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# **LOCAL & FEDERAL AFFAIRS COMMITTEE**

## **Meeting Packet**

**Thursday, April 3, 2014  
8:45 am  
Webster Hall (212 Knott)**



# The Florida House of Representatives

## Local & Federal Affairs Committee

**Will W. Weatherford**  
Speaker

**Eduardo "Eddy" Gonzalez**  
Chair

### **AGENDA**

Webster Hall (212 Knott)  
Thursday, April 3, 2014, 8:45 a.m.

- I. CALL TO ORDER AND WELCOME REMARKS
- II. CONSIDERATION OF THE FOLLOWING BILL(S):
  - HB 651 Value Adjustment Proceedings by Hutson
  - CS/HB 677 County and Municipal Parks by Veteran & Military Affairs Subcommittee, Rangel
  - HB 1023 Canaveral Port District, Brevard County by Goodson
  - HB 1025 Pasco County/Sewage Treatment Facility Discharges by Murphy
  - HM 1027 Carbon Dioxide Emissions from Fossil-fueled Electric Generating Units by Wood
  - HM 1101 Terrorism Risk Insurance Program by Beshears
  - CS/HB 1129 Special Districts by Economic Development & Tourism Subcommittee, Caldwell
  - HM 1165 Newborn Adrenoleukodystrophy Screening by La Rosa
  - HB 1199 Orange County Civic Facilities Authority, Orange County by Antone
  - HB 1229 Port of Palm Beach District, Palm Beach County by Rooney

HM 1285 Regulation Freedom Amendment by Raulerson

CS/HB 1315 Local Ethics Agency or Commission Procedures by Ethics & Elections Subcommittee, McBurney, Ray

HB 1335 Loxahatchee Groves Water District, Palm Beach County by Pafford

HB 1337 Loxahatchee Groves Water Control District, Palm Beach County by Pafford

HB 1401 Town of St. Leo, Pasco by Murphy

**III.** Consideration of the following proposed committee substitute(s):

PCS for CS/HB 0947-- Fuel Terminals

PCS for HB 1445—Citrus County Hospital Board

**IV.** ADJOURNMENT





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 651 Value Adjustment Board Proceedings

**SPONSOR(S):** Hutson

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 806

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Wolfgang	Langston
2) Local & Federal Affairs Committee		Miller 	Rojas 
3) Appropriations Committee			

### SUMMARY ANALYSIS

The bill makes the following revisions to the process for petitioning the value adjustment board:

- It requires the clerk of the value adjustment board to have available and distribute petition forms (a function already performed by the property appraiser).
- It allows an owner of multiple, similar items of tangible personal property to file a single, joint petition to protest his/her assessments.
- It provides that during the evidence exchange process, the property appraiser must include the property record card regardless of whether the card was provided by the clerk.

The Revenue Estimating Impact Conference estimated that the bill would have a negative, recurring impact on local government fee revenues of \$100,000.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Present Situation

##### **Value Adjustment Boards**

Chapter 194, F.S., provides for administrative and judicial review of ad valorem tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members<sup>1</sup> that reviews appeals of the ad valorem tax decisions made by county property appraisers.<sup>2</sup> The VAB hears evidence from both petitioners and property appraisers as to whether properties are appraised at their fair market value, as well as issues related to tax exemptions, deferments, and portability.<sup>3</sup>

##### **Petition Process for VAB Hearing**

Property appraisers establish the value of taxable property as of January 1 each year, and review and apply exemptions, assessment limitations, and classifications that may reduce a property's taxable value.<sup>4</sup> VABs have no authority to review, by their own motion, the determinations of the property appraiser.<sup>5</sup> Rather, the property owner files a petition to initiate a review, which may cost up to \$15 per petition.<sup>6</sup>

The Florida Department of Revenue (DOR), in their property tax oversight role, maintains a calendar indicating when the petition process begins (early March), and when petitions must be received (by mid-September), each year.<sup>7</sup> VAB petitions may be found at the DOR website, the County Property Appraiser's office, and in most counties at the office or website of the VAB Clerk. The clerk of the value adjustment board<sup>8</sup> is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the value adjustment board.

Prior to the hearing, an exchange of evidence can take place between the petitioner and the property appraiser, if so requested in writing. Regardless of whether petitioners initiate an evidence exchange, the property appraiser is required to provide the property record card to petitioners on receipt of the petition if the petitioner checks the appropriate box on the petition, unless the property record card is available online from the property appraiser.<sup>9</sup>

##### **Filing Fees and Joint Petitions**

The cost to file a petition is capped at \$15 by statute.<sup>10</sup> There is no fee for timely-filed petitions appealing homestead exemption denials.<sup>11</sup> The VAB waives the filing fee of a petitioner who demonstrates at the time of filing that the petitioner is an eligible recipient of temporary assistance

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<sup>1</sup> Section 194.015, F.S.

<sup>2</sup> Section 194.011, F.S.

<sup>3</sup> Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions.

<sup>4</sup> For timeframes and instructions on filing, see DEP'T OF REVENUE, *PETITIONS TO THE VALUE ADJUSTMENT BOARD*, <http://dor.myflorida.com/dor/property/brochures/pt101.pdf> (last visited March 11, 2014).

<sup>5</sup> See Chapter 2013-95, ss. 1-4, Laws of Fla. (CS/HB 1193).

<sup>6</sup> Section 194.013, F.S.

<sup>7</sup> See the most recent calendar for exact dates. DEP'T OF REVENUE, *VALUE ADJUSTMENT BOARD CALENDAR*, <http://dor.myflorida.com/dor/property/cofficials/pdf/pt902020.pdf> (last visited March 11, 2014).

<sup>8</sup> The county clerk usually serves as the clerk of the value adjustment board. Section 194.015, F.S.

<sup>9</sup> Section 194.032(3)(a), F.S.

<sup>10</sup> Section 194.013(1), F.S.

<sup>11</sup> Section 194.013(1), F.S.

under ch. 414, F.S.<sup>12</sup> All filing fees are allocated and utilized to defray costs incurred in connection with the operation of the VAB.

Owners of “contiguous, undeveloped parcels” may file a single, joint petition if the Property Appraiser determines such parcels are substantially similar in nature.<sup>13</sup> Condominium, cooperative, or homeowners’ associations may file a single joint petition on behalf of any association members who own parcels of property that the “property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition.”<sup>14</sup> A single filing fee for joint petitions is to be charged, and the fee must not exceed \$5 per parcel and is to be proportionately paid by affected parcel owners.

### **Ad Valorem Taxation – Tangible Personal Property**

Local governments may levy ad valorem tax assessments on real property<sup>15</sup> and tangible personal property.<sup>16</sup> Anyone who owns tangible personal property on January 1 and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>17</sup> Property owners who lease, lend or rent property must also file. “Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value. A single return must be filed for each site in the county where the owner of tangible personal property transacts business.”<sup>18</sup> The requirement to file an annual tangible personal property return is waived for taxpayers if they file an initial return on which the exemption is taken, and the value of the tangible personal property is less than \$25,000.<sup>19</sup> The VAB reviews petitions for tangible personal property assessments using substantially the same procedures as for petitions for real property assessments.<sup>20</sup>

### Proposed changes

The bill makes the following revisions to the administrative appeal process under section 194.011, F.S.:

- The bill specifies that in addition to the property appraiser, the clerk of the value adjustment board shall have available petition forms prescribed by the Department of Revenue.
- The bill allows an owner of multiple items of tangible personal property to file a single joint petition with the VAB if the property appraiser determines that the items of tangible personal property are substantially similar.
- During the evidence exchange process in s. 194.011, F.S., the bill requires the property appraiser’s evidence list to contain the property appraiser’s property record card. The bill provides that the evidence list must contain the property record card even if it was not provided by the clerk.

### **B. SECTION DIRECTORY:**

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<sup>12</sup> To be eligible for the waiver, the petitioner must submit appropriate documentation issued by the Department of Children and Family Services along with the petition. Section 194.013(2), F.S.

<sup>13</sup> Section 194.011(3)(f), F.S.; rule 12D-9.015(8), F.A.C.

<sup>14</sup> Section 194.011(3)(e), F.S.; rule 12D-9.015(8), F.A.C.

<sup>15</sup> “Real property” means land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(12), F.S..

<sup>16</sup> “Tangible personal property” means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. Section 192.001(11)(d), F.S.

<sup>17</sup> Section 193.062, F.S.; See also FLORIDA DEPARTMENT OF REVENUE, TANGIBLE PERSONAL PROPERTY, available at <http://dor.myflorida.com/dor/property/tpp/> (last visited March 11, 2014).

<sup>18</sup> Section 196.183(1), F.S.

<sup>19</sup> Section 196.183(3), F.S.

<sup>20</sup> Section 194.011, F.S.

Section 1 of the bill amends s. 194.011, F.S.:

- Requiring the clerk of the VAB to have available and distribute specified forms.
- Authorizing a joint VAB petition for tangible personal property under certain circumstances
- Requiring the property appraiser's evidence list include the property record card during the evidence exchange prior to the VAB hearing.

Section 2 of the bill sets an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that there will be a \$100,000 negative, recurring impact to local government fees.

2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a cost-savings for owners of multiple pieces of similar tangible personal property that choose to contest their assessment because they can file a single joint petition rather than multiple petitions.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, the bill may be exempt under article VII, section 18(d) of the Florida Constitution because it is expected to have an insignificant impact.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The Department may need to revise rule 12D-9.015, F.A.C., relating to the filing of petitions.



C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to value adjustment board proceedings;  
 3           amending s. 194.011, F.S.; requiring the clerk of the  
 4           value adjustment board to have available and  
 5           distribute specified forms; authorizing the owner of  
 6           multiple items of tangible personal property to file a  
 7           joint petition with the value adjustment board under  
 8           certain circumstances; requiring the property  
 9           appraiser to include the property record card in an  
 10          evidence list for a value adjustment board hearing  
 11          under certain circumstances; providing an effective  
 12          date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Paragraphs (a) and (f) of subsection (3) and  
 17           paragraph (b) of subsection (4) of section 194.011, Florida  
 18           Statutes, are amended to read:

19           194.011 Assessment notice; objections to assessments.—

20           (3) A petition to the value adjustment board must be in  
 21           substantially the form prescribed by the department.  
 22           Notwithstanding s. 195.022, a county officer may not refuse to  
 23           accept a form provided by the department for this purpose if the  
 24           taxpayer chooses to use it. A petition to the value adjustment  
 25           board shall describe the property by parcel number and shall be  
 26           filed as follows:

27 (a) The clerk of the value adjustment board and the  
 28 property appraiser shall have available and shall distribute  
 29 forms prescribed by the Department of Revenue on which the  
 30 petition shall be made. Such petition shall be sworn to by the  
 31 petitioner.

32 (f) An owner of contiguous, undeveloped parcels, or an  
 33 owner of multiple items of tangible personal property, may file  
 34 with the value adjustment board a single joint petition if the  
 35 property appraiser determines such parcels or items of tangible  
 36 personal property to be ~~are~~ substantially similar in nature.

37 (4)

38 (b) No later than 7 days before the hearing, if the  
 39 petitioner has provided the information required under paragraph  
 40 (a), and if requested in writing by the petitioner, the property  
 41 appraiser shall provide to the petitioner a list of evidence to  
 42 be presented at the hearing, together with copies of all  
 43 documentation to be considered by the value adjustment board and  
 44 a summary of evidence to be presented by witnesses. The evidence  
 45 list must contain the property appraiser's property record card  
 46 ~~if provided by the clerk~~. Failure of the property appraiser to  
 47 timely comply with the requirements of this paragraph shall  
 48 result in a rescheduling of the hearing.

49 Section 2. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 677 County and Municipal Parks  
**SPONSOR(S):** Veteran & Military Affairs Subcommittee; Rangel  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/CS/SB 378

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	13 Y, 0 N, As CS	Dugan	Kiner
2) Local & Federal Affairs Committee		Kelly <i>KK</i>	Rojas <i>JR</i>
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

CS/HB 677 requires county and municipal parks to provide a full or partial discount on park entrance fees to current military servicemembers and honorably discharged veterans. Certain family members of servicemembers who have died during combat are included, as are the surviving spouse or parent of a law enforcement officer or firefighter who has died while in the line of duty. Florida residency is not required.

While current state law requires state parks to offer a full or partial discount on annual entrance passes to these same individuals, there is no requirement at the county or municipal level.

Under the bill, a county or municipal park will have the authority to determine the amount of the discount in accordance with its financial circumstances. Additionally, the bill narrowly defines a 'park entrance fee' to exclude fees for the use of campgrounds, aquatic facilities, stadiums or arenas, special events, and other expanded amenity fees, for the purpose of minimizing any potential fiscal impact on county or municipal revenue.

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, Article VII, section 18(d) of the Florida Constitution provides an exemption from the two-thirds requirement for any general law that has an insignificant fiscal impact.

On Friday, March 14, 2014, the Revenue Estimating Impact Conference estimated that the provisions of this bill would have an indeterminate, but likely insignificant fiscal impact on county and municipal government revenue.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### Military and Veteran Presence in Florida

Florida is home to over 61,000 active-duty military servicemembers, over 35,000 Reservists, and over 1.5 million veterans.<sup>1</sup> Approximately 272,000 of Florida's 1.5 million plus veterans are service-disabled.<sup>2</sup>

The Florida National Guard (Guard) has nearly 12,000 members, with 9,900 National Guard personnel and 2,000 Air National Guard personnel.<sup>3</sup>

###### Florida State Park System

The Department of Environmental Protection (DEP), through its Division of Recreation and Parks (DRP), oversees Florida's 161 state parks, 10 state trails, nearly 800,000 acres, and 100 miles of beaches.<sup>4</sup> Florida state parks and trails welcomed more than 25 million visitors during the 2012-2013 fiscal year, generating over \$55 million in revenue that had a direct economic impact of over \$1 billion on local economies throughout the state.<sup>5</sup>

To administer, improve, and maintain Florida state parks and trails, the DRP charges reasonable fees for the use or operation of park and trail facilities.<sup>6</sup> Typically, these fees are categorized as entrance fees and activity fees, although other fees may be charged in some cases.<sup>7</sup> Daily entrance fees are typically charged per vehicle and range from \$4-\$6 for a single-occupant vehicle (or motorcycle admission) to \$5-\$10 for vehicles with two to eight occupants.<sup>8</sup>

Annual entrance passes are also available.<sup>9</sup> The regular price for an annual entrance pass is \$60 for an individual and \$120 for a family.<sup>10</sup> An active-duty military servicemember or honorably discharged veteran is eligible for a 25 percent discount on an annual entrance pass, and as a result, would only pay \$45 for an individual entrance pass or \$90 for a family entrance pass.

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<sup>1</sup> FDVA, Annual Report Fiscal Year 2012-13, Facts and Figures.

<sup>2</sup> U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2012, Appendix E11, available at <http://www.vba.va.gov/REPORTS/abr/> (Last viewed March 20, 2014).

<sup>3</sup> Florida National Guard website, available at [http://www.floridaguard.army.mil/?page\\_id=7](http://www.floridaguard.army.mil/?page_id=7) (Last viewed March 20, 2014).

<sup>4</sup> Florida State Parks website, available at <http://www.floridastateparks.org/resources/aboutus.cfm> (Last viewed March 20, 2014).

<sup>5</sup> *Id.* 'Direct economic impact' is defined as "the amount of new dollars spend in the local economy by non-local park visitors and by park operations funds spent in the local economy.

<sup>6</sup> s. 258.0145, F.S.

