

Council Substitute for House Bill No. 1515

An act relating to Charlotte County; creating the Babcock Ranch Community Independent Special District; providing a short title; providing legislative findings and intent; providing definitions; stating legislative policy regarding creation of the district; establishing compliance with minimum requirements in s. 189.404(3), F.S., for creation of an independent special district; providing for creation and establishment of the district; establishing the legal boundaries of the district; providing for the jurisdiction and charter of the district; providing for a governing board and establishing membership criteria and election procedures; providing for board members' terms of office; providing for board meetings; providing for administrative duties of the board; providing a method for transition of the board from landowner control to control by the resident electors of the district; providing for a district manager and district personnel; providing for a district treasurer, selection of a public depository, and district budgets and financial reports; providing for the general powers of the district; providing for the special powers of the district to plan, finance, and provide community infrastructure and services within the district; providing for bonds; providing for borrowing; providing for future ad valorem taxation; providing for special assessments; providing for issuance of certificates of indebtedness; providing for tax liens; providing for competitive procurement; providing for fees and charges; providing for amendment to charter; providing for required notices to purchasers of residential units within the district; defining district public property; providing severability; providing for a referendum; providing an effective date.

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

Section 1. This act may be cited as the "Babcock Ranch Community Independent Special District Act."

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

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The unincorporated area of southeastern Charlotte County, including the Babcock Ranch lands, are unique and special with a need towards protecting natural resources and retaining a viable agricultural system while protecting private property rights and promoting a sound economy.

(b) The Board of Trustees of the Internal Improvement Trust Fund, the Florida Fish and Wildlife Conservation Commission, and Lee County have purchased approximately 73,500 acres of the approximately 91,000-acre Babcock Ranch for the perpetual preservation of such lands and for establishing a contiguous wildlife protection area from Lake Okeechobee to the Charlotte Harbor Estuary Project.

(c) The Department of Community Affairs, Charlotte County, Lee County, and the then contract purchaser of the Babcock Ranch have entered into an Interlocal Planning Agreement for the Babcock Ranch, dated January 24, 2006, which outlines the steps necessary to achieve the sale and preservation of approximately 73,500 acres of the entire Babcock Ranch and development of the remaining approximately 17,800 acres (the “Babcock Ranch Community”) with a new, sustainable, compact, and mixed-use community that will provide residents with a balance of living, working, educational, civic, and recreational opportunities incorporating greenways, pedestrian ways, and transit corridors.

(d) The district and the district charter, as created by this act, with its general and special powers are essential and, for the reasons set forth herein, the best alternative for planning, constructing, maintaining, operating, financing, and improving the provision of systems, facilities, and services necessary to meet the infrastructure needs of the Babcock Ranch Community.

(e) There is a particular need to implement a specialized and limited single-purpose independent special district unit of local government in connection with the development of the Babcock Ranch Community, in order to prevent urban sprawl by providing sustaining and freestanding infrastructure and to prevent the needless duplication, fragmentation, and proliferation of local government services.

(f) Management of conservation, environmental, agricultural, and economic challenges and opportunities in the Babcock Ranch area transcends the boundaries and responsibilities of both private landowners and individual units of government.

(g) There are two alternatives for the creation of independent special districts for properties of this size: the establishment by rule of the Governor and Cabinet of one or more uniform community development districts over the property; and the establishment by special act of the Legislature of a single independent special district meeting the minimum requirements of chapter 189, Florida Statutes, the applicable district accountability general law. Use of this special act, created under chapter 189, Florida Statutes, is the better of the two alternatives in this case because it will allow for use of a single special district, with longer involvement and responsibility on the part of the initial landowner, which will result in better intergovernmental coordination and lower administrative costs for Charlotte County and the district, including its landowners and residents. Additionally, use of this special act will provide the flexibility to include within the district, at a later date, contiguous Babcock Ranch lands within Lee County, whereas chapter 190, Florida Statutes, would prevent a single uniform community development district from crossing county lines. Additionally, use of this special act updates the charter of a uniform community development district under chapter 190, Florida Statutes, eliminates potential for its abuse, clarifies and sets forth certain uniform procedures for liens on property, and makes other substantial reforms to the benefit of the people of Charlotte County and future landowners, residents, and visitors.

(h) A longer involvement of the initial landowner with regard to the provision of systems, facilities, and services for the Babcock Ranch Community, coupled with a severely limited and highly specialized single purpose of the district, is in the public interest.

(i) Any public or private system to provide infrastructure improvements, systems, facilities, and services to the Babcock Ranch Community must be established through a highly specialized, innovative, responsive, and accountable mechanism to provide the components of infrastructure at sustained levels of high quality over the long term.

(j) The existence and use of such a limited, specialized single-purpose local government for the Babcock Ranch Community, subject to the Charlotte County comprehensive plan and land development regulations, will result in a higher propensity to provide for orderly development and prevent urban sprawl; protect and preserve environmental and conservation uses and assets; potentially enhance the market value for both present and future landowners of the property consistent with the need to protect private property; potentially enhance the net economic benefit to Charlotte County, including an enhanced tax base to the benefit of all present and future taxpayers in Charlotte County; and result in the sharing of costs of providing certain systems, facilities, and services in an innovative, sequential, and flexible manner within the area to be serviced by the district.

(k) The creation and establishment of the district will encourage local government financial self-sufficiency in providing public facilities and in identifying and implementing fiscally sound, innovative, and cost-effective techniques to provide and finance public facilities while encouraging development, use, and coordination of capital improvement plans by all levels of government, pursuant to chapter 187, Florida Statutes.

(l) The creation and establishment of the district will encourage and enhance cooperation among communities that have unique assets, irrespective of political boundaries, to bring the private and public sectors together to establish an orderly and environmentally and economically sound plan for current and future needs and growth.

(m) The creation and establishment of the district is a legitimate alternative method available to manage, own, operate, construct, and finance capital infrastructure systems, facilities, and services.

(n) In order to be responsive to the critical timing required through the exercise of its special management functions, an independent district requires financing of those functions, including bondable, lienable, and non-lienable revenue, with full and continuing public disclosure and accountability, funded by landowners, both present and future, and funded also by users of the systems, facilities, and services provided to the land area by the district, without burdening the taxpayers and citizens of the state, Charlotte County, or any municipality therein.

(o) The district created and established by this act shall not exercise or have any comprehensive planning, zoning, or development permitting

power; the establishment of the district shall not be considered a development order within the meaning of chapter 380, Florida Statutes; and all applicable planning and permitting laws, rules, regulations, agreements, and policies of Charlotte County shall control the development of the land within the district.

(p) The creation by this act of the Babcock Ranch Community Independent Special District is not inconsistent with the Charlotte County comprehensive plan.

(q) Charlotte County does not object to the creation of the district.

(r) It is the legislative intent and purpose that no debt or obligation of the district constitute a debt or obligation on any local general-purpose government without its consent.

(s) It is the legislative intent and purpose that no local general-purpose government shall be under any obligation or duty to assume any obligation or commitment made by the developer or the district.

