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HB 1089

2018 Legislature

1
2 An act relating to the East Mulloch Drainage District,
3 Lee County; providing an exception to general law;
4 creating the East Mulloch Water Control District as a
5 dependent special district; providing that the charter
6 of the district shall be subject to amendment or
7 repeal by the county commission; providing the
8 district charter; providing boundaries; providing
9 powers; providing for the county commission to appoint
10 the board of supervisors; providing for staggered
11 terms; providing authority and duties of the board;
12 providing for compensation; providing for assessments
13 by the district; repealing chs. 63-930, 65-912, 83-
14 443, 83-455, 84-464, 86-425, and 88-480, Laws of
15 Florida; dissolving the East Mulloch Drainage
16 District; transferring all assets and liabilities of
17 the East Mulloch Drainage District to the East Mulloch
18 Water Control District; providing that liabilities of
19 the district are not liabilities of the county;
20 providing construction; providing that the act shall
21 take precedence over any conflicting law to the extent
22 of such conflict; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
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26 Section 1. The East Mulloch Water Control District is
 27 created as a dependent special district of Lee County and a body
 28 corporate and politic.

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

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

35 Section 1. Name and corporate status.-

36 (1) The name of the district is the "East Mulloch Water
 37 Control District."

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

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

43
 44 Commencing at the Northeast corner of
 45 Section 9, Township 46 South, Range 25 East in Lee
 46 County, run South 50 feet along the East line of
 47 Section 9 to the point of beginning; thence run West
 48 50 feet South of and parallel to the North line of
 49 Section 9 to the West line of Section 9; thence run
 50 South along the West line of said Section 9 to the

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51 Northeast corner of the South 1/2 of the Southeast 1/4
52 of Section 8; thence run West along the North line of
53 said South 1/2 of the Southeast 1/4 of Section 8 to
54 the Northwest corner of the South 1/2 of the Southeast
55 1/4 of Section 8; thence run South along the West line
56 of the South 1/2 of the Southeast 1/4 of Section 8 to
57 the Southwest corner of the South 1/2 of the Southeast
58 1/4 of Section 8; thence run East along the South line
59 of Section 8 to the Northwest corner of Section 16;
60 thence run South along the West line of Section 16 to
61 the center of said West line of Section 16; thence run
62 West along the North line of the South 1/2 of Section
63 17 to the Northwest corner of the East 1/2 of the
64 Northwest 1/4 of the Southwest 1/4 of Section 17;
65 thence run South along the West line of the East 1/2
66 of the Northwest 1/4 of the Southwest 1/4 of Section
67 17, to the Southwest corner of the East 1/2 of the
68 Northwest 1/4 of the Southwest 1/4 of Section 17,
69 thence run East to the North-South centerline of
70 Section 17; thence run South along the centerline of
71 Section 17 to the Southwest corner of the Southeast
72 1/4 of Section 17; thence run West on the South line
73 of Section 17 to the Easterly Right of way of U.S.
74 Highway 41; thence run Southeasterly along the
75 Easterly right of way of U.S. Highway 41 to a point

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76 | 200.27 feet Northwesterly of a point on said Right of
 77 | way due West from the center of the East line of
 78 | Section 20; thence run East to the East line of
 79 | Section 20; thence run North along said East line of
 80 | Section 20 to the Southwest corner of Section 16;
 81 | thence run East along the South line of Section 16 to
 82 | the Southeast corner of Section 16; thence run South
 83 | along the West line of Section 22 to the Southwest
 84 | corner of the Northwest 1/4 of Section 22; thence run
 85 | East along the South line of the Northwest 1/4 of
 86 | Section 22 to the Southeast corner of the Northwest
 87 | 1/4 of Section 22; thence run North along the East
 88 | line of the Northwest 1/4 of Section 22 to the
 89 | Northeast corner of the Southwest 1/4 of Section 15;
 90 | thence run West along the North line of the Southwest
 91 | 1/4 of Section 15 to the Southeast corner of the West
 92 | ¾ of the Northwest 1/4 of Section 15; thence run North
 93 | along the East line of the West ¾ of the Northwest 1/4
 94 | of Section 15 to the Southwest corner of the Northeast
 95 | 1/4 of the Northeast 1/4 of the Northwest 1/4 of
 96 | Section 15; thence East along the South line of the
 97 | Northeast 1/4 of the Northeast 1/4 of the Northwest
 98 | 1/4 of Section 15 to the Southeast corner of the
 99 | Northeast 1/4 of the Northeast 1/4 of the Northwest
 100 | 1/4 of Section 15; thence run North along the East

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101 line of the Northeast 1/4 of the Northeast 1/4 of the
 102 Northwest 1/4 of Section 15 to the Northeast corner of
 103 the Northeast 1/4 of the Northeast 1/4 of the
 104 Northwest 1/4 of Section 15; thence run North along
 105 the East line of the Southwest 1/4 of Section 10 to
 106 the Northeast corner of the Southwest 1/4 of Section
 107 10; thence run West along the North line of the
 108 Southwest 1/4 of Section 10 to the Northwest corner of
 109 the Southwest 1/4 of Section 10; thence run North on
 110 the East line of Section 9 to the Northeast corner of
 111 Section 9 to the point of beginning.