<sup>7</sup> A county surcharge is an example of an "other fee." Florida State Parks website, "Fees," available at <http://www.floridastateparks.org/thingstoknow/fees.cfm#activity> (Last viewed March 20, 2014).

<sup>8</sup> *Id.* Entrance fees include all state and local taxes.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<b>Discount Type</b>	<b>Number Issued</b>	<b>Value</b>
<b>Individual Entrance Pass</b> (25% discount: active-duty servicemembers and veterans)	1,115	\$16,725
<b>Family Annual Entrance Pass</b> (25% discount: active-duty servicemembers and veterans)	3,200	\$96,000
<b>Lifetime Family Annual Entrance Pass</b> (Full discount: disabled veterans; the spouse and parents of a fallen military servicemember, law enforcement officer, or firefighter)	14,381	\$1,725,720
<b>Total for FY 2012-2013</b>	<b>18,696</b>	<b>\$1,838,445</b>

### County and Municipal Parks

According to the Florida Recreation & Park Association, there are approximately 250 county and municipal parks and recreation agencies in Florida; most of them do not charge entrance fees.

### **Effect of Proposed Changes**

The bill requires county and municipal parks to provide a full or partial discount on park entrance fees to the following individuals:

- a current military servicemember;
- an honorably discharged veteran of the United States Armed Forces or the United States Reserve Forces – including the National Guard;
- the surviving spouse or parent of a member of the United States Armed Forces or the United States Reserve Forces – including the National Guard, who has fallen in combat; and
- the surviving spouse or parent of a law enforcement officer or firefighter who has died while in the line of duty.

In order to take advantage of the applicable discount, a park visitor must present written documentation which evidences his or her eligibility. Typically, sufficient written documentation for a military servicemember may include a current, valid military identification card; for an honorably discharged veteran, sufficient written documentation may include a copy of the veteran's separation from service documents. Florida residency is not required.

Under the bill, a county or municipal park will have the authority to determine the amount of the discount in accordance with its financial circumstances. Additionally, the bill narrowly defines a 'park entrance fee' to exclude fees for the use of campgrounds, aquatic facilities, stadiums or arenas, special events, and other expanded amenity fees, for the purpose of minimizing any potential fiscal impact on county or municipal revenue.

While county and municipal parks may currently provide a full or partial discount on park entrance fees to these individuals, there may be a benefit from the uniformity that a state law would provide.

The bill has an effective date of July 1, 2014.

### **B. SECTION DIRECTORY:**

- Section 1:** Creates s. 125.028, F.S., to require a county department of parks and recreation to provide a discount on entrance fees at county parks to military servicemembers, veterans, and certain family members of deceased military servicemembers, law enforcement officers, and firefighters.
- Section 2:** Creates s. 166.0447, F.S., to require a municipal department of parks and recreation to provide a discount on entrance fees at municipal parks to military servicemembers, veterans, and certain family members of deceased military servicemembers, law enforcement officers, and firefighters.
- Section 3:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.
2. Expenditures:  
None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
To the extent that county and municipal parks charge park entrance fees at all, county and municipal parks may experience a decrease in revenue generated from park entrance fees.  
  
However, publicity generated from the implementation of the bill's provisions may lead to an increase in revenue.  
  
On Friday, March 14, 2014, the Revenue Estimating Impact Conference estimated that the provisions of this bill would have an indeterminate, but likely insignificant fiscal impact on city and county government.
2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Park fee discounts at county and municipal parks will be available to certain active-duty military servicemembers and honorably discharged veterans, as well as certain family members of servicemembers who have died during combat are included. The surviving spouse or parent of a law enforcement officer or firefighter who has died while in the line of duty are also included.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:



Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, Article VII, section 18(d) of the Florida Constitution provides an exemption from the two-thirds requirement for any general law that has an insignificant fiscal impact.

On Friday, March 14, 2014, the Revenue Estimating Impact Conference estimated that the provisions of this bill would have an indeterminate, but likely insignificant fiscal impact on city and county government.

2. Other:

Not Applicable.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On Monday, March 24, 2014, the Veteran & Military Affairs Subcommittee adopted a strike-all amendment to HB 677 and subsequently reported the bill favorably. The amendment revised the bill in the following ways:

- The amendment removed the pre-set discount amounts in the bill as filed. Because the amendment removed the pre-set discount amounts, a county or municipal park will have the authority to set the discount amount in accordance with its own financial circumstances.
- The amendment narrowly defined the term 'park entrance fee' so that it excludes fees for the use of campgrounds, aquatic facilities, stadiums or arenas, special events, and other expanded amenity fees, for the purpose of minimizing any potential fiscal impact on county or municipal revenue.

This bill analysis is drafted to CS/HB 677.

1                   A bill to be entitled  
 2           An act relating to county and municipal parks;  
 3           creating ss. 125.028 and 166.0447, F.S.; requiring  
 4           counties and municipalities to provide discounts on  
 5           public park entrance fees to military members,  
 6           veterans, and spouses and parents of certain deceased  
 7           military members, law enforcement officers, and  
 8           firefighters; defining the term "park entrance fees";  
 9           providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Section 125.028, Florida Statutes, is created to  
 14 read:

15           125.028 Military, law enforcement, and firefighter county  
 16 park fee discounts.—

17           (1) A county park or recreation department shall provide a  
 18 partial or full discount on park entrance fees to an individual  
 19 who presents written documentation satisfactory to the county  
 20 department that evidences that the individual is:

21           (a) A current member of the United States Armed Forces,  
 22 their reserve components, or the National Guard.

23           (b) An honorably discharged veteran of the United States  
 24 Armed Forces, their reserve components, or the National Guard.

25           (c) An honorably discharged veteran of the United States  
 26 Armed Forces, their reserve components, or the National Guard,

27 who has a service-connected disability as determined by the  
 28 United States Department of Veterans Affairs.

29 (d) A surviving spouse or parent of a deceased member of  
 30 the United States Armed Forces, their reserve components, or the  
 31 National Guard, who died in the line of duty under combat-  
 32 related conditions.

33 (e) A surviving spouse or parent of a law enforcement  
 34 officer, as defined in s. 943.10, or a firefighter, as defined  
 35 in s. 633.102, who died in the line of duty.

36 (2) As used in this section, the term "park entrance fees"  
 37 means fees charged to access lands managed by a county park or  
 38 recreation department. The term does not include additional fees  
 39 for amenities, such as campgrounds, aquatic facilities, stadiums  
 40 or arenas, facility rentals, special events, boat launching,  
 41 golf, zoos, museums, gardens, or programs taking place within  
 42 public lands.

43 Section 2. Section 166.0447, Florida Statutes, is created  
 44 to read:

45 166.0447 Military, law enforcement, and firefighter  
 46 municipal park fee discounts.-

47 (1) A municipal park or recreation department shall  
 48 provide a partial or full discount on park entrance fees to an  
 49 individual who presents written documentation satisfactory to  
 50 the municipal department that evidences that the individual is:

51 (a) A current member of the United States Armed Forces,  
 52 their reserve components, or the National Guard.

53        (b) An honorably discharged veteran of the United States  
 54 Armed Forces, their reserve components, or the National Guard.

55        (c) An honorably discharged veteran of the United States  
 56 Armed Forces, their reserve components, or the National Guard,  
 57 who has a service-connected disability as determined by the  
 58 United States Department of Veterans Affairs.

59        (d) A surviving spouse or parent of a deceased member of  
 60 the United States Armed Forces, their reserve components, or the  
 61 National Guard, who died in the line of duty under combat-  
 62 related conditions.

63        (e) A surviving spouse or parent of a law enforcement  
 64 officer, as defined in s. 943.10, or a firefighter, as defined  
 65 in s. 633.102, who died in the line of duty.

66        (2) As used in this section, the term "park entrance fees"  
 67 means fees charged to access lands managed by a municipal park  
 68 or recreation department. The term does not include additional  
 69 fees for amenities, such as campgrounds, aquatic facilities,  
 70 stadiums or arenas, facility rentals, special events, boat  
 71 launching, golf, zoos, museums, gardens, or programs taking  
 72 place within public lands.

73        Section 3. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1023 Canaveral Port District, Brevard County  
**SPONSOR(S):** Goodson  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Miller	<i>CHM</i> Rojas <i>JL</i>
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Canaveral Port District is an independent special district created by special act of the Legislature in 1953 to administer and operate the deep water port at Port Canaveral in Brevard County. Special districts are used to create, fund, administer, and oversee provision and delivery of a variety of local services in Florida. Independent districts created by special act are not subsidiary to local general-purpose governments such as cities or counties. As an independent district the Canaveral Port District has its own governing structure, the members of the governing body, called the Port Authority, are elected by the voters within the district, and its budget is not subject to local government veto.

In 1997 the Legislature required each special district to propose a codification of their charter that would be adopted as a single document.<sup>1</sup> The special acts comprising the charter and authority for the Canaveral Port District were consolidated, integrated, and codified as a single document in Ch. 2003-335, LOF. Since then the charter has been amended four times by special act. In 2012 the Port Authority formed a Charter Review Commission to review the acts now forming the charter and recommend another single, integrated document. The Commission's work was adopted unanimously by the Port Authority and submitted to the Brevard County legislative delegation.

The bill codifies the acts creating and empowering the Canaveral Port District into a single integrated document. Some charter sections are restructured and relocated and obsolete text is updated or removed. Certain limitations on the exercise of power by the Port Authority are removed, providing greater discretion to the Port Authority in areas such as approving leases and encumbrances on certain Port property.

The bill provides the proposed charter will go into effect upon the act becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

<sup>1</sup> Ch. 97-255, s. 24, LOF, now codified as s. 189.429, F.S.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1023.LFAC.DOCX

DATE: 3/31/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Canaveral Port District

The Canaveral Port District (Port District) is an independent special district<sup>2</sup> created in 1953.<sup>3</sup> The Canaveral Port (Port Authority) is the five member board comprised of Port Commissioners elected by the voters in the Port District. The Port Authority operates the deep water Port of Canaveral, supporting recreational cruise lines, cargo shipping and a customs port of entry, as well as service to regional military bases and NASA.<sup>4</sup>

Port Canaveral is accessible both from the Atlantic Ocean and the Indian River portion of the Intracoastal Waterway.<sup>5</sup> For 2013 the Port Authority reported the Port served over 3.7 million cruise passengers and handled over 3.8 million short tons of cargo.<sup>6</sup> A 2012 economic analysis commissioned by the Port Authority found total employment at the Port was 16,983 for its cruise, cargo, real estate, and marina operations. Total Port business revenue exceeded \$1.9 billion, generating state and local taxes exceeding \$7.4 million.<sup>7</sup>

Although authorized to impose and collect ad valorem taxes within the Port District, since 1986 the Port Authority has chosen to forego collecting such taxes and depends on Port-generated income for the District.<sup>8</sup>

Pursuant to an earlier statutory requirement for each district to structure all its relevant special laws into a single charter for recodification, the charter for the Port District was recodified in 2003.<sup>9</sup> Subsequent acts increased the amounts for which the Port Authority could encumber Port assets,<sup>10</sup> authorized the Port Authority to convey or dispose of lands,<sup>11</sup> authorized the Port Authority to create a direct-support organization,<sup>12</sup> and increased the value of small contracts which the Port Manager could enter into without referring the matter to the Port Commissioners.<sup>13</sup>

In 2012 the Port Authority created a ten member Charter Review Committee to conduct a comprehensive review of the entire charter for the Port District and prepare any revisions. The Committee's final recommendation, a document integrating and updating the charter, was accepted by unanimous vote of the Port Authority and submitted to the local legislative delegation.<sup>14</sup>

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<sup>2</sup> Ch. 2003-335, s. 3 (Charter Art. I, s. 1), LOF.

<sup>3</sup> Ch. 28922, LOF (1953).

<sup>4</sup> Information summaries received from representatives of the Port Authority on file with staff of the Local & Federal Affairs Committee.

<sup>5</sup> Canaveral Port Authority, "Tariff No. 12," Rule No. 34-A02 (10/1/2011), at <http://portcanaveral.com/general/tariffs.php> (accessed 3/29/2014).

<sup>6</sup> "2014 Annual Report/Directory," 29, at <http://www.portcanaveral.com/general/annualreport.php>

<sup>7</sup> "The 2012 Economic Impact of Port Canaveral," 1, at <http://www.portcanaveral.com/general/economics.php> (accessed 3/29/2014).

<sup>8</sup> At <http://www.portcanaveral.com/general/authority.php> (accessed 3/29/2014).

<sup>9</sup> Ch. 2003-335, LOF.

<sup>10</sup> Ch. 2004-472, s. 1, LOF.

<sup>11</sup> Ch. 2005-320, s. 1, LOF. This authority was limited to land to which the Port Authority acquired title after January 1, 1987.

<sup>12</sup> Ch. 2008-288, s. 1, LOF.

<sup>13</sup> Ch. 2011-258, s. 1, LOF.

<sup>14</sup> Letter from Thomas W. Weinberg, Chairman, Canaveral Port Authority, to the Brevard Delegation (Nov. 1, 2013); Legal Memorandum from Harold T. Bistline, Esq., to the Brevard County Legislative Delegation (Oct. 7, 2013) (herein the Charter Revision MM), in the possession of staff of the Local & Federal Affairs Committee.

## Independent Special Districts

A “special district” is “a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”<sup>15</sup> Special districts are created to provide a variety of services, such as mosquito control, beach facilities, children’s services,<sup>16</sup> fire control and rescue,<sup>17</sup> or drainage control.<sup>18</sup> An “independent special district” is characterized by having a governing board the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality.<sup>19</sup>

## Requirements of Section 189.404(2), F.S.

Section 189.404(2), F.S., prohibits<sup>20</sup> special laws or general laws of local application which exempt a special district certain from certain statutory requirements.<sup>21</sup> These include provisions on district elections,<sup>22</sup> bond referenda,<sup>23</sup> the issuance of bonds without a referendum,<sup>24</sup> reporting to affected local general-purpose governments about district public facilities,<sup>25</sup> requirements for public notice and conducting public meetings,<sup>26</sup> and budget and financial reporting requirements.<sup>27</sup>

## Effect of Proposed Change

### Charter Recodification

The bill integrates the special laws currently comprising the Port District charter<sup>28</sup> into a single document, revises, restructures, and reorganizes certain existing charter articles and sections, revises or deletes obsolete language, and provides certain new authority and responsibilities to the Port Authority. The bill does not exempt the Port District from the requirements of ss. 189.408, 189.4085, 189.415, 189.417, or 189.418, F.S., thus complying with s. 189.404(2), F.S.

This section of the analysis discusses substantive changes in the Port District charter proposed in section 3 of the bill, listed by specific charter article. Unless noted below, the changes to a particular article or section appear to be minor, non-substantive edits updating, conforming, or correcting the text. Except where noted, the effect of bill sections 1, 2, 4, 5, and 6 is discussed in the Section Directory.

### Changes to Authority and Powers

Bill section 1 includes as one purpose within the statement of legislative intent the approval “of any additional authority granted by this act.” All references in this discussion will be to Bill section 3 which recreates and reenacts the Port District Charter; charter sections will be referenced by “Art. \_\_, s. \_\_.”

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<sup>15</sup> Section 189.403(1), F.S.

<sup>16</sup> Section 125.901, F.S.

<sup>17</sup> Section 191.002, F.S.

<sup>18</sup> Section 298.01, F.S.

<sup>19</sup> Section 189.403(3), F.S.

<sup>20</sup> Ch. 189, F.S., including s. 189.404(2), F.S., was passed by a 3/5 majority in each chamber. Under the Florida Constitution, a law passed with a 3/5 majority vote may be amended or repealed only by another 3/5 majority vote. Art. III, s. 11(a)(21), Fla. Const.; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977).