(2) DEFINITIONS.—As used in this act:

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

(b) “Assessable improvements” means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act that provide a special benefit to property within the district.

(c) “Assessment bonds” means special obligations of the district that are payable solely from proceeds of the special assessments or benefit special assessments levied for assessable improvements, provided that, in lieu of issuing assessment bonds to fund the costs of assessable improvements, the district may issue revenue bonds for such purposes payable from special assessments.

(d) “Assessments” means those nonmillage district assessments that include special assessments, benefit special assessments, and maintenance special assessments and a nonmillage, non-ad valorem maintenance tax if authorized by general law.

(e) “Babcock Ranch” means the approximately 91,000 acres of contiguous lands generally located in southeastern Charlotte County and in the north-eastern portion of Lee County, the majority of which, approximately 73,500 acres, has been purchased pursuant to that certain Agreement for Sale and Purchase entered into by the Board of Trustees of the Internal Improvement Trust Fund, the Florida Fish and Wildlife Conservation Commission, and Lee County, as authorized pursuant to the Babcock Ranch Preserve Act, chapter 2006-231, Laws of Florida, and the remainder of which, approximately 17,800 acres, known as “Area 6,” is to be developed as the Babcock Ranch Community.

(f) “Babcock Ranch Community” means that portion of the Babcock Ranch to be developed with a new, sustainable, compact, mixed-use community pursuant to that certain Interlocal Planning Agreement for the Babcock Ranch, dated January 24, 2006, among the Florida Department of Community Affairs, Lee and Charlotte Counties, and the then contract purchaser of the Babcock Ranch, and pursuant to development approvals issued or to be issued by Lee County and Charlotte County, consisting of approximately 17,800 acres. The subject of this act is that portion of the Babcock Ranch Community located in Charlotte County, consisting of approximately 13,631 acres, as described in section 4.

(g) “Babcock Ranch Community Independent Special District” means the unit of special and single-purpose local government created and chartered by this act, including the creation of its charter, and limited to the performance, in implementing its single purpose, of those general and special powers authorized by its charter under this act, the boundaries of which are more specifically set forth in this act, the governing head of which is created and authorized to operate with legal existence by this act, and the purpose of which is as set forth in this act.

(h) “Benefit special assessments” are district assessments imposed, levied, and collected pursuant to the provisions of section 6(12)(b).

(i) “Bond” includes “certificate,” and the provisions that are applicable to bonds are equally applicable to certificates. The term “bond” includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as provided for in this act.

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

1. The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

2. The cost of surveys, estimates, plans, and specifications.

3. The cost of improvements.

4. Planning, engineering, designing, fiscal, legal, and other professional and consultant expenses and charges.

5. The cost of all labor, materials, machinery, and equipment.

6. The cost of all lands, properties, rights, easements, and franchises acquired.

7. Financing charges.

8. The creation of initial reserve and debt service funds.

9. Working capital.

10. Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reason-

able period of time after completion of construction or acquisition as the board may determine.

11. The cost of issuance of bonds pursuant to this act, including advertisements and printing.

12. The cost of any bond or tax referendum held pursuant to this act and all other expenses of issuance of bonds.

13. The discount, if any, on the sale or exchange of bonds.

14. Administrative expenses.

15. The costs and expenses associated with the use, operation, maintenance, and repair of improvements.

16. Such other expenses as may be necessary or incidental to the acquisition, disposition, transfer, construction, operation, maintenance, or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

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

(k) "District" means the Babcock Ranch Community Independent Special District.

(l) "District manager" means the manager of the district.

(m) "General obligation bonds" means bonds that are secured by, or provide for their payment by, the pledge of the full faith and credit and taxing power of the district, in addition to those special taxes levied for their discharge and such other sources as may be provided for their payment or pledged as security under the resolution authorizing their issuance, and for payment of which recourse may be had against the general fund of the district.

(n) "Governing board" or "board" means the governing board of the district or, if such board has been abolished, the board, body, or commission assuming the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(o) "Governing board member" means any member of the governing board.

(p) "Land development regulations" means those regulations of general purpose local government, adopted under the Local Government Comprehensive Planning and Land Development Regulation Act, part II of chapter 163, Florida Statutes, to which the district is subject and as to which the district may not do anything that is inconsistent. Land development regulations shall not mean specific management, engineering, planning, operating, and other criteria and standards needed in the daily management, implementation, and provision by the district of systems, facilities, services,

works, improvements, projects, or infrastructure, including design criteria and standards, so long as they remain subject to and are not inconsistent with the applicable land development regulations.

(q) “Landowner” means the owner of a freehold estate as it appears on the deed record, including a trustee, a private corporation, and an owner of a condominium unit. “Landowner” does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. “Landowner” also means the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(r) “General-purpose local government” means a county, municipality, or consolidated city-county government.

(s) “Maintenance special assessments” are assessments imposed, levied, and collected pursuant to the provisions of section 6(12)(d).

(t) “Non-ad valorem assessment” means only those assessments that are not based upon millage and that can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(u) “Powers” means powers used and exercised by the governing board to accomplish the single, limited, and special purpose of the district, including:

1. “General powers,” those organizational and administrative powers of the district as provided in its charter in order to carry out its single special purpose as a local government public corporate body politic.

2. “Special powers,” those powers enumerated by the district charter to implement its specialized systems, facilities, services, projects, improvements, and infrastructure and related functions in order to carry out its single specialized purpose.

3. Any other powers, authority, or functions set forth in this act or in chapter 189 or chapter 190, Florida Statutes.

(v) “Project” means any development, improvement, property, power, utility, facility, enterprise, service, system, works, or infrastructure now existing or hereafter undertaken or established under the provisions of this act.

(w) “Qualified elector” means any person at least 18 years of age or older, who is a citizen of the United States, a legal resident of the state and the district, and who registers to vote with the Supervisor of Elections in Charlotte County.

(x) “Refunding bonds” means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

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

(z) “Sewer system” means any plant, system of pipes or lines, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, but not limited to, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. “Sewer system” also includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; and all real and personal property and any interest therein, and rights, easements, and franchises of any nature relating to any such system and necessary or convenient for operation thereof.

(aa) “Special assessments” means assessments as imposed, levied, and collected by the district for the costs of assessable improvements pursuant to the provisions of this act, chapter 170, Florida Statutes, and the additional authority under section 197.3631, Florida Statutes, or other provisions of general law that provide or authorize a supplemental means to impose, levy, or collect special assessments.

(bb) “Tax” or “taxes” means those levies and impositions of the governing board that support and pay for government and the administration of law and that may be:

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

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

(cc) “Water system” means any plant, system of pipes or lines, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as a part thereof, useful, necessary, or having the present capacity for future use in connection with the development of sources, treatment, purification, or distribution of water. “Water system” also includes lakes, canals, ditches, reservoirs, dams, impoundments, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

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

(a) The district and the district charter, with its general and special powers, as created in this act, are essential and the best alternative for the residential, commercial, and other community uses, projects, or functions in the included portion of Charlotte County consistent with the effective comprehensive plans and serve a lawful public purpose.

