

1999



**LAWS of FLORIDA
CHAPTER 98-462**

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AN ACT relating to the Lee County Hyacinth Control District, an independent district; providing for a codified charter of its special acts in a single act and repealing all prior special acts relating to the Lee County Hyacinth Control District as required by chapter 97-255, Laws of Florida; providing for continuation of a hyacinth control district in the county from the effective date of this act; providing for a governing board; prescribing the powers, organization, and duties of the board; setting the compensation of the board; providing for audit of books and time of meetings; providing for a budget; granting eminent domain; giving the board the power to tax and to levy assessments for special benefits and providing the methods, procedures, and limitations thereon; providing for a limited millage; providing for employees; providing for cooperation with local, state, and federal agencies and entities; providing that the legal authority for the Lee County Hyacinth Control District shall be construed liberally to accomplish continuation of the work of the Lee County Hyacinth Control District; providing for the repeal of all special acts relating to the Lee County Hyacinth Control District; providing an effective date.

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

Section 1. The Lee County Hyacinth Control District, an independent special taxing district, shall continue in existence

for the purposes of aquatic weed control throughout all the territory comprising Lee County, Florida.

Section 2. The governing body of the Lee County Hyacinth Control District shall be the "Hyacinth Board," hereinafter referred to as the "board," and shall be composed of the members of the Board of Commissioners of the Lee County Mosquito Control district, a political entity as duly constituted by law and any amendments thereto.

Section 3. Powers of the board—The board shall have all the powers of a body corporate including the power to sue and be sued as a corporation in said name in any court; to contract; to adopt and use a common seal and alter the same at pleasure; to purchase, hold, lease, and convey such real estate and personal property as the board may deem proper to carry out the purposes of the law; to prescribe rules and regulations for the marking of such property; to employ a chief engineer, a consulting engineer and such experts, agents, and employees as the board may require; to provide uniforms for district employees; to participate with employees in a family group insurance plan; to borrow money in conformance with constitutional provisions and general law in an amount not to exceed \$1 on each \$8,000 of assessed valuation of property in the district for a period of time not to exceed 1 year. The board of commissioners is authorized to loan moneys to the Lee County Mosquito Control District by a transfer of funds between accounts, provided that such loans or transfers shall be repaid within the fiscal year in which they are made. The board shall also have the power to carry liability insurance against tort actions, and to pay from the appropriate funds of

the district the premiums on such insurance. Such insurance may be carried in such amounts and against such risks as the board, in its discretion, decides. However, in consideration of the premium at which each policy shall be written, it shall be a part of the policy contract between the insurance company and the district that the company shall not be entitled to the benefits or the defense of governmental function in any suit brought against the district; immunity of the district against liability for damages is waived only to the extent of liability insurance carried by the district; and the Legislature hereby finds and determines that the carrying of liability insurance as provided herein is for a district purpose.

Section 4. Organization of the board - Organization shall be as provided by law for the Board of Commissioners of the Lee County Mosquito Control District.

Section 5. Duties of the board – The board shall perform all duties necessary for the control and eradication of hyacinths and other noxious aquatic weeds in the county, and the board is authorized to employ machinery and equipment, and may also employ oils and chemicals and all other means and methods, and do any and all things that may be necessary to control and eradicate hyacinths and other noxious aquatic weeds in the county. In addition to areas within the district, the board is hereby authorized to oil, spray, or carry out and perform such duties and works in the Caloosahatchee River and its tributaries as far upriver as, and including, Lake Okeechobee, if necessary, for the accomplishment of the purpose of this act.

Section 6. Salary of the board – The commissioners under this chapter shall receive a compensation not to exceed the sum of \$300 each per annum, payable in equal monthly amounts, for services pertaining to this act.

Section 7. Audit – The books and accounts of the board shall be audited by the same officers and in like manner as the books of other county officers, or, at the discretion of the board by a certified public accountant selected by the board.

Section 8. Meetings – The board of commissioners of the district shall hold monthly meetings which shall be open to the public. Reasonable expenses of members attending meetings may be approved for payment by the board of commissioners.

Section 9. Budget; hearing –

(1) The fiscal year of the Lee County Hyacinth Control District shall be the 12-month period extending from October 1 of one year through September 30 of the following year. The board shall prepare a tentative budget for the district covering its proposed operation and requirements for the ensuing fiscal year. The budget shall set forth the proposed expenditures of the district for bonds or other debits, for construction, for acquisition of land, and other purposes for operation and maintenance of the work of the district and the conduct of the affairs of the district generally, to which may be added an amount to be held as a reserve. The budget shall be in such form as the board may decide.

(2) The budget shall also include the estimated amount obligated for commitments which have been made but not completed and shall indicate the estimated net balance or unobligated funds which shall be on hand at the beginning of the fiscal year, and shall indicate the estimated amount to be raised by taxes and other sources.

(3) On a date to be fixed by the board of commissioners between May 10 and June 20 of each year, the board shall publish a notice of its intention to adopt the tentative budget or said budget as amended for the ensuing fiscal year. The notice shall set forth the tentative budget in full, and shall be notice to all owners of property subject to the district taxes that on a date and at a place appearing in the notice, opportunity will be afforded such owners, their attorney, or agent, to appear before the board and state their objections, if any, to the budget. The notice shall be published for 2 consecutive weeks in a newspaper published in the county seat, the last insertion of which shall appear not less than 1 nor more than 2 weeks prior to the date set by the board for the hearing.