<sup>21</sup> The entire subsection applies to the creation of a new special district. Only paragraphs 189.404(2)(b), (2)(c), and (2)(d), F.S., appear to apply to the recodification of an existing district’s charter.

<sup>22</sup> Section 189.405, F.S.

<sup>23</sup> Section 189.408, F.S.

<sup>24</sup> Section 189.4085, F.S.

<sup>25</sup> Section 189.415, F.S.

<sup>26</sup> Section 189.417, F.S. This section expressly references Ch. 286, F.S. Section 189.417(2), F.S.

<sup>27</sup> Section 189.418, F.S.

<sup>28</sup> Chs. 2003-335, 2004-472, 2005-320, 2008-288, 2011-258, LOF.



### *Charter Article I*

Section 2 deletes the description of five separate commissioner districts for the members of the Port Authority. Apparently the provision is now moot as art. I, s. 3 provides for the Port Authority to reconfigure the commissioner districts every ten years.

### *Charter Article II*

Section 1 revises the definitions of the Port District and Port Authority to delete apparently archaic references to "Harbor District" and "Harbor Commissioners" and includes submerged lands deeded to the Port District as part of the lands owned by the Port Authority. Section 2, creates a single comprehensive definition of "Public Notice" for use throughout the charter; the definition includes the publication by newspaper requirement existing in specific sections of the present charter and adds requirements for publication on the Port Authority website and as provided by law.

### *Charter Article IV*

Sections 2 and 6 delete references to the Port Authority's ability to designate certain "areas for abandoned" or derelict ships, a conscious drafting decision by the Port District Charter Review Committee.<sup>29</sup> More substantively, these two sections replace archaic references to the Port Authority power over "telegraph and telephone lines" within the district with a broader authority over "cellular and telephone systems and lines."

Section 13 replaces the requirement for the Port Authority to transfer to the U.S. government title to land for use as a Coast Guard station, with a right of reversion back to the Port Authority if the land ceases to be used for that purpose, to a more general authority to transfer or receive title to or possession of land from the U.S. government. Currently, there is an active U.S. Coast Guard station at the Port.<sup>30</sup>

Section 16 substantially revises the Port Authority's power to lease Port District real and personal property assets. The section retains with minor, non-substantive editing the power of the Port Authority to execute contracts, notes, and other financial and contract instruments. Section 16(b) appears to be a substantial relocation and reorganization of former charter Article XVIII on leases and encumbrances. The bill expands the power of the Port Authority to lease property by:

- Increasing from 10 to 30 years the length of lease the Port Authority may approve at a duly-noticed public meeting.
- Authorizes the Port Authority to approve leases with terms between 30 and 50 years if notice of the intended lease is published at least 30 days before the final vote at a public meeting.
- Authorizes the Port Authority to approve leases with terms between 50 and 99 years only after a "supermajority" of the Commissioners (presumably 4; the term is undefined) votes to approve the lease at two consecutive Authority meetings, with notice of the proposed lease published at least 60 days before the first meeting.
- The bill removes the existing cap of \$1,000,000, for encumbrances lasting more than five years, presently limiting the Port Authority's ability to encumber Port District personal property.
- The bill deletes the present requirement in art. IV, s. 16(c), and art. XVIII, for a referendum of district electors to approve leases of longer than five years or encumbrances of personal property exceeding \$1,000,000 for more than five years.

Section 18 deletes the three member Pilot Commission.

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<sup>29</sup> Charter Revision MM, 2.

<sup>30</sup> At <https://www.facebook.com/USCoastGuardStationPortCanaveral> (accessed 3/19/2014).

Section 19 adds to the Port Authority's use of borrowed funds the ability to apply such funds to off-port projects related to the construction, maintenance, and repair of roads providing access to the Port. Authorizes conduit financing and financing through third parties or not-for-profit 501(c)(3) organizations within the scope of funds available to pay revenue certificates or revenue bonds issued by the Port Authority. This section appears to increase the powers of the Port District by empowering the Port Authority to exercise all powers of a local agency under Ch. 159, Part II, F.S., the "Florida Industrial Development Financing Act."

Sections 21(e) and 23(a) appear to create exceptions to general law. Section 21(e) states ss. 193.321 – 193.327, F.S. (1967) are void with respect to the Port District, a provision first enacted for the District in 1969<sup>31</sup> and included in the District's charter without change since that time. The present charter states these provisions "shall not apply, and are hereby specifically repealed..." Section 23(a) renders void present s. 253.126, F.S., as to the Port Authority.<sup>32</sup> A law incorporating a specific statute by reference, without expressly incorporating future changes to the statute, continues to reference the substance of the incorporated statute as of the date the incorporating law went into effect.<sup>33</sup> Whether recodification of section 21(e) will incorporate the subsequent development of these 1967 statutes<sup>34</sup> or will preserve the status of the law at the time the provision was originally adopted in 1969 is unclear.

#### *Article V*

Section 1(a) amends the timing of when a commissioner takes office. Beginning with the general election in 2016, a Port Commissioner's term begins on the first Port Authority meeting after the Commissioner's election. Section 1(b) is a new provision limiting Port Commissioner terms. Beginning with those Commissioners whose terms begin in January 2015, Commissioners will be limited to three consecutive four-year terms. There is no apparent prohibition to leaving office and then beginning another period of three consecutive terms after that break in service.

Section 5 deletes a current provision that being a Port Commissioner does not disqualify someone from also holding a separate municipal, county, or state office.

#### *Article VI*

Section 1 deletes the present 0.5 percent cap on the Port Authority's power to impose a franchise or excise tax on businesses and occupations under a franchise granted by the Authority.

Section 4 is a new provision adding a requirement for the Port Authority to review the Port District Land Use Plan at least once every three years, beginning in 2015.

#### *Article XVII*

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<sup>31</sup> Ch. 69-857, s. 2, LOF. The original text read "The provisions of sections 193.321 – 193.327, inclusive, of the Florida Statutes, 1967, shall not apply, and hereby are specifically repealed, as to the power and authority of Canaveral Port Authority to levy, assess, collect and enforce ad valorem taxes as set forth in Chapter 28922, Laws of Florida of 1953, as amended." This chapter law also consolidated the Port Authority's maximum ad valorem millage rate at 3 mills.

<sup>32</sup> Section 253.126, F.S., states "The limitations and restrictions imposed by this chapter as amended by chapter 67-393, Laws of Florida, upon the construction of islands or the extension or addition to existing lands or islands bordering on or being in the navigable waters, as defined in s. 253.12, shall apply to the state, its agencies and all political subdivisions and governmental units. No other general or special act shall operate to grant exceptions to this section unless this section is specifically repealed thereby." For the Port Authority to be exempted from these limitations this section must be specifically repealed.

<sup>33</sup> *Reino v. State*, 352 So. 2d 853, 858-859 (Fla. 1977); *Van Pelt v. Hilliard*, 78 So. 693, 698, 75 Fla. 792, 808-809 (1918).

<sup>34</sup> Sections 193.321, 193.322, 193.323, 193.324, 193.325, 193.326, and 193.327 were renumbered as ss. 200.071, 200.091, 200.111, 200.121, 200.141, 195.051, and 200.161, F.S., respectively, by Ch. 69-55, LOF. Section 195.051 subsequently was renumbered s. 195.101(1), F.S., by Ch. 70-243, s. 45, LOF. Sections 195.101(1), 200.071, 200.091, 200.141, F.S., are currently in effect. Section 200.121 was repealed by Ch. 73-333, LOF, and ss. 200.111 and 200.161, F.S., were repealed by Ch. 82-154, s. 21, LOF.

Section 1 strengthens the requirement for competitive bidding for contracts exceeding \$100,000. Greater frequency and form of public notice is required than under the general provision applicable to the charter. The bill adds a requirement for bidders to provide a bid bond expressly protecting the Port Authority in the event the successful bidder subsequently fails to enter a contract and post the required performance or payment bonds.

Section 2(a) requires the Chief Executive Officer to obtain three written, instead of telephonic, offers when considering letting a contract between \$10,000 and \$100,000.

*Article XVII*

As stated above, the bill moves the present Article XVIII on Leases and Encumbrances to art. IV, s. 16, and makes significant changes to the allowed terms and requirements for referendum approval. The new art. XVIII provides for a mandatory review of the Port District charter every ten years and specifies the form, membership, and process for the Charter Review Committee.

*Article XIX*

This new article provides definitions and requirements for periodic Port Authority review of the commercial fish dealing industry at the Port in a duly-noticed public meeting. Also requires a supermajority vote before the Port Authority decides not to renew a commercial fish dealers' lease or to move a lessee involuntarily.

*Article XX*

This new article defines "recreational interests" and requires the Port Authority use best efforts to facilitate recreational usage, in its discretion.

**B. SECTION DIRECTORY:**

Section 1. States legislative intent to codify the charter for the Canaveral Port District as a single, comprehensive special act charter for the district.

Section 2. Codifies, reenacts, amends, and repeals Chs. 2003-335, 2004-472, 2005-320, 2008-288, 2011-258, Laws of Florida.

Section 3. Re-creates, reenacts, and states in full the charter for the Canaveral Port District.

Section 4. Requires liberal construction of the act.

Section 5. Repeals Chs. 2003-335, 2004-472, 2005-320, 2008-288, 2011-258, Laws of Florida.

Section 6. Provides the act is effective upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 20, 2014

WHERE? Brevard County, FL

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

- Substantive: At lines 166 and 235, the bill deletes a current reference to Canaveral Port District.
- Technical: At lines 671 and 989-990, the bill uses "authority" to describe the Port Authority, which is defined as "Port Authority" or "Authority" in art. II, s. 1.
- Substantive: At line 1247 the bill requires the Port Authority to discuss the commercial fish dealing industry at a regular meeting "not less than once every 2 years..." At lines 1249 and 1253, the bill refers to "the annual public hearing" to discuss the fish dealing industry. These descriptions appear to create an internal inconsistency about the frequency of this required discussion.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Mailed to:

STROMIRE, BISTLINE & MINICLIER  
1037 PATHFINDER WAY, SUITE #150  
ROCKLEDGE FL 32955

A daily publication by:



STATE OF FLORIDA  
COUNTY OF BREVARD

Before the undersigned authority personally appeared KATHY CICALA, who on oath says that she is LEGAL ADVERTISING SPECIALIST of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a

LEGAL NOTICE

Ad # ( 322622 ) \$ 156.11 the matter of:  
Acct. # ( 6CA224 )

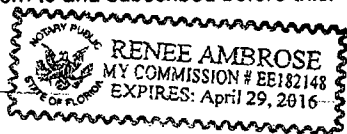
the Court STROMIRE, BISTLINE & MINICLIER  
NOTICE OF PROPOSED LEGISLATION

as published in the FLORIDA TODAY in the issue(s) of:

January 20, 2014

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Sworn to and subscribed before this:



*Kathy Cicala*  
(Signature of Affiant)

20th day of January 2014

*Renee Ambrose*  
(Signature of Notary Public)

Renee Ambrose

(Name of Notary Typed, Printed or Stamped)

AD1322622, 01/20/2014  
NOTICE OF PROPOSED LEGISLATION  
NOTICE IS HEREBY GIVEN of intention to apply to the 2014 Regular or Special Sessions of the Florida Legislature for the passage of amendments to Chapter 2003-335, Laws of Florida, As Amended, to revise the charter of the Canaveral Port District, an independent special taxing district in Brevard County, amending the powers and duties of the Canaveral Port District and its governing Authority, the Canaveral Port Authority, creating term limits for Port Commissioners, requiring periodic review of land use planning, amending the process for the granting of leases of Port Authority real property and deleting the provision for potential referendum election for leases in excess of ten years, modifying the term of office for Port Commissioners, enhancing the public notice requirements for certain Port Authority actions, authorizing the Port Authority to act as a conduit issuer under Chapter 159, Florida Statutes, modifies the power of the Port Authority to assess ad valorem taxes and franchise or excise taxes, provides for periodic review of the Port Charter, requires the maintenance of reasonable bulkhead space and heightened review of actions affecting existing commercial fish dealing leases, increases the contracting authority of the Chief Executive Officer, modifies the requirements for competitive bidding of Port Authority contracts, requires the Port Authority to periodically review and maintain recreational interests, clarifies the law governing the public meetings of the Port Authority, modifies the manner in which Port Commission salaries are determined and maintains a cap on any increase; providing an effective date.

Personally Known  or Produced Identification \_\_\_\_\_  
Type Identification Produced: \_\_\_\_\_

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: 1023  
SPONSOR(S): Representative Tom Goodson  
RELATING TO: Canaveral Port District, Brevard County  
(Indicate Area Affected (City, County, or Special District) and Subject)  
NAME OF DELEGATION: Brevard County Delegation  
CONTACT PERSON: Amy Gregory  
PHONE NO.: (321) 383-5151 E-Mail: Amy.Gregory@myflorida.house.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: November 12, 2013

Location: Brevard County Commission Chambers, Viera, FL

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE January 20, 2014

Where? Florida Today County Brevard

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

**(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?**

YES [ ] NO  NOT APPLICABLE [ ]

**(2) Does this bill change the authorized ad valorem millage rate for an existing special district?**

YES [ ] NO  NOT APPLICABLE [ ]

**If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?**

YES [ ] NO [ ]

**Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.**



Delegation Chair (Original Signature)

11-12-2013

Date

Tom Goodson

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES  
2014 ECONOMIC IMPACT STATEMENT FORM

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

BILL #: 1023  
SPONSOR(S): Representative Tom Goodson  
RELATING TO: Canaveral Port District, Brevard County, Subject is set forth on  
                  [Indicate Area Affected (City, County or Special District) and Subject]  
                  Exhibit "A"

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

The Canaveral Port Authority does not levy ad valorem taxes. The bill will not result in an increase in new revenues from taxes, fees or assessments or add or remove property or individuals from the tax base.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>
Revenue increase due to bill:	\$ <u>-0-</u>	\$ <u>-0-</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

The bill will not increase costs to the Canaveral Port Authority or to the public. The bill recodifies the Charter of the Canaveral Port District and will result in increased efficiencies in the operations of the Canaveral Port Authority and the deepwater Port of Canaveral.	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>-0-</u>	\$ <u>-0-</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

N/A





**III. FUNDING SOURCE(S):**

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

The Canaveral Port Authority does not levy ad valorem taxes and is self supporting from revenues generated by cruise ship and cargo operations, land leases and cruise and cargo terminal fees. The bill will not result in any change in the Canaveral Port Authority's ability to apply for or participate in state or federal grant programs available to deepwater seaports.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ <u>-0-</u>	\$ <u>-0-</u>
State:	\$ <u>-0-</u>	\$ <u>-0-</u>
Federal:	\$ <u>-0-</u>	\$ <u>-0-</u>

**III. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: The bill will increase efficiencies in the cruise, cargo and land leasing operations at Port Canaveral which is anticipated to result in job growth and positive economic activity in Brevard County and the East Central Florida region.
2. Advantages to Businesses: Anticipated growth in cruise, cargo and maritime activity in Port Canaveral will enhance the ability of businesses in the East Central Florida region to access the international and interstate market for their goods and services through the use of local intermodal deepwater Port.
3. Advantages to Government: The expanded tax base provided by good paying jobs and improved opportunity for economic growth and business development.



Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

\_\_\_\_\_

\_\_\_\_\_

2. Disadvantages to Businesses: None

\_\_\_\_\_

\_\_\_\_\_

3. Disadvantages to Government: None

\_\_\_\_\_

\_\_\_\_\_

**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

The bill will improve the efficiency of the Canaveral Port Authority's procurement processes and the leasing of lands for maritime commerce, Improved economic conditions in Port Canaveral are anticipated to result in increased cruise, cargo and real estate development and an increase in employment in the East Central Florida region served by Port Canaveral. The bill will not require a governmental entity to reduce the services it provides.

2. Impact on the Open Market for Employment:

Increased cargo, cruise and real estate development will result in a net increase in employment in Port Canaveral's service area which includes the East Central Florida region. Martin Associates 2012 Economic Impact Study estimates that Port Canaveral generates 16,983 direct and indirect jobs, a 29% increase over study year 2009.

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

1. 2012 Economic Impact of Port Canaveral Study, dated March 20, 2013

Martin Associates

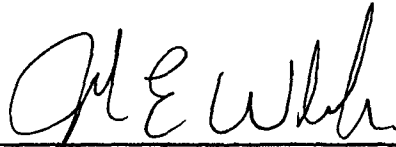
Finance and Transportation Consultant

941 Wheatland Avenue, Ste. 203

Lancaster, PA 17603

2. Financial and Business Development information of the Canaveral Port Authority

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name:

John E. Walsh

January 30, 2014

**Date**

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Chief Executive Officer

REPRESENTING:

Canaveral Port Authority

PHONE:

321-783-3232

E-MAIL ADDRESS:

jwalsh@portcanaveral.com

1                   A bill to be entitled  
 2           An act relating to the Canaveral Port District,  
 3           Brevard County; providing legislative intent;  
 4           codifying, amending, repealing, and reenacting special  
 5           acts relating to the district; providing severability;  
 6           providing purpose and construction; providing an  
 7           effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Pursuant to s. 189.429, Florida Statutes, this  
 12 act constitutes the codification of all special acts relating to  
 13 the Canaveral Port District, Brevard County. It is the intent of  
 14 the Legislature in enacting this law to provide a single,  
 15 comprehensive special act charter for the district, including  
 16 all current legislative authority granted to the district by its  
 17 several legislative enactments and any additional authority  
 18 granted by this act.

19           Section 2. Chapters 2003-335, 2004-472, 2005-320, 2008-  
 20 288, and 2011-258, Laws of Florida, relating to the Canaveral  
 21 Port District, are codified, reenacted, amended, and repealed as  
 22 herein provided.

23           Section 3. The charter of the Canaveral Port District is  
 24 re-created and reenacted to read:

25                                   ARTICLE I  
 26                                   CREATION AND STATUS

27 Section 1. There is created and established a port  
 28 district in Brevard County, which shall also be an independent  
 29 special taxing district and political subdivision of the state,  
 30 to be known as the "Canaveral Port District," which shall  
 31 consist of so much of Brevard County as lies north of that line  
 32 described as follows:

33  
 34 Beginning at a point where the west boundary line of  
 35 said Brevard County, Florida, intersects with the  
 36 south boundary line of Township 25 South, Range 35  
 37 East, and proceeding thence easterly along the south  
 38 boundary line of Township 25 South to the intersection  
 39 of the east boundary line of Brevard County, Florida,  
 40 with the south boundary line of Township 25 South.

41  
 42 Section 2. The Canaveral Port District shall be divided  
 43 into five Commissioner Port Districts.

44 Section 3. Commencing with the year 1982, and every 10  
 45 years thereafter, the Canaveral Port Authority by resolution  
 46 shall divide the Canaveral Port District into five Commissioner  
 47 Port Districts of contiguous territory as nearly equal in  
 48 population as practicable according to the duly registered  
 49 electors in the Canaveral Port District determined by the  
 50 elector registration rolls of the Supervisor of Elections of  
 51 Brevard County. On or before January 15 of each decennial year  
 52 commencing with the year 1982, the Supervisor of Elections of

53 Brevard County shall transmit to the Canaveral Port Authority a  
 54 certified statement of all elector precincts lying in whole or  
 55 in part in the Canaveral Port District and the number of  
 56 electors in each precinct or partial precinct in the Canaveral  
 57 Port District according to the most recent records of the  
 58 Supervisor of Elections before the submission of such certified  
 59 statement. On or before March 5 of each such decennial year, the  
 60 Canaveral Port Authority shall divide and define the boundaries  
 61 of each of the five Commissioner Port Districts based on the  
 62 certified statement of elector precincts and number of electors  
 63 submitted by the Supervisor of Elections. No Commissioner Port  
 64 District shall have more than 22 percent or less than 18 percent  
 65 of the total number of duly registered electors in the Canaveral  
 66 Port District according to the certified statement of the  
 67 Supervisor of Elections. On or before March 31 of each such  
 68 decennial year, the Canaveral Port Authority shall deliver to  
 69 the Board of County Commissioners of Brevard County and the  
 70 Supervisor of Elections of Brevard County a certified copy of  
 71 the resolution by the Canaveral Port Authority defining the  
 72 boundaries of the five Commissioner Port Districts determined  
 73 hereunder, and the Commissioner Port Districts so determined  
 74 shall constitute the Commissioner Port Districts until the same  
 75 are again determined decennially under this section. As the five  
 76 Commissioner Port Districts are decennially determined and  
 77 defined, the same shall immediately supersede the previously  
 78 determined and defined five Commissioner Port Districts.

79 Section 4. The District's charter may only be amended by  
 80 special act of the Legislature.

81 ARTICLE II  
 82 DEFINITIONS

83 Section 1. All references herein to "District" or "Port  
 84 District" shall be deemed to mean the Canaveral Port District,  
 85 situated in Brevard County as described in Article I; and all  
 86 references herein to "Port Commissioners" or "Port Authority"  
 87 shall be deemed to mean the Canaveral Port Authority, the  
 88 governing body of the Canaveral Port District. All references  
 89 herein to "Port Commissioners" shall be deemed to mean qualified  
 90 commissioners or members constituting the Canaveral Port  
 91 Authority. All references herein to "Port Canaveral" or "Port"  
 92 shall be deemed to mean the Port of Canaveral, Brevard County,  
 93 including, but not limited to, the main entrance channels,  
 94 turning basins, slips, and jetties, and including also all lands  
 95 abutting on the navigable waters of said Port, all submerged  
 96 lands deeded to said Port from the Trustees of the Internal  
 97 Improvement Trust Fund, and all other lands owned by the  
 98 Canaveral Port Authority.

99 Section 2. The term "public notice" means notice that is  
 100 published in the following methods:

101 (a) Once a week for 2 consecutive weeks in a newspaper of  
 102 general circulation published in Brevard County;

103 (b) On the Port Authority website;

104 (c) In a manner no less than may be required by Florida  
 105 law.

106  
 107 Additional requirements for public notice may be provided for  
 108 herein.

109 ARTICLE III

110 GOVERNING AUTHORITY

111 The governing authority of the Port District shall be known  
 112 as the Canaveral Port Authority. Said Canaveral Port Authority  
 113 is a body politic and body corporate and is deemed a political  
 114 subdivision of the state within the meaning of sovereign  
 115 immunity from taxation; it shall have perpetual existence; it  
 116 may adopt and use a common seal and alter the same; it may  
 117 contract and be contracted with; it may sue in its corporate  
 118 name in any of the courts in the several states and in the  
 119 courts of the United States; and it may be sued only in the  
 120 courts of the state and the courts of the United States for the  
 121 Southern District of the state or in such other District Court  
 122 of the United States to which Brevard County may hereafter be  
 123 transferred.

124 ARTICLE IV

125 GENERAL GRANT OF POWERS

126 Section 1. The authority has the power to acquire by  
 127 grant, purchase, gift, devise, or condemnation or in any other  
 128 manner all property, real or personal, or any estate or interest  
 129 therein within the Port District which by resolution the Port



130 Authority shall determine to be necessary for the purposes of  
 131 the Port District, and said determination shall be conclusive,  
 132 except in cases of fraud or gross abuse of discretion; and to  
 133 improve, maintain, lease, mortgage, or otherwise encumber the  
 134 same, or any part thereof, or any estate or interest therein,  
 135 and to sell, convey, and deliver the legal title to certain land  
 136 to an agency of Florida for rights-of-way for a public toll  
 137 highway between Port Canaveral, Brevard County, and United  
 138 States Highway No. 1 near City Point, Brevard County, with right  
 139 of reversion of said land upon abandonment thereof by nonuser or  
 140 in the event such public toll highway is not constructed,  
 141 whichever is sooner, and upon such conditions as said Port  
 142 Authority shall fix and determine as hereinafter provided, and  
 143 said determination shall be deemed conclusive, except in cases  
 144 of fraud or gross abuse of discretion.

145 Section 2. The authority has the power to lay out,  
 146 construct, condemn, purchase, own, mortgage, add to, maintain,  
 147 conduct, operate, build, equip, manage, replace, enlarge,  
 148 improve, regulate, control, repair, fix, and establish jetties;  
 149 piers; quays; wharves; docks; warehouses; storehouses;  
 150 breakwaters; bulkheads; public landings; slips; seawalls;  
 151 turning basins; harbors; ports; waterways; channels; moles;  
 152 bridges; catwalks; ferries and causeways; drydocks; terminal  
 153 facilities; canals; elevators; grain bins; cold storage plants;  
 154 icing plants and their distribution; refrigerating plants;  
 155 precooling plants; bunkers; oil tanks; pipelines; locks; tidal

156 basins; subways; tramways; cableways; anchorage areas; depots;  
 157 barges or other craft; airways; landing fields; conveyors;  
 158 modern appliances for economic handling, storing, and  
 159 transportation of freight and the handling of passenger traffic;  
 160 systems of fresh water supply; electric and steam generating  
 161 stations and plants and distribution systems therefor; sewage  
 162 systems and sewage disposal and treatment plants; cellular and  
 163 telephone systems and lines, buried or on poles; gas lines and  
 164 distribution systems therefor for servicing the lands,  
 165 properties, and facilities now or hereafter owned, acquired, or  
 166 controlled by lease, franchise, or otherwise by the Port  
 167 Authority and any and all areas adjacent thereto; radio  
 168 broadcasting stations and facilities; parking lots and areas for  
 169 off-street or off-road parking of motor vehicles, barge lines,  
 170 truck lines, steamship lines, shipping lines, roads, and  
 171 railroads within and without the territorial limits of Port  
 172 District; and all other harbor and harbor area improvements and  
 173 facilities which the Port Authority may determine to be  
 174 necessary, feasible, and advantageous; and in connection with  
 175 the operation, improvement, and maintenance of said port, to  
 176 perform all customary services, including the handling,  
 177 weighing, measuring, regulation, control, inspection, and  
 178 reconditioning of all commodities and cargo received or shipped  
 179 through said port.

180 Section 3. The authority has the power to exercise control  
 181 over Port Canaveral and any and all parts thereof; to apply to

182 proper authorities of the United States government for the right  
 183 to establish, operate, and maintain a foreign trade zone within  
 184 the limits of Brevard County and to establish, operate, and  
 185 maintain such foreign trade zone; to apply for and obtain  
 186 permission from the United States government to create, improve,  
 187 regulate, and control all waters and natural or artificial  
 188 waterways within said Port Canaveral; to improve all navigable  
 189 and nonnavigable waters situated within the Port District  
 190 necessary or useful to the operation, improvement, and  
 191 maintenance of Port Canaveral; to construct, improve, and  
 192 maintain such inlets, slips, turning basins, and channels; to  
 193 make and give to the United States government such guarantees  
 194 upon such terms and conditions as may be required; and to enact,  
 195 adopt, and establish rules and regulations for the complete  
 196 exercise of jurisdiction and control over all of said lands and  
 197 waters of Port Canaveral within the Port District.

198 Section 4. The authority has the power to fix uniform  
 199 rates of wharfage, dockage, pilotage, warehousing, storage,  
 200 port, and terminal charges upon all harbor facilities and  
 201 improvements located within the Port District, whether owned by  
 202 the Port Authority or otherwise, and to fix and determine the  
 203 rates, commissions, rentals, tolls, and other charges for the  
 204 use of harbor and area facilities and improvements located  
 205 within the Port District insofar as it may be permissible for  
 206 the Port Authority to do so under the Constitution and laws of

207 | the State of Florida and under the Constitution and laws of the  
 208 | United States of America.

209 | Section 5. The authority has the power to exercise such  
 210 | police powers as the Port Authority shall determine to be  
 211 | necessary for the effective control, regulation, and protection  
 212 | of Port Canaveral and for the effective exercise of jurisdiction  
 213 | over said port.

214 | Section 6. The authority has the power to grant franchises  
 215 | to any person, firm, or corporation to construct, establish,  
 216 | operate, replace, repair, fix, enlarge, maintain, improve,  
 217 | equip, manage, acquire, and control jetties; piers; quays;  
 218 | wharves; docks; warehouses; storehouses; breakwaters; bulkheads;  
 219 | public landings; slips; seawalls; turning basins; harbors;  
 220 | ports; waterways; channels; moles; bridges; catwalks; ferries;  
 221 | roads and causeways; drydocks; terminal facilities; canals;  
 222 | elevators; grain bins; cold storage plants; icing plants and  
 223 | their distribution; refrigeration plants; precooling plants;  
 224 | bunkers; oil tanks; pipelines; locks; tidal basins; subways;  
 225 | tramways; cableways; anchorage areas; depots; barges or other  
 226 | craft; airways; landing fields; conveyors; modern appliances for  
 227 | economic handling, storing, and transportation of freight and  
 228 | the handling of passenger traffic; systems of fresh water  
 229 | supply; electric and steam generating stations and plants and  
 230 | distribution systems therefor; sewage systems and sewage  
 231 | disposal and treatment plants; cellular and telephone systems  
 232 | and lines, buried or on poles; gas lines and distribution

233 systems therefor for servicing the lands, properties, and  
 234 facilities now or hereafter owned, acquired, or controlled by  
 235 lease, franchise, or otherwise by the Port Authority and any and  
 236 all areas adjacent thereto; radio broadcasting stations and  
 237 facilities; parking lots and areas for off-street or off-road  
 238 parking of motor vehicles, barge lines, truck lines, steamship  
 239 lines, shipping lines, roads, and railroads within and without  
 240 the territorial limits of the Port District; and other harbor  
 241 and harbor area improvements and facilities which the Port  
 242 Authority may determine to be necessary, feasible, and  
 243 advantageous; and in connection with the operation, improvement,  
 244 and maintenance of said port, to perform all customary services,  
 245 including the handling, weighing, measuring, regulation,  
 246 control, inspection, and reconditioning of all commodities and  
 247 cargo received or shipped through said port in the exercise of  
 248 such franchise. Nothing in this section shall be construed to  
 249 limit the right of the Port Authority to construct, maintain,  
 250 and operate the port facilities as provided in section 2.

251 Section 7. The authority has the power to enter into such  
 252 contract, lease, or franchise with any common carrier or  
 253 carriers and their respective successors and assigns as the Port  
 254 Authority shall determine to be necessary for the development,  
 255 improvement, and promotion of the transportation and warehousing  
 256 facilities of Port Canaveral and the development, improvement,  
 257 and promotion of Port Canaveral; to acquire by grant, purchase,  
 258 gift, devise, condemnation, exchange, or in any other manner all

259 land, easements, and rights of property deemed necessary, or  
 260 advantageous by the Port Authority for such purposes; and to  
 261 execute whatever arrangements, by contract or otherwise, as may  
 262 be necessary to perform and comply with all rules and  
 263 regulations promulgated by any state or federal agency covering  
 264 the operation, maintenance, improvement, development, and  
 265 ownership of the transportation and warehousing facilities used  
 266 in connection with Port Canaveral.