(b) The district, which is a government of special purpose, is limited to its special purpose as expressed in this act, with the power to provide, plan, implement, construct, maintain, and finance as a government of special purpose for its systems, facilities, services, improvements, infrastructure, and projects and possessing financing powers to fund its management powers over the long term and with sustained levels of high quality.

(c) The creation of the Babcock Ranch Community Independent Special District by and pursuant to this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, does not constitute a development order and does not invoke any provision within the meaning of chapter 380, Florida Statutes, and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district as created by this act.

(d) The district shall operate and function subject to, and not inconsistent with, the Charlotte County comprehensive plan and any applicable development orders, zoning regulations, and other land development regulations.

(e) The special and single purpose Babcock Ranch Community Independent Special District will not have the powers of a general-purpose local government to adopt a comprehensive plan or related land development regulations as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act, part II of chapter 163, Florida Statutes.

(f) This act may be amended, in whole or in part, only by subsequent special act of the Legislature. No amendment to this act that alters the district boundaries or the general or special powers of the district may be considered by the Legislature unless it is accompanied by a resolution or official statement as provided for in section 189.404(2)(e)4., Florida Statutes.

Section 3. Creation and establishment; jurisdiction; construction; charter with legal description.—

(1) The Babcock Ranch Community Independent Special District, which also may be referred to as the “district,” is created and incorporated as a public body corporate and politic, an independent, limited, special purpose local government, an independent special district under section 189.404, Florida Statutes, and as defined in this act and section 189.403(3), Florida Statutes, in and for a certain portion of Charlotte County. Any amendments to chapter 190, Florida Statutes, after January 1, 2007, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, sections 190.006-190.041, Florida Statutes, shall constitute a general power, special power,

authority, or function of the Babcock Ranch Community Independent Special District. All notices for the enactment by the Legislature of this special act have been provided pursuant to the State Constitution, laws of the state, and the Rules of the Florida House of Representatives and of the Florida Senate.

(2) The territorial boundary of the district shall embrace and include all of that certain real property as described in section 4.

(3) The jurisdiction of this district, in the exercise of its general and special powers, and in the carrying out of its special purposes, is both within the external boundaries of the legal description of this district and extraterritorially only when expressly authorized by this act or by applicable general law. This special purpose district is created as a public body corporate and politic, with local government authority and power limited by its charter, this act, and subject to the provisions of other general laws, in particular chapter 189, Florida Statutes, except that in the event that a conflict arises between the provisions of applicable general laws and this act, the provisions of this act will control, and the district has jurisdiction to perform such acts and exercise such authorities, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its limited, single, and specialized purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein, including those necessary and incidental thereto.

(4) The exclusive charter of the “Babcock Ranch Community Independent Special District” is this act, which may be amended, terminated, or repealed only by special act of the Legislature.

Section 4. Legal description of the Babcock Ranch Community Independent Special District.—

LEGAL DESCRIPTION. The metes and bounds legal description of the district, within which there are no parcels of property owned by those who do not wish their property to be included within the district, is as follows:

CHARLOTTE COUNTY PARCEL:

A parcel of land lying within Sections 29, 31 through 33, Township 41 South, Range 26 East, AND, Sections 4 through 10, Sections 15 through 17 and Sections 19 through 36, Township 42 South, Range 26 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run S89°41'45"E, along the South line of said Section 31, a distance of 50.00 feet to a point on the East right-of-way line of State Road No. 31, said point also being the Point of Beginning of the parcel of land herein described; Thence continue S89°41'45"E a distance of 5,189.75 feet to the Northeast corner of Section 6, Township 43 South, Range 26 East; Thence S89°41'45"E a distance of 5,306.08 feet to the Northeast corner of Section 5, Township 43 South, Range 26 East;

Thence S89°37'16"E a distance of 5,289.11 feet to the Northeast corner of Section 4, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 3, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 2, Township 43 South, Range 26 East; Thence S89°35'44"E, along the North line of Section 1, Township 43 South, Range 26 East, a distance of 3,430.66 feet; Thence N00°00'40"W a distance of 10,185.53 feet; Thence N05°46'23"E a distance of 1,058.56 feet; Thence N66°40'38"W a distance of 200.62 feet; Thence S83°12'47"W a distance of 1,373.33 feet; Thence N30°17'33"W a distance of 1,686.63 feet; Thence N70°02'41"W a distance of 1,332.41 feet; Thence S72°42'44"W a distance of 1,430.81 feet; Thence N49°18'31"W a distance of 2,362.25 feet; Thence S69°00'57"W a distance of 1,518.19 feet; Thence S21°08'17"W a distance of 865.44 feet; Thence S20°29'11"E a distance of 1,376.91 feet; Thence N74°38'25"E a distance of 1,635.69 feet; Thence S00°18'50"E a distance of 1,309.92 feet; Thence S89°45'02"W a distance of 4,154.48 feet; Thence N51°39'36"W a distance of 782.53 feet; Thence N04°14'12"E a distance of 1,329.59 feet; Thence N39°20'59"W a distance of 1,779.16 feet; Thence N42°01'35"W a distance of 1,162.94 feet; Thence S52°01'16"W a distance of 818.34 feet; Thence S62°56'46"W a distance of 516.42 feet; Thence S89°59'33"W a distance of 307.20 feet; Thence N80°06'18"W a distance of 334.84 feet; Thence N20°54'51"W a distance of 336.86 feet; Thence N05°03'05"E a distance of 533.35 feet; Thence N22°47'49"E a distance of 5,490.82 feet; Thence N55°42'26"E a distance of 195.73 feet; Thence N21°59'06"W a distance of 1,739.17 feet; Thence N52°37'55"E a distance of 867.75 feet; Thence N13°36'57"W a distance of 2,507.33 feet; Thence S78°50'16"W a distance of 687.95 feet; Thence N19°48'25"W a distance of 366.25 feet; Thence N08°01'21"W a distance of 493.32 feet; Thence N03°43'40"E a distance of 687.22 feet; Thence N00°28'20"E a distance of 674.51 feet; Thence N25°12'33"W a distance of 261.13 feet; Thence N42°54'55"W a distance of 643.19 feet; Thence N07°19'37"W a distance of 171.40 feet; Thence N13°05'30"E a distance of 201.96 feet; Thence N32°40'01"W a distance of 186.12 feet; Thence N05°04'15"W a distance of 1,832.77 feet; Thence N19°47'08"W a distance of 527.20 feet; Thence N26°13'22"W a distance of 802.13 feet; Thence S79°06'55"W a distance of 475.20 feet; Thence N74°19'19"W a distance of 1,689.05 feet; Thence N01°26'06"W a distance of 897.42 feet; Thence N89°51'42"W a distance of 67.91 feet; Thence N00°00'03"W a distance of 1,218.37 feet; Thence N39°50'11"W a distance of 190.86 feet; Thence N00°00'29"W a distance of 324.62 feet; Thence N89°59'52"W a distance of 688.20 feet; Thence N00°00'00"E a distance of 1,967.22 feet; Thence N41°13'25"W a distance of 2,825.17 feet; Thence S89°59'57"W a distance of 3,566.80 feet; Thence S00°00'03"E a distance of 2,799.34 feet; Thence S89°11'17"W a distance of 5,960.98 feet to a point lying 50.00 feet East of the East right-of-way line for State Road No. 31; Thence along a line 50.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances: S00°48'43"E a distance of 2,976.13 feet and S00°34'01"W a distance of 786.25 feet; Thence S89°25'59"E a distance of 4,104.32 feet; Thence S00°01'22"E a distance of 2,084.04 feet; Thence S16°46'15"E a distance of 1,740.24 feet; Thence S09°11'59"W a distance of 1,325.85 feet; Thence S73°15'18"E a distance

