provision in
481 this act shall control and the district has jurisdiction to
482 perform such acts and exercise such authorities, functions, and
483 powers as shall be necessary, convenient, incidental, proper, or
484 reasonable for the implementation of its special and limited
485 purpose regarding the sound planning, provision, acquisition,
486 development, operation, maintenance, and related financing of
487 those public systems, facilities, services, improvements,
488 projects, and infrastructure works as authorized herein,
489 including those necessary and incidental thereto. The district
490 shall only exercise any of its powers extraterritorially within
491 Manatee County after execution of an interlocal agreement
492 between the district and Manatee County consenting to the
493 district's exercise of any of such powers within Manatee County
494 or an applicable development order or as part of other land
495 development regulations issued by Manatee County.

496 (5) The exclusive charter of the North River Ranch
497 Improvement Stewardship District is this act and, except as
498 otherwise provided in subsection (2), may be amended only by
499 special act of the Legislature.

500 Section 4. Formation; boundaries.—The North River Ranch

501 Improvement Stewardship District, an independent special
 502 district, is created and incorporated in Manatee County and
 503 shall embrace and include the territory described as:

504
 505 MORGAN'S GLEN PARCEL:

506 BEGIN AT THE COMMON CORNER OF SECTIONS 19, 20, 29 AND 30,
 507 TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA;
 508 THENCE, ALONG THE EAST LINE OF SAID SECTION 30,
 509 S.00°06'50"W., FOR 540.98 FEET TO A LINE BEING 50 FEET
 510 NORTH OF AND PARALLEL TO THE CENTERLINE OF A SCL RAILROAD
 511 RIGHT OF WAY, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 1,
 512 BLOCK 1, MANATEE RIVER FARMS AS RECORDED IN PLAT BOOK 6,
 513 PAGE 45 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA;
 514 THENCE, ALONG SAID LINE, S.73°37'59"W., 670.12 FEET; THENCE
 515 N.00°06'17"E., FOR 412.91 FEET; THENCE N.01°49'12"W., FOR
 516 315.39 FEET TO THE SOUTH LINE OF SAID SECTION 19; THENCE,
 517 LEAVING SAID SOUTH LINE, N.00°34'28"W., FOR 441.76 FEET;
 518 THENCE N.01°53'22"E., FOR 220.56 FEET; THENCE
 519 S.89°53'31"W., FOR 858.88 FEET; THENCE S.84°33'13"W., FOR
 520 104.29 FEET; THENCE S.76°54'28"W., FOR 377.88 FEET; THENCE
 521 N.00°07'22"W., FOR 1,708.90 FEET TO THE SOUTH RIGHT OF WAY
 522 LINE OF MOCCASIN WALLOW ROAD; THENCE, ALONG SAID SOUTH
 523 RIGHT OF WAY LINE, S.89°15'16"E., FOR 1,980.23 FEET TO THE
 524 EAST LINE OF SAID SECTION 19, SAID LINE ALSO BEING THE WEST
 525 LINE OF SAID SECTION 20; THENCE, CONTINUE ALONG SAID SOUTH

526 RIGHT OF WAY LINE, S.88°55'05"E., 666.19 FEET; THENCE,
 527 LEAVING SAID SOUTH RIGHT OF WAY LINE, S00°06'09"E., FOR
 528 397.02 FEET; THENCE S.89°16'25"E., FOR 135.94 FEET; THENCE
 529 S.88°59'12"E., FOR 121.89 FEET; THENCE S.81°46'46"E., FOR
 530 200.24 FEET; THENCE S.89°10'18"E., FOR 210.00 FEET TO THE
 531 EAST LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID
 532 SECTION 20; THENCE, ALONG SAID EAST LINE, S.00°04'54"E.,
 533 FOR 673.99 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4 OF
 534 THE SOUTHWEST 1/4, SAID LINE ALSO BEING THE NORTH LINE OF
 535 THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 20;
 536 THENCE, ALONG SAID LINE, N.89°31'56"W., FOR 665.68 FEET;
 537 THENCE, LEAVING SAID LINE, S.00°06'09"E., FOR 467.45 FEET;
 538 THENCE N.89°51'11"E., FOR 59.49 FEET; THENCE S.00°06'09"E.,
 539 FOR 663.67 FEET TO THE SOUTH LINE OF SECTION 20, TOWNSHIP
 540 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE,
 541 ALONG SAID SOUTH LINE, S.89°51'11"W., FOR 724.73 FEET TO
 542 THE POINT OF BEGINNING.

543
 544 LESS AND EXCEPT THAT CERTAIN RIGHT-OF-WAY BEING MORE
 545 PARTICULARLY DESCRIBED AS FOLLOWS:

546
 547 A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORD BOOK
 548 2066, PAGE 3027, PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA,
 549 LYING IN SECTIONS 19 AND 30, TOWNSHIP 33 SOUTH, RANGE 19
 550 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY

551 DESCRIBED AS FOLLOWS:

552

553 COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 19;

554 THENCE SOUTH 86°58'46" WEST, ALONG THE SOUTH LINE OF THE

555 SOUTHEAST 1/4 OF SAID SECTION 19, A DISTANCE OF 537.04 FEET

556 TO THE POINT OF BEGINNING; THENCE SOUTH 00°13'25" WEST, A

557 DISTANCE OF 2.00 FEET TO A POINT ON A CURVE TO THE RIGHT;

558 THENCE SOUTHERLY 171.21 FEET ALONG THE ARC OF SAID CURVE,

559 HAVING A RADIUS OF 860.00 FEET, A CENTRAL ANGLE OF

560 11°24'23", AND A CHORD BEARING AND DISTANCE OF SOUTH

561 05°55'36" WEST 170.93 FEET TO A POINT OF REVERSE CURVE TO

562 THE LEFT; THENCE SOUTHERLY 148.63 FEET ALONG THE ARC OF

563 SAID CURVE, HAVING A RADIUS OF 740.00 FEET, A CENTRAL ANGLE

564 OF 11°30'27", AND A CHORD BEARING AND DISTANCE OF SOUTH

565 05°52'34" WEST 148.38 FEET; THENCE SOUTH 00°07'20" WEST, A

566 DISTANCE OF 359.62 FEET TO THE NORTH RIGHT OF WAY LINE OF

567 FP & L RAILROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE,

568 SOUTH 73°37'35" WEST, A DISTANCE OF 77.06 FEET; THENCE

569 NORTH 01°01'42" WEST, A DISTANCE OF 694.96 FEET; THENCE

570 NORTH 00°13'25" EAST, A DISTANCE OF 724.64 FEET TO A POINT

571 ON A CURVE TO THE LEFT; THENCE NORTHERLY 205.25 FEET ALONG

572 THE ARC OF SAID CURVE, HAVING A RADIUS OF 560.00 FEET, A

573 CENTRAL ANGLE OF 21°00'00", AND A CHORD BEARING AND

574 DISTANCE OF NORTH 10°16'36" WEST 204.10 FEET; THENCE NORTH

575 20°46'36" WEST, A DISTANCE OF 207.01 FEET TO A POINT ON A

576 CURVE TO THE LEFT; THENCE NORTHWESTERLY 211.09 FEET ALONG
 577 THE ARC OF SAID CURVE, HAVING A RADIUS OF 940.00 FEET, A
 578 CENTRAL ANGLE OF 12°52'00", AND A CHORD BEARING AND
 579 DISTANCE OF NORTH 27°12'36" WEST 210.65 FEET TO A POINT OF
 580 REVERSE CURVE TO THE RIGHT; THENCE NORTHERLY 622.42 FEET
 581 ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,060.00
 582 FEET, A CENTRAL ANGLE OF 33°38'35", AND A CHORD BEARING AND
 583 DISTANCE OF NORTH 16°49'18" WEST 613.51 FEET; THENCE NORTH
 584 00°00'00" WEST, A DISTANCE OF 296.18 FEET; THENCE NORTH
 585 44°34'29" WEST, A DISTANCE OF 70.18 FEET; THENCE NORTH
 586 00°48'08" EAST, A DISTANCE OF 46.61 FEET TO THE SOUTH
 587 MAINTAINED RIGHT OF WAY LINE OF MOCCASIN WALLOW ROAD;
 588 THENCE ALONG SAID SOUTH MAINTAINED RIGHT OF WAY LINE, SOUTH
 589 89°11'52" EAST, A DISTANCE OF 230.02 FEET; THENCE, LEAVING
 590 SAID SOUTH MAINTAINED RIGHT OF WAY LINE, SOUTH 00°48'08"
 591 WEST, A DISTANCE OF 46.66 FEET; THENCE SOUTH 45°25'31"
 592 WEST, A DISTANCE OF 71.23 FEET; THENCE SOUTH 00°00'00"
 593 EAST, A DISTANCE OF 236.20 FEET; THENCE SOUTH 04°08'24"
 594 WEST, A DISTANCE OF 114.31 FEET TO A POINT ON A NON-TANGENT
 595 CURVE TO THE LEFT; THENCE SOUTHERLY 494.62 FEET ALONG THE
 596 ARC OF SAID CURVE, HAVING A RADIUS OF 940.00 FEET, A
 597 CENTRAL ANGLE OF 30°08'55", AND A CHORD BEARING AND
 598 DISTANCE OF SOUTH 18°34'08" EAST 488.93 FEET TO A POINT OF
 599 REVERSE CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 238.04
 600 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF

601 1,060.00 FEET, A CENTRAL ANGLE OF 12°52'00", AND A CHORD
 602 BEARING AND DISTANCE OF SOUTH 27°12'36" EAST 237.54 FEET;
 603 THENCE SOUTH 20°46'36" EAST, A DISTANCE OF 207.01 FEET TO A
 604 POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 249.23 FEET
 605 ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 680.00
 606 FEET, A CENTRAL ANGLE OF 21°00'00", AND A CHORD BEARING AND
 607 DISTANCE OF SOUTH 10°16'36" EAST 247.84 FEET; THENCE SOUTH
 608 00°13'25" WEST, A DISTANCE OF 718.08 FEET TO THE POINT OF
 609 BEGINNING.
 610 CONTAINING 129.475 ACRES, MORE OR LESS.
 611 TOGETHER WITH NORTH RIVER RANCH - HAVAL FARMS:
 612 A TRACT OF LAND, BEING A PORTION OF MANATEE RIVER FARMS,
 613 UNIT 1, RECORDED IN PLAT BOOK 6, PAGE 45 OF THE PUBLIC
 614 RECORDS OF MANATEE COUNTY, FLORIDA, LYING IN SECTIONS 7, 8,
 615 9, 16, 17, 18, 19 AND 20, TOWNSHIP 33 SOUTH, RANGE 19 EAST,
 616 MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
 617 AS FOLLOWS:
 618
 619 BEGIN AT THE SOUTHWEST CORNER OF THE ABOVE-MENTIONED
 620 SECTION 7; THENCE N.00°13'29"E., ALONG THE WEST LINE OF
 621 SECTION 7, A DISTANCE OF 1,809.08 FEET; THENCE
 622 N.90°00'00"E., A DISTANCE OF 272.18 FEET TO THE POINT OF
 623 CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS 1,000.00
 624 FEET AND A CENTRAL ANGLE OF 48°54'32"; THENCE NORTHEASTERLY
 625 ALONG THE ARC OF SAID CURVE, A DISTANCE OF 853.62 FEET TO

626 THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT
 627 HAVING A RADIUS OF 1,962.46 FEET AND A CENTRAL ANGLE OF
 628 97°43'17"; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A
 629 DISTANCE OF 3,347.09 FEET TO THE POINT OF REVERSE CURVATURE
 630 OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,500.00 FEET AND
 631 A CENTRAL ANGLE OF 48°48'45"; THENCE SOUTHEASTERLY ALONG
 632 THE ARC OF SAID CURVE, A DISTANCE OF 1,277.91 FEET TO THE
 633 POINT OF TANGENCY OF SAID CURVE; THENCE N.90°00'00"E., A
 634 DISTANCE OF 1,220.57 FEET TO THE POINT OF CURVATURE OF A
 635 CURVE TO THE LEFT HAVING A RADIUS OF 1,100.00 FEET AND A
 636 CENTRAL ANGLE OF 49°18'03"; THENCE NORTHEASTERLY ALONG THE
 637 ARC OF SAID CURVE, A DISTANCE OF 946.51 FEET TO THE POINT
 638 OF REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A
 639 RADIUS OF 1,990.00 FEET AND A CENTRAL ANGLE OF 108°30'13";
 640 THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF
 641 3,768.56 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE
 642 TO THE LEFT HAVING A RADIUS OF 1,400.00 FEET AND A CENTRAL
 643 ANGLE OF 67°34'16"; THENCE SOUTHEASTERLY ALONG THE ARC OF
 644 SAID CURVE, A DISTANCE OF 1,651.07 FEET TO THE POINT OF
 645 REVERSE CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS
 646 OF 1,000.00 FEET AND A CENTRAL ANGLE OF 44°28'10"; THENCE
 647 EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 776.14
 648 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE
 649 S.53°53'56"E., A DISTANCE OF 509.73 FEET TO A POINT ON THE
 650 WESTERLY RIGHT-OF-WAY LINE OF U.S. 301; THENCE