267 Section 8. The authority has the power to levy, assess,  
 268 collect, and enforce ad valorem taxes upon all of the real and  
 269 personal property in the Port District for the purpose of  
 270 defraying operating, maintenance, and general administration  
 271 expenses and other necessary expenses incurred for the  
 272 improvement of the port facilities, and for the purchase of  
 273 rights-of-way, within the Port District, provided that such levy  
 274 does not exceed 3 mills on the dollar in any one year on the  
 275 total assessed valuation of all taxable property within the Port  
 276 District for such year; and the Port Authority is authorized and  
 277 empowered to issue its promissory note or notes at the rate of  
 278 interest, maturity, terms, and conditions as directed by the  
 279 Port Authority, signed in the name of the Port Authority by the  
 280 Chair and the Secretary and the corporate seal affixed thereto,  
 281 and the funds derived therefrom to be used for the payment of  
 282 operating, maintenance, and general administration expenses, and  
 283 for the purchase of right-of-way, against or to be repaid from

284 the anticipated revenues to be derived from the said 3-mill ad  
 285 valorem tax previously levied and assessed.

286 Section 9. The authority has the power to create and  
 287 designate such offices, departments, and divisions, other than  
 288 those herein specifically provided for, as the Port Authority  
 289 may determine to be necessary and prescribe the duties and  
 290 compensation of such officers and employees; and to employ an  
 291 attorney for the Port Authority and fix and determine the  
 292 compensation and duties of said attorney. The term of office of  
 293 said attorney and all appointees and employees shall be at the  
 294 pleasure of the Port Authority.

295 Section 10. The authority has the power to make rules and  
 296 regulations consistent with the Constitution and laws of the  
 297 State of Florida and with the Constitution and laws of the  
 298 United States of America for the promotion and conduct of  
 299 navigation, commerce, and industry in the Port District. Said  
 300 rules and regulations shall be reasonable and shall apply  
 301 uniformly to all similarly situated.

302 Section 11. The authority has the power to make rules and  
 303 regulations governing the course; conduct; movement; stationing  
 304 and restationing; berthing and reberthing; fueling and  
 305 refueling; loading, unloading, and reloading; and docking,  
 306 storing, mooring, and anchoring of ships, vessels, crafts,  
 307 barges, skiffs, and boats within the Port District and the  
 308 navigable waters over which the said Port Authority has  
 309 jurisdiction and to remove all obstacles to navigation,

310 commerce, and industry in the waters of the port and the  
 311 navigable waters over which the said Port Authority has  
 312 jurisdiction; however, this power can only be exercised within  
 313 navigable waters, entrance channels, turning basins, and slips  
 314 in the waters of the port.

315 Section 12. The authority has the power to prescribe, fix,  
 316 and establish fines, penalties, and punishment for the violation  
 317 of the rules and regulations of said Port Authority and to  
 318 enforce such fines, penalties, and punishments in such manner as  
 319 the Port Authority may by resolution determine. All fines and  
 320 penalties so imposed or levied shall be recoverable in the name  
 321 of the Port Authority in any court of the state having  
 322 jurisdiction over the amount involved and shall inure and belong  
 323 to said Port Authority.

324 Section 13. The authority has the power to enter into any  
 325 contract with the Government of the United States, or any agency  
 326 thereof, which may be necessary in order to procure assistance,  
 327 appropriations, grants, gifts, and aid for the deepening,  
 328 widening, and extending of channels and turning basins and the  
 329 building, construction, and maintenance of slips, wharves,  
 330 breakwaters, jetties, bulkheads, facilities, and any and all  
 331 other port improvements and facilities; and to convey lands in  
 332 either title or possessory interest to, or acquire lands by  
 333 lease or in fee simple interest from, the government of the  
 334 United States, and to build improvements thereon, whether by  
 335 conveyance in fee simple, leasehold, or contract.



336 Section 14. The authority has the power to exercise the  
 337 right of eminent domain and to condemn, appropriate, and acquire  
 338 any property, both real and personal, and any interest or estate  
 339 therein which by resolution the Port Authority shall determine  
 340 to be necessary for the deepening, widening, and extending of  
 341 the channels, turning basins, roads, and railroads and the  
 342 building and construction of slips, wharves, sheds, warehouses,  
 343 breakwaters, jetties, bulkheads, and any and all other port  
 344 improvements and facilities. Said determination of necessity  
 345 shall be conclusive, except in cases of fraud or gross abuse of  
 346 discretion. Such condemnation proceeding shall be exercised in  
 347 the manner consistent with Florida law.

348 Section 15. The authority has the power to borrow money as  
 349 herein provided.

350 Section 16. (a) The authority has the power to execute  
 351 and deliver all contracts, deeds, leases, mortgages, promissory  
 352 notes, franchises, assignments, releases, and all other  
 353 instruments necessary and convenient to carry out the powers  
 354 herein expressly or impliedly conferred, all of which shall be  
 355 executed in the name of the Port Authority and signed by the  
 356 chair and the secretary thereof and its corporate seal affixed  
 357 thereto. All checks and vouchers for the disbursement of funds  
 358 of the Port Authority shall be executed in the manner and form  
 359 as prescribed by the Port Authority.

360        (b) The authority has the power and authority by majority  
 361 vote at any regular meeting to lease the lands, personal  
 362 properties, and facilities as provided herein:

363            1. A lease for a period not to exceed 30 years may be  
 364 approved by a majority vote of the Port Authority at a public  
 365 meeting.

366            2. A lease for a period of more than 30 years, but not  
 367 exceeding 50 years, may be approved by a majority vote at a  
 368 public meeting. Before considering such a lease, in addition to  
 369 providing public notice regarding the intent to enter into such  
 370 a lease, the Port Authority shall advertise, in a newspaper of  
 371 general circulation in Brevard County, the Port Authority's  
 372 intent to enter into such a lease no less than 30 days before  
 373 the consideration of such lease at a duly noticed regular  
 374 meeting of the Port Authority. The notice requirement contained  
 375 in this section shall run concurrently with the public notice  
 376 requirements contained in Article II.

377            3. A lease for a period of more than 50 years, but not  
 378 exceeding 99 years, may be approved by a super majority vote of  
 379 the Port Authority voting at two public meetings. Before  
 380 considering such a lease, in addition to providing public notice  
 381 regarding the intent to enter into such a lease, the Port  
 382 Authority shall advertise, in a newspaper of general circulation  
 383 in Brevard County, the Port Authority's intent to enter into  
 384 such a lease no less than 60 days before the first public  
 385 meeting at which the Port Authority will consider the lease. The

386 notice requirement contained in this section shall run  
 387 concurrently with the public notice requirements contained in  
 388 Article II.

389 Section 17. The authority has the power to regulate the  
 390 speed, operation, docking, storing, and conduct of all water  
 391 craft of any kind plying or using the waterways within said port  
 392 and over which the Port Authority has jurisdiction; however,  
 393 this power shall be exercised only within navigable waters,  
 394 entrance channels, turning basins, and slips in the waters of  
 395 the port.

396 Section 18. The authority has the power to appoint a  
 397 harbormaster, a deputy harbormaster, stevedores, longshoremen,  
 398 and all other persons necessary to properly transact the  
 399 shipping business at said port and to fix their powers, duties,  
 400 and compensation. The Port Authority has the power to license  
 401 stevedores as independent contractors for hire, to fix the terms  
 402 and conditions of such licenses, and to determine the fees to be  
 403 charged. Such stevedores shall serve at the pleasure of the Port  
 404 Authority unless terminated sooner by the licenses.

405 Section 19. (a) The authority has the power to borrow  
 406 money and apply for grants from any state or federal agency or  
 407 agencies and private party or parties and to secure the payment  
 408 of the same by the issuance of revenue certificates or revenue  
 409 bonds, which shall bear such denomination and be in such form as  
 410 shall be required by the Port Authority, for the purpose of  
 411 carrying out any of the powers, projects, or purposes of the

412 Port Authority or Port District, or for the purpose of providing  
 413 funds to be used in the construction, operation, maintenance,  
 414 expansion, promotion, or repair of harbor facilities and  
 415 improvements at the Port, or for the purpose of deepening,  
 416 widening, constructing, or repairing slips, channels, turning  
 417 basins, bulkheads, seawalls, jetties, breakwaters, warehouses,  
 418 or wharves at the Port, or for the purpose of constructing,  
 419 maintaining, or repairing platforms, railroads, and railroad  
 420 facilities, and serve as common carriers; to construct,  
 421 maintain, and repair streets, roads, or avenues surrounding or  
 422 adjacent to or providing access to the port; and to apply to  
 423 related projects off-port or other Port Authority owned  
 424 property; provided that such revenue certificates or revenue  
 425 bonds hereby authorized to be issued and outstanding shall not  
 426 bear a higher rate of interest than provided by general law,  
 427 which shall be payable semiannually.

428 (b) The Port Authority is authorized to secure said  
 429 revenue certificates or revenue bonds by a pledge of the  
 430 revenues of the port project, including revenues from all or any  
 431 part of the facilities connected therewith, owned and operated  
 432 by the Port Authority and in addition thereto. Said revenue  
 433 certificates or revenue bonds may be secured by a lien on all or  
 434 any part of the personal properties of the Authority or the Port  
 435 District or the income derived therefrom, including the full  
 436 faith and credit of said Port District, as well as conduit

437 financing and financing through third parties or not-for-profit  
438 501(c)(3) entities. Real property is expressly excluded.

439 (c) The issuance of said revenue bonds shall be authorized  
440 by resolution of the Port Authority, which resolution may be  
441 adopted at any meeting of the Port Authority by a vote of a  
442 majority of the Port Commissioners. The revenue certificates or  
443 revenue bonds issued hereunder shall bear such rate or rates of  
444 interest not exceeding that provided by general law; may be in  
445 one or more series; may bear such date or dates; may mature at  
446 such time or times not exceeding 30 years after their respective  
447 dates, in such medium of payment, at such place or places; may  
448 carry such registration privileges; may be subject to such terms  
449 of redemption; may be in such form or forms; and may be executed  
450 in such manner and contain such terms and conditions as the Port  
451 Authority may prescribe. The revenue certificates or revenue  
452 bonds herein provided for may be issued by the Port Authority  
453 upon the Port Authority first adopting an appropriate resolution  
454 authorizing such issuance and without the question of issuing  
455 said revenue certificates or revenue bonds being first  
456 authorized by an election held for such purpose, provided that  
457 the amount to be issued and the purpose for which issued shall  
458 be advertised and notice shall be given in accordance with  
459 general law.

460 (d) Notwithstanding anything contained in this section,  
461 the Port Authority shall have all the powers provided for local  
462 agencies pursuant to part II of chapter 159, Florida Statutes.

463 Section 20. (a) The authority has the power to issue  
 464 revenue certificates or revenue bonds authorized in section 19,  
 465 supported by an ad valorem tax to be assessed against all the  
 466 taxable properties within the Port District for any of the  
 467 purposes mentioned in section 19.

468 (b) Before the issuance of any of the said revenue  
 469 certificates or revenue bonds, such issue shall be authorized by  
 470 resolution of the Port Authority, which resolution shall state  
 471 the amount of the certificates or bonds proposed to be issued,  
 472 the purpose or purposes for which issued, the denomination for  
 473 such certificates or bonds, the rate of interest the same are to  
 474 bear, and the time, place, and conditions when, where, and upon  
 475 which said certificates or bonds, and the interest thereon,  
 476 shall become due and payable. However, such certificates or  
 477 bonds shall be issued only after they have been first approved  
 478 by a majority vote of the qualified electors residing in the  
 479 Port District in an election held within the territory  
 480 constituting the Port District. Such resolution, so adopted,  
 481 shall name a day for the holding of such election, and said Port  
 482 Authority shall give at least 30 days' notice of the election by  
 483 publication in a newspaper published in the Port District, once  
 484 a week for 4 consecutive weeks during said period of 30 days.  
 485 Said notice shall state the time of the election and the purpose  
 486 of the election, and said certificates or bonds shall be issued  
 487 only after the same shall have been authorized and ratified by a  
 488 majority of the votes cast in said election and a majority of

489 the qualified electors who reside in the Port District shall  
 490 participate.

491 (c) All said qualified electors residing in the Port  
 492 District shall be entitled to vote in said election, which  
 493 election shall in all respects not herein expressly provided be  
 494 called and held and the result thereof determined in accordance  
 495 with any applicable general statute now in force or hereafter  
 496 enacted. The place of voting in said election shall be the same  
 497 as the places for voting at the general elections usually held  
 498 within the territorial limits of the Port District. Inspectors  
 499 and clerks shall be appointed and qualified as in general  
 500 elections, and they shall canvass the votes cast and make due  
 501 returns of the same without delay. Returns of said elections  
 502 shall be made to the Port Authority. It shall be the duty of the  
 503 Port Authority to cause to be prepared a sufficient number of  
 504 ballots to be used at such election, with such description of  
 505 said certificates or bonds to be voted on as the Port Authority  
 506 may prescribe. A separate statement giving the amount of the  
 507 certificate or bond issued and the interest thereon, together  
 508 with such other details as may be deemed necessary or proper to  
 509 inform the electors, shall be printed on the ballots in  
 510 connection with the question "FOR the Issuance of Revenue  
 511 Certificates or Revenue Bonds Supported by an Ad Valorem Tax"  
 512 and "AGAINST the Issuance of Revenue Certificates or Revenue  
 513 Bonds Supported by an Ad Valorem Tax." Directions to the voter  
 514 to express his or her choice by making an (x) mark in the space

515 to the right or the left of said question shall be stated in the  
 516 ballot. Said ballots shall be in form substantially as follows:

517 Official Ballot, Canaveral Port District

518 SPECIAL ELECTION (Insert Date)

519 This election is held for the approval or disapproval of  
 520 the issuance of \$ \_\_\_\_\_ of Revenue Certificates (or  
 521 Revenue Bonds) of Canaveral Port District, supported by an ad  
 522 valorem tax, bearing interest at the rate of \_\_\_\_\_ percent  
 523 per annum. Place a cross mark (x) in the space to the left (or  
 524 right) of the proposition of your choice. FOR issuance of  
 525 Revenue Certificates (or Revenue Bonds) of Canaveral Port  
 526 District in the amount of \$ \_\_\_\_\_ supported by an ad  
 527 valorem tax to be issued against the taxable properties of the  
 528 District, bearing interest at the rate of \_\_\_\_\_ percent per  
 529 annum, payable semiannually. AGAINST Issuance of Revenue  
 530 Certificates (or Revenue Bonds) of Canaveral Port District in  
 531 the amount of \$ \_\_\_\_\_ supported by an ad valorem tax to  
 532 be issued against the taxable properties of the District,  
 533 bearing interest at the rate of \_\_\_\_\_ percent per annum,  
 534 payable semiannually.

535  
 536 If a majority of the votes cast in said election are in favor of  
 537 the issuance of said certificates or bonds, then the Port  
 538 Authority shall be authorized to issue such certificates or  
 539 bonds in the amount specified in said resolution calling such  
 540 special election. The proceeds received therefrom shall be used



541 by the Port Authority for the purposes stated in said  
542 resolution.

543 (d) For the purpose of securing any of such revenue  
544 certificates or revenue bonds supported by an ad valorem tax  
545 authorized to be issued herein, the Port Authority, in addition  
546 to pledging the net revenues and income of the Port Authority or  
547 the Port District, is further authorized, empowered, and  
548 directed to annually levy, assess, collect, and enforce an ad  
549 valorem tax upon all the taxable property of the Port District,  
550 sufficient in amount to provide for the payment of the interest  
551 to become due thereon and to provide for a sinking fund  
552 sufficient in amount to discharge said certificates or bonds at  
553 their respective maturities, which said ad valorem tax so levied  
554 shall be in addition to all other taxes provided herein.