of 661.15 feet; Thence N59°20'29"E a distance of 577.75 feet; Thence S38°10'48"E a distance of 551.46 feet; Thence S86°25'58"E a distance of 385.80 feet; Thence S24°01'11"E a distance of 975.12 feet; Thence S57°46'34"E a distance of 530.20 feet; Thence S70°04'12"E a distance of 1,843.47 feet; Thence N63°01'21"E a distance of 1,214.99 feet; Thence S50°03'22"E a distance of 2,565.56 feet; Thence S13°56'09"W a distance of 1,953.90 feet; Thence S12°51'59"E a distance of 1,862.33 feet; Thence S71°59'01"W a distance of 448.53 feet; Thence N45°00'57"W a distance of 266.60 feet; Thence S69°50'23"W a distance of 1,104.27 feet; Thence S28°10'55"E a distance of 1,272.60 feet; Thence S62°45'03"W a distance of 4,638.30 feet; Thence S82°12'01"W a distance of 711.48 feet; Thence S81°38'00"W a distance of 5,167.82 feet; Thence N77°54'41"W a distance of 707.32 feet; Thence N89°28'15"W a distance of 299.98 feet to a point lying 50.00 feet East of the East right-of-way line for State Road No. 31; Thence along a line 50.00 feet East of, and parallel with, the East right-of-way line for State Road No. 31, the following courses and distances: S00°31'45"W a distance of 4,197.71 feet, S00°26'10"W a distance of 5,282.33 feet and S00°36'46"W a distance of 5,337.00 feet to the Point of Beginning.

Containing 13,630.64 acres, more or less.

Bearings hereinabove mentioned are based on the North line of Section 6, Township 43 South, Range 26 East to bear S89°41'45"E.

Section 5. Governing board; members and meetings; organization; powers; duties; terms of office; related election requirements.—

(1) The board shall exercise the powers granted to the district pursuant to this act. The board shall consist of five voting members. Each voting member shall hold office for a term of 4 years, except as otherwise provided herein for initial board members, and until a successor is chosen and qualified. Additionally, Charlotte and Lee Counties, acting through their respective boards of county commissioners, are each entitled, but under no obligation, to appoint one person to act as a representative for the appointing county and liaison to the board. Such person may be appointed to serve as liaison to the board at any time after the initial landowner's meeting and may serve until replaced or removed by the appointing county. Only Charlotte and Lee Counties may appoint liaisons to the board, and only landowners and qualified electors may elect voting members to the board. All members of the board must be residents of the state and citizens of the United States. A board liaison is entitled to receive all meeting notices and board meeting materials in the same manner as a voting member of the board and shall be entitled to be heard at board meetings in the same manner as board members, except that such person shall not be a member of the governing board nor be entitled to vote.

(2)(a) Within 90 days following the effective date of this act, there shall be held a meeting of the landowners of the district for the purpose of electing five members for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper that is in general circulation in the area of the district, the last day of such publication to be not less than 14 days or more than 28 days before the date of the

election. The landowners, when assembled at such meeting, shall organize by electing a chair, who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions. The landowners present at the meeting, in person or by proxy, shall constitute a quorum. At any landowners' meeting, 50 percent of the district acreage shall not be required to constitute a quorum, and each governing board member elected by landowners shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as one acre, entitling the landowner to one vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for terms expiring November 30, 2010, and the three candidates receiving the next largest number of votes shall be elected for terms expiring November 30, 2008, with the term of office for each successful candidate commencing upon election. The members of the first board elected by landowners shall serve their respective terms; however, the next election of board members shall be held on the first Tuesday after the first Monday in November 2008. Thereafter, there shall be an election by landowners for the district every 2 years on the first Tuesday after the first Monday in November, which shall be noticed pursuant to paragraph (a). The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days prior to the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting. Each member elected in or after November 2008 shall serve a 4-year term.

(3)(a)1. The board may not exercise the ad valorem taxing power or general obligation bond power authorized by this act until such time as all members of the board, except for nonvoting members, are qualified electors who are elected by qualified electors of the district.

2.a. Regardless of whether the district has proposed to levy ad valorem taxes or issue general obligation bonds, board members initially elected by landowners shall be elected by qualified electors of the district as the district becomes populated with qualified electors. The transition shall occur such that the composition of the board, after the first general election following a trigger of the qualified elector population thresholds set forth below, shall be as follows:

(I) Once 4,600 qualified electors reside within the district, one voting board member shall be a person who was elected by the qualified electors, and four voting board members shall be persons who were elected by the landowners.

(II) Once 8,900 qualified electors reside within the district, two voting board members shall be persons who were elected by the qualified electors, and three voting board members shall be persons elected by the landowners.

(III) Once 22,000 qualified electors reside within the district, three voting board members shall be persons who were elected by the qualified electors and two voting board members shall be persons who were elected by the landowners.

(IV) Once 24,000 qualified electors reside within the district, four voting board members shall be persons who were elected by the qualified electors and one voting board member shall be a person who was elected by the landowners.

(V) Once 25,000 qualified electors reside within the district, all five voting board members shall be persons who were elected by the qualified electors.

Nothing in this sub-subparagraph is intended to require an election prior to the expiration of an existing board member's term.

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

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

d. Once the district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November. The board shall adopt a resolution if necessary to implement this requirement. The transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes.

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

(c) Candidates seeking election to office by qualified electors under this subsection shall conduct their campaigns in accordance with the provisions of chapter 106, Florida Statutes, and shall file qualifying papers and qualify

for individual seats in accordance with section 99.061, Florida Statutes. Candidates shall pay a qualifying fee, which shall consist of a filing fee and, if applicable, an election assessment or, as an alternative, shall file a petition signed by not less than 1 percent of the registered voters of the district, and take the oath required in section 99.021, Florida Statutes, with the supervisor of elections in the county affected by such candidacy. The amount of the filing fee is 3 percent of \$4,800; however, if the electors have provided for compensation, the amount of the filing fee is 3 percent of the maximum annual compensation so provided. The filing fee and election assessment, if applicable, shall be distributed as provided in section 105.031(3), Florida Statutes.

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

(4) Voting members of the board shall be public officers, shall be known as members and, upon entering into office, shall take and subscribe to the oath of office as prescribed by section 876.05, Florida Statutes. Voting members of the board shall be subject to ethics and conflict of interest laws of the state that apply to all local public officers. Voting members of the board shall hold office for the terms for which they were elected and until their successors are chosen and qualified. If, during the term of office, a voting member vacancy occurs, the remaining voting members of the board shall fill each vacancy by an appointment for the remainder of the unexpired term.