651 S.36°06'04"W., A DISTANCE OF 1,512.28 FEET; THENCE
 652 N.89°59'54"W., A DISTANCE OF 4,022.59 FEET; THENCE
 653 S.27°47'24"W., A DISTANCE OF 1,049.93 FEET; THENCE
 654 N.68°30'43"W., A DISTANCE OF 1,332.96 FEET; THENCE
 655 N.00°11'16"E., A DISTANCE OF 383.27 FEET; THENCE
 656 N.89°43'15"W., A DISTANCE OF 719.63 FEET; THENCE
 657 S.00°35'38" W., A DISTANCE OF 2,551.98 FEET TO THE POINT OF
 658 CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS 795.00
 659 FEET AND A CENTRAL ANGLE OF 48°08'26"; THENCE SOUTHWESTERLY
 660 ALONG THE ARC OF SAID CURVE, A DISTANCE OF 667.97 FEET TO
 661 THE POINT OF TANGENCY OF SAID CURVE; THENCE S.48°44'04" W.,
 662 A DISTANCE OF 213.94 FEET TO THE POINT OF CURVATURE OF A
 663 CURVE TO THE LEFT HAVING A RADIUS 1,355.00 FEET AND A
 664 CENTRAL ANGLE OF 33°22'52"; THENCE SOUTHWESTERLY ALONG THE
 665 ARC OF SAID CURVE, A DISTANCE OF 789.44 FEET; THE FOLLOWING
 666 FIVE (5) CALLS ARE ALONG THE NORTHERLY LINE OF A SPECIFIC
 667 PURPOSE SURVEY FOR TRACT 300FL-MA-010.000, PREPARED BY
 668 WILLBROS ENGINEERS, INC., AND DATED OCTOBER 12, 2015: 1)
 669 S.89°39'18"E., A DISTANCE OF 85.64 FEET; 2) S.89°10'25"E.,
 670 A DISTANCE OF 187.79 FEET; 3) S.89°53'48"E., A DISTANCE OF
 671 1,364.36 FEET; 4) S.89°38'04"E., A DISTANCE OF 1,529.39
 672 FEET; 5) THENCE N.89°48'54"E., A DISTANCE OF 969.28 FEET TO
 673 A POINT ON THE WEST LINE OF PARCEL DEEDED TO PEOPLES GAS
 674 SYSTEM; THENCE S.00°02'24"W., ALONG THE WESTERLY LINE OF
 675 SAID PARCEL, A DISTANCE OF 35.27 FEET TO THE SOUTH WEST

676 CORNER OF SAID PARCEL; THENCE S.89°57'36"E., ALONG THE
 677 SOUTHERLY LINE OF SAID PARCEL, A DISTANCE OF 60.00 FEET TO
 678 A POINT ON A PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK
 679 2207, PAGE 6256, SAID PUBLIC RECORDS; THENCE ALONG SAID
 680 PARCEL FOR THE FOLLOWING TWO (2) CALLS; 1) S.00°02'21"W., A
 681 DISTANCE OF 24.79 FEET; 2) THENCE N.89°52'24"E., A DISTANCE
 682 OF 178.91 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF
 683 U.S. 301; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY LINE THE
 684 FOLLOWING THREE (3) COURSES: 1) S.36°06'04"W., A DISTANCE
 685 OF 472.43 FEET; 2) S.36°04'53"W., A DISTANCE OF 916.03 FEET
 686 TO THE P.C. OF A CURVE TO THE LEFT WHOSE RADIUS POINT LIES
 687 SOUTH 53°53'38"EAST, A DISTANCE OF 1977.86 FEET; 3)
 688 SOUTHERLY ALONG THE ARC OF SAID CURVE ALSO BEING SAID RIGHT
 689 OF WAY LINE, A DISTANCE OF 971.94 FEET THROUGH A CENTRAL
 690 ANGLE OF 28°09'21"; THENCE N.89°26'34"W., A DISTANCE OF
 691 1,282.99 FEET; THENCE S.00°06'08"E., A DISTANCE OF 1,300.10
 692 FEET; TO THE NORTHERLY RIGHT OF WAY LINE OF MOCCASIN WALLOW
 693 RD; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE
 694 THE FOLLOWING FIVE (5) COURSES: 1) N.88°54'18"W., A
 695 DISTANCE OF 1,334.91 FEET; 2) N.89°08'58"W., A DISTANCE OF
 696 2,271.84 FEET; 3) N.89°07'49"W., A DISTANCE OF 328.34 FEET;
 697 4) N.89°07'50"W., A DISTANCE OF 2,693.55 FEET; 5)
 698 N.88°01'42"W., A DISTANCE OF 16.92 FEET TO THE WEST LINE OF
 699 ABOVE-MENTIONED SECTION 19; THENCE N.00°08'36"E. ALONG SAID
 700 WEST LINE, A DISTANCE OF 2,578.91 FEET; THENCE

701 N.00°08'15"E. THE WEST LINE OF ABOVE-MENTIONED SECTION 18.,
 702 A DISTANCE OF 1,944.35 FEET; THENCE N.00°07'17"E. CONTINUE
 703 ALONG SAID WEST LINE, A DISTANCE OF 3,366.32 FEET TO THE
 704 POINT OF BEGINNING.
 705 CONTAINING 1,883.092 ACRES, MORE OR LESS.
 706 CONTAINING A TOTAL AREA OF 2,012.567 ACRES, MORE OR LESS.
 707 Being subject to any rights-of-way, restrictions, and
 708 easements of record.

709
 710 Section 5. Board of supervisors; members and meetings;
 711 organization; powers; duties; terms of office; related election
 712 requirements.—

713 (1) The board of the district shall exercise the powers
 714 granted to the district pursuant to this act. The board shall
 715 consist of five members, each of whom shall hold office for a
 716 term of 4 years, as provided in this section, except as
 717 otherwise provided herein for initial board members, and until a
 718 successor is chosen and qualified. The members of the board must
 719 be residents of the state and citizens of the United States.

720 (2) (a) Within 90 days after the effective date of this
 721 act, there shall be held a meeting of the landowners of the
 722 district for the purpose of electing five supervisors for the
 723 district. Notice of the landowners' meeting shall be published
 724 in a newspaper of general circulation in the general area of the
 725 district once a week for 2 consecutive weeks, the last day of

726 such publication to be not fewer than 14 days nor more than 28
727 days before the date of the election. The landowners, when
728 assembled at such meeting, shall organize by electing a chair,
729 who shall conduct the meeting. The chair may be any person
730 present at the meeting. If the chair is a landowner or proxy
731 holder of a landowner, he or she may nominate candidates and
732 make and second motions. The landowners present at the meeting,
733 in person or by proxy, shall constitute a quorum. At any
734 landowners' meeting, 50 percent of the district acreage is not
735 required to constitute a quorum, and each governing board member
736 elected by landowners shall be elected by a majority of the
737 acreage represented either by owner or proxy present and voting
738 at said meeting.

739 (b) At such meeting, each landowner shall be entitled to
740 cast one vote per acre of land owned by him or her and located
741 within the district for each person to be elected. A landowner
742 may vote in person or by proxy in writing. Each proxy must be
743 signed by one of the legal owners of the property for which the
744 vote is cast and must contain the typed or printed name of the
745 individual who signed the proxy; the street address, legal
746 description of the property, or tax parcel identification
747 number; and the number of authorized votes. If the proxy
748 authorizes more than one vote, each property must be listed and
749 the number of acres of each property must be included. The
750 signature on a proxy need not be notarized. A fraction of an

751 acre shall be treated as 1 acre, entitling the landowner to one
752 vote with respect thereto. The three candidates receiving the
753 highest number of votes shall each be elected for terms expiring
754 November 17, 2024, and the two candidates receiving the next
755 largest number of votes shall each be elected for terms expiring
756 November 20, 2022, with the term of office for each successful
757 candidate commencing upon election. The members of the first
758 board elected by landowners shall serve their respective terms;
759 however, the next election of board members shall be held on the
760 first Tuesday after the first Monday in November 2022.
761 Thereafter, there shall be an election by landowners for the
762 district every 2 years on the first Tuesday after the first
763 Monday in November, which shall be noticed pursuant to paragraph
764 (a). The second and subsequent landowners' election shall be
765 announced at a public meeting of the board at least 90 days
766 before the date of the landowners' meeting and shall also be
767 noticed pursuant to paragraph (a). Instructions on how all
768 landowners may participate in the election, along with sample
769 proxies, shall be provided during the board meeting that
770 announces the landowners' meeting. Each supervisor elected in or
771 after November 2020 shall serve a 4-year term.

772 (3) (a) 1. The board may not exercise the ad valorem taxing
773 power authorized by this act until such time as all members of
774 the board are qualified electors who are elected by qualified
775 electors of the district.

776 2.a. Regardless of whether the district has proposed to
777 levy ad valorem taxes, board members shall be elected by
778 qualified electors of the district as the district becomes
779 populated with qualified electors. The transition shall occur
780 such that the composition of the board, after the first general
781 election following a trigger of the qualified elector population
782 thresholds set forth below, shall be as follows:

783 (I) Once 3,463 qualified electors reside within the
784 district, one governing board member shall be a person who is a
785 qualified elector of the district and who was elected by the
786 qualified electors, and four governing board members shall be
787 persons who were elected by the landowners.

788 (II) Once 6,926 qualified electors reside within the
789 district, two governing board members shall be persons who are
790 qualified electors of the district and who were elected by the
791 qualified electors, and three governing board members shall be
792 persons elected by the landowners.

793 (III) Once 10,389 qualified electors reside within the
794 district, three governing board members shall be persons who are
795 qualified electors of the district and who were elected by the
796 qualified electors and two governing board members shall be
797 persons who were elected by the landowners.

798 (IV) Once 13,852 qualified electors reside within the
799 district, four governing board members shall be persons who are
800 qualified electors of the district and who were elected by the

801 qualified electors and one governing board member shall be a
802 person who was elected by the landowners.

803 (V) Once 15,000 qualified electors reside within the
804 district, all five governing board members shall be persons who
805 are qualified electors of the district and who were elected by
806 the qualified electors.

807
808 Nothing in this sub-subparagraph is intended to require an
809 election before the expiration of an existing board member's
810 term.

811 b. On or before June 1 of each election year, the board
812 shall determine the number of qualified electors in the district
813 as of the immediately preceding April 15. The board shall use
814 and rely upon the official records maintained by the supervisor
815 of elections and property appraiser or tax collector in Manatee
816 County in making this determination. Such determination shall be
817 made at a properly noticed meeting of the board and shall become
818 a part of the official minutes of the district.

819 c. All governing board members elected by qualified
820 electors shall be elected at large at an election occurring as
821 provided in subsection (2) and this subsection.

822 d. All governing board members elected by qualified
823 electors shall reside in the district.

824 e. Once the district qualifies to have any of its board
825 members elected by the qualified electors of the district, the

826 initial and all subsequent elections by the qualified electors
827 of the district shall be held at the general election in
828 November. The board shall adopt a resolution, if necessary, to
829 implement this requirement. The transition process described
830 herein is intended to be in lieu of the process set forth in s.
831 189.041, Florida Statutes.

832 (b) Elections of board members by qualified electors held
833 pursuant to this subsection shall be nonpartisan and shall be
834 conducted in the manner prescribed by general law for holding
835 general elections. Board members shall assume the office on the
836 second Tuesday following their election.

837 (c) Candidates seeking election to office by qualified
838 electors under this subsection shall conduct their campaigns in
839 accordance with chapter 106, Florida Statutes, and shall file
840 qualifying papers and qualify for individual seats in accordance
841 with s. 99.061, Florida Statutes.

842 (d) The supervisor of elections shall appoint the
843 inspectors and clerks of elections, prepare and furnish the
844 ballots, designate polling places, and canvass the returns of
845 the election of board members by qualified electors. The county
846 canvassing board shall declare and certify the results of the
847 election.

848 (4) Members of the board, regardless of how elected, shall
849 be public officers, shall be known as supervisors, and, upon
850 entering into office, shall take and subscribe to the oath of

851 office as prescribed by s. 876.05, Florida Statutes. Members of
852 the board shall be subject to ethics and conflict of interest
853 laws of the state that apply to all local public officers. They
854 shall hold office for the terms for which they were elected or
855 appointed and until their successors are chosen and qualified.
856 If, during the term of office, a vacancy occurs, the remaining
857 members of the board shall fill each vacancy by an appointment
858 for the remainder of the unexpired term.

859 (5) Any elected member of the board of supervisors may be
860 removed by the Governor for malfeasance, misfeasance,
861 dishonesty, incompetency, or failure to perform the duties
862 imposed upon him or her by this act, and any vacancies that may
863 occur in such office for such reasons shall be filled by the
864 Governor as soon as practicable.

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

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

876 (8) The board shall keep a permanent record book entitled
 877 "Record of Proceedings of North River Ranch Improvement
 878 Stewardship District," in which shall be recorded minutes of all
 879 meetings, resolutions, proceedings, certificates, bonds given by
 880 all employees, and any and all corporate acts. The record book
 881 and all other district records shall at reasonable times be
 882 opened to inspection in the same manner as state, county, and
 883 municipal records pursuant to chapter 119, Florida Statutes. The
 884 record book shall be kept at the office or other regular place
 885 of business maintained by the board in a designated location in
 886 Manatee County.

887 (9) Each supervisor may not be entitled to receive
 888 compensation for his or her services in excess of the limits
 889 established in s. 190.006(8), Florida Statutes, or any other
 890 provision of general law; however, each supervisor shall receive
 891 travel and per diem expenses as set forth in s. 112.061, Florida
 892 Statutes.