(4) The hearing shall be before the governing board of the district on a date to be fixed by the board not sooner than 1 week and not later than 2 weeks after the date of the last publication of notice of intention to adopt the budget, and may be continued from day to day until terminated by the board. Promptly after such termination the governing board shall act upon objections filed against the budget, and shall by July 10 following adopt a final budget for the district, which shall thereupon be the operating and fiscal guide for the district for the ensuing year.

Section 10. Eminent domain – The board may hold, control, and acquire by gift or purchase any real or personal property for the use of the district and may condemn any land or easements needed to carry out the purposes of this act. The board may exercise the right of eminent domain and institute and maintain condemnation proceedings as provided in chapter 73, Florida Statutes.

Section 11. Tax levy – The Board of Commissioners of the Hyacinth Control District may levy upon all of the taxable property in Lee County, Florida a special tax not exceeding 1/8 mill on the dollar during each year solely for the purposes authorized and prescribed by this act. Said levy shall be made each year not later than July 12 by resolution of the board or majority thereof, duly entered upon its minutes. Certified copies of such resolution executed in the name of the board by the chair and secretary and under its corporate seal, shall be made and delivered to the Board of County Commissioners of Lee County and the Department of Revenue of the State of Florida, not later than July 15 of such year. The board of county commissioners shall order the property appraiser of the county to assess and the collector of the county to collect the amount of taxes so assessed and levied by the board of commissioners of the hyacinth control district upon all of the taxable property in the county at the rate of taxation adopted by the board for said year and included in said resolution, and said levy shall be included in the warrants of the property appraiser and attached to the assessment roll of taxes for the county each year. Fees shall be paid to the property appraiser and to the tax collector in accordance with the law. The tax collector shall

collect such taxes so levied by the board in the same manner as other taxes are collected and shall pay the same within the time and in the manner prescribed by law to the treasurer of the board. The Department of Revenue shall assess and levy on all the railroad lines and railroad property and telegraph and telephone lines and telegraph and telephone property situated in the county in the amount of each such levy as in the case of other state and county taxes, and collect such taxes thereon in the same manner as the department is required by law to assess and collect taxes for state and county purposes, and remit the same to the treasurer of the board. All such taxes shall be held by the treasurer for the credit of the board and paid out as ordered by the board.

Section 12. Engineer as director; advertisement of contracts – All work done under the provisions of this act, both in construction and maintenance, shall be carried on under the supervision of a competent, professional engineer to be employed by the board. The board may have all work performed by contract with or without advertisement, or without contract, by machinery, equipment and labor employed directly by the board.

Section 13. Penalty for damage to property – Whoever shall willfully damage any of the property of the hyacinth control district created under this act or any works constructed, maintained, or controlled by such hyacinth control district or who shall obstruct or cause to be obstructed any of the operations of such hyacinth control district taken under this chapter, shall be punished as provided by general law.

Section 14. Cooperation with individual, local, state, and federal agencies – The board is authorized to cooperate with and to enter into agreements and/or contracts for purposes herein contained with political or constitutional subdivisions or agencies of the State of Florida, the several counties, municipalities, individuals, corporations, any district duly created by general or special law, and the United States operating through any of its divisions or agencies. The board may agree and/or contract to perform hyacinth or other noxious aquatic weed control and eradication work for and on behalf of such individual and political entities; to receive grants or donations for hyacinth control and eradication and to participate on a matching or participating fund basis with such individual, corporate, or political entities as may be provided by law.

Section 15. Transfer of assets and liabilities – All assets, including equipment, books and records, moneys on hand, easements, and rights of any kind and nature belonging to the district as of the effective date of this act together with all of the liabilities incurred by said district, remain the property and obligations of the district; no action shall be brought or instituted after July 14, 1968, upon any bond, interest coupon, bond credit, certificate of indebtedness, note, or any other debt, claim or liability outstanding, due, or owing by the Lee County Hyacinth Control District as created by chapter 65-1815, Laws of Florida.

Section 16. It is declared to be the legislative intent that this act shall be construed liberally.

Section 17. It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision, or part thereof of this act is held invalid, unenforceable or unconstitutional, it shall not affect the remainder of the act, and the remainder of the act shall remain in force and effect as if the invalid portion had not been enacted.

Section 18. Prior special acts relating to the Lee County Hyacinth Control District heretofore repealed shall remain repealed and all prior special acts relating to the Lee County Hyacinth Control District not heretofore repealed are hereby repealed. They are chapters 61-2404, 63-1544, 65-1815, 67-1629, 72-599, and 79-495, Laws of Florida. It is the intent that this act shall be the single act that codifies all prior special acts related to the Lee County Hyacinth Control District upon this act becoming a law.

Nothing in this act shall change existing law as to whether or the extent to which the provisions of Chapters 253, 369, 373, 399, and 403, Florida Statutes, shall apply.

Section 19. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 27, 1998.

Filed in Office Secretary of State May 26, 1998.