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

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

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

(8) The board shall keep a permanent record book entitled "Record of Proceedings of Babcock Ranch Community Independent Special District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book and all other district records shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119, Florida Statutes. The record book shall be

kept at the office or other regular place of business maintained by the board in a designated location in Charlotte County.

(9) Each voting member of the board shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the board, not to exceed \$4,800 per year per member, or an amount established by the electors at referendum. In addition, each voting member of the board shall receive travel and per diem expenses as set forth in section 112.061, Florida Statutes.

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

Section 6. Governing board; general duties.—

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

(2) TREASURER.—The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of or pursuant to a resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

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

(4) BUDGET; REPORTS AND REVIEWS.—

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

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

(c) At least 60 days prior to adoption, the board of the district shall submit to the Charlotte County Board of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the board of county commissioners may submit written comments to the board of the district solely for the assistance and information of the board of the district in adopting its annual district budget.

(d) The board of the district shall submit annually to the Charlotte County Board of County Commissioners its district public facilities report under section 189.415(2), Florida Statutes, which report the board of county commissioners shall use and rely on in the preparation or revision of its comprehensive plan, specifically under section 189.415(6), Florida Statutes.

(5) DISCLOSURE OF PUBLIC FINANCING.—The district shall, in accordance with all applicable general law, provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy. Any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation shall ensure that disclosures made by develop-

ers pursuant to chapter 498, Florida Statutes, meet the requirements of section 190.009(1), Florida Statutes.

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

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

(b) To apply for coverage of its employees under the Florida Retirement System in the same manner as if such employees were state employees, subject to necessary action by the district to pay employer contributions into the Florida Retirement System Trust Fund.

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

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

(e) To adopt and enforce rules and orders pursuant to the provisions of chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt and enforce administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions that may be necessary for the conduct of district business.

(f) To maintain an office at such place or places as the board designates in Charlotte County, and within the district when facilities are available.

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

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

(i) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

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

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

(l) To assess and to impose upon lands in the district ad valorem taxes as provided by this act.

(m) If and when authorized by general law, to determine, order, levy, impose, collect, and enforce maintenance taxes.

(n) To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and the general laws of the state.

(o) To hold, control and acquire by donation, purchase, or condemnation (subject to the limitation on the district's eminent domain powers as set forth below), or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act, both within and outside the boundaries of the district, and to make use of such easements, dedications, or reservations for the purposes authorized by this act.

(p) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county in which the taking will occur, the right and power of eminent domain, pursuant to the provisions of chapters 73 and 74, Florida Statutes, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water, sewer, transportation improvements as outlined in subsection (7), and water management, specifically including, without limitation, the power for the taking of easements for the drainage of the land of one person over and through the land of another.

(q) To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to chapter 163, Florida Statutes, or that shall be required or permitted to be undertaken by the district pursuant to any development order or development of regional impact, or any other agreement with Charlotte County or other governmental entities, including, without limitation, any school district, sheriff, fire district, drainage district, and health care district for proportionate, fair-share, or pipelining capital construction funding for any certain capital facilities or systems required from the development pursuant to any applicable development order or agreement.

(r) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the special purpose of the district authorized by this act.

(s) To carry out any conditions of any development approval, development order, or agreement applicable to the development of the Babcock Ranch Community that relates to the provisions of infrastructure, including roads and other on-site and off-site improvements and any surety obligations relating thereto.

The provisions of this subsection shall be construed liberally in order to carry out effectively the specialized purpose of this act.

(7) SPECIAL POWERS.—The district shall have, and the board may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, systems, facilities, services, improvements, projects, works, and infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure, including, without limitation, any obligations pursuant to a development order or agreement. Any or all of the following special powers are granted by this act in order to implement the special purpose of the district:

(a) To provide water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges. In the event that the board assumes the responsibility for providing water management and control for the district that is to be financed by benefit special assessments, the board shall adopt plans and assessments pursuant to law or may adopt water management and control plans, assess for benefits, and apportion and levy special assessments, as follows:

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

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

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

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

5. The water management and control plan may be altered in detail from time to time until the appraisal record herein provided is filed but not in such manner as to affect materially the conditions of its adoption. After the appraisal record has been filed, no alteration of the plan shall be made, except as provided by this act.

6. Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to section 298.301, Florida Statutes.

(b) To provide for water supply, sewer, and wastewater management, reclamation, and reuse, or any combination thereof, and any irrigation systems, facilities, and services and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

1. The district may not purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest.

2. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district shall consider, at a minimum, the following:

a. The most recent available income and expense statement for the utility.

b. The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions in aid of construction and the accumulated depreciation thereon.

c. A statement of the existing rate base of the utility for regulatory purposes.

d. The physical condition of the utility facilities being purchased or sold or subject to a wastewater facility privatization contract.

e. The reasonableness of the purchase, sale, or wastewater facility privatization contract price and terms.

f. The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative.

g. Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the district or the entity purchasing the utility from the district.

h. In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs.

i. The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made.

j. The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the district or the entity purchasing the utility from the district.

k. In the case of a wastewater facility privatization contract, the district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract.

1. All moneys paid by a private firm to a district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose, provided, however, that nothing herein shall preclude the district from using all or part of the moneys for the purpose of the district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation. The district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the district or the entity purchasing the utility from the district.

(c) To provide for bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d) To provide for transportation and transportation-related improvements equal to or exceeding the specifications of the county in which such transportation improvements are located, which specifications may include, but not be limited to, those outlined in conditions of development approval. Such transportation and transportation-related improvements may include,

but are not limited to, highways, streets, roads, alleys, trails, pathways, sidewalks, parkways, bicycle lanes, jogging paths, interchanges, bridges, thoroughfares of all kinds and descriptions, landscaping, hardscaping, irrigation, storm drains, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire, parking facilities, and all other related elements of a functioning transportation system in general or as related to the conditions of a development approval affecting the Babcock Ranch Community. Such transportation improvements may be located on-site or off-site; provided, however, that any off-site transportation improvements must be required or approved by the local general purpose government in which they are located.

(e) To provide buses, trolleys, transit shelters and services, ridesharing facilities and services, parking improvements, and related signage.

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

(g) To provide for observation areas, conservation areas, mitigation areas, wildlife areas and wildlife habitat within or outside the district, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(h) To provide for parks and facilities for indoor and outdoor recreational, cultural, educational, and library uses.

(i) To provide for fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(j) To establish and maintain emergency medical and rescue response services, and acquire and maintain rescue, medical, and other emergency equipment.