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

895 Section 6. Board of supervisors; general duties.-

896 (1) DISTRICT MANAGER AND EMPLOYEES.-The board shall employ
 897 and fix the compensation of a district manager, who shall have
 898 charge and supervision of the works of the district and shall be
 899 responsible for preserving and maintaining any improvement or
 900 facility constructed or erected pursuant to this act, for

901 maintaining and operating the equipment owned by the district,
 902 and for performing such other duties as may be prescribed by the
 903 board. It is not a conflict of interest or an abuse of public
 904 position under chapter 112, Florida Statutes, for a board
 905 member, the district manager, or another employee of the
 906 district to be a stockholder, officer, or employee of a
 907 landowner. The district manager may hire or otherwise employ and
 908 terminate the employment of such other persons, including,
 909 without limitation, professional, supervisory, and clerical
 910 employees, as may be necessary and authorized by the board. The
 911 compensation and other conditions of employment of the officers
 912 and employees of the district shall be as provided by the board.

913 (2) TREASURER.—The board shall designate a person who is a
 914 resident of the state as treasurer of the district, who shall
 915 have charge of the funds of the district. Such funds shall be
 916 disbursed only upon the order of or pursuant to a resolution of
 917 the board by warrant or check countersigned by the treasurer and
 918 by such other person as may be authorized by the board. The
 919 board may give the treasurer such other or additional powers and
 920 duties as the board may deem appropriate and may fix his or her
 921 compensation. The board may require the treasurer to give a bond
 922 in such amount, on such terms, and with such sureties as may be
 923 deemed satisfactory to the board to secure the performance by
 924 the treasurer of his or her powers and duties. The financial
 925 records of the board shall be audited by an independent

926 certified public accountant in accordance with the requirements
 927 of general law.

928 (3) PUBLIC DEPOSITORY.—The board is authorized to select
 929 as a depository for its funds any qualified public depository as
 930 defined in s. 280.02, Florida Statutes, which meets all the
 931 requirements of chapter 280, Florida Statutes, and has been
 932 designated by the treasurer as a qualified public depository
 933 upon such terms and conditions as to the payment of interest by
 934 such depository upon the funds so deposited as the board may
 935 deem just and reasonable.

936 (4) BUDGET; REPORTS AND REVIEWS.—

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

940 (b) On or before July 15 of each year, the district
 941 manager shall prepare a proposed budget for the ensuing fiscal
 942 year to be submitted to the board for board approval. The
 943 proposed budget shall include at the direction of the board an
 944 estimate of all necessary expenditures of the district for the
 945 ensuing fiscal year and an estimate of income to the district
 946 from the taxes and assessments provided in this act. The board
 947 shall consider the proposed budget item by item and may either
 948 approve the budget as proposed by the district manager or modify
 949 the same in part or in whole. The board shall indicate its
 950 approval of the budget by resolution, which resolution shall

951 provide for a hearing on the budget as approved. Notice of the
952 hearing on the budget shall be published in a newspaper of
953 general circulation in the general area of the district once a
954 week for 2 consecutive weeks, except that the first publication
955 shall be no fewer than 15 days before the date of the hearing.
956 The notice shall further contain a designation of the day, time,
957 and place of the public hearing. At the day, time, and place
958 designated in the notice, the board shall hear all objections to
959 the budget as proposed and may make such changes as the board
960 deems necessary. At the conclusion of the budget hearing, the
961 board shall, by resolution, adopt the budget as finally approved
962 by the board. The budget shall be adopted before October 1 of
963 each year.

964 (c) At least 60 days before adoption, the board of
965 supervisors of the district shall submit to the Board of County
966 Commissioners of Manatee County, for purposes of disclosure and
967 information only, the proposed annual budget for the ensuing
968 fiscal year, and the board of county commissioners may submit
969 written comments to the board of supervisors solely for the
970 assistance and information of the board of supervisors in
971 adopting its annual district budget.

972 (d) The board of supervisors shall submit annually a
973 public facilities report to the Board of County Commissioners of
974 Manatee County pursuant to s. 189.08, Florida Statutes. The
975 board of county commissioners may use and rely on the district's

976 public facilities report in the preparation or revision of the
 977 Manatee County comprehensive plan.

978 (5) DISCLOSURE OF PUBLIC INFORMATION; WEB-BASED PUBLIC
 979 ACCESS.—The district shall take affirmative steps to provide for
 980 the full disclosure of information relating to the public
 981 financing and maintenance of improvements to real property
 982 undertaken by the district. Such information shall be made
 983 available to all existing and prospective residents of the
 984 district. The district shall furnish each developer of a
 985 residential development within the district with sufficient
 986 copies of that information to provide each prospective initial
 987 purchaser of property in that development with a copy; and any
 988 developer of a residential development within the district, when
 989 required by general law to provide a public offering statement,
 990 shall include a copy of such information relating to the public
 991 financing and maintenance of improvements in the public offering
 992 statement. The district shall file the disclosure documents
 993 required by this subsection and any amendments thereto in the
 994 property records of each county in which the district is
 995 located. By the end of the first full fiscal year of the
 996 district's creation, the district shall maintain an official
 997 Internet website in accordance with s. 189.069, Florida
 998 Statutes.

999 (6) GENERAL POWERS.—The district shall have, and the board
 1000 may exercise, the following general powers:

1001 (a) To sue and be sued in the name of the district; to
 1002 adopt and use a seal and authorize the use of a facsimile
 1003 thereof; to acquire, by purchase, gift, devise, or otherwise,
 1004 and to dispose of, real and personal property, or any estate
 1005 therein; and to make and execute contracts and other instruments
 1006 necessary or convenient to the exercise of its powers.

1007 (b) To apply for coverage of its employees under the
 1008 Florida Retirement System in the same manner as if such
 1009 employees were state employees.

1010 (c) To contract for the services of consultants to perform
 1011 planning, engineering, legal, or other appropriate services of a
 1012 professional nature. Such contracts shall be subject to public
 1013 bidding or competitive negotiation requirements as set forth in
 1014 general law applicable to independent special districts.

1015 (d) To borrow money and accept gifts; to apply for and use
 1016 grants or loans of money or other property from the United
 1017 States, the state, a unit of local government, or any person for
 1018 any district purposes and enter into agreements required in
 1019 connection therewith; and to hold, use, and dispose of such
 1020 moneys or property for any district purposes in accordance with
 1021 the terms of the gift, grant, loan, or agreement relating
 1022 thereto.

1023 (e) To adopt and enforce rules and orders pursuant to
 1024 chapter 120, Florida Statutes, prescribing the powers, duties,
 1025 and functions of the officers of the district; the conduct of

1026 the business of the district; the maintenance of the records of
 1027 the district; and the form of certificates evidencing tax liens
 1028 of the district and all other documents and records of the
 1029 district. The board may also adopt and enforce administrative
 1030 rules with respect to any of the projects of the district and
 1031 define the area to be included therein. The board may also adopt
 1032 resolutions which may be necessary for the conduct of district
 1033 business.

1034 (f) To maintain an office at such place or places as the
 1035 board of supervisors designates in Manatee County and within the
 1036 district when facilities are available.

1037 (g) To hold, control, and acquire by donation, purchase,
 1038 or condemnation, or dispose of, any public easements,
 1039 dedications to public use, platted reservations for public
 1040 purposes, or any reservations for those purposes authorized by
 1041 this act and to make use of such easements, dedications, or
 1042 reservations for the purposes authorized by this act.

1043 (h) To lease as lessor or lessee to or from any person,
 1044 firm, corporation, association, or body, public or private, any
 1045 projects of the type that the district is authorized to
 1046 undertake and facilities or property of any nature for the use
 1047 of the district to carry out the purposes authorized by this
 1048 act.

1049 (i) To borrow money and issue bonds, certificates,
 1050 warrants, notes, or other evidence of indebtedness as provided

1051 herein; to levy such taxes and assessments as may be authorized;
 1052 and to charge, collect, and enforce fees and other user charges.

1053 (j) To raise, by user charges or fees authorized by
 1054 resolution of the board, amounts of money which are necessary
 1055 for the conduct of district activities and services and to
 1056 enforce their receipt and collection in the manner prescribed by
 1057 resolution not inconsistent with general law.

1058 (k) To exercise all powers of eminent domain now or
 1059 hereafter conferred on counties in this state; provided,
 1060 however, that such power of eminent domain may not be exercised
 1061 outside the territorial limits of the district unless the
 1062 district receives prior approval by vote of a resolution of the
 1063 governing body of the county if the taking will occur in an
 1064 unincorporated area in that county, or the governing body of the
 1065 city if the taking will occur in an incorporated area. The
 1066 district does not have the power to exercise eminent domain over
 1067 municipal, county, state, or federal property. The powers
 1068 hereinabove granted to the district shall be so construed to
 1069 enable the district to fulfill the objects and purposes of the
 1070 district as set forth in this act.

1071 (l) To cooperate with, or contract with, other
 1072 governmental agencies as may be necessary, convenient,
 1073 incidental, or proper in connection with any of the powers,
 1074 duties, or purposes authorized by this act.

1075 (m) To assess and to impose upon lands in the district ad

1076 valorem taxes as provided by this act.

1077 (n) If and when authorized by general law, to determine,

1078 order, levy, impose, collect, and enforce maintenance taxes.

1079 (o) To determine, order, levy, impose, collect, and

1080 enforce assessments pursuant to this act and chapter 170,

1081 Florida Statutes, pursuant to authority granted in s. 197.3631,

1082 Florida Statutes, or pursuant to other provisions of general law

1083 now or hereinafter enacted which provide or authorize a

1084 supplemental means to order, levy, impose, or collect special

1085 assessments. Such special assessments, at the discretion of the

1086 district, may be collected and enforced pursuant to ss. 197.3632

1087 and 197.3635, Florida Statutes, and chapters 170 and 173,

1088 Florida Statutes, as they may be amended from time to time, or

1089 as provided by this act, or by other means authorized by general

1090 law now or hereinafter enacted. The district may levy such

1091 special assessments for the purposes provided in this act and to

1092 pay special assessments imposed by Manatee County on lands

1093 within the district.

1094 (p) To exercise such special powers and other express

1095 powers as may be authorized and granted by this act in the

1096 charter of the district, including powers as provided in any

1097 interlocal agreement entered into pursuant to chapter 163,

1098 Florida Statutes, or which shall be required or permitted to be

1099 undertaken by the district pursuant to any development order,

1100 including any detailed specific area plan development order, or

1101 any interlocal service agreement with Manatee County for fair-
 1102 share capital construction funding for any certain capital
 1103 facilities or systems required of a developer pursuant to any
 1104 applicable development order or agreement.

1105 (q) To exercise all of the powers necessary, convenient,
 1106 incidental, or proper in connection with any other powers or
 1107 duties or the special and limited purpose of the district
 1108 authorized by this act.

1109
 1110 This subsection shall be construed liberally in order to
 1111 effectively carry out the special and limited purpose of this
 1112 act.

1113 (7) SPECIAL POWERS.—The district shall have, and the board
 1114 may exercise, the following special powers to implement its
 1115 lawful and special purpose and to provide, pursuant to that
 1116 purpose, systems, facilities, services, improvements, projects,
 1117 works, and infrastructure, each of which constitutes a lawful
 1118 public purpose when exercised pursuant to this charter, subject
 1119 to, and not inconsistent with, general law regarding utility
 1120 providers' territorial and service agreements; the regulatory
 1121 jurisdiction and permitting authority of all other applicable
 1122 governmental bodies, agencies, and any special districts having
 1123 authority with respect to any area included therein; and to
 1124 plan, establish, acquire, construct or reconstruct, enlarge or
 1125 extend, equip, operate, finance, fund, and maintain

1126 improvements, systems, facilities, services, works, projects,
1127 and infrastructure. Any or all of the following special powers
1128 are granted by this act in order to implement the special and
1129 limited purpose of the district but do not constitute
1130 obligations to undertake such improvements, systems, facilities,
1131 services, works, projects, or infrastructure:

1132 (a) To provide water management and control for the lands
1133 within the district, including irrigation systems and
1134 facilities, and to connect some or any of such facilities with
1135 roads and bridges. In the event that the board assumes the
1136 responsibility for providing water management and control for
1137 the district which is to be financed by benefit special
1138 assessments, the board shall adopt plans and assessments
1139 pursuant to general law or may proceed to adopt water management
1140 and control plans, assess for benefits, and apportion and levy
1141 special assessments as follows:

1142 1. The board shall cause to be made by the district's
1143 engineer, or such other engineer or engineers as the board may
1144 employ for that purpose, complete and comprehensive water
1145 management and control plans for the lands located within the
1146 district that will be improved in any part or in whole by any
1147 system of facilities that may be outlined and adopted, and the
1148 engineer shall make a report in writing to the board with maps
1149 and profiles of said surveys and an estimate of the cost of
1150 carrying out and completing the plans.

1151 2. Upon the completion of such plans, the board shall hold
1152 a hearing thereon to hear objections thereto, shall give notice
1153 of the time and place fixed for such hearing by publication in a
1154 newspaper of general circulation in the general area of the
1155 district once a week for 2 consecutive weeks, and shall permit
1156 the inspection of the plan at the office of the district by all
1157 persons interested. All objections to the plan shall be filed at
1158 or before the time fixed in the notice for the hearing and shall
1159 be in writing.

1160 3. After the hearing, the board shall consider the
1161 proposed plan and any objections thereto and may modify, reject,
1162 or adopt the plan or continue the hearing until a day certain
1163 for further consideration of the proposed plan or modifications
1164 thereof.

1165 4. When the board approves a plan, a resolution shall be
1166 adopted and a certified copy thereof shall be filed in the
1167 office of the secretary and incorporated by him or her into the
1168 records of the district.

1169 5. The water management and control plan may be altered in
1170 detail from time to time until the engineer's report pursuant to
1171 s. 298.301, Florida Statutes, is filed, but not in such manner
1172 as to materially affect the conditions of its adoption. After
1173 the engineer's report has been filed, the plan may not be
1174 altered except as provided by this act.