555 (e) The Port Authority is additionally authorized and  
556 empowered to borrow money at an interest rate not to exceed 7.5  
557 percent per annum and maturity date not to exceed 1 year from  
558 any bank or other party; to create and maintain a sinking fund  
559 for the payment, as budgeted, of the principal and interest of  
560 outstanding revenue certificates or revenue bonds; and to  
561 execute its promissory note or notes therefor, signed in the  
562 name of the Port Authority by its chair and its secretary and  
563 the corporate seal affixed thereto, all as directed by the Port  
564 Authority, and said note or notes shall be payable from the  
565 anticipated revenues to be derived from the previously levied  
566 and assessed ad valorem tax as authorized in this section;

567 however, such notes shall not exceed in any one year 75 percent  
 568 of the current taxes levied in any one year by the Port  
 569 Authority for the payment of the interest and redemption of the  
 570 revenue bonds or revenue certificates of the Port Authority  
 571 currently becoming due.

572 Section 21. (a) The manner in which the Port Authority  
 573 shall exercise the levying, assessing, and collecting of any ad  
 574 valorem tax provided herein shall be as follows: the County  
 575 Property Appraiser of Brevard County, immediately after the tax  
 576 assessment of said county for any year after the passage of this  
 577 act has been reviewed and equalized by the Board of County  
 578 Commissioners of Brevard County, shall report in writing to the  
 579 Port Authority the assessed valuation of all taxable property  
 580 within the territorial limits of the Port District, as assessed  
 581 and equalized for state and county taxation, and the Chief  
 582 Financial Officer of the State of Florida shall report to the  
 583 Port Authority at the time he or she is, by law, required to  
 584 report to the County Property Appraiser of Brevard County the  
 585 assessed valuation of all railroad lines, railroad property,  
 586 telephone lines, and telephone properties within the Port  
 587 District over which he or she has jurisdiction for valuation and  
 588 assessment purposes, and said assessed valuation placed on said  
 589 properties shall be the valuation for taxation by the Port  
 590 Authority.

591 (b) The Port Authority shall, during each year, determine  
 592 by resolution the total amount to be raised from ad valorem

593 taxes levied and assessed upon all the taxable property located  
 594 within the Port District to provide funds sufficient in amount  
 595 to pay the interest on said revenue certificates or revenue  
 596 bonds, which are supported by an ad valorem tax, as such  
 597 interest may become due; and also provide for a sinking fund  
 598 sufficient in amount to discharge the principal of revenue  
 599 certificates or revenue bonds at their respective maturities;  
 600 and at the same time the Port Authority shall determine the  
 601 amount to be required to pay the charges and costs for  
 602 operation, maintenance, general administration, capital  
 603 improvements, and the purchase of right-of-way. It shall adopt  
 604 its resolution levying an ad valorem tax against all of the  
 605 taxable property of the Port District sufficient to pay said  
 606 interest, sinking fund, charges, and costs, which tax, if so  
 607 levied, however, shall not exceed 3 mills on the dollar of  
 608 assessed value in any one year.

609 (c) A certified copy of said tax resolution, executed in  
 610 the name of the Port Authority under the corporate seal of the  
 611 port authority by its chair, and attested by its secretary,  
 612 shall be made and delivered to the Board of County Commissioners  
 613 of Brevard County and the Chief Financial Officer of the State  
 614 of Florida, with all reasonable dispatch after the Port  
 615 Authority has received the total valuation of all taxable  
 616 properties to be assessed within the Port District. Upon the  
 617 receipt of such resolution by said Board of County  
 618 Commissioners, it shall be the mandatory duty of said Board of

619 County Commissioners to order and direct the County Property  
 620 Appraiser of Brevard County to assess and levy, and the County  
 621 Tax Collector of Brevard County to collect, the tax, at the rate  
 622 fixed and determined by said resolution of the Port Authority,  
 623 upon all taxable properties located within the Port District,  
 624 and said revenues and assessments so determined and made shall  
 625 be included in the tax roll and warrant of said County Property  
 626 Appraiser for each fiscal year hereafter. The said Tax Collector  
 627 shall collect such taxes in the manner and at the same time as  
 628 state and county taxes are collected and shall pay and remit the  
 629 same upon the collection thereof to the Port Authority. It shall  
 630 be the duty of the Chief Financial Officer of the State of  
 631 Florida to assess and levy on all railroad lines and railroad  
 632 property, all telecommunication equipment and telecommunication  
 633 property, and all other taxable property within his or her  
 634 jurisdiction located within the Port District a tax at the rate  
 635 prescribed by said tax resolution of the Port Authority and to  
 636 collect the said tax thereon in the same manner and at the same  
 637 time as he or she is required by law to assess and collect such  
 638 taxes for state and county purposes and pay and remit the same  
 639 when collected to the Port Authority. All such taxes shall be  
 640 disbursed and paid out by the Port Authority only for the  
 641 purposes for which said taxes were levied, upon vouchers,  
 642 checks, or warrants issued in such manner as the Port Authority,  
 643 by resolution, may determine.

644 (d) This act shall be full authority for the issuance of  
 645 any of the revenue certificates and revenue bonds authorized  
 646 herein, which said revenue certificates or revenue bonds shall  
 647 have the qualities of negotiable paper under the law merchant  
 648 and shall not be invalidated for any irregularity or defect in  
 649 the proceedings for the issuance thereof and shall be  
 650 incontestable in the hands of bona fide purchasers for value. No  
 651 proceedings in respect to the issuance of any such revenue  
 652 certificates or revenue bonds shall be necessary except such as  
 653 required by this act; however, such revenue certificates or  
 654 revenue bonds may be validated and confirmed in the way and  
 655 manner contemplated and provided by the general laws and  
 656 statutes of the state. This act constitutes an irrepealable  
 657 contract between the Port Authority and the holders of any such  
 658 revenue certificates or revenue bonds and of the coupons thereof  
 659 issued pursuant to the provisions hereof. Any holder of any of  
 660 said revenue certificates or revenue bonds or coupons may,  
 661 either at law or in equity, by suit, action, or mandamus,  
 662 enforce and compel the performance of any of the duties required  
 663 by this act of any of the officers or persons mentioned herein  
 664 relating to said revenue certificates or revenue bonds or the  
 665 levying, assessing, and collection of the taxes provided for the  
 666 payment thereof.

667 (e) Sections 193.321 through 193.327, Florida Statutes,  
 668 1967, do not apply and are void with respect to the power and

669 authority of the Port Authority to levy, assess, collect, and  
 670 enforce ad valorem taxes as set forth in this act.

671 Section 22. (a) The authority has the power to offer and  
 672 make available life, health, accident, hospitalization, or all  
 673 or any part of such insurance for Port Authority officers and  
 674 employees upon a group insurance plan. The Port Authority shall  
 675 advertise for bids and shall award said group insurance to the  
 676 most responsive and responsible bidder providing the best value  
 677 to the Port Authority. If no bids are received, the Port  
 678 Authority shall have the discretion to contract for such  
 679 insurance on such terms and conditions as it may deem desirable.

680 (b) The Port Authority is authorized to pay all or any  
 681 portion of the premiums for such group insurance as an operating  
 682 expense. The Port Authority is further authorized to deduct  
 683 periodically from the wages of any officer or employee, upon the  
 684 written request of such officer or employee, any premium or  
 685 portion of premium for any such insurance.

686 Section 23. (a) Section 253.126, Florida Statutes, is  
 687 specifically void with respect to the Port Authority.

688 (b) The Port Authority is granted the power and authority  
 689 to establish bulkhead lines, authorize dredging and filling, and  
 690 have jurisdiction under chapter 253, Florida Statutes, as to the  
 691 lands and waters under the jurisdiction of the Port Authority in  
 692 lieu of the Board of County Commissioners.

693 (c) In the exercise of this grant of authority, the Port  
 694 Authority shall comply with all applicable provisions of chapter

695 253, Florida Statutes, to the same extent as a Board of County  
 696 Commissioners would comply with such provisions under the same  
 697 circumstances.

698 Section 24. The authority has the power to comprehensively  
 699 plan for urban and rural transportation needs and to  
 700 comprehensively plan for the use of the lands, resources, and  
 701 waters under its jurisdiction; to participate in such planning  
 702 with other public agencies as defined in chapter 163, Florida  
 703 Statutes; and to enter into interlocal governmental agreements  
 704 (including, without limitation by this specific reference,  
 705 Metropolitan Planning Organizations contemplated under 23 U.S.C.  
 706 s. 134 and the Urban Mass Transportation Act of 1964) in such  
 707 transportation and real property fields.

708 Section 25. (a) The authority has the power to sell or  
 709 otherwise convey or dispose of any lands or any interests or  
 710 rights in lands to which the Port District acquired title after  
 711 January 1, 1987, or to which it may hereafter acquire title,  
 712 whenever the Port Authority determines it is in the best  
 713 interest of the Port District to do so at the best price and  
 714 terms obtainable, for such terms and conditions as the Port  
 715 Authority may in its discretion determine. The power to sell or  
 716 otherwise convey granted herein specifically includes the power  
 717 by the Port Authority to enter into public partnerships  
 718 regarding Port District lands upon such terms and conditions as  
 719 the Port Authority may in its discretion determine. However, any  
 720 conveyance or agreement must be for a public purpose.

721 1. All sales of land, interests, or rights in land, or the  
 722 lease of any interests in land, shall be for cash or upon terms  
 723 and security to be approved by the Port Authority. No deed shall  
 724 be executed and delivered for any sale until full payment is  
 725 made and received by the Port Authority.

726 2. Before selling or disposing of any land or any interest  
 727 or rights in and to any land, it shall be the duty of the Port  
 728 Authority to provide public notice regarding the intention to  
 729 sell or dispose of the land. The first publication shall be not  
 730 less than 15 days nor more than 30 days before the meeting at  
 731 which the proposed sale or disposition will be considered. The  
 732 notice shall set forth a description of the lands or interests  
 733 or rights in lands offered for sale or other disposition.

734 3. Deeds of conveyance of lands, the titles to which are  
 735 held by the Port District or in the name of the Port Authority,  
 736 shall be by special warranty deed.

737 4. All deeds of conveyance held by the Port District or by  
 738 the Port Authority shall convey only the interest of the Port  
 739 District or the Port Authority in the property covered thereby.

740 (b) The Port Authority may exchange lands or interests or  
 741 rights in lands owned and acquired by the Port Authority after  
 742 January 1, 1987, or lands or interests or rights in said lands  
 743 for which title is otherwise vested in the Port Authority for  
 744 other lands or interests or rights in lands within the state  
 745 owned by any person. The Port Authority shall fix the terms and  
 746 conditions of any such exchange and may pay or receive any sum



747 of money that the Port Authority considers necessary to equalize  
 748 the values of exchanged properties. Public notice of the meeting  
 749 at which said exchange is considered shall be provided before  
 750 the adoption by the Port Authority of a resolution authorizing  
 751 the exchange of properties. The Port Authority shall also  
 752 advertise, in a newspaper of general circulation in Brevard  
 753 County, the Port Authority's intent to exchange such land or  
 754 interest or rights in lands no less than 60 days before the  
 755 public meeting at which the Port Authority will consider the  
 756 exchange. This 60-day notice requirement shall run concurrently  
 757 with the public notice requirements contained in Article II.

758 ARTICLE V

759 PORT COMMISSIONERS

760 Section 1. (a) The governing authority of the Port  
 761 District is hereby created and shall be designated as the Port  
 762 Authority and shall consist of five Port Commissioners, one Port  
 763 Commissioner from each Commissioner Port District, who shall be  
 764 a qualified elector and reside within the Commissioner Port  
 765 District from which he or she is appointed or nominated and  
 766 elected. All Port Commissioners shall be elected for 4-year  
 767 terms, and said terms shall be arranged so that three Port  
 768 Commissioners are elected at one general election and two Port  
 769 Commissioners elected at the next ensuing general election. For  
 770 the general election in 2014, the term of office of each Port  
 771 Commissioner shall commence on the Tuesday after the first  
 772 Monday in January after his or her election. Commencing with the

773 election in November 2016 and each general election thereafter,  
 774 the term of office of each Port Commissioner shall commence on  
 775 the first Port Authority meeting after his or her election at  
 776 the general election. The terms of office for those  
 777 commissioners which would expire in January 2017 shall expire  
 778 upon the commencement of their respective successor's term on  
 779 the first Port Authority meeting after the general election in  
 780 2016 and each general election thereafter.

781 (b) No Port Commissioner elected in the general election  
 782 of 2014 or subsequent thereto shall serve more than three  
 783 consecutive terms. Service as a Port Commissioner before the  
 784 terms that commenced in January 2015 shall not be considered in  
 785 applying the term limitations of this section. The service of  
 786 any portion of, the resignation from, or forfeiture of an  
 787 elective office during any part of a 4-year elective term shall  
 788 be deemed to constitute a full and complete term under this  
 789 section.

790 Section 2. (a) Each Commissioner Port District shall be a  
 791 residency district for all elections hereunder. The five Port  
 792 Commissioners shall be elected at the general election held in  
 793 each Commissioner Port District next ensuing and at all  
 794 subsequent general primaries and general elections thereafter  
 795 upon the official county ballots, pursuant to this charter.

796 (b) Nomination of candidates shall be made by residency  
 797 districts at the primary elections, by the various political  
 798 parties, as general law provides for County Commissioners of

799 Brevard County, at which primary elections the electors of the  
 800 Port District at large who are qualified to vote in such primary  
 801 elections shall be entitled to vote. The Board of County  
 802 Commissioners shall not print the name of any person as a  
 803 candidate on the ballots for general elections unless he or she  
 804 shall have been so nominated.

805 (c) Candidates for nomination in primary elections shall  
 806 pay the same filing fee to the Clerk of the Board of County  
 807 Commissioners; file in the same manner the like oaths, sworn  
 808 statements, and receipts for party assessments; be governed by  
 809 the same restrictions; be subject to like party assessments by  
 810 the County Executive Committees of the respective political  
 811 parties; and in all respects comply with the general laws of  
 812 Florida governing candidates for Board of County Commissioners  
 813 in primaries.

814 (d) Elections of candidates shall be at general elections  
 815 as provided by general law, at which general elections all  
 816 qualified electors residing within the Port District shall be  
 817 entitled to vote.

818 Section 3. Any vacancy occurring on or in the said Board  
 819 of Commissioners of the Port Authority, whether caused by  
 820 resignation, refusal, death, or the unconstitutionality of any  
 821 part of this act, or for or on account of any other reason  
 822 whatsoever, shall be filled for the unexpired portion of the  
 823 corresponding term, or until the first Port Authority meeting

824 after the next ensuing general election, whichever may come  
 825 sooner, by appointment by the Governor.

826 Section 4. Every Port Commissioner, before he or she  
 827 assumes office, shall be required to make oath that he or she  
 828 will faithfully discharge the duties of his or her office and  
 829 uphold and defend the laws and the Constitution of the State of  
 830 Florida and shall give good and sufficient surety bond payable  
 831 to the Governor for the use and benefit of the Port Authority in  
 832 the sum of \$2,000, conditioned for the faithful performance of  
 833 the duties of his or her office, said bond to be approved by the  
 834 Port Authority and filed with the Secretary of State. Any and  
 835 all premiums of the surety bonds shall be paid by the Port  
 836 Authority as a necessary expense of said district.