(k) To provide for school buildings and related structures, which may be leased, sold, or donated to the school district, for use in the educational system when authorized by the affected school board. The district is granted the special power to contract with the school boards of Charlotte and Lee counties and, as applicable, the boards of county commissioners of Charlotte and Lee Counties, and with the applicable landowner developer of the lands within the district, to assess the school district educational facilities plan, and to implement a management and financing plan for timely construction, maintenance, and acquisition, at the option of the district, of school facilities, including facilities identified in the facilities work programs or those proposed by charter schools. The district is granted the special power to determine, order, levy, impose, collect, or arrange for the collection and enforcement of assessments, as defined in and pursuant to this act, for such school facilities. The district is eligible for the financial enhancements available to educational facility benefit districts to provide for financing the construction and maintenance of educational facilities pursuant to section 1013.356, Florida Statutes, and, if and when authorized by general law, to

acquire such educational facilities. This act, in the place of an educational facilities benefit district, authorizes the affected school board to designate the district. The district is authorized to enter into an interlocal agreement with the affected school board and, as applicable, the affected county, and applicable private landowners and developers in order to provide for such construction, maintenance, and acquisition and in order to receive the applicable financial enhancements provided by section 1013.356, Florida Statutes. The interlocal agreement shall consider, among other things, absorption rates, sales rates, and related data of existing and projected schools; racial, ethnic, social, and economic balance within the affected school district under applicable state and federal law; and the provision of school attendance zones to allow students residing within a reasonable distance of the facilities constructed and financed through the interlocal agreement to attend such facilities. Because these facilities are funded by assessments and not by taxes of any type, the provision of these facilities may be multiuse and, consistent with the provisions of this act, shall be first liens on the property upon a showing of special and peculiar benefits that flow to the property within the jurisdiction of the district as a logical connection from the systems, facilities, and services, resulting in added use, enhanced enjoyment, decreased insurance premiums, or enhanced value in marketability so that the Legislature finds that the provisions of the Florida Constitution for free public schools is implemented and enhanced. Nothing herein requires any change in the method of election of the governing board of the district provided for in section 5.

(l) To provide for security, including, but not limited to, guardhouses, fences, and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; provided, however, the district may not exercise any powers of a law enforcement agency but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries. The district may operate guardhouses for the limited purpose of providing security for the residents of the district and that serve a predominate public, as opposed to private, purpose. Such guardhouses shall be operated by the district or any other unit of local government pursuant to procedures designed to serve such security purposes as set forth in rules adopted by the board, from time to time, following the procedures set forth in chapter 120, Florida Statutes.

(m) To provide control and elimination of mosquitoes and other arthropods of public health importance.

(n) To provide waste collection and disposal.

(o) To enter into impact fee credit agreements with Charlotte and Lee Counties and their respective school boards. Under such agreements, if the district constructs or makes contributions for public systems, facilities, services, projects, improvements, works, and infrastructures for which impact fee credits would be available to the landowner developer under the applicable impact fee ordinance, the agreement authorized by this act shall provide that such impact fee credit shall inure to the landowners within the district in proportion to assessments or other burdens levied and imposed upon the

landowners with respect to assessable improvements giving rise to such impact fee credits, and the district shall from time to time execute such instruments, such as assignments of impact fee credits, as may be necessary, appropriate, or desirable to accomplish or to confirm the foregoing.

(p) To provide buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this act.

(q) To establish and create, at noticed meetings, such governmental departments of the governing board of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies and such administrative duties and other powers as the board may deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that shall retain the powers of the board.

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

(s) To provide for affordable housing and affordable housing assistance in accordance with section 189.4155(6), Florida Statutes, and other provisions of general law.

(t) To provide for the construction and operation of communications systems and related infrastructure for the carriage and distribution of communications services, and to enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. Communications systems shall mean all facilities, buildings, equipment, items, and methods necessary or desirable in order to provide communications services, including, without limitation, wires, cables, conduits, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, network facilities, and appurtenant devices necessary and appropriate to support the provision of communications services. Communications services includes without limitation internet, voice telephone or similar services provided by voice over internet protocol, cable television, data transmission services, electronic security monitoring services, and multi-channel video programming distribution services.

(u) To provide electricity and related infrastructure and to enter into public-private partnerships and agreements as may be necessary to accomplish the foregoing.

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

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

(x) To exercise its general and special powers as set forth in this act within or without the boundaries of the district when the subject of such exercise is approved or required by a development order, or is the subject of an agreement with the county, school district, or with any other applicable public or private entity, and is not inconsistent with the effective local comprehensive plans.

The enumeration of special powers herein shall not be deemed exclusive or restrictive but shall be deemed to incorporate all powers, express or implied, necessary or incident to carrying out such enumerated special powers, including the general powers provided by this special act charter to the district to implement its single purpose. Further, the provisions of this subsection shall be construed liberally in order to carry out effectively the special purpose of this district under this act. However, nothing contained herein shall relieve the district of its obligation to obtain a resolution from the affected county prior to exercising its eminent domain authority outside of the district boundaries pursuant to section 6.

(8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time and from time to time after the issuance of any bonds of the district shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate as the board may determine not to exceed the maximum rate allowed by general law, mature at such time or times not later than 5 years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any taxes or assessments levied for the payment of such bonds, but, in such event, a like amount of the bonds authorized shall not be issued.

(9) BORROWING.—The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear interest as the board determines, not to exceed the maximum rate allowed by general law, and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district

may issue negotiable notes, warrants, or other evidences of debt to be payable at such times and to bear such interest as the board may determine, 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 and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

(10) BONDS.—

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

1. The money paid for the bonds.
2. The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds.
3. In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(b) Authorization and form of bonds.—Any general obligation bonds, special assessment bonds, or revenue bonds may be authorized by resolution or resolutions of the board that shall be adopted by a majority of all the voting members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs as defined in this act; the rate or rates of interest, not to exceed the maximum rate allowed by general law; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state at which payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of

bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing resolution or resolutions may further provide for the contracts authorized by section 159.825(1)(f) and (g), Florida Statutes, regardless of the tax treatment of such bonds being authorized, subject to the finding by the board of a net saving to the district resulting by reason thereof. Such authorizing resolution may further provide that such bonds may be executed in accordance with the Registered Public Obligations Act, except that bonds not issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(c) Interim certificates; replacement certificates.—Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that become mutilated, lost, or destroyed.

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

(e) Defeasance.—The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose, and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than moneys held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(f) Issuance of additional bonds.—If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution autho-

izing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(g) Refunding bonds.—The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequent thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time that in the judgment of the board such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect to them.

(h) Revenue bonds.—

1. The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from benefit special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

2. Any two or more projects may be combined and consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more of such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall have been provided in the proceeding which authorized the original bonds.

(i) General obligation bonds.—

1. Subject to the limitations of this charter, the district shall have the power from time to time to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the bonds are issued to finance or refinance a capital project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections shall be called to be held in the district by the Board of County Commissioners of Charlotte County upon the request of the board of the district. The expenses of calling and holding an election shall be at the expense of the district, and the district shall reimburse the county for any expenses incurred in calling or holding such election.

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

3. If the board determines to issue general obligation bonds for more than one capital project, the approval of the issuance of the bonds for each and all such projects may be submitted to the electors on one and the same ballot. The failure of the electors to approve the issuance of bonds for any one or more capital projects shall not defeat the approval of bonds for any capital project that has been approved by the electors.