1175 6. Within 20 days after the final adoption of the plan by

1176 the board, the board shall proceed pursuant to s. 298.301,
1177 Florida Statutes.

1178 (b) To provide water supply, sewer, wastewater, and
1179 reclaimed water management, reclamation, and reuse, or any
1180 combination thereof, and any irrigation systems, facilities, and
1181 services and to construct and operate water systems, sewer
1182 systems, irrigation systems, and reclaimed water systems such as
1183 connecting intercepting or outlet sewers and sewer mains and
1184 pipes and water mains, conduits, or pipelines in, along, and
1185 under any street, alley, highway, or other public place or way,
1186 and to dispose of any water, effluent, residue, or other
1187 byproduct of such water system, sewer system, irrigation system
1188 or reclaimed water system and to enter into interlocal
1189 agreements and other agreements with public or private entities
1190 for the same.

1191 (c) To provide any necessary bridges, culverts, wildlife
1192 corridors, or road crossings across any drain, ditch, canal,
1193 floodway, holding basin, excavation, public highway, tract,
1194 grade, fill, or cut and roadways over levees and embankments,
1195 and to construct any and all of such works and improvements
1196 across, through, or over any public right-of way, highway,
1197 grade, fill, or cut.

1198 (d) To provide district or other roads equal to or
1199 exceeding the specifications of the county in which such
1200 district or other roads are located, and to provide street

1201 lighting. This special power includes, but is not limited to,
 1202 roads, parkways, intersections, bridges, landscaping,
 1203 hardscaping, irrigation, bicycle lanes, sidewalks, jogging
 1204 paths, multiuse pathways and trails, street lighting, traffic
 1205 signals, regulatory or informational signage, road striping,
 1206 underground conduit, underground cable or fiber or wire
 1207 installed pursuant to an agreement with or tariff of a retail
 1208 provider of services, and all other customary elements of a
 1209 functioning modern road system in general or as tied to the
 1210 conditions of development approval for the area within and
 1211 without the district, and parking facilities that are
 1212 freestanding or that may be related to any innovative strategic
 1213 intermodal system of transportation pursuant to applicable
 1214 federal, state, and local laws and ordinances.

1215 (e) To provide buses, trolleys, rail access, mass transit
 1216 facilities, transit shelters, ridesharing facilities and
 1217 services, parking improvements, and related signage.

1218 (f) To provide investigation and remediation costs
 1219 associated with the cleanup of actual or perceived environmental
 1220 contamination within the district under the supervision or
 1221 direction of a competent governmental authority unless the
 1222 covered costs benefit any person who is a landowner within the
 1223 district and who caused or contributed to the contamination.

1224 (g) To provide observation, mitigation, wetland creation,
 1225 and wildlife habitat areas, including the maintenance of any

1226 plant or animal species, and any related interest in real or
 1227 personal property.

1228 (h) Using its general and special powers as set forth in
 1229 this act, to provide any other project within or without the
 1230 boundaries of the district when the project is the subject of an
 1231 agreement between the district and the Board of County
 1232 Commissioners of Manatee County or with any other applicable
 1233 public or private entity and is not inconsistent with the
 1234 effective local comprehensive plans.

1235 (i) To provide parks and facilities for indoor and outdoor
 1236 recreational, cultural, and educational uses.

1237 (j) To provide school buildings and related structures,
 1238 which may be leased, sold, or donated to the school district,
 1239 for use in the educational system when authorized by the
 1240 district school board.

1241 (k) To provide security, including electronic intrusion-
 1242 detection systems and patrol cars, when authorized by proper
 1243 governmental agencies, and to contract with the appropriate
 1244 local general-purpose government agencies for an increased level
 1245 of such services within the district boundaries.

1246 (l) To provide control and elimination of mosquitoes and
 1247 other arthropods of public health importance.

1248 (m) To enter into impact fee, mobility fee, or other
 1249 similar credit agreements with Manatee County or other
 1250 governmental bodies or a landowner developer and to sell or

1251 assign such credits on such terms as the district deems
 1252 appropriate.

1253 (n) To provide buildings and structures for district
 1254 offices, maintenance facilities, meeting facilities, town
 1255 centers, or any other projects authorized or granted by this
 1256 act.

1257 (o) To establish and create, at noticed meetings, such
 1258 departments of the board of supervisors of the district, as well
 1259 as committees, task forces, boards, or commissions, or other
 1260 agencies under the supervision and control of the district, as
 1261 from time to time the members of the board may deem necessary or
 1262 desirable in the performance of the acts or other things
 1263 necessary to exercise the board's general or special powers to
 1264 implement an innovative project to carry out the special and
 1265 limited purpose of the district as provided in this act and to
 1266 delegate the exercise of its powers to such departments, boards,
 1267 task forces, committees, or other agencies, and such
 1268 administrative duties and other powers as the board may deem
 1269 necessary or desirable, but only if there is a set of expressed
 1270 limitations for accountability, notice, and periodic written
 1271 reporting to the board that shall retain the powers of the
 1272 board.

1273 (p) To provide electrical, sustainable, or green
 1274 infrastructure improvements, facilities, and services,
 1275 including, but not limited to, recycling of natural resources,

1276 reduction of energy demands, development and generation of
 1277 alternative or renewable energy sources and technologies,
 1278 mitigation of urban heat islands, sequestration, capping or
 1279 trading of carbon emissions or carbon emissions credits, LEED or
 1280 Florida Green Building Coalition certification, and development
 1281 of facilities and improvements for low-impact development; to
 1282 enter into joint ventures, public-private partnerships, and
 1283 other agreements; and to grant such easements as may be
 1284 necessary to accomplish the foregoing. Nothing herein shall
 1285 authorize the district to provide electric service to retail
 1286 customers or otherwise act to impair electric utility franchise
 1287 agreements.

1288 (q) To provide for any facilities or improvements that may
 1289 otherwise be provided for by any county or municipality,
 1290 including, but not limited to, libraries, annexes, substations,
 1291 and other buildings to house public officials, staff, and
 1292 employees.

1293 (r) To provide waste collection and disposal.

1294 (s) To provide for the construction and operation of
 1295 communications systems and related infrastructure for the
 1296 carriage and distribution of communications services; to enter
 1297 into joint ventures, public-private partnerships, and other
 1298 agreements; and to grant such easements as may be necessary to
 1299 accomplish the foregoing. For purposes of this paragraph,
 1300 communications systems means all facilities, buildings,

1301 equipment, items, and methods necessary or desirable in order to
 1302 provide communications services, including, without limitation,
 1303 wires, cables, conduits, wireless cell sites, computers, modems,
 1304 satellite antennae sites, transmission facilities, network
 1305 facilities, and appurtenant devices necessary and appropriate to
 1306 support the provision of communications services. Communications
 1307 services includes, without limitation, Internet, voice
 1308 telephone, or similar services provided by voice over Internet
 1309 protocol, cable television, data transmission services,
 1310 electronic security monitoring services, and multi-channel video
 1311 programming distribution services. Nothing herein shall
 1312 authorize the district to provide communications services to
 1313 retail customers or otherwise act to impair existing service
 1314 provider franchise agreements. However, the district may
 1315 contract with such providers for resale purposes.

1316 (t) To provide health care facilities and to enter into
 1317 public-private partnerships and agreements as may be necessary
 1318 to accomplish the foregoing.

1319 (u) To coordinate, work with, and, as the board deems
 1320 appropriate, enter into interlocal agreements with any public or
 1321 private entity for the provision of an institution or
 1322 institutions of higher education.

1323 (v) To coordinate, work with, and, as the board deems
 1324 appropriate, enter into public-private partnerships and
 1325 agreements as may be necessary or useful to effectuate the

1326 purposes of this act.

1327

1328 The special powers provided in this act may not be deemed
 1329 exclusive or restrictive but shall be deemed to incorporate all
 1330 powers express or implied necessary or incident to carrying out
 1331 such special powers, including the general powers provided by
 1332 this act to the district to implement its purposes. This
 1333 subsection shall be construed liberally in order to effectively
 1334 carry out the special and limited purpose of the district under
 1335 this act.

1336 (8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to
 1337 the other powers provided for in this act, and not in limitation
 1338 thereof, the district shall have the power, at any time and from
 1339 time to time after the issuance of any bonds of the district are
 1340 authorized, to borrow money for the purposes for which such
 1341 bonds are to be issued in anticipation of the receipt of the
 1342 proceeds of the sale of such bonds and to issue bond
 1343 anticipation notes in a principal sum not in excess of the
 1344 authorized maximum amount of such bond issue. Such notes shall
 1345 be in such denomination or denominations, bear interest at such
 1346 rate as the board may determine, not to exceed the maximum rate
 1347 allowed by general law, mature at such time or times not later
 1348 than 5 years after the date of issuance, and be in such form and
 1349 executed in such manner as the board shall prescribe. Such notes
 1350 may be sold at either public or private sale or, if such notes

1351 shall be renewal notes, may be exchanged for notes then
 1352 outstanding on such terms as the board shall determine. Such
 1353 notes shall be paid from the proceeds of such bonds when issued.
 1354 The board may, in its discretion, in lieu of retiring the notes
 1355 by means of bonds, retire them by means of current revenues or
 1356 from any taxes or assessments levied for the payment of such
 1357 bonds, but, in such event, a like amount of the bonds authorized
 1358 may not be issued.

1359 (9) BORROWING.—The district at any time may obtain loans,
 1360 in such amount and on such terms and conditions as the board may
 1361 approve, for the purpose of paying any of the expenses of the
 1362 district or any costs incurred or that may be incurred in
 1363 connection with any of the projects of the district, which loans
 1364 shall bear such interest as the board determines, not to exceed
 1365 the maximum rate allowed by general law, and may be payable from
 1366 and secured by a pledge of such funds, revenues, taxes, and
 1367 assessments as the board may determine; provided, however, that
 1368 the provisions contained in any proceeding under which bonds
 1369 were theretofore issued and are then outstanding. For the
 1370 purpose of defraying such costs and expenses, the district may
 1371 issue negotiable notes, warrants, or other evidences of debt to
 1372 be payable at such times and to bear such interest as the board
 1373 may determine, not to exceed the maximum rate allowed by general
 1374 law, and to be sold or discounted at such price or prices not
 1375 less than 95 percent of par value and on such terms as the board

1376 may deem advisable. The board shall have the right to provide
 1377 for the payment thereof by pledging the whole or any part of the
 1378 funds, revenues, taxes, and assessments of the district or by
 1379 covenanting to budget and appropriate from such funds. The
 1380 approval of the electors residing in the district is only
 1381 necessary when required by the State Constitution.

1382 (10) BONDS.—

1383 (a) Sale of bonds.—Bonds may be sold in blocks or
 1384 installments at different times, or an entire issue or series
 1385 may be sold at one time. Bonds may be sold at public or private
 1386 sale after such advertisement, if any, as the board may deem
 1387 advisable, but not in any event at less than 90 percent of the
 1388 par value thereof, together with accrued interest thereon. Bonds
 1389 may be sold or exchanged for refunding bonds. Special assessment
 1390 and revenue bonds may be delivered by the district as payment of
 1391 the purchase price of any project or part thereof, or a
 1392 combination of projects or parts thereof, or as the purchase
 1393 price or exchange for any property, real, personal, or mixed,
 1394 including franchises or services rendered by any contractor,
 1395 engineer, or other person, all at one time or in blocks from
 1396 time to time, in such manner and upon such terms as the board at
 1397 its discretion shall determine. The price or prices for any
 1398 bonds sold, exchanged, or delivered may be:

- 1399 1. The money paid for the bonds.
- 1400 2. The principal amount, plus accrued interest to the date

1401 of redemption or exchange, or outstanding obligations exchanged
 1402 for refunding bonds.

1403 3. In the case of special assessment or revenue bonds, the
 1404 amount of any indebtedness to contractors or other persons paid
 1405 with such bonds, or the fair value of any properties exchanged
 1406 for the bonds, as determined by the board.

1407 (b) Authorization and form of bonds.—Any general
 1408 obligation bonds, special assessment bonds, or revenue bonds may
 1409 be authorized by resolution or resolutions of the board which
 1410 shall be adopted by a majority of all the members thereof then
 1411 in office. Such resolution or resolutions may be adopted at the
 1412 same meeting at which they are introduced and need not be
 1413 published or posted. The board may, by resolution, authorize the
 1414 issuance of bonds and fix the aggregate amount of bonds to be
 1415 issued; the purpose or purposes for which the moneys derived
 1416 therefrom shall be expended, including, but not limited to,
 1417 payment of costs as defined in section 3; the rate or rates of
 1418 interest, not to exceed the maximum rate allowed by general law;
 1419 the denomination of the bonds; whether the bonds are to be
 1420 issued in one or multiple series; the date or dates of maturity,
 1421 which may not exceed 40 years after their respective dates of
 1422 issuance; the medium of payment; the place or places within or
 1423 without the state at which payment shall be made; registration
 1424 privileges; redemption terms and privileges, whether with or
 1425 without premium; the manner of execution; the form of the bonds,

1426 including any interest coupons to be attached thereto; the
1427 manner of execution of bonds and coupons; and any and all other
1428 terms, covenants, and conditions thereof and the establishment
1429 of revenue or other funds. Such authorizing resolution or
1430 resolutions may further provide for the contracts authorized by
1431 s. 159.825(1)(f) and (g), Florida Statutes, regardless of the
1432 tax treatment of such bonds being authorized, subject to the
1433 finding by the board of a net saving to the district resulting
1434 by reason thereof. Such authorizing resolution may further
1435 provide that such bonds may be executed in accordance with the
1436 Registered Public Obligations Act, except that bonds not issued
1437 in registered form shall be valid if manually countersigned by
1438 an officer designated by appropriate resolution of the board.
1439 The seal of the district may be affixed, lithographed, engraved,
1440 or otherwise reproduced in facsimile on such bonds. In case any
1441 officer whose signature shall appear on any bonds or coupons
1442 shall cease to be such officer before the delivery of such
1443 bonds, such signature or facsimile shall nevertheless be valid
1444 and sufficient for all purposes as if he or she had remained in
1445 office until such delivery.