837 Section 5. As soon as practicable after the newly  
 838 appointed or elected Port Commissioners shall have qualified,  
 839 they shall meet and organize by the selection from among  
 840 themselves of a chair and a vice chair and shall also elect a  
 841 secretary and a treasurer. The latter two offices may be held by  
 842 one person, and such person may or may not be a member of said  
 843 authority. A majority of the duly qualified members shall  
 844 constitute a quorum. The chair and the secretary, if the latter  
 845 is a member of said Port Authority, shall be entitled to vote at  
 846 all meetings.

847 Section 6. The Port Commissioners shall be entitled to an  
 848 annual salary allowance. The salary allowance shall be payable  
 849 monthly and apply to all services rendered by each Port

850 Commissioner under this act. The salary allowance may be  
 851 adjusted annually by the Board of Commissioners of the Port  
 852 Authority, to be effective October 1 of each year; however, any  
 853 increase in the annual salary allowance shall not exceed the  
 854 average percentage increase in the salaries of state career  
 855 service employees as determined pursuant to s. 145.19, Florida  
 856 Statutes, for the fiscal year just concluded.

857 Section 7. All meetings of the Port Authority shall be  
 858 open to the public, shall be governed by chapters 286 and 189,  
 859 Florida Statutes, and shall be held at a duly noticed location  
 860 within the Port District. Records of all business transacted by  
 861 the Port Authority shall be kept and preserved in substantial  
 862 minute books by the secretary as permanent records, and the  
 863 minute books or excerpts therefrom, duly certified by the  
 864 secretary under the seal of the Port Authority, shall be prima  
 865 facie evidence in all courts of the proceedings of the Port  
 866 Authority. The Port Authority shall have the power to prescribe  
 867 by resolution rules for the conduct of its meetings not  
 868 inconsistent herewith.

869 Section 8. The expense accounts of Port Commissioners and  
 870 employees shall be itemized in writing and submitted to the Port  
 871 Authority at a duly noticed public meeting.

872 ARTICLE VI

873 ADDITIONAL POWERS

874 Section 1. The Port Authority shall have the power to  
 875 impose a franchise or excise tax upon businesses and occupations

876 carried on or operated under and by virtue of any franchise or  
 877 franchises granted by the Port Authority. The administration of  
 878 this section and the collection of this franchise tax are vested  
 879 in the Port Authority, and said Port Authority is authorized to  
 880 make, promulgate, and enforce such reasonable rules and  
 881 regulations relating to the administration and enforcement of  
 882 this law and the collection of said franchise tax as may be  
 883 deemed expedient, independently of all other remedies and  
 884 proceedings authorized by law for the enforcement and collection  
 885 of said franchise tax. A right of action, by suit in the name of  
 886 the Port Authority, is hereby created, and such suit may be  
 887 maintained and prosecuted, and all proceedings taken, to the  
 888 same effect and extent as for the enforcement of a right of  
 889 action for debt or assumpsit, or substitute forms of action  
 890 therefor, and any and all remedies available in such actions  
 891 including attachment and garnishment shall be and are hereby  
 892 made available to the Port Authority in the enforcement of the  
 893 payment of any franchise tax accruing hereunder. The Port  
 894 Authority is not required to post bond in any such actions or  
 895 proceedings.

896 Section 2. In the further interest of the advancement,  
 897 promotion, regulation, and control of the Port, and in the  
 898 interest of safety, order, convenience, and the general welfare  
 899 of the public, the Port Authority is authorized and empowered to  
 900 adopt a plan or plans, and amend the same from time to time, for  
 901 the zoning of the harbor area for the purpose of regulating the

902 location and establishment of trades, industries, and  
 903 manufacturing establishments and other use of the property  
 904 within the Port.

905 Section 3. (a) The Port Authority shall have the power  
 906 and authority to establish a direct-support organization to  
 907 receive, hold, invest, and administer property; to make  
 908 expenditures to or for the benefit of the Port District; and to  
 909 promote the development and expansion of the economic,  
 910 historical, and cultural contributions of the maritime industry  
 911 of the Port District.

912 (b) A direct-support organization established pursuant to  
 913 this section shall be approved by the Port Authority and be a  
 914 corporation not for profit, incorporated under chapter 617,  
 915 Florida Statutes, and approved by the Department of State.

916 (c) The direct-support organization shall be organized and  
 917 operated exclusively to carry out the purposes set forth in  
 918 subsection (a).

919 (d) The direct-support organization is authorized and  
 920 permitted to use property, facilities, and employee services of  
 921 the Port Authority subject to the conditions prescribed by the  
 922 Port Authority. The conditions shall provide for budget and  
 923 audit review and oversight by the Port Authority.

924 (e) The direct-support organization shall provide equal  
 925 employment opportunities to all persons, regardless of race,  
 926 color, religion, sex, age, or national origin.

927        (f) The board of directors of the direct-support  
 928 organization shall be appointed by the Port Authority and shall  
 929 include the chair of the Port Authority, or his or her designee,  
 930 and the Chief Executive Officer as members. The Port Authority  
 931 shall approve the articles of incorporation and bylaws of the  
 932 direct-support organization and any amendments thereto.

933        (g) The annual budget of the direct-support organization  
 934 shall be presented to and approved by the Port Authority on or  
 935 before the beginning of the fiscal year adopted by the direct-  
 936 support organization.

937        (h) In any fiscal year in which the direct-support  
 938 organization has more than \$100,000 in expenditures or expenses,  
 939 the direct-support organization shall provide an annual  
 940 financial audit of its accounts and records, to be conducted by  
 941 an independent certified public accountant in accordance with  
 942 the rules adopted by the Auditor General pursuant to s.  
 943 11.45(8), Florida Statutes. The annual audit report shall be  
 944 submitted within 9 months after the end of the fiscal year to  
 945 the Port Authority. The Auditor General and Office of Program  
 946 Policy Analysis and Government Accountability have the authority  
 947 to require and receive from the direct-support organization any  
 948 records relative to the operation of the organization.

949        Section 4. Commencing in 2015, and every 3 years  
 950 thereafter, the Port Authority shall review the Port District  
 951 Land Use Plan. Before approving any amendment to the Land Use  
 952 Plan, the Port Authority shall provide public notice of the Port



953 Authority meeting at which the amendment to the Land Use Plan  
 954 will be considered. Any amendment to the Port District Land Use  
 955 Plan shall only be considered at a duly noticed public hearing.  
 956 Nothing herein shall restrict the Port Authority's ability to  
 957 use Port Authority property in a manner as determined by the  
 958 Port Authority to be in the Port Authority's best interest.

959 ARTICLE VII

960 PERSONNEL

961 Section 1. The Port Authority may appoint a Chief  
 962 Executive Officer (CEO) to serve at the pleasure of the Port  
 963 Authority. The Port Authority shall be responsible for all  
 964 policies and operation at the Port Authority; however, the Port  
 965 Authority may delegate authority to the CEO for the operations,  
 966 management, and oversight of the implementation of the policy  
 967 decisions set forth by the Port Authority. The powers delegated  
 968 by the Authority to the CEO shall be clearly established to  
 969 ensure accountability of both the CEO and the Port Authority and  
 970 shall be reviewed at a public meeting at least once every 2  
 971 years.

972 Section 2. The Chief Executive Officer shall have such  
 973 duties and authority in the administration, maintenance,  
 974 expansion, and operation of the Port as the Port Authority shall  
 975 assign to him or her, including the promotion of the business  
 976 and affairs of the Port, including, but not limited to, travel  
 977 to and from meetings of contemporaries in convention or by  
 978 industry, necessary subsistence, entertainment of business

979 guests at the Port or elsewhere, within or without the state,  
 980 and meals for staff members at regular or special meetings of  
 981 the Port Authority, and shall ratify such past expenditures. The  
 982 Chief Executive Officer shall keep and maintain an account of  
 983 the expenses involved in the performance of his or her duties  
 984 and submit the same to the Port Authority for approval at any  
 985 regular meeting.

986 Section 3. The Chief Executive Officer shall receive such  
 987 compensation as may be agreed.

988 Section 4. Official travel authorized by the Port  
 989 Authority shall be reimbursed by the authority as provided in a  
 990 resolution adopted by the authority.

991 ARTICLE VIII

992 LEVY OF TAXES

993 Section 1. The Port Authority shall not, during any one  
 994 year, levy a tax in any greater sum or amount than shall be  
 995 necessary for the following purposes:

996 (a) A tax not exceeding 3 mills on the dollar of the total  
 997 assessed valuations of all taxable property, both real and  
 998 personal, within said Port District for each year. Said tax  
 999 shall constitute an administration fund for operation,  
 1000 maintenance, and general administration expenses and for the  
 1001 purchase of rights-of-way.

1002 (b) A tax for the purpose of paying the principal and  
 1003 interest on revenue certificates and revenue bonds outstanding,  
 1004 and for the proper sinking funds for the protection thereof, and

1005 not exceeding in the aggregate the sum of \$7.5 million in  
 1006 principal, as the same severally mature in accordance with their  
 1007 tenure.

1008 Section 2. At the time of the adoption of the tax  
 1009 resolution as provided herein, the Port Authority shall prepare  
 1010 and adopt a financial budget for the ensuing fiscal year. Said  
 1011 budget shall contain an estimate of all items of expenditure  
 1012 contemplated or anticipated for the ensuing fiscal year and an  
 1013 estimate of all sources of revenue. Said budget shall be spread  
 1014 upon the permanent records of the Port Authority.

1015 Section 3. All revenues received by the Port Authority  
 1016 from the operation of the Port, other than specifically pledged,  
 1017 shall be paid into the administration fund and be used for  
 1018 operation, expansion, maintenance, and general administration  
 1019 purposes and expenses and for the purchase of rights-of-way. Any  
 1020 part of the administration fund remaining unused or unpledged at  
 1021 the close of each fiscal year may, in the discretion of the Port  
 1022 Authority, be transferred to the sinking fund maintained for  
 1023 bonds or be used to purchase obligations of the Port Authority  
 1024 at the lowest market price.

1025 ARTICLE IX

1026 PROHIBITIONS

1027 No member of the Port Authority or other officer or  
 1028 employee shall purchase supplies, goods, or materials for use by  
 1029 the Port District or Port Authority from himself or herself or  
 1030 from any firm or corporation in which he or she is interested,

1031 directly or indirectly, or in any manner share in the proceeds  
 1032 of such purchases. The Port Authority is not obligated for the  
 1033 purchase price of such supplies, goods, or materials so  
 1034 purchased. No Port Commissioner or other officer or employee  
 1035 shall bid or enter into or be in any manner interested in any  
 1036 contract for public work to which the Port Authority may be a  
 1037 party. Any Port Commissioner who shall violate the provisions  
 1038 hereof shall be deemed guilty of malfeasance in office, provided  
 1039 that no Port Commissioner who shall have recorded his or her  
 1040 vote against the letting of such contract or against such  
 1041 illegal purchase or who shall have been absent at the taking of  
 1042 the vote thereon shall be deemed guilty of a violation of this  
 1043 provision. All moneys or things of value paid or delivered  
 1044 pursuant to such contract or purchase may be recovered by the  
 1045 Port Authority. Notwithstanding anything contained in this  
 1046 section, if any provision of this section shall contradict with  
 1047 the exemptions listed in s. 112.313, Florida Statutes, the  
 1048 exemptions contained in statute shall govern.

1049 ARTICLE X

1050 NOTIFICATION OF CLAIMS

1051 Every claim, whether ex contractu or ex delicto, whether  
 1052 liquidated or unliquidated, whether vested or contingent,  
 1053 against the Port Authority or Port District shall be signed by  
 1054 the claimant or his or her duly authorized agent, shall be filed  
 1055 with the Port Authority within 3 months after the claim becomes  
 1056 due or arises, and shall be barred if not so filed. Said writing

1057 representing said claim shall, as particularly as is known to  
 1058 the claimant, set out the details of said claim and specify the  
 1059 names of the witnesses, if any, whom the claimant relies upon to  
 1060 support his or her claim.

1061 ARTICLE XI

1062 STATUTE OF LIMITATIONS

1063 No statute heretofore or hereafter enacted by the  
 1064 Legislature prescribing and fixing the time in which action  
 1065 shall be brought, commonly known as the "Statute of  
 1066 Limitations," shall apply to any action, suit, or proceeding  
 1067 instituted and prosecuted by the Port Authority or the Port  
 1068 District.

1069 ARTICLE XII

1070 EXEMPTION FROM TAXATION

1071 All property, real and personal, tangible and intangible,  
 1072 now owned or hereinafter acquired and held by the Port  
 1073 Authority, the governing authority of the Port District, shall  
 1074 be exempt from all taxation levied and assessed pursuant to the  
 1075 Constitution and laws of the State of Florida by any taxing  
 1076 unit.

1077 ARTICLE XIII

1078 EXEMPTION FROM JUDGMENT LIENS

1079 No judgment or decree, writ of execution, or any other writ  
 1080 issued or tendered against the said Port Authority shall be a  
 1081 lien upon the real or personal property now owned or hereafter  
 1082 acquired and held by the said Port Authority. All property, both

1083 real and personal, tangible and intangible, now owned or  
 1084 hereafter acquired and held by the said Port Authority shall be  
 1085 exempt from sale under writ of execution and any other judicial  
 1086 sale.

1087 ARTICLE XIV

1088 APPEALS BOND

1089 The Port Authority and Port District is not required to  
 1090 execute, give, or file any bond required by law to be filed in  
 1091 an attachment, injunction, receivership, garnishment, or  
 1092 replevin proceedings or in the prosecution of an appeal or writ  
 1093 of error. The Port District and Port Authority may supersede any  
 1094 appealable judgment, decree, or order rendered in any of the  
 1095 courts within the state of which it feels aggrieved by  
 1096 prosecuting an appeal or writ of error therefrom, pursuant to  
 1097 law, without giving or filing a supersedeas bond as otherwise  
 1098 required by law.

1099 ARTICLE XV

1100 REMOVAL OF PORT COMMISSIONERS BY GOVERNOR

1101 No court shall have the power or jurisdiction to appoint  
 1102 any officer of the court to exercise the duties and powers of  
 1103 the Port Authority or any Port Commissioner. In the event any  
 1104 Port Commissioner shall be guilty of intentional and willful  
 1105 malfeasance, nonfeasance, or misfeasance in office, or  
 1106 commission of a felony, he or she shall be subject to be removed  
 1107 by the Governor in the manner provided for the removal of county  
 1108 officers.

ARTICLE XVI

INSPECTION OF BOOKS AND RECORDS

Section 1. The books, audits, and records of the Port Authority shall at all reasonable hours on regular business days be open to inspection as provided by law. All moneys of the Port Authority shall be at all times kept fully and adequately secured.

Section 2. The books and public records of the Port Authority shall be audited by an independent auditor annually and be available for audit by an appropriate state auditing department at the time the books of the county officials of Brevard County are audited.

Section 3. The fiscal year of the Port Authority shall begin October 1 of each year and end September 30 of each year.