4. In arriving at the amount of general obligation bonds permitted to be outstanding at any one time pursuant to subparagraph 1., there shall not be included any general obligation bonds that are additionally secured by the pledge of:

a. Any assessments levied in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured, which assessments have been equalized and confirmed by resolution of the board pursuant to this act or section 170.08, Florida Statutes.

b. Water revenues, sewer revenues, or water and sewer revenues of the district to be derived from user fees in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured.

c. Any combination of assessments and revenues described in subparagraphs a. and b.

(j) Bonds as legal investment or security.—

1. Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security that may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

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

(k) Covenants.—Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to ensure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

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

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

(n) Application of section 189.4085, Florida Statutes.—Bonds issued by the district shall meet the criteria set forth in section 189.4085, Florida Statutes.

(o) Act furnishes full authority for issuance of bonds.—This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officer, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

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

(q) Default; dissolution.—A default on the bonds or obligations of the district shall not constitute a debt or obligation of any local general purpose government or the state. In the event of a default or dissolution of the district, no local general-purpose government shall be required to assume the property of the district, the debts of the district, or the district's obligations to complete any infrastructure improvements or provide services to the district.

(11) TRUST AGREEMENTS.—Any issue of bonds shall be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or without the state that may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof

with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to that such trust agreement pertains.

(12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL ASSESSMENTS; MAINTENANCE TAXES.—

(a) Ad valorem taxes.—A board elected by and consisting of qualified electors of the district shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed the maximum amount authorized by law. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum as required by Section 9 of Article VII of the State Constitution.

(b) Benefit special assessments.—The board annually shall 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 may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year. Such assessment shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in section 197.3632 or chapter 173, Florida Statutes, for collecting and enforcing these assessments. Each annual installment of benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers under subsections (6) and (7) shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The board may, if it determines it is in the best interests of the district, set forth in the proceedings initially levying such benefit special assessments or in subsequent proceedings a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, shall constitute a prepayment of all future annual installments of such benefit special assessments and that the payment of which amount with respect to such tax parcel shall relieve and discharge such tax parcel of the lien of such benefit special assessments and any subsequent annual installment thereof. The board

may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, the prepayment amount of all future annual installments of benefit special assessments as determined in this paragraph shall be and become immediately due and payable together with such delinquent annual installment.

(c) Non-ad valorem maintenance taxes.—If and when authorized by general law, to maintain and preserve the physical facilities and services constituting the works, improvements, or infrastructure provided by the district pursuant to this act; to repair and restore any one or more of them, when needed; and to defray the current expenses of the district, including any sum that may be required to pay state and county ad valorem taxes on any lands that may have been purchased and that are held by the district under the provisions of this act, the governing board may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a “maintenance tax.” This non-ad valorem maintenance tax shall be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction and shall be evidenced to and certified by the governing board of the district not later than June 1 of each year to the property appraiser of Charlotte County and shall be extended by the property appraiser on the tax roll of the property appraiser, as certified by the property appraiser to the tax collector, and collected by the tax collector on the merged collection roll of the tax collector in the same manner and at the same time as county ad valorem taxes, and the proceeds therefrom shall be paid to the district. This non-ad valorem maintenance tax shall be a lien until paid on the property against which assessed and enforceable in like manner and of the same dignity as county ad valorem taxes.

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

(e) Special assessments.—To levy and impose any special assessments pursuant to this subsection.

(f) Enforcement of taxes.—The collection and enforcement of all taxes levied by the district shall be at the same time and in like manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

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

(h) Status of assessments.—Benefit special assessments, maintenance special assessments, and special assessments are hereby found and determined to be non-ad valorem assessments as defined by section 197.3632, Florida Statutes. Maintenance taxes are non-ad valorem taxes and are not special assessments.

(i) Assessments constitute liens; collection.—Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments authorized by this section, and including special assessments as defined in this act and granted and authorized by this subsection, and including maintenance taxes if authorized by general law, shall constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These assessments may be collected, at the district's discretion, under authority of section 197.3631, Florida Statutes, by the tax collector pursuant to the provisions of sections 197.3632 and 197.3635, Florida Statutes, or in accordance with other collection measures provided by law. In addition to, and not in limitation of, any powers otherwise set forth herein or in general law, these assessments may also be enforced pursuant to the provisions of chapter 173, Florida Statutes.

(j) Land owned by governmental entity.—Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this act, chapter 170, or chapter 197, Florida Statutes, or otherwise, by a board of a district, on property of a governmental entity that is subject to a ground lease as described in section 190.003(13), Florida Statutes, shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

(13) SPECIAL ASSESSMENTS.—

(a) As an alternative method to the levy and imposition of special assessments pursuant to chapter 170, Florida Statutes, pursuant to the authority of section 197.3631, Florida Statutes, or pursuant to other provisions of general law, now or hereafter enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise

authorized under this act, the board may levy and impose special assessments to finance the exercise of any of its powers permitted under this act using the following uniform procedures:

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

a. The assessment methodology shall address and discuss and the board shall consider whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It shall be fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services that give rise to unique, special, and peculiar benefits to property of the same or similar characteristics under the assessment methodology so long as such fixed proportion does not exceed the unique, special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

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

c. The preliminary assessment roll to be prepared will be in accordance with the method of assessment provided for in the assessment methodology and as may be adopted by the governing board; the assessment roll shall be completed as promptly as possible and shall show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar benefit to the property, lot, parcel, or acreage of land; and, if the assessment against each such lot, parcel, acreage, or portion of land is to be paid in installments, the number of annual installments in which the assessment is divided shall be entered into and shown upon the assessment roll.

2. The governing board of the district may determine and declare by an initial assessment resolution to levy and assess the assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting

such assessable improvements, the information in the engineer's cost report, the information in the assessment methodology as determined by the board at the noticed meeting and referencing and incorporating as part of the resolution the engineer's cost report, the preliminary assessment methodology, and the preliminary assessment roll as referenced exhibits to the resolution by reference. If the board determines to declare and levy the special assessments by the initial assessment resolution, the board shall also adopt and declare a notice resolution that shall provide and cause the initial assessment resolution to be published once a week for a period of 2 weeks in a newspaper of general circulation published in Charlotte County and said board shall by the same resolution fix a time and place at which the owner or owners of the property to be assessed or any other persons interested therein may appear before said board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the assessment and shall be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the district manager or engineer deems reliable, and proof of such mailing shall be made by the affidavit of the manager of the district or by the engineer, said proof to be filed with the district manager, provided that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. It is provided further that the last publication shall be at least 1 week prior to the date of the hearing on the final assessment resolution. Said notice shall describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the manager of the district. Such service by publication shall be verified by the affidavit of the publisher and filed with the manager of the district. Moreover, the initial assessment resolution with its attached, referenced, and incorporated engineer's cost report, preliminary assessment methodology, and preliminary assessment roll, along with the notice resolution, shall be available for public inspection at the office of the manager and the office of the engineer or any other office designated by the governing board in the notice resolution. Notwithstanding the foregoing, the landowners of all of the property that is proposed to be assessed may give the district written notice of waiver of any notice and publication provided for in this subparagraph and such notice and publication shall not be required, provided, however, that any meeting of the governing board to consider such resolution shall be a publicly noticed meeting.

