

Improvement District, powers and duties

Number: INFORMAL

Date: December 07, 2001

The Honorable Joseph R. Spratt
Representative, District 77
205 South Commerce Avenue, Suite B
Sebring, Florida 33870-3604

RE: SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT–SPECIAL
DISTRICTS–INDEPENDENT DISTRICTS–powers and duties of special district. Ch. 298, Fla.
Stat.

Dear Representative Spratt:

In response to your request for further clarification of my office's letter to you of July 9, 2001, I offer the following informal comments regarding the powers and duties of the Sun 'N Lake of Sebring Improvement District.

Pursuant to Article VIII, section 1, Florida Constitution and sections 125.01 and 125.66, Florida Statutes, the Board of County Commissioners of Highlands County adopted county ordinance 74-4 creating the Sun 'N Lake of Sebring Improvement District.[1] Statutory authority for creation of the district may be found in Chapter 298, Florida Statutes, relating to drainage and water control.[2]

As a statutorily created entity, the Sun 'N Lake of Sebring Improvement District may only exercise such powers as have been expressly granted by statute or ordinance, or must necessarily be exercised in order to carry out an express power. Any reasonable doubt as to the lawful existence of a particular power sought to be exercised must be resolved against the exercise thereof.[3]

Thus, it appears that the terms of the ordinance creating the district and prescribing its duties and responsibilities must control the response to your constituent's questions. In this regard, I note that section 9 of county ordinance 74-4 provides authority for the district with respect to the construction and maintenance of roads of all kinds within the district and that section 23 provides the district with the authority to pay delinquent state, county, district, municipal or other taxes or assessments on lands within the district.

The governing body of the district is the elected board of supervisors.[4] Any questions or concerns about the exercise of the powers set forth in the ordinance should be discussed initially with the board of supervisors and the attorney for the board and the district. It may be appropriate to contact the county commission which created the district and the county attorney if amendatory legislation is needed to address your constituent's concerns.

I trust that these informal comments will assist you in advising your constituent.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgh

[1] See Highlands County Ordinance 89-I, s. 2.

[2] See Official List of Special Districts compiled by the Florida Department of community Affairs and available at www.dca.state.fl.us/fhcd/programs/sdip/OffLst/OffLst.htm.

[3] See *State ex rel. Greenberg v. Florida State Board of Dentistry*, 297 So. 2d 628 (Fla. 1st DCA 1974), *cert. dismissed*, 300 So. 2d 900 (Fla. 1974); *City of Cape Coral v. GAC Utilities, Inc., of Florida*, 281 So. 2d 493 (Fla. 1973).

[4] See Highlands County Ordinance 74-4, s. 3.