1446 (c) Interim certificates; replacement certificates.-
1447 Pending the preparation of definitive bonds, the board may issue
1448 interim certificates or receipts or temporary bonds, in such
1449 form and with such provisions as the board may determine,
1450 exchangeable for definitive bonds when such bonds have been

1451 executed and are available for delivery. The board may also
1452 provide for the replacement of any bonds which become mutilated,
1453 lost, or destroyed.

1454 (d) Negotiability of bonds.—Any bond issued under this act
1455 or any temporary bond, in the absence of an express recital on
1456 the face thereof that it is nonnegotiable, shall be fully
1457 negotiable and shall be and constitute a negotiable instrument
1458 within the meaning and for all purposes of the law merchant and
1459 general law.

1460 (e) Defeasance.—The board may make such provision with
1461 respect to the defeasance of the right, title, and interest of
1462 the holders of any of the bonds and obligations of the district
1463 in any revenues, funds, or other properties by which such bonds
1464 are secured as the board deems appropriate and, without
1465 limitation on the foregoing, may provide that when such bonds or
1466 obligations become due and payable or shall have been called for
1467 redemption and the whole amount of the principal and interest
1468 and premium, if any, due and payable upon the bonds or
1469 obligations then outstanding shall be held in trust for such
1470 purpose, and provision shall also be made for paying all other
1471 sums payable in connection with such bonds or other obligations,
1472 and in such event the right, title, and interest of the holders
1473 of the bonds in any revenues, funds, or other properties by
1474 which such bonds are secured shall thereupon cease, terminate,
1475 and become void; and the board may apply any surplus in any

1476 sinking fund established in connection with such bonds or
 1477 obligations and all balances remaining in all other funds or
 1478 accounts other than moneys held for the redemption or payment of
 1479 the bonds or other obligations to any lawful purpose of the
 1480 district as the board shall determine.

1481 (f) Issuance of additional bonds.—If the proceeds of any
 1482 bonds are less than the cost of completing the project in
 1483 connection with which such bonds were issued, the board may
 1484 authorize the issuance of additional bonds, upon such terms and
 1485 conditions as the board may provide in the resolution
 1486 authorizing the issuance thereof, but only in compliance with
 1487 the resolution or other proceedings authorizing the issuance of
 1488 the original bonds.

1489 (g) Refunding bonds.—The district is authorized to issue
 1490 bonds to provide for the retirement or refunding of any bonds or
 1491 obligations of the district that at the time of such issuance
 1492 are or subsequent thereto become due and payable, or that at the
 1493 time of issuance have been called or are, or will be, subject to
 1494 call for redemption within 10 years thereafter, or the surrender
 1495 of which can be procured from the holders thereof at prices
 1496 satisfactory to the board. Refunding bonds may be issued at any
 1497 time that in the judgment of the board such issuance will be
 1498 advantageous to the district. Approval of the qualified electors
 1499 residing in the district is not required for the issuance of
 1500 refunding bonds except in cases in which such approval is

1501 required by the State Constitution. The board may by resolution
 1502 confer upon the holders of such refunding bonds all rights,
 1503 powers, and remedies to which the holders would be entitled if
 1504 they continued to be the owners and had possession of the bonds
 1505 for the refinancing of which such refunding bonds are issued,
 1506 including, but not limited to, the preservation of the lien of
 1507 such bonds on the revenues of any project or on pledged funds,
 1508 without extinguishment, impairment, or diminution thereof. The
 1509 provisions of this act relating to bonds of the district shall,
 1510 unless the context otherwise requires, govern the issuance of
 1511 refunding bonds, the form and other details thereof, the rights
 1512 of the holders thereof, and the duties of the board with respect
 1513 to such bonds.

1514 (h) Revenue bonds.—

1515 1. The district shall have the power to issue revenue
 1516 bonds from time to time without limitation as to amount. Such
 1517 revenue bonds may be secured by, or payable from, the gross or
 1518 net pledge of the revenues to be derived from any project or
 1519 combination of projects; from the rates, fees, or other charges
 1520 to be collected from the users of any project or projects; from
 1521 any revenue-producing undertaking or activity of the district;
 1522 from special assessments; from benefit special assessments; or
 1523 from any other source or pledged security. Such bonds do not
 1524 constitute an indebtedness of the district and the approval of
 1525 the qualified electors is not required unless such bonds are

1526 additionally secured by the full faith and credit and taxing
 1527 power of the district.

1528 2. Any two or more projects may be combined and
 1529 consolidated into a single project and may hereafter be operated
 1530 and maintained as a single project. The revenue bonds authorized
 1531 herein may be issued to finance any one or more of such
 1532 projects, regardless of whether such projects have been combined
 1533 and consolidated into a single project. If the board deems it
 1534 advisable, the proceedings authorizing such revenue bonds may
 1535 provide that the district may thereafter combine the projects
 1536 then being financed or theretofore financed with other projects
 1537 to be subsequently financed by the district and that revenue
 1538 bonds to be thereafter issued by the district shall be on parity
 1539 with the revenue bonds then being issued, all on such terms,
 1540 conditions, and limitations as shall have been provided in the
 1541 proceeding which authorized the original bonds.

1542 (i) General obligation bonds.—

1543 1. Subject to the limitations of this charter, the
 1544 district shall have the power to issue general obligation bonds
 1545 to finance or refinance capital projects or to refund
 1546 outstanding bonds in an aggregate principal amount of bonds
 1547 outstanding at any one time not in excess of 35 percent of the
 1548 assessed value of the taxable property within the district as
 1549 shown on the pertinent tax records at the time of the
 1550 authorization of the general obligation bonds for which the full

1551 faith and credit of the district is pledged. Except for
 1552 refunding bonds, general obligation bonds may not be issued
 1553 unless the bonds are issued to finance or refinance a capital
 1554 project and the issuance has been approved at an election held
 1555 in accordance with the requirements for such election as
 1556 prescribed by the State Constitution. Such elections shall be
 1557 called to be held in the district by the Board of County
 1558 Commissioners of Manatee County upon the request of the board of
 1559 the district. The expenses of calling and holding an election
 1560 shall be at the expense of the district and the district shall
 1561 reimburse the county for any expenses incurred in calling or
 1562 holding such election.

1563 2. The district may pledge its full faith and credit for
 1564 the payment of the principal and interest on such general
 1565 obligation bonds and for any reserve funds provided therefor and
 1566 may unconditionally and irrevocably pledge itself to levy ad
 1567 valorem taxes on all taxable property in the district, to the
 1568 extent necessary for the payment thereof, without limitation as
 1569 to rate or amount.

1570 3. If the board determines to issue general obligation
 1571 bonds for more than one capital project, the approval of the
 1572 issuance of the bonds for each and all such projects may be
 1573 submitted to the electors on one ballot. The failure of the
 1574 electors to approve the issuance of bonds for any one or more
 1575 capital projects does not defeat the approval of bonds for any

1576 capital project which has been approved by the electors.
 1577 4. In arriving at the amount of general obligation bonds
 1578 permitted to be outstanding at any one time pursuant to
 1579 subparagraph 1., there may not be included any general
 1580 obligation bonds that are additionally secured by the pledge of:
 1581 a. Any assessments levied in an amount sufficient to pay
 1582 the principal and interest on the general obligation bonds so
 1583 additionally secured, which assessments have been equalized and
 1584 confirmed by resolution of the board pursuant to this act or s.
 1585 170.08, Florida Statutes.
 1586 b. Water revenues, sewer revenues, or water and sewer
 1587 revenues of the district to be derived from user fees in an
 1588 amount sufficient to pay the principal and interest on the
 1589 general obligation bonds so additionally secured.
 1590 c. Any combination of assessments and revenues described
 1591 in sub-subparagraphs a. and b.
 1592 (j) Bonds as legal investment or security.—
 1593 1. Notwithstanding any other provision of law to the
 1594 contrary, all bonds issued under this act shall constitute legal
 1595 investments for savings banks, banks, trust companies, insurance
 1596 companies, executors, administrators, trustees, guardians, and
 1597 other fiduciaries and for any board, body, agency,
 1598 instrumentality, county, municipality, or other political
 1599 subdivision of the state and shall be and constitute security
 1600 which may be deposited by banks or trust companies as security

1601 for deposits of state, county, municipal, or other public funds
1602 or by insurance companies as required or voluntary statutory
1603 deposits.

1604 2. Any bonds issued by the district shall be incontestable
1605 in the hands of bona fide purchasers or holders for value and
1606 are not invalid because of any irregularity or defect in the
1607 proceedings for the issue and sale thereof.

1608 (k) Covenants.—Any resolution authorizing the issuance of
1609 bonds may contain such covenants as the board may deem
1610 advisable, and all such covenants shall constitute valid and
1611 legally binding and enforceable contracts between the district
1612 and the bondholders, regardless of the time of issuance thereof.
1613 Such covenants may include, without limitation, covenants
1614 concerning the disposition of the bond proceeds; the use and
1615 disposition of project revenues; the pledging of revenues,
1616 taxes, and assessments; the obligations of the district with
1617 respect to the operation of the project and the maintenance of
1618 adequate project revenues; the issuance of additional bonds; the
1619 appointment, powers, and duties of trustees and receivers; the
1620 acquisition of outstanding bonds and obligations; restrictions
1621 on the establishment of competing projects or facilities;
1622 restrictions on the sale or disposal of the assets and property
1623 of the district; the priority of assessment liens; the priority
1624 of claims by bondholders on the taxing power of the district;
1625 the maintenance of deposits to ensure the payment of revenues by

1626 users of district facilities and services; the discontinuance of
 1627 district services by reason of delinquent payments; acceleration
 1628 upon default; the execution of necessary instruments; the
 1629 procedure for amending or abrogating covenants with the
 1630 bondholders; and such other covenants as may be deemed necessary
 1631 or desirable for the security of the bondholders.

1632 (l) Validation proceedings.—The power of the district to
 1633 issue bonds under this act may be determined, and any of the
 1634 bonds of the district maturing over a period of more than 5
 1635 years shall be validated and confirmed, by court decree, under
 1636 chapter 75, Florida Statutes, and laws amendatory thereof or
 1637 supplementary thereto.

1638 (m) Tax exemption.—To the extent allowed by general law,
 1639 all bonds issued hereunder and interest paid thereon and all
 1640 fees, charges, and other revenues derived by the district from
 1641 the projects provided by this act are exempt from all taxes by
 1642 the state or by any political subdivision, agency, or
 1643 instrumentality thereof; however, any interest, income, or
 1644 profits on debt obligations issued hereunder are not exempt from
 1645 the tax imposed by chapter 220, Florida Statutes. Further, the
 1646 district is not exempt from chapter 212, Florida Statutes.

1647 (n) Application of s. 189.051, Florida Statutes.—Bonds
 1648 issued by the district shall meet the criteria set forth in s.
 1649 189.051, Florida Statutes.

1650 (o) Act furnishes full authority for issuance of bonds.—

1651 This act constitutes full and complete authority for the
1652 issuance of bonds and the exercise of the powers of the district
1653 provided herein. Procedures or proceedings, publications,
1654 notices, consents, approvals, orders, acts, or things by the
1655 board, or by any board, officer, commission, department, agency,
1656 or instrumentality of the district, other than those required by
1657 this act, are not required to perform anything under this act,
1658 except that the issuance or sale of bonds pursuant to this act
1659 shall comply with the general law requirements applicable to the
1660 issuance or sale of bonds by the district. This act does not
1661 authorize the district to utilize bond proceeds to fund the
1662 ongoing operations of the district.

1663 (p) Pledge by the state to the bondholders of the
1664 district.—The state pledges to the holders of any bonds issued
1665 under this act that it will not limit or alter the rights of the
1666 district to own, acquire, construct, reconstruct, improve,
1667 maintain, operate, or furnish the projects or to levy and
1668 collect the taxes, assessments, rentals, rates, fees, and other
1669 charges provided for herein and to fulfill the terms of any
1670 agreement made with the holders of such bonds or other
1671 obligations and that it will not in any way impair the rights or
1672 remedies of such holders.

1673 (q) Default.—A default on the bonds or obligations of the
1674 district does not constitute a debt or obligation of the state
1675 or any general-purpose local government of the state. In the

1676 event of a default or dissolution of the district, a general-
 1677 purpose local government is not required to assume the property
 1678 of the district, the debts of the district, or the district's
 1679 obligations to complete any infrastructure improvements or
 1680 provide any services to the district. Section 189.076(2),
 1681 Florida Statutes, does not apply to the district.

