Ad valorem tax and special districts

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Subject:
Ad valorem tax and special districts

RE: TAXATION--AD VALOREM TAX POWERS OF SPECIAL DISTRICTS

To: Vince Fechtel, Jr., Representative, 34th District, Leesburg

Prepared by: Sydney H. McKenzie III, Assistant Attorney General, and Susan Potter, Legal Intern

QUESTION:

Does the Florida Constitution as revised in 1968 allow ad valorem taxing power for the other water management districts being established under Ch. 72-299, Laws of Florida?

SUMMARY:

Article VII, s. 9(a), State Const., specifically authorizes ad valorem tax levies by special districts when authorized by law; and the water management districts provided for by Ch. 72-299, Laws of Florida, as amended by Ch. 73-190, Laws of Florida, are among those so authorized upon the approval of the affected electors of such districts as prescribed by Art. VII, s. 9(b), State Const.

In answering your question in the affirmative, I am assuming that by "the other water management districts" you are referring to only those newly established by Ch. 72-299, Laws of Florida, and not those created by prior enactments.

It is well established that the legislature has the power to create special districts for the benefit of the public. Hunter v. Owens, 86 So. 839 (Fla. 1920). The establishment of a state water management plan is clearly for the public benefit. That these special districts have the power of taxation is also clear. Article VII, s. 9, State Const., specifically allows ad valorem taxation by special districts and requires the millage to be approved by the electors:

"(a) Counties, school districts and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes. . . .
(b) Ad valorem taxes . . . shall not be levied in excess of the following millages . . . and for special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. . . ."

Both Ch. 72-299, Laws of Florida (s. 373.503[3], F. S.), and Ch. 73-190, Laws of Florida, amending Ch. 72-299, state that the "districts created . . . may, upon approval of the affected electors pursuant to s. 9(b), Article VII . . . levy ad valorem taxes in the manner prescribed by ss.

378.19-378.32." This provision then is the "authoriz[ation] by law" referred to in Art. VII, s. 9, *supra*.

Since it is a special district ad valorem tax authorized by law, and the approval of the electors is required by virtue of the pertinent provisions of Art. VII, s. 9, State Const., your question is answered in the affirmative.