

1 A bill to be entitled

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3 An act relating to the Fellsmere Water Control District (“FWCD”), Indian River
4 County; modifying the composition of the governing body of the district; modifying
5 the boundaries of the district; providing for maintenance and use of certain canals;
6 providing for access to public records; providing an effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. Sections 1 and 2 of Section 3 of Chapter 2017-203, Laws of Florida
11 are amended to read:

12 Section 1. Status and boundaries of Fellsmere Water Control District. The
13 Fellsmere Water Control District is declared to be an independent water control district
14 and a public corporation of the state pursuant to chapters 189 and 298, Florida Statutes,
15 and the lands lying within the area described as follows in Indian River County shall
16 constitute the Fellsmere Water Control District:
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18 [Legal Description to be inserted]
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20 Section 2. Minimum charter requirements.—In accordance with s. 189.031(3),
21 Florida Statutes, the following are the minimum charter requirements for the charter of the
22 Fellsmere Water Control District:

23 (3) The governing body of the Fellsmere Water Control District shall be the
24 members of the Board of County Commissioners of Indian River County. As soon as
25 practicable after the County Commissioners of Indian River County have assumed office,
26 the commissioners shall meet to organize as the governing board of the Fellsmere Water
27 Control District. The Clerk of the Circuit Court of Indian River County shall act as secretary
28 and treasurer without right to vote as a member of the board or hold other office thereon
29 without additional compensation for his or her services, exercising all powers and

performing all duties as provided by this act. At this meeting, the board shall elect a chair from among their number.

~~In accordance with chapter 189, Florida Statutes, this act, and ss. 298.11 and 298.12, Florida Statutes, as may be amended from time to time, the governing board of the district shall be designated the "Board of Supervisors of the Fellsmere Water Control District" and shall be composed of three persons, who shall be qualified to hold such office if they are landowners within the district, residents of the state, and citizens of the United States, elected on a 1-acre, one-vote basis by the landowners in the district; however, landowners owning less than 1 acre in the aggregate shall be entitled to one vote. Landowners with more than 1 acre shall be entitled to one additional vote for any fraction of an acre greater than 1/2 acre owned when a landowner's acreage has been aggregated for purposes of voting. The membership and organization of the governing board shall be as set forth in this charter and chapter 298, Florida Statutes, as may be amended from time to time, provided this charter controls with respect to any inconsistency.~~

(13) Maintenance and Use of the Lateral "U" Canal, Park Lateral Canal and Main Canal.

a. Lateral "U" Canal -- As described in Section 1, the western boundary of the FWCD is the centerline of the Lateral "U" Canal. The FWCD shall be responsible for the maintenance of the eastern bank of the Lateral "U" Canal for the portion within the FWCD boundary and shall retain the right to utilize the full width of said canal for all purposes permitted under applicable water control laws and regulations. The FWCD shall share responsibility for the maintenance and aquatic vegetation of the canal with the landowners bordering the west of the Lateral "U" Canal until such time as a new water control district, Headwaters Water Control District ("HWCD"), is established west of and adjacent to the FWCD, at which time the maintenance and aquatic vegetation management will transfer to the HWCD as described below.

59 In the event HWCD is duly established to the west of and adjacent to the FWCD,
60 such newly established HWCD shall assume full responsibility for all maintenance and
61 aquatic vegetation management within the entire Lateral “U” Canal. The canal shall be
62 maintained to the designed level of service. The Fellsmere Water Control District shall bear
63 no further responsibility or liability for such maintenance activities. The newly established
64 HWCD shall have the right to utilize the full width of the Lateral “U” Canal for all purposes
65 permitted under applicable water control laws and regulations.

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67 b. Main Canal -- Upon the establishment of the HWCD to the west of and
68 adjacent to the FWCD, the HWCD shall assume responsibility for the maintenance and
69 aquatic vegetation management of the Main Canal, from the centerline of the Lateral “U”
70 Canal eastward for a distance of one mile. The canal shall be maintained to the designed
71 level of service. The HWCD shall have no recourse to the Fellsmere Water Control District
72 for such responsibilities.

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74 c. Park Lateral Canal – The Fellsmere Water Control District shall be
75 solely responsible for the maintenance dredging and aquatic vegetation management of
76 the Park Lateral Canal located within the FWCD Boundary without recourse to the HWCD.
77 The HWCD shall retain the historic drainage rights through the Park Lateral Canal to the
78 Main Canal.

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80 The HWCD shall have the right to access, travel over, and cross all Fellsmere Water Control
81 District property as reasonably necessary to fulfill the maintenance and management
82 duties outlined in this Section. Additionally, the HWCD shall have the right to utilize the full
83 length of the Main Canal for all purposes permitted under applicable water control laws
84 and regulations.

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86 The Fellsmere Water Control District shall retain responsibility for the maintenance
87 and aquatic vegetation management of the remaining portion of the Main Canal and shall

88 have no recourse to the HWCD for such responsibilities. The canal shall be maintained to
89 the designed level of service.

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91 Unless otherwise noted all facilities lying within each District boundary are the
92 responsibility of that particular District. Each District indemnifies and holds harmless the
93 other for any obstruction, interference, or other activity by each District or its landowners
94 that adversely impacts the flow and drainage of water in the Lateral Canals or the Main
95 Canal. To the extent either District fails to maintain the Lateral Canals or the Main Canal as
96 set forth herein, the other District shall have the right but not the obligation to perform such
97 necessary corrective action and seek reimbursement of costs, including attorneys fees,
98 from the non-complying District. In the event that one District intends to undertake repairs
99 or corrective actions due to another District's non-compliance, the initiating District shall
100 provide the non-complying District with no less than thirty (30) days' written notice of its
101 intent to perform such corrective action. The non-complying District shall have the
102 opportunity to cure the non-compliance within this notice period. If the non-complying
103 District commences and diligently pursues the necessary corrective actions within the
104 thirty (30) day period, it shall not be held liable under this section.

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106 (14) Upon the establishment of the HWCD to the west of and adjacent to the
107 Fellsmere Water Control District, the HWCD may request and obtain copies of any public
108 records held by the Fellsmere Water Control District, in accordance with applicable public
109 records laws. The newly established district shall be solely responsible for any costs
110 permitted under ch. 119, Florida Statutes, associated with the retrieval, assembly,
111 reproduction, and delivery of such public records.

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113 Section 2. This act shall take effect on October 1, 2026.