1682 (11) TRUST AGREEMENTS.—Any issue of bonds shall be secured
 1683 by a trust agreement or resolution by and between the district
 1684 and a corporate trustee or trustees, which may be any trust
 1685 company or bank having the powers of a trust company within or
 1686 without the state. The resolution authorizing the issuance of
 1687 the bonds or such trust agreement may pledge the revenues to be
 1688 received from any projects of the district and may contain such
 1689 provisions for protecting and enforcing the rights and remedies
 1690 of the bondholders as the board may approve, including, without
 1691 limitation, covenants setting forth the duties of the district
 1692 in relation to the acquisition, construction, reconstruction,
 1693 improvement, maintenance, repair, operation, and insurance of
 1694 any projects; the fixing and revising of the rates, fees, and
 1695 charges; and the custody, safeguarding, and application of all
 1696 moneys and for the employment of consulting engineers in
 1697 connection with such acquisition, construction, reconstruction,
 1698 improvement, maintenance, repair, operation, or insurance. It
 1699 shall be lawful for any bank or trust company within or without
 1700 the state which may act as a depository of the proceeds of bonds

1701 or of revenues to furnish such indemnifying bonds or to pledge
 1702 such securities as may be required by the district. Such
 1703 resolution or trust agreement may set forth the rights and
 1704 remedies of the bondholders and of the trustee, if any, and may
 1705 restrict the individual right of action by bondholders. The
 1706 board may provide for the payment of proceeds of the sale of the
 1707 bonds and the revenues of any project to such officer, board, or
 1708 depository as it may designate for the custody thereof and may
 1709 provide for the method of disbursement thereof with such
 1710 safeguards and restrictions as it may determine. All expenses
 1711 incurred in carrying out such resolution or trust agreement may
 1712 be treated as part of the cost of operation of the project to
 1713 which such trust agreement pertains.

1714 (12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL
 1715 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
 1716 ASSESSMENTS; MAINTENANCE TAXES.-

1717 (a) Ad valorem taxes.-At such time as all members of the
 1718 board are qualified electors who are elected by qualified
 1719 electors of the district, the board shall have the power to levy
 1720 and assess an ad valorem tax on all the taxable property in the
 1721 district to construct, operate, and maintain assessable
 1722 improvements; to pay the principal of, and interest on, any
 1723 general obligation bonds of the district; and to provide for any
 1724 sinking or other funds established in connection with any such
 1725 bonds. An ad valorem tax levied by the board for operating

1726 purposes, exclusive of debt service on bonds, may not exceed 3
1727 mills. The ad valorem tax provided for herein shall be in
1728 addition to county and all other ad valorem taxes provided for
1729 by general law. Such tax shall be assessed, levied, and
1730 collected in the same manner and at the same time as county
1731 taxes. The levy of ad valorem taxes must be approved by
1732 referendum as required by Section 9, Article VII of the State
1733 Constitution.

1734 (b) Benefit special assessments.—The board annually shall
1735 determine, order, and levy the annual installment of the total
1736 benefit special assessments for bonds issued and related
1737 expenses to finance assessable improvements. These assessments
1738 may be due and collected during each year county taxes are due
1739 and collected, in which case such annual installment and levy
1740 shall be evidenced to and certified to the property appraiser by
1741 the board not later than August 31 of each year. Such assessment
1742 shall be entered by the property appraiser on the county tax
1743 rolls and shall be collected and enforced by the tax collector
1744 in the same manner and at the same time as county taxes, and the
1745 proceeds thereof shall be paid to the district. However, this
1746 subsection does not prohibit the district in its discretion from
1747 using the method provided in s. 197.3632, Florida Statutes, or
1748 chapter 173, Florida Statutes, as each may be amended from time
1749 to time, for collecting and enforcing these assessments. Each
1750 annual installment of benefit special assessments shall be a

1751 lien on the property against which assessed until paid and shall
1752 be enforceable in like manner as county taxes. The amount of the
1753 assessment for the exercise of the district's powers under
1754 subsections (6) and (7) shall be determined by the board based
1755 upon a report of the district's engineer and assessed by the
1756 board upon such lands, which may be part or all of the lands
1757 within the district benefited by the improvement, apportioned
1758 between benefited lands in proportion to the benefits received
1759 by each tract of land. The board may, if it determines it is in
1760 the best interests of the district, set forth in the proceedings
1761 initially levying such benefit special assessments or in
1762 subsequent proceedings a formula for the determination of an
1763 amount which, when paid by a taxpayer with respect to any tax
1764 parcel, shall constitute a prepayment of all future annual
1765 installments of such benefit special assessments. The payment of
1766 which amount with respect to such tax parcel shall relieve and
1767 discharge such tax parcel of the lien of such benefit special
1768 assessments and any subsequent annual installment thereof. The
1769 board may provide further that upon delinquency in the payment
1770 of any annual installment of benefit special assessments, such
1771 prepayment amount of all future annual installments of benefit
1772 special assessments shall be and become immediately due and
1773 payable together with such delinquent annual installment.

1774 (c) Non-ad valorem maintenance taxes.—If and when
1775 authorized by general law, to maintain and to preserve the

1776 physical facilities and services constituting the works,
 1777 improvements, or infrastructure owned by the district pursuant
 1778 to this act, to repair and restore any one or more of them, when
 1779 needed, and to defray the current expenses of the district,
 1780 including any sum which may be required to pay state and county
 1781 ad valorem taxes on any lands which may have been purchased and
 1782 which are held by the district under this act, the board of
 1783 supervisors may, upon the completion of said systems,
 1784 facilities, services, works, improvements, or infrastructure, in
 1785 whole or in part, as may be certified to the board by the
 1786 engineer of the board, levy annually a non-ad valorem and
 1787 nonmillage tax upon each tract or parcel of land within the
 1788 district, to be known as a "maintenance tax." A maintenance tax
 1789 shall be apportioned upon the basis of the net assessments of
 1790 benefits assessed as accruing from the original construction and
 1791 shall be evidenced to and certified by the board of supervisors
 1792 of the district not later than June 1 of each year to the
 1793 Manatee County tax collector and shall be extended on the tax
 1794 rolls and collected by the tax collector on the merged
 1795 collection roll of the tax collector in the same manner and at
 1796 the same time as county ad valorem taxes, and the proceeds
 1797 therefrom shall be paid to the district. The maintenance tax
 1798 shall be a lien until paid on the property against which
 1799 assessed and enforceable in like manner and of the same dignity
 1800 as county ad valorem taxes.

1801 (d) Maintenance special assessments.—To maintain and
 1802 preserve the facilities and projects of the district, the board
 1803 may levy a maintenance special assessment. This assessment may
 1804 be evidenced to and certified to the tax collector by the board
 1805 of supervisors not later than August 31 of each year and shall
 1806 be entered by the property appraiser on the county tax rolls and
 1807 shall be collected and enforced by the tax collector in the same
 1808 manner and at the same time as county taxes, and the proceeds
 1809 therefrom shall be paid to the district. However, this
 1810 subsection does not prohibit the district in its discretion from
 1811 using the method prescribed in s. 197.363, s. 197.3631, or s.
 1812 197.3632, Florida Statutes, for collecting and enforcing these
 1813 assessments. These maintenance special assessments shall be a
 1814 lien on the property against which assessed until paid and shall
 1815 be enforceable in like manner as county taxes. The amount of the
 1816 maintenance special assessment for the exercise of the
 1817 district's powers under this section shall be determined by the
 1818 board based upon a report of the district's engineer and
 1819 assessed by the board upon such lands, which may be all of the
 1820 lands within the district benefited by the maintenance thereof,
 1821 apportioned between the benefited lands in proportion to the
 1822 benefits received by each tract of land.

1823 (e) Special assessments.—The board may levy and impose any
 1824 special assessments pursuant to this subsection.

1825 (f) Enforcement of taxes.—The collection and enforcement

1826 of all taxes levied by the district shall be at the same time
1827 and in like manner as county taxes and the provisions of general
1828 law relating to the sale of lands for unpaid and delinquent
1829 county taxes; the issuance, sale, and delivery of tax
1830 certificates for such unpaid and delinquent county taxes; the
1831 redemption thereof; the issuance to individuals of tax deeds
1832 based thereon; and all other procedures in connection therewith
1833 shall be applicable to the district to the same extent as if
1834 such statutory provisions were expressly set forth in this act.
1835 All taxes shall be subject to the same discounts as county
1836 taxes.

1837 (g) When unpaid tax is delinquent; penalty.—All taxes
1838 provided for in this act shall become delinquent and bear
1839 penalties on the amount of such taxes in the same manner as
1840 county taxes.

1841 (h) Status of assessments.—Benefit special assessments,
1842 maintenance special assessments, and special assessments are
1843 hereby found and determined to be non-ad valorem assessments as
1844 defined in s. 197.3632(1), Florida Statutes. Maintenance taxes
1845 are non-ad valorem taxes and are not special assessments.

1846 (i) Assessments constitute liens; collection.—Any and all
1847 assessments, including special assessments, benefit special
1848 assessments, and maintenance special assessments authorized and
1849 granted by this subsection and maintenance taxes if authorized
1850 by general law, shall constitute a lien on the property against

1851 which assessed from the date of levy and imposition thereof
 1852 until paid, coequal with the lien of state, county, municipal,
 1853 and school board taxes. These assessments may be collected, at
 1854 the district's discretion, under authority of s. 197.3631,
 1855 Florida Statutes, as amended from time to time, by the tax
 1856 collector pursuant to ss. 197.3632 and 197.3635, Florida
 1857 Statutes, as amended from time to time, or in accordance with
 1858 other collection measures provided by general law. In addition
 1859 to, and not in limitation of, any powers otherwise set forth
 1860 herein or in general law, these assessments may also be enforced
 1861 pursuant to chapter 173, Florida Statutes, as amended from time
 1862 to time.

1863 (j) Land owned by governmental entity.—Except as otherwise
 1864 provided by general law, a levy of ad valorem taxes or non-ad
 1865 valorem assessments under this act or chapter 170 or chapter
 1866 197, Florida Statutes, or otherwise by the board of the district
 1867 on property of a governmental entity that is subject to a ground
 1868 lease as described in s. 190.003(14), Florida Statutes, does not
 1869 constitute a lien or encumbrance on the underlying fee interest
 1870 of such governmental entity.

1871 (13) SPECIAL ASSESSMENTS.—

1872 (a) As an alternative method to the levy and imposition of
 1873 special assessments pursuant to chapter 170, Florida Statutes,
 1874 pursuant to the authority under s. 197.3631, Florida Statutes,
 1875 or pursuant to other provisions of general law, now or hereafter

1876 enacted, which provide a supplemental means or authority to
 1877 impose, levy, and collect special assessments as otherwise
 1878 authorized under this act, the board may levy and impose special
 1879 assessments to finance the exercise of any of its powers
 1880 permitted under this act using the following uniform procedures:

1881 1. At a noticed meeting, the board of supervisors of the
 1882 district may consider and review an engineer's report on the
 1883 costs of the systems, facilities, and services to be provided, a
 1884 preliminary special assessment methodology, and a preliminary
 1885 roll based on acreage or platted lands, depending upon whether
 1886 platting has occurred.

1887 a. The special assessment methodology shall address and
 1888 discuss and the board shall consider whether the systems,
 1889 facilities, and services being contemplated will result in
 1890 special benefits peculiar to the property, different in kind and
 1891 degree than general benefits, as a logical connection between
 1892 the systems, facilities, and services themselves and the
 1893 property, and whether the duty to pay the special assessments by
 1894 the property owners is apportioned in a manner that is fair and
 1895 equitable and not in excess of the special benefit received. It
 1896 shall be fair and equitable to designate a fixed proportion of
 1897 the annual debt service, together with interest thereon, on the
 1898 aggregate principal amount of bonds issued to finance such
 1899 systems, facilities, and services which give rise to unique,
 1900 special, and peculiar benefits to property of the same or

1901 similar characteristics under the special assessment methodology
 1902 so long as such fixed proportion does not exceed the unique,
 1903 special, and peculiar benefits enjoyed by such property from
 1904 such systems, facilities, and services.

1905 b. The engineer's cost report shall identify the nature of
 1906 the proposed systems, facilities, and services, their location,
 1907 a cost breakdown plus a total estimated cost, including cost of
 1908 construction or reconstruction, labor, and materials, lands,
 1909 property, rights, easements, franchises, or systems, facilities,
 1910 and services to be acquired; cost of plans and specifications
 1911 and surveys of estimates of costs and revenues; costs of
 1912 engineering, legal, and other professional consultation
 1913 services; and other expenses or costs necessary or incident to
 1914 determining the feasibility or practicability of such
 1915 construction, reconstruction, or acquisition, administrative
 1916 expenses, relationship to the authority and power of the
 1917 district in its charter, and such other expenses or costs as may
 1918 be necessary or incident to the financing to be authorized by
 1919 the board of supervisors.

1920 c. The preliminary special assessment roll shall be in
 1921 accordance with the assessment methodology as may be adopted by
 1922 the board of supervisors; the special assessment roll shall be
 1923 completed as promptly as possible and shall show the acreage,
 1924 lots, lands, or plats assessed and the amount of the fairly and
 1925 reasonably apportioned assessment based on special and peculiar

1926 benefit to the property, lot, parcel, or acreage of land; and,
1927 if the special assessment against such lot, parcel, acreage, or
1928 portion of land is to be paid in installments, the number of
1929 annual installments in which the special assessment is divided
1930 shall be entered into and shown upon the special assessment
1931 roll.