112
 113 Together with:

114
 115 A tract of land lying in Section 15,
 116 Township 46 South,
 117 Range 25 East, Lee County, Florida,
 118 described as follows:

119 Beginning at the Northwest corner of
 120 the Southeast quarter of said Section 15, run S.
 121 84°08'36" E. for 356.42 feet; thence S. 63°23'58" E.
 122 for 417.26 feet; thence S. 74°58'32" E. for 53.83
 123 feet; thence N. 13°30'24" W. for 241.56 feet; thence
 124 N. 76°29'36" E. for 264.18 feet; thence S. 13°30'24"
 125 E. for 483.39 feet; thence S. 11°00'00" E. for 246.44

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126 feet; thence Southerly along the arc of a curve to the
 127 right through a central angle of 55°40'01" (Radius of
 128 920.00 feet; chord bearing S. 16°50'01" W.; chord
 129 length 859.10 feet) for 893.85 feet; thence S.
 130 44°40'01" W. for 222.08 feet; thence Southwesterly
 131 along the arc of a curve to the left through a central
 132 angle of 13°39'14" (Radius of 920.00 feet; chord
 133 bearing S. 37°50'24" W.; chord length 218.72 feet) for
 134 219.24 feet; thence S. 89°40'01" W. for 590.43 feet to
 135 the West line of the said Southeast quarter; thence N.
 136 0°19'59" W. for 1808.93 feet to the Point of
 137 Beginning. Said lands containing 40.81 acres, more or
 138 less. Bearings used herein refer to the said West line
 139 of the Southeast quarter of Section 15 as being N.
 140 0°19'59" W.

141
 142 and further together with:

143
 144 A tract of land in the North Half (N
 145 1/2) of Section 10,
 146 Township 46S, Range 25E, Lee County,
 147 Florida, lying southerly of the Alico Road right-of-
 148 way line and westerly of the I-75 right-of-way line.
 149 Said lands in this paragraph containing 140 acres,
 150 more or less.

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

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

158 (a) In exercising its authority for drainage and water
 159 control, the district shall have the authority provided by, and
 160 be subject to, ss. 298.16, 298.17, 298.18, 298.20, 298.21,
 161 298.22, 298.225, 298.23, 298.24, 298.25, 298.26, 298.28,
 162 298.301, 298.305, 298.329, 298.333, 298.341, 298.345, 298.353,
 163 298.36, 298.365, 298.366, 298.401, 298.41(1), 298.465, 298.47,
 164 298.48, 298.49, 298.50, 298.52, 298.54, 298.56, 298.59, 298.61,
 165 298.62, 298.63, and 298.66, Florida Statutes.

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

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

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

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

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

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

196 Section 4. Board of supervisors.-

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

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

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

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

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

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

216 (e) Each supervisor shall be entitled to receive a per
217 diem of \$5 for attending meetings of the board of supervisors,
218 provided that the compensation of any supervisor shall not
219 exceed the sum of \$25 during any 1 month. Supervisors shall be
220 reimbursed for their expenses pursuant to s. 112.061, Florida
221 Statutes.

222 (f) Each year, the board of supervisors shall hold an
223 annual organizational meeting and elect a chair, vice chair, and

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224 treasurer, whose duties shall be established by resolution of
 225 the board of supervisors.

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

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

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

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

244 Section 5. Annual maintenance assessment.-Notwithstanding
 245 any other provision of law, for the purpose of paying the cost
 246 of administering the affairs of the district; for the purpose of
 247 maintaining, operating, preserving, rendering efficient,
 248 repairing, or restoring the water control structures of the

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249 district; and for the purpose of defraying the current expenses
250 of the district, the board of supervisors is authorized,
251 empowered, and directed to levy and impose upon all lands lying
252 within the boundaries of the district an assessment not to
253 exceed \$30.10 per acre, per annum. The board of supervisors
254 shall levy annually, within the limits set by this charter, an
255 amount sufficient to pay promptly all obligations incurred or to
256 be incurred by the district.

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

260 (2) Annual installment assessments levied pursuant to s.
261 298.36, Florida Statutes, shall be due and collected each year
262 at the same time that county taxes are due and collected,
263 pursuant to s. 298.36, Florida Statutes, chapter 197, Florida
264 Statutes, and this charter. Said assessments shall be a lien
265 until paid on the property against which assessed and
266 enforceable in like manner as county taxes.

267 (3) The methods for assessing and collecting non-ad
268 valorem assessments, fees, or service charges shall be as set
269 forth in this charter and chapter 170, chapter 189, chapter 197,
270 or chapter 298, Florida Statutes. The receipt and collection of
271 these charges or fees shall be in the manner prescribed by
272 resolution.

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

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

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

282 Section 6. Finances.-

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

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

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

295 (4) The board of supervisors annually shall prepare,
 296 consider, and adopt a district budget pursuant to the applicable

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297 requirements of this charter and chapter 189, Florida Statutes.
 298 The fiscal year shall be from October 1 through September 30.

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

303 Section 4. Chapters 63-930, 65-912, 83-443, 83-455, 84-
 304 464, 86-425, and 88-480, Laws of Florida, are repealed.

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

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

314 Section 7. As of July 1, 2018, all property, whether real,
 315 personal, or mixed, which is owned, possessed, or controlled by
 316 the East Mulloch Drainage District and all other assets,
 317 contracts, obligations, and liabilities of the East Mulloch
 318 Drainage District are transferred and vested in the East Mulloch
 319 Water Control District. All contracts and obligations of the
 320 East Mulloch Drainage District existing on July 1, 2018, shall
 321 remain in full force and effect, and this act shall in no way

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322 affect the validity of such contracts or obligations. All
323 liabilities of the East Mulloch Drainage District outstanding on
324 July 1, 2018, are transferred to the East Mulloch Water Control
325 District and at no time become liabilities of Lee County.

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

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

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

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