ARTICLE XVII

CONTRACTS; COMPETITION

Section 1. No contract shall be let by the Port Authority for any construction, improvement, repair, or building, nor shall any goods, supplies, or materials for Port District purposes or uses be purchased, when the amount to be paid by the Port Authority shall exceed \$100,000 unless competitive conditions have been maintained and competitive solicitations sought except as otherwise provided by general law or this charter. The Port Authority shall advertise a competitive solicitation at least once a week for 3 consecutive weeks in a newspaper of general circulation in the Port District and

1135 Brevard County and for no less than 3 consecutive weeks on the  
 1136 Port Authority's website. Following the receipt and evaluations  
 1137 of the proposals or bids, the Port Authority shall award the  
 1138 contract to the proposer or bidder who presents the most  
 1139 responsive, responsible proposal or bid at a cost most  
 1140 advantageous to the Port Authority, all factors considered. The  
 1141 Port Authority retains the authority to reject all proposals and  
 1142 bids. The Port Authority may also require the deposit of cash,  
 1143 certified check, or bid bond, not to exceed 10 percent of the  
 1144 bid or proposal, as evidence of good faith on the part of the  
 1145 proposers or bidders, such deposit to be returned when the bid  
 1146 or proposal is rejected or performance bond deposited or  
 1147 contract completed, or shall be retained to secure the payment  
 1148 of the penal sum in the event the proposer or bidder fails to  
 1149 enter into such contract and give such performance and payment  
 1150 bond or bonds. The Port Authority may provide for preferences in  
 1151 the evaluation process with respect to businesses or residents  
 1152 located within the Port District.

1153 Section 2. In the event it is reasonably expected that the  
 1154 cost of a contract under section 1 shall be greater than \$10,000  
 1155 but less than \$100,000, the Chief Executive Officer or his or  
 1156 her designee shall do the following:

1157 (a) Obtain at least three written bid offers to perform  
 1158 such work or furnish such property from at least three  
 1159 independent persons or business entities responsible in the  
 1160 subject business endeavor under consideration.



1161 (b) Make a record of the offers.

1162 (c) After obtaining and recording such offers, award the  
 1163 contract to the most responsive, responsible bidder of those  
 1164 solicited as provided in this article.

1165 Section 3. In lieu of the competitive bid requirements set  
 1166 forth in sections 1 and 2, the Port Authority may use purchase  
 1167 agreements or contracts of any state agency, county, school  
 1168 board, or municipality, or of the Federal Government or its  
 1169 agencies, which agreements or contracts have been competitively  
 1170 bid for the purchase of goods, supplies, or materials for Port  
 1171 District purposes.

1172 ARTICLE XVIII

1173 PERIODIC REVIEW OF PORT DISTRICT SPECIAL ACT

1174 Section 1. There shall be a Charter Review Committee  
 1175 appointed by the Port Authority at the first meeting in January  
 1176 2023 and every 10 years thereafter. The Charter Review Committee  
 1177 is created for the purpose of conducting a comprehensive study  
 1178 of any or all phases of the Port District in conformance with  
 1179 this article.

1180 Section 2. The Charter Review Committee shall consist of  
 1181 ten members. Each Port Commissioner shall nominate two members  
 1182 to the Charter Review Committee. Each member shall reside within  
 1183 the Port District.

1184 Section 3. The term of each member of the Charter Review  
 1185 Committee shall expire on December 31 of the year in which he or  
 1186 she was appointed. The term of each member of the Charter Review

1187 Committee may be extended by the Port Authority upon a majority  
 1188 vote of the Port Authority. Any vacancy shall be filled by the  
 1189 Port Authority in the same manner as the original appointment  
 1190 for the remainder of the member's unexpired term.

1191 Section 4. All members of the Charter Review Committee  
 1192 shall be electors of Brevard County. Florida legislators, county  
 1193 commissioners, municipal elected officials, Port Commissioners,  
 1194 constitutional officers, the Port District CEO, and Port  
 1195 District employees may not serve on the Charter Review  
 1196 Committee.

1197 Section 5. The Port District shall maintain copies of all  
 1198 written, recorded, and electronic records of the Charter Review  
 1199 Committee in conformance with the laws of the state.

1200 Section 6. The Charter Review Committee must submit to the  
 1201 Port Authority any proposed amendments to the Port Authority  
 1202 Charter no later than October 31 of the year in which the  
 1203 Charter Review Committee was established.

1204 Section 7. The Port Authority shall include in its general  
 1205 budget for each fiscal year in which the Charter Review  
 1206 Committee is in existence such sums as are necessary to carry  
 1207 out the duties of the Charter Review Committee.

1208 Section 8. In exercising its powers, the Charter Review  
 1209 Committee shall perform the following: elect a chair and vice  
 1210 chair, adopt such internal procedures and rules as may be  
 1211 necessary to carry out its duties, and employ legal counsel as  
 1212 may be necessary to carry out its duties.

1213 Section 9. Before the consideration of any recommendations  
 1214 to amend the Port District Charter, the Port Authority shall  
 1215 provide public notice of the date, time, and location of the  
 1216 public hearing at which the amendments to the Port District  
 1217 Charter will be considered. Such recommendations to amend the  
 1218 Port District Charter may only be made upon a majority vote of  
 1219 the Port Authority after a public hearing held to consider such  
 1220 recommendations.

1221 ARTICLE XIX

1222 COMMERCIAL FISHING

1223 Section 1. The Port Authority shall take reasonable  
 1224 measures to provide sufficient usable bulkhead space to support  
 1225 commercial fish dealing operations at Port Canaveral. The usable  
 1226 bulkhead space shall be an amount no less than that used by  
 1227 commercial fish dealing operations as of January 1, 2013.

1228 (a) "Commercial fish dealing operations" means any company  
 1229 or business substantially concerned with processing, receiving,  
 1230 preserving, storing, transporting, marketing, or selling seafood  
 1231 or seafood products for human consumption or as input factors in  
 1232 other industrial processes. Ancillary restaurant and retail uses  
 1233 operating in conjunction with a commercial fish dealing  
 1234 operation does not exclude that business from being considered a  
 1235 commercial fish dealing operation.

1236 (b) "Usable bulkhead space" means bulkhead and adjacent  
 1237 improved property, including infrastructure, located east of the  
 1238 locks that is able to contain the necessary infrastructure for

1239 vehicles and equipment related to commercial fish dealing  
 1240 operations, such as delivery vehicles, freight vehicles, other  
 1241 vehicles, and equipment related to commercial fish dealing  
 1242 operations. It shall be preferred to place the usable bulkhead  
 1243 space on the south side of the port.

1244 Section 2. The Port Authority shall invite representatives  
 1245 of the commercial fish dealing industry to offer a presentation  
 1246 at a public hearing held at a regularly scheduled meeting, not  
 1247 less than once every 2 years, to discuss the state of the  
 1248 commercial fish dealing industry at Port Canaveral. The Port  
 1249 Authority shall provide public notice before the annual public  
 1250 hearing to discuss the state of the commercial fish dealing  
 1251 industry at Port Canaveral. In addition, the Port Authority  
 1252 shall provide written notice via United States mail to existing  
 1253 commercial fish dealing lessees of the annual public hearing no  
 1254 later than 45 days before the public hearing. At such public  
 1255 hearing, members of the public will be permitted to discuss with  
 1256 the Port Authority the commercial fish dealing industry at Port  
 1257 Canaveral, ideas for improving the commercial fish dealing  
 1258 industry at Port Canaveral, or other issues related to the  
 1259 general state of the commercial fish dealing industry at Port  
 1260 Canaveral.

1261 Section 3. Before the nonrenewal of a lease or the  
 1262 involuntary relocation of a lessee engaged in commercial fish  
 1263 dealing operations, the Port Authority shall provide public  
 1264 notice of the item to be considered at a public hearing. At the

1265 public hearing, the lessee shall be entitled to present  
 1266 information with respect to remaining in the current location or  
 1267 to have its lease renewed, subject to the then prevailing terms,  
 1268 conditions, and rates pertaining to similar parcels of lands or  
 1269 leaseholds within the Port. The Port Authority may offer the  
 1270 commercial fish dealing lessee a reduced rental rate conditioned  
 1271 upon the lessee's primary use of the premises for commercial  
 1272 fish dealing operations. Following the lessee's presentation to  
 1273 the Port Authority, the Port Authority may, by a supermajority  
 1274 vote, elect to not renew the lease or to relocate the lessee if  
 1275 permitted pursuant to the terms of the lease. This section shall  
 1276 only apply to leases between the Port Authority and a lessee  
 1277 primarily engaged in commercial fish dealing operations.

1278 ARTICLE XX

1279 PUBLIC RECREATIONAL INTERESTS

1280 (a) The Port Authority shall, in its discretion, use its  
 1281 best efforts to facilitate public recreational interests. The  
 1282 Port Authority shall hold an annual public hearing to discuss  
 1283 the state of recreational interests at Port Canaveral. The Port  
 1284 Authority shall provide public notice before holding the public  
 1285 hearing on the state of recreational interests at Port Canaveral  
 1286 at a regularly scheduled Port Authority meeting.

1287 (b) At the public hearing, members of the public will be  
 1288 permitted to discuss any issues, problems, concerns, and  
 1289 proposals related to recreational interests at Port Canaveral.

1290 (c) The term "recreational interests" shall include, but  
 1291 not be limited to, all activities at Port Canaveral related to  
 1292 parks, boating, fishing, and camping. The Port Authority will  
 1293 maintain these recreational interests.

1294 ARTICLE XXI

1295 SEVERABILITY CLAUSE

1296 If any section, subsection, paragraph, subparagraph,  
 1297 sentence, clause, or phrase of this act is, for any reason, held  
 1298 to be unconstitutional or invalid, such holding does not affect  
 1299 the validity of the remaining portions of this act, the  
 1300 Legislature hereby declaring that it would have enacted this act  
 1301 and each and every section, subsection, paragraph, subparagraph,  
 1302 sentence, clause, and phrase thereof, irrespective of the fact  
 1303 that any one or more of the sections, subsections, paragraphs,  
 1304 subparagraphs, sentences, clauses, or phrases thereof may be  
 1305 declared to be unconstitutional or otherwise ineffective.

1306 ARTICLE XXII

1307 DECLARATION OF PUBLIC PURPOSES

1308 It is determined and declared by the Legislature that all  
 1309 of the powers conferred upon the Port District by this act and  
 1310 the exercise of such powers constitute and are proper public  
 1311 purposes and are for the welfare and benefit of the Port  
 1312 District and its inhabitants.

1313 Section 4. This act shall be liberally construed to  
 1314 effectuate the purposes set forth herein.

HB 1023

2014

1315 Section 5. Chapters 2003-335, 2004-472, 2005-320, 2008-  
1316 288, and 2011-258, Laws of Florida, are repealed.

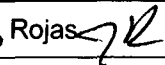
1317 Section 6. This act shall take effect upon becoming a law.





**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1025 Pasco County/Sewage Treatment Facility Discharges  
**SPONSOR(S):** Murphy  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Local & Federal Affairs Committee		Dougherty	IDD Rojas 
2) State Affairs Committee			

**SUMMARY ANALYSIS**

HB 1025 allows Pasco County to use reclaimed water from sewage treatment facilities to restore impaired wetlands and lakes that are altered due to drainage, pumping, or other factors. Specifically, the county is interested in natural system rehydration and treatment to restore, recover, and enhance the impacted ecosystem of Crews Lake. Currently, the county uses reclaimed water to recharge the groundwater system through irrigation of lands, parks, and golf courses; industrial uses; and rapid infiltration basins.

Florida's extensive reclaimed water rules encourage and promote reclaimed water use. Properly treated reclaimed water has proven to be safe for environmental uses. Reclaimed water has been promoted, developed, and used in Florida for over 40 years with no reclaimed water-related illnesses.

This bill has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Reclaimed Water

##### *Importance of Reclaimed Water*

As water is used within a community, inevitably a significant portion of that water is dirtied and is discharged to the municipal sewer system for treatment in a domestic wastewater treatment facility. A large portion of this water can be cleaned and distributed back into the community for a variety of uses. Reclaimed water is clear, odorless, high quality water source.

Water reuse is an important component of both wastewater management and water resource management in Florida. Reuse offers an environmentally sound means for managing wastewater that dramatically reduces environmental impacts associated with discharge of wastewater effluent to surface waters. In addition, use of reclaimed water provides an alternative water supply for many activities that do not require potable quality water (like irrigation and toilet flushing), which serves to conserve available supplies of potable quality water. Some types of reuse offer the ability to recharge and augment available water supplies with high-quality reclaimed water.

With population growth and finite freshwater resources, Florida will see increased demands for water and increased volumes of wastewater, which must be managed to prevent pollution.

##### *Sanitation Process*

Strict requirements for the design, operation, and monitoring of reclaimed water system facilities ensure that reclaimed water can be safely used for landscape irrigation and other purposes. Municipal reuse facilities treat the water with a six-step process before delivering it to consumers through a reclaimed water distribution system. Reclaimed water that has been treated to this level is essentially pathogen-free, sparkling clear and can safely be used for irrigation, cooling, and other industrial purposes.

The wastewater-to-reclaimed water process<sup>1</sup> involves the following steps:

1. screening and other processes to remove sand and debris;
2. sedimentation for removing large solids;
3. aeration to allow microorganisms to break down organic materials;
4. clarification to remove those microorganisms and any remaining solids;
5. filtration to make water clear;
6. disinfection, with chlorine or UV radiation, to kill pathogens and bacteria.

##### *Safety*

Decades of historical data demonstrate that both urban and agricultural irrigation use of reclaimed water is a safe and effective water supply. Existing literature addresses quality and safety questions about the use of reclaimed water. For example, a WaterReuse Foundation study in 2009 stated that "reclaimed, surface and ground water more similar than dissimilar."<sup>2</sup> A 2005 study by the same researchers found no incidences of illness or disease from either microbial pathogens or chemicals, and concluded that risks of using reclaimed water are not measurably different than risks associated

<sup>1</sup> This is one process and is used by the Southwest Florida Water Management District, which oversees these efforts in Pasco County.

<sup>2</sup> WaterReuse Foundation, "A Reconnaissance-Level Quantitative Comparison of Reclaimed Water, Surface Water and Groundwater," Alexandria, Virginia, 2009.

with irrigation using potable water.<sup>3</sup> The Florida Department of Environmental Protection (DEP) found that there is no evidence or documentation of any disease associated with water reuse systems in the United States or in other countries that have reasonable standards for reuse.<sup>4</sup>

### *Uses and Benefits of Reclaimed Water*

Reclaimed water has many uses, including:

- Irrigation
- Street-sweeping operations
- Power generation
- Decorative fountains
- Fire protection
- Dust control
- Aquifer recharge
- Cooling or makeup water for a variety of industrial processes
- Natural system restoration

However, reclaimed water is not suitable for body-contact recreation (including swimming pools), cooking, drinking, or garden irrigation (without special equipment).

Benefits of reclaimed water use include lower costs than drinking water; reduction of fertilizer use (as some nutrients like nitrogen and phosphorus remain); lessening stress on drinking water supplies; and reduction of disposal into waterways, which can help reduce nutrient loads in bays and rivers.

### *State Objectives for Water Reuse*

Reclaimed water has been promoted, developed, and used in Florida for over 40 years with no reclaimed water-related illnesses.<sup>5</sup> As of 2011, over 650 million gallons per day of reuse were utilized by 280,000 residential irrigation customers, 525 golf courses, 875 parks, and 320 schools in Florida.<sup>6</sup>

In 1989, the Legislature adopted extensive reclaimed water rules<sup>7</sup> and established “the encouragement and promotion of water conservation and reuse of reclaimed water” as formal state objectives.<sup>8</sup> Water reuse programs designed and operated in compliance with Florida’s rules governing reuse are deemed protective of public health and environmental quality. These provisions also conclude that “reuse is a critical component of meeting the state’s existing and future water supply needs while sustaining natural systems.”<sup>9</sup> Further, the Legislature found that reuse benefits water, wastewater, and reuse customers.<sup>10</sup>

In 2001, the Florida Reclaimed Water Statement of Support was signed to encourage and promote water reuse, to work to overcome institutional and regulatory disincentives and funding constraints, to ensure protection of public health and environmental quality, and to promote public acceptance of water reuse in Florida. Participating agencies