1932 2. The board of supervisors of the district may determine
1933 and declare by an initial special assessment resolution to levy
1934 and assess the special assessments with respect to assessable
1935 improvements stating the nature of the systems, facilities, and
1936 services, improvements, projects, or infrastructure constituting
1937 such assessable improvements, the information in the engineer's
1938 cost report, the information in the special assessment
1939 methodology as determined by the board at the noticed meeting
1940 and referencing and incorporating as part of the resolution the
1941 engineer's cost report, the preliminary special assessment
1942 methodology, and the preliminary special assessment roll as
1943 referenced exhibits to the resolution by reference. If the board
1944 determines to declare and levy the special assessments by the
1945 initial special assessment resolution, the board shall also
1946 adopt and declare a notice resolution which shall provide and
1947 cause the initial special assessment resolution to be published
1948 in a newspaper of general circulation in Manatee County once a
1949 week for 2 consecutive weeks and said board shall by the same
1950 resolution fix a time and place at which the owner or owners of

1951 the property to be assessed or any other persons interested
 1952 therein may appear before said board and be heard as to the
 1953 propriety and advisability of making such improvements, as to
 1954 the costs thereof, as to the manner of payment therefor, and as
 1955 to the amount thereof to be assessed against each property so
 1956 improved. Thirty days' notice in writing of such time and place
 1957 shall be given to such property owners. The notice shall include
 1958 the amount of the special assessment and shall be served by
 1959 mailing a copy to each assessed property owner at his or her
 1960 last known address, the names and addresses of such property
 1961 owners to be obtained from the record of the property appraiser
 1962 of the county political subdivision in which the land is located
 1963 or from such other sources as the district manager or engineer
 1964 deems reliable. Proof of such mailing shall be made by the
 1965 affidavit of the manager of the district or by the engineer,
 1966 said proof to be filed with the district manager. Failure to
 1967 mail said notice or notices does not invalidate any of the
 1968 proceedings hereunder. It is provided further that the last
 1969 publication shall be at least 1 week before the date of the
 1970 hearing on the final special assessment resolution. Said notice
 1971 shall describe the general areas to be improved and advise all
 1972 persons interested that the description of each property to be
 1973 assessed and the amount to be assessed to each piece, parcel,
 1974 lot, or acre of property may be ascertained at the office of the
 1975 manager of the district. Such service by publication shall be

1976 verified by the affidavit of the publisher and filed with the
 1977 manager of the district. Moreover, the initial special
 1978 assessment resolution with its attached, referenced, and
 1979 incorporated engineer's cost report, preliminary special
 1980 assessment methodology, and preliminary special assessment roll,
 1981 along with the notice resolution, shall be available for public
 1982 inspection at the office of the manager and the office of the
 1983 engineer or any other office designated by the board of
 1984 supervisors in the notice resolution. Notwithstanding the
 1985 foregoing, the landowners of all of the property which is
 1986 proposed to be assessed may give the district written notice of
 1987 waiver of any notice and publication provided for in this
 1988 subparagraph. However, such notice and publication is not
 1989 required, provided that any meeting of the board of supervisors
 1990 to consider such resolution is a publicly noticed meeting.

1991 3. At the time and place named in the noticed resolution
 1992 as provided for in subparagraph 2., the board of supervisors of
 1993 the district shall meet and hear testimony from affected
 1994 property owners as to the propriety and advisability of making
 1995 the systems, facilities, services, projects, works,
 1996 improvements, or infrastructure and funding them with
 1997 assessments referenced in the initial special assessment
 1998 resolution on the property. Following the testimony and
 1999 questions from the members of the board or any professional
 2000 advisors to the district of the preparers of the engineer's cost

2001 report, the special assessment methodology, and the special
 2002 assessment roll, the board of supervisors shall make a final
 2003 decision on whether to levy and assess the particular special
 2004 assessments. Thereafter, the board of supervisors shall meet as
 2005 an equalizing board to hear and to consider any and all
 2006 complaints as to the particular special assessments and shall
 2007 adjust and equalize the special assessments to ensure proper
 2008 assessment based on the benefit conferred on the property.

2009 4. When so equalized and approved by resolution or
 2010 ordinance by the board of supervisors, to be called the final
 2011 special assessment resolution, a final special assessment roll
 2012 shall be filed with the clerk of the board and such special
 2013 assessment shall stand confirmed and remain legal, valid, and
 2014 binding first liens on the property against which such special
 2015 assessments are made until paid, equal in dignity to the first
 2016 liens of ad valorem taxation of county and municipal governments
 2017 and school boards. However, upon completion of the systems,
 2018 facilities, services, projects, improvements, works, or
 2019 infrastructure, the district shall credit to each of the
 2020 assessments the difference in the special assessment as
 2021 originally made, approved, levied, assessed, and confirmed and
 2022 the proportionate part of the actual cost of the improvement to
 2023 be paid by the particular special assessments as finally
 2024 determined upon the completion of the improvement; but in no
 2025 event shall the final special assessment exceed the amount of

2026 the special and peculiar benefits as apportioned fairly and
 2027 reasonably to the property from the system, facility, or service
 2028 being provided as originally assessed. Promptly after such
 2029 confirmation, the special assessment shall be recorded by the
 2030 clerk of the district in the minutes of the proceedings of the
 2031 district, and the record of the lien in this set of minutes
 2032 shall constitute prima facie evidence of its validity. The board
 2033 of supervisors, in its sole discretion, may, by resolution,
 2034 grant a discount equal to all or a part of the payee's
 2035 proportionate share of the cost of the project consisting of
 2036 bond financing cost, such as capitalized interest, funded
 2037 reserves, and bond discounts included in the estimated cost of
 2038 the project, upon payment in full of any special assessments
 2039 during such period before the time such financing costs are
 2040 incurred as may be specified by the board of supervisors in such
 2041 resolution.

2042 5. District special assessments may be made payable in
 2043 installments over no more than 40 years after the date of the
 2044 payment of the first installment thereof and may bear interest
 2045 at fixed or variable rates.

2046 (b) Notwithstanding any provision of this act or chapter
 2047 170, Florida Statutes, that portion of s. 170.09, Florida
 2048 Statutes, which provides that special assessments may be paid
 2049 without interest at any time within 30 days after the
 2050 improvement is completed and a resolution accepting the same has

2051 been adopted by the governing authority is not applicable to any
 2052 district special assessments, whether imposed, levied, and
 2053 collected pursuant to this act or any other provision of general
 2054 law, including, but not limited to, chapter 170, Florida
 2055 Statutes.

2056 (c) In addition, the district is authorized expressly in
 2057 the exercise of its rulemaking power to adopt rules that provide
 2058 for notice, levy, imposition, equalization, and collection of
 2059 assessments.

2060 (14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON
 2061 ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.—

2062 (a) The board may, after any special assessments or
 2063 benefit special assessments for assessable improvements are
 2064 made, determined, and confirmed as provided in this act, issue
 2065 certificates of indebtedness for the amount so assessed against
 2066 the abutting property or property otherwise benefited, as the
 2067 case may be, and separate certificates shall be issued against
 2068 each part or parcel of land or property assessed, which
 2069 certificates shall state the general nature of the improvement
 2070 for which the assessment is made. The certificates shall be
 2071 payable in annual installments in accordance with the
 2072 installments of the special assessment for which they are
 2073 issued. The board may determine the interest to be borne by such
 2074 certificates, not to exceed the maximum rate allowed by general
 2075 law, and may sell such certificates at either private or public

2076 sale and determine the form, manner of execution, and other
 2077 details of such certificates. The certificates shall recite that
 2078 they are payable only from the special assessments levied and
 2079 collected from the part or parcel of land or property against
 2080 which they are issued. The proceeds of such certificates may be
 2081 pledged for the payment of principal of and interest on any
 2082 revenue bonds or general obligation bonds issued to finance in
 2083 whole or in part such assessable improvement or, if not so
 2084 pledged, may be used to pay the cost or part of the cost of such
 2085 assessable improvements.

2086 (b) The district may also issue assessment bonds, revenue
 2087 bonds, or other obligations payable from a special fund into
 2088 which such certificates of indebtedness referred to in paragraph
 2089 (a) may be deposited or, if such certificates of indebtedness
 2090 have not been issued, may assign to such special fund for the
 2091 benefit of the holders of such assessment bonds or other
 2092 obligations, or to a trustee for such bondholders, the
 2093 assessment liens provided for in this act unless such
 2094 certificates of indebtedness or assessment liens have been
 2095 theretofore pledged for any bonds or other obligations
 2096 authorized hereunder. In the event of the creation of such
 2097 special fund and the issuance of such assessment bonds or other
 2098 obligations, the proceeds of such certificates of indebtedness
 2099 or assessment liens deposited therein shall be used only for the
 2100 payment of the assessment bonds or other obligations issued as

2101 provided in this section. The district is authorized to covenant
2102 with the holders of such assessment bonds, revenue bonds, or
2103 other obligations that it will diligently and faithfully enforce
2104 and collect all the special assessments, and interest and
2105 penalties thereon, for which such certificates of indebtedness
2106 or assessment liens have been deposited in or assigned to such
2107 fund; to foreclose such assessment liens so assigned to such
2108 special fund or represented by the certificates of indebtedness
2109 deposited in the special fund, after such assessment liens have
2110 become delinquent, and deposit the proceeds derived from such
2111 foreclosure, including interest and penalties, in such special
2112 fund; and to make any other covenants deemed necessary or
2113 advisable in order to properly secure the holders of such
2114 assessment bonds or other obligations.

2115 (c) The assessment bonds, revenue bonds, or other
2116 obligations issued pursuant to this subsection shall have such
2117 dates of issuance and maturity as deemed advisable by the board;
2118 however, the maturities of such assessment bonds or other
2119 obligations may not be more than 2 years after the due date of
2120 the last installment that will be payable on any of the special
2121 assessments for which such assessment liens, or the certificates
2122 of indebtedness representing such assessment liens, are assigned
2123 to or deposited in such special fund.

2124 (d) Such assessment bonds, revenue bonds, or other
2125 obligations issued under this subsection shall bear such

2126 interest as the board may determine, not to exceed the maximum
 2127 rate allowed by general law, and shall be executed, shall have
 2128 such provisions for redemption before maturity, shall be sold in
 2129 such manner, and shall be subject to all of the applicable
 2130 provisions contained in this act for revenue bonds, except as
 2131 the same may be inconsistent with this subsection.

2132 (e) All assessment bonds, revenue bonds, or other
 2133 obligations issued under this subsection shall be, shall
 2134 constitute, and shall have all the qualities and incidents of
 2135 negotiable instruments under the law merchant and general laws.

2136 (15) TAX LIENS.—All taxes of the district provided for in
 2137 this act, together with all penalties for default in the payment
 2138 of the same and all costs in collecting the same, including a
 2139 reasonable attorney fee fixed by the court and taxed as a cost
 2140 in the action brought to enforce payment, shall, from January 1
 2141 of each year the property is liable to assessment and until
 2142 paid, constitute a lien of equal dignity with the liens for
 2143 state and county taxes and other taxes of equal dignity with
 2144 state and county taxes upon all the lands against which such
 2145 taxes shall be levied. A sale of any of the real property within
 2146 the district for state and county or other taxes may not operate
 2147 to relieve or release the property so sold from the lien for
 2148 subsequent district taxes or installments of district taxes,
 2149 which lien may be enforced against such property as though no
 2150 such sale thereof had been made. In addition, for purposes of s.

2151 197.552, Florida Statutes, the lien of all special assessments
 2152 levied by the district shall constitute a lien of record held by
 2153 a municipal or county governmental unit. Sections 194.171,
 2154 197.122, 197.333, and 197.432, Florida Statutes, are applicable
 2155 to district taxes with the same force and effect as if such
 2156 sections were expressly provided in this act.

2157 (16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE
 2158 DISTRICT; SHARING IN PROCEEDS OF TAX SALE.-

2159 (a) The district shall have the power and right to:

2160 1. Pay any delinquent state, county, district, municipal,
 2161 or other tax or assessment upon lands located wholly or
 2162 partially within the boundaries of the district.

2163 2. Redeem or purchase any tax sales certificates issued or
 2164 sold on account of any state, county, district, municipal, or
 2165 other taxes or assessments upon lands located wholly or
 2166 partially within the boundaries of the district.

2167 (b) Delinquent taxes paid, or tax sales certificates
 2168 redeemed or purchased, by the district, together with all
 2169 penalties for the default in payment of the same and all costs
 2170 in collecting the same and a reasonable attorney fee, shall
 2171 constitute a lien in favor of the district of equal dignity with
 2172 the liens of state and county taxes and other taxes of equal
 2173 dignity with state and county taxes upon all the real property
 2174 against which the taxes were levied. The lien of the district
 2175 may be foreclosed in the manner provided in this act.

2176 (c) In any sale of land pursuant to s. 197.542, Florida
 2177 Statutes, as may be amended from time to time, the district may
 2178 certify to the clerk of the circuit court of the county holding
 2179 such sale the amount of taxes due to the district upon the lands
 2180 sought to be sold, and the district shall share in the
 2181 disbursement of the sales proceeds in accordance with this act
 2182 and under general law.

2183 (17) FORECLOSURE OF LIENS.—Any lien in favor of the
 2184 district arising under this act may be foreclosed by the
 2185 district by foreclosure proceedings in the name of the district
 2186 in a court of competent jurisdiction as provided by general law
 2187 in like manner as is provided in chapter 170 or chapter 173,
 2188 Florida Statutes, and any amendments thereto, and those chapters
 2189 shall be applicable to such proceedings with the same force and
 2190 effect as if those chapters were expressly provided in this act.
 2191 Any act required or authorized to be done by or on behalf of a
 2192 municipality in foreclosure proceedings under chapter 170 or
 2193 chapter 173, Florida Statutes, may be performed by such officer
 2194 or agent of the district as the board of supervisors may
 2195 designate. Such foreclosure proceedings may be brought at any
 2196 time after the expiration of 1 year from the date any tax, or
 2197 installment thereof, becomes delinquent; however, no lien shall
 2198 be foreclosed against any political subdivision or agency of the
 2199 state. Other legal remedies shall remain available.

2200 (18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS,

2201 FACILITIES, AND SERVICES.—To the full extent permitted by
 2202 general law, the district shall require all lands, buildings,
 2203 premises, persons, firms, and corporations within the district
 2204 to use the facilities of the district.