3. At the time and place named in the noticed resolution as provided for in subparagraph 2., the governing board of the district shall meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial assessment resolution on the property. Following the testimony and questions from the members of the board or any professional advisors to the

district of the preparers of the engineer's cost report, the assessment methodology, and the assessment roll, the governing board shall make a final decision on whether to levy and assess the particular assessments. Thereafter, the governing board shall meet as an equalizing board to hear and to consider any and all complaints as to the particular assessments and shall adjust and equalize the assessments on the basis of justice and right.

4. When so equalized and approved by resolution or ordinance by the governing board, to be called the final assessment resolution, a final assessment roll shall be filed with the clerk of the board and such assessment shall stand confirmed and remain legal, valid, and binding first liens on the property against which such assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, service, project, improvement, works, or infrastructure, the district shall credit to each of the assessments the difference in the assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no event shall the final assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. Promptly after such confirmation, the assessment shall be recorded by the clerk of the district in the minutes of the proceedings of the district, and the record of the lien in this set of minutes shall constitute prima facie evidence of its validity. The governing board, in its sole discretion, may, by resolution, grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any assessments during such period prior to the time such financing costs are incurred as may be specified by the governing board in such resolution.

5. District assessments may be made payable in installments over no more than 30 years from the date of the payment of the first installment thereof and may bear interest at fixed or variable rates.

(b) Notwithstanding any provision of this act or of chapter 170 or section 170.09, Florida Statutes, which provide that assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority, such provision shall not be applicable to any district assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of general law, including, but not limited to, chapter 170, Florida Statutes.

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

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

(a) The board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed as provided in this act, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be, and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, not to exceed the maximum rate allowed by general law, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(b) The district may also issue assessment bonds, revenue bonds, or other obligations payable from a special fund into which such certificates of indebtedness referred to in the preceding subsection may be deposited or, if such certificates of indebtedness have not been issued, the district may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The district is authorized to covenant with the holders of such assessment bonds, revenue bonds, or other obligations that it will diligently and faithfully enforce and collect all the special assessments, and interest and penalties thereon, for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

(c) The assessment bonds, revenue bonds, or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than 2 years after the due date of the last installment that will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness

representing such assessment liens, are assigned to or deposited in such special fund.

(d) Such assessment bonds, revenue bonds, or other obligations issued under this section shall bear such interest as the board may determine, not to exceed the maximum rate allowed by general law, and shall be executed, shall have such provisions for redemption prior to maturity, shall be sold in the manner, and shall be subject to all of the applicable provisions contained in this act for revenue bonds, except as the same may be inconsistent with the provisions of this section.

(e) All assessment bonds, revenue bonds, or other obligations issued under the provisions of this section shall be, shall constitute, and shall have all the qualities and incidents of negotiable instruments under the law merchant and the laws of the state.

(15) TAX LIENS.—All taxes of the district provided for in this act, except together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no such sale thereof had been made. In addition to, and not in limitation of, the preceding, for purposes of section 197.552, Florida Statutes, the lien of all special assessments levied by the district shall constitute a lien of record held by a municipal or county governmental unit. The provisions of sections 194.171, 197.122, 197.333, and 197.432, Florida Statutes, shall be applicable to district taxes with the same force and effect as if such provisions were expressly set forth in this act.

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

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

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

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

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state

and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(c) In any sale of land pursuant to section 197.542, Florida Statutes, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold, and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

(17) FORECLOSURE OF LIENS.—Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in a like manner as provided in chapter 173, Florida Statutes, and the provisions of that chapter shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under chapter 173, Florida Statutes, may be performed by such officer or agent of the district as the governing board may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien shall be foreclosed against any political subdivision or agency of the state. Other legal remedies shall remain available.

(18) MANDATORY USE OF CERTAIN DISTRICT SYSTEMS, FACILITIES, AND SERVICES.—To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewer facilities of the district.

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

(a) No contract shall be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district shall exceed the amount provided in section 287.017, Florida Statutes, for category four, unless notice of bids shall be advertised once in a newspaper in general circulation in Charlotte County. Any board seeking to construct or improve a public building, structure, or other public works shall comply with the bidding procedures of section 255.20, Florida Statutes, and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(b) The provisions of the Consultants' Competitive Negotiation Act, section 287.055, Florida Statutes, apply to contracts for engineering, architect-

ture, landscape architecture, or registered surveying and mapping services let by the board.

(c) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in section 287.017, Florida Statutes, for category four. The district shall adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts. Nothing herein shall preclude the use of requests for proposal instead of invitations to bid as determined by the district to be in its best interest.

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

(a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as “revenues,” and to revise the same from time to time, for the systems, facilities, and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, water, sewer, and reuse systems, and solid waste collection and disposal; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(b) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper of general circulation in Charlotte County at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served that shall fall in the same class, without the necessity of any notice or hearing.

(c) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or

computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

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

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

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

3. To provide for any other funds that may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

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

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

(22) DISCONTINUANCE OF SERVICE.—In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to 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 discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

(23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person violating the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders

adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

(24) SUITS AGAINST THE DISTRICT.—Any suit or action brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in section 768.28, Florida Statutes.

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

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

(a) The board may ask the Legislature through its local legislative delegations in and for Charlotte County to amend this act to contract, to expand or to contract, and to expand the boundaries of the district.

(b) The district shall remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature.

2. The district has become inactive pursuant to section 189.4044, Florida Statutes.

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

(28) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED DISCLOSURE TO PURCHASER.—Subsequent to the creation of this district under this act, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type that is larger than the type in the remaining

text of the contract: "THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

(29) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days after the election of the first governing board of the district, the district shall cause to be recorded in the grantor-grantee index of the property records in the county in which it is located a "Notice of Creation and Establishment of the Babcock Ranch Community Independent Special District." The notice shall, at a minimum, include the legal description of the property covered by this act.

(30) DISTRICT PROPERTY PUBLIC; FEES.—Any system, 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; and the district by rule may regulate, and may impose reasonable charges or fees for, the use thereof but not to the extent that such regulation or imposition of such charges or fees constitutes denial of reasonable access.

Section 7. If any provision of this act is determined unconstitutional or otherwise determined invalid by a court of law, all the rest and remainder of the act shall remain in full force and effect as the law of this state.

Section 8. In the election provided for in section 9, each landowner present in person or by proxy shall be entitled to cast one vote for each assessable acre or fraction of an acre of land owned by him or her and located within the district.

Section 9. This section and section 8 shall take effect upon this act becoming law, and the remaining sections shall take effect upon approval by a majority vote of the owners of land within the district who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners' meeting to be held within 90 days after the effective date of this act. Such landowners' meeting shall be noticed as provided in section 5 for the initial landowners' meeting and may be combined with such meeting. However, the provisions of this act that authorize the levy of ad valorem taxation and issuance of general obligation bonds shall take effect only upon express approval by a majority vote of those qualified electors of the Babcock Ranch Community Independent Special District voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district as provided in this act.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.