2205 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
 2206 PROVISIONS REQUIRED.—

2207 (a) A contract may not be let by the board for any goods,
 2208 supplies, or materials to be purchased when the amount thereof
 2209 to be paid by the district shall exceed the amount provided in
 2210 s. 287.017, Florida Statutes, for category four, unless notice
 2211 of bids shall be published in a newspaper of general circulation
 2212 in Manatee County at least once. Any board seeking to construct
 2213 or improve a public building, structure, or other public works
 2214 shall comply with the bidding procedures of s. 255.20, Florida
 2215 Statutes, as amended from time to time, and other applicable
 2216 general law. In each case, the bid of the lowest responsive and
 2217 responsible bidder shall be accepted unless all bids are
 2218 rejected because the bids are too high or the board determines
 2219 it is in the best interests of the district to reject all bids.
 2220 The board may require the bidders to furnish bond with a
 2221 responsible surety to be approved by the board. Nothing in this
 2222 subsection shall prevent the board from undertaking and
 2223 performing the construction, operation, and maintenance of any
 2224 project or facility authorized by this act by the employment of
 2225 labor, material, and machinery.

2226 (b) The Consultants' Competitive Negotiation Act, s.
 2227 287.055, Florida Statutes, applies to contracts for engineering,
 2228 architecture, landscape architecture, or registered surveying
 2229 and mapping services let by the board.

2230 (c) Contracts for maintenance services for any district
 2231 facility or project shall be subject to competitive bidding
 2232 requirements when the amount thereof to be paid by the district
 2233 exceeds the amount provided in s. 287.017, Florida Statutes, as
 2234 amended from time to time, for category four. The district shall
 2235 adopt rules, policies, or procedures establishing competitive
 2236 bidding procedures for maintenance services. Contracts for other
 2237 services may not be subject to competitive bidding unless the
 2238 district adopts a rule, policy, or procedure applying
 2239 competitive bidding procedures to said contracts. Nothing herein
 2240 shall preclude the use of requests for proposal instead of
 2241 invitations to bid as determined by the district to be in its
 2242 best interest.

2243 (20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
 2244 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.—

2245 (a) The district is authorized to prescribe, fix,
 2246 establish, and collect rates, fees, rentals, or other charges,
 2247 hereinafter sometimes referred to as "revenues," and to revise
 2248 the same from time to time, for the systems, facilities, and
 2249 services furnished by the district, within the limits of the
 2250 district, including, but not limited to, recreational

2251 facilities, water management and control facilities, and water
 2252 and sewer systems; to recover the costs of making connection
 2253 with any district service, facility, or system; and to provide
 2254 for reasonable penalties against any user or property for any
 2255 such rates, fees, rentals, or other charges that are delinquent.

2256 (b) No such rates, fees, rentals, or other charges for any
 2257 of the facilities or services of the district shall be fixed
 2258 until after a public hearing at which all the users of the
 2259 proposed facility or services or owners, tenants, or occupants
 2260 served or to be served thereby and all other interested persons
 2261 shall have an opportunity to be heard concerning the proposed
 2262 rates, fees, rentals, or other charges. Rates, fees, rentals,
 2263 and other charges shall be adopted under the administrative
 2264 rulemaking authority of the district, but do not apply to
 2265 district leases. Notice of such public hearing setting forth the
 2266 proposed schedule or schedules of rates, fees, rentals, and
 2267 other charges shall have been published in a newspaper of
 2268 general circulation in Manatee County at least once and at least
 2269 10 days before such public hearing. The rulemaking hearing may
 2270 be adjourned from time to time. After such hearing, such
 2271 schedule or schedules, either as initially proposed or as
 2272 modified or amended, may be finally adopted. A copy of the
 2273 schedule or schedules of such rates, fees, rentals, or charges
 2274 as finally adopted shall be kept on file in an office designated
 2275 by the board and shall be open at all reasonable times to public

2276 inspection. The rates, fees, rentals, or charges so fixed for
 2277 any class of users or property served shall be extended to cover
 2278 any additional users or properties thereafter served which shall
 2279 fall in the same class, without the necessity of any notice or
 2280 hearing.

2281 (c) Such rates, fees, rentals, and charges shall be just
 2282 and equitable and uniform for users of the same class, and when
 2283 appropriate may be based or computed either upon the amount of
 2284 service furnished, upon the average number of persons residing
 2285 or working in or otherwise occupying the premises served, or
 2286 upon any other factor affecting the use of the facilities
 2287 furnished, or upon any combination of the foregoing factors, as
 2288 may be determined by the board on an equitable basis.

2289 (d) The rates, fees, rentals, or other charges prescribed
 2290 shall be such as will produce revenues, together with any other
 2291 assessments, taxes, revenues, or funds available or pledged for
 2292 such purpose, at least sufficient to provide for the following
 2293 items, but not necessarily in the order stated:

2294 1. To provide for all expenses of operation and
 2295 maintenance of such facility or service.

2296 2. To pay when due all bonds and interest thereon for the
 2297 payment of which such revenues are, or shall have been, pledged
 2298 or encumbered, including reserves for such purpose.

2299 3. To provide for any other funds which may be required
 2300 under the resolution or resolutions authorizing the issuance of

2301 bonds pursuant to this act.

2302 (e) The board shall have the power to enter into contracts
 2303 for the use of the projects of the district and with respect to
 2304 the services, systems, and facilities furnished or to be
 2305 furnished by the district.

2306 (21) RECOVERY OF DELINQUENT CHARGES.—In the event that any
 2307 rates, fees, rentals, charges, or delinquent penalties are not
 2308 paid as and when due and are in default for 60 days or more, the
 2309 unpaid balance thereof and all interest accrued thereon,
 2310 together with reasonable attorney fees and costs, may be
 2311 recovered by the district in a civil action.

2312 (22) DISCONTINUANCE OF SERVICES OR FACILITIES.—In the
 2313 event the fees, rentals, or other charges for district services
 2314 or facilities are not paid when due, the board shall have the
 2315 power, under such reasonable rules and regulations as the board
 2316 may adopt, to discontinue and shut off such services or
 2317 facilities until such fees, rentals, or other charges, including
 2318 interest, penalties, and charges for the shutting off and
 2319 discontinuance and the restoration of such services or
 2320 facilities, are fully paid; and, for such purposes, the board
 2321 may enter on any lands, waters, or premises of any person, firm,
 2322 corporation, or body, public or private, within the district
 2323 limits. Such delinquent fees, rentals, or other charges,
 2324 together with interest, penalties, and charges for the shutting
 2325 off and discontinuance and the restoration of such services or

2326 facilities and reasonable attorney fees and other expenses, may
 2327 be recovered by the district, which may also enforce payment of
 2328 such delinquent fees, rentals, or other charges by any other
 2329 lawful method of enforcement.

2330 (23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved
 2331 person may have recourse to such remedies in general law and at
 2332 equity as may be necessary to ensure compliance with this act,
 2333 including injunctive relief to enjoin or restrain any person
 2334 violating this act or any bylaws, resolutions, regulations,
 2335 rules, codes, or orders adopted under this act. In case any
 2336 building or structure is erected, constructed, reconstructed,
 2337 altered, repaired, converted, or maintained, or any building,
 2338 structure, land, or water is used, in violation of this act or
 2339 of any code, order, resolution, or other regulation made under
 2340 authority conferred by this act or under general law, the board
 2341 or any citizen residing in the district may institute any
 2342 appropriate action or proceeding to prevent such unlawful
 2343 erection, construction, reconstruction, alteration, repair,
 2344 conversion, maintenance, or use; to restrain, correct, or avoid
 2345 such violation; to prevent the occupancy of such building,
 2346 structure, land, or water; and to prevent any illegal act,
 2347 conduct, business, or use in or about such premises, land, or
 2348 water.

2349 (24) SUITS AGAINST THE DISTRICT.—Any suit or action
 2350 brought or maintained against the district for damages arising

2351 out of tort, including, without limitation, any claim arising
 2352 upon account of an act causing an injury or loss of property,
 2353 personal injury, or death, shall be subject to the limitations
 2354 provided in s. 768.28, Florida Statutes.

2355 (25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.—All
 2356 district property shall be exempt from levy and sale by virtue
 2357 of an execution, and no execution or other judicial process
 2358 shall issue against such property, nor shall any judgment
 2359 against the district be a charge or lien on its property or
 2360 revenues; however, nothing contained herein shall apply to or
 2361 limit the rights of bondholders to pursue any remedy for the
 2362 enforcement of any lien or pledge given by the district in
 2363 connection with any of the bonds or obligations of the district.

2364 (26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.—

2365 (a) The board of supervisors of the district may not ask
 2366 the Legislature to repeal or amend this act to expand or to
 2367 contract the boundaries of the district or otherwise cause the
 2368 merger or termination of the district without first obtaining a
 2369 resolution or official statement from Manatee County as required
 2370 by s. 189.031(2)(e)4., Florida Statutes, for creation of an
 2371 independent special district. The district's consent may be
 2372 evidenced by a resolution or other official written statement of
 2373 the district.

2374 (b) The district shall remain in existence until:

2375 1. The district is terminated and dissolved pursuant to

2376 | amendment to this act by the Legislature.

2377 | 2. The district has become inactive pursuant to s.

2378 | 189.062, Florida Statutes.

2379 | (27) MERGER WITH COMMUNITY DEVELOPMENT DISTRICTS.—The

2380 | district may merge with one or more community development

2381 | districts situated wholly within its boundaries. The district

2382 | shall be the surviving entity of the merger. Any mergers shall

2383 | commence upon each such community development district filing a

2384 | written request for merger with the district. A copy of the

2385 | written request shall also be filed with Manatee County. The

2386 | district, subject to the direction of its board of supervisors,

2387 | shall enter into a merger agreement which shall provide for the

2388 | proper allocation of debt, the manner in which such debt shall

2389 | be retired, the transition of the community development district

2390 | board, and the transfer of all financial obligations and

2391 | operating and maintenance responsibilities to the district. The

2392 | execution of the merger agreement by the district and each

2393 | community development district constitutes consent of the

2394 | landowners within each district. The district and each community

2395 | development district requesting merger shall hold a public

2396 | hearing within its boundaries to provide information about and

2397 | take public comment on the proposed merger in the merger

2398 | agreement. The public hearing shall be held within 45 days after

2399 | the execution of the merger agreement by all parties thereto.

2400 | Notice of the public hearing shall be published in a newspaper

2401 of general circulation in Manatee County at least 14 days before
 2402 the hearing. At the conclusion of the public hearing, each
 2403 district shall consider a resolution approving or disapproving
 2404 the proposed merger. If the district and each community
 2405 development district which is a party to the merger agreement
 2406 adopt a resolution approving the proposed merger, the
 2407 resolutions and the merger agreement shall be filed with Manatee
 2408 County. Upon receipt of the resolutions approving the merger and
 2409 the merger agreement, Manatee County shall adopt a nonemergency
 2410 ordinance dissolving each community development district
 2411 pursuant to s. 190.046(10), Florida Statutes.

2412 (28) INCLUSION OF TERRITORY.—The inclusion of any or all
 2413 territory of the district within a municipality does not change,
 2414 alter, or affect the boundary, territory, existence, or
 2415 jurisdiction of the district.

2416 (29) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
 2417 DISCLOSURE TO PURCHASER.—Subsequent to the creation of this
 2418 district under this act, each contract for the initial sale of a
 2419 parcel of real property and each contract for the initial sale
 2420 of a residential unit within the district shall include,
 2421 immediately before the space reserved in the contract for the
 2422 signature of the purchaser, the following disclosure statement
 2423 in boldfaced and conspicuous type which is larger than the type
 2424 in the remaining text of the contract: "THE NORTH RIVER RANCH
 2425 IMPROVEMENT STEWARDSHIP DISTRICT MAY IMPOSE AND LEVY TAXES OR

2426 ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.
 2427 THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION,
 2428 AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND
 2429 SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING
 2430 BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN
 2431 ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND
 2432 ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY
 2433 GENERAL LAW."

2434 (30) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days
 2435 after the election of the first board of supervisors creating
 2436 the district, the district shall cause to be recorded in the
 2437 grantor-grantee index of the property records in Manatee County
 2438 a "Notice of Creation and Establishment of the North River Ranch
 2439 Improvement Stewardship District." The notice shall, at a
 2440 minimum, include the legal description of the territory
 2441 described in this act.

2442 (31) DISTRICT PROPERTY PUBLIC; FEES.—Any system, facility,
 2443 service, works, improvement, project, or other infrastructure
 2444 owned by the district, or funded by federal tax exempt bonding
 2445 issued by the district, is public; and the district by rule may
 2446 regulate, and may impose reasonable charges or fees for, the use
 2447 thereof, but not to the extent that such regulation or
 2448 imposition of such charges or fees constitutes denial of
 2449 reasonable access.

2450 Section 2. If any provision of this act or its application

2451 to any person or circumstance is held invalid, the invalidity
 2452 does not affect the remaining provisions or applications of the
 2453 act which can be given effect without the invalid provision or
 2454 application, and to this end the provisions of this act are
 2455 severable.

2456 Section 3. This act shall take effect upon becoming a law
 2457 except that the provisions of this act which authorize the levy
 2458 of ad valorem taxation shall take effect only upon express
 2459 approval by a majority vote of those qualified electors of the
 2460 North River Ranch Improvement Stewardship District, as required
 2461 by Section 9, Article VII of the State Constitution, voting in a
 2462 referendum election held at such time as all members of the
 2463 board are qualified electors who are elected by qualified
 2464 electors of the district as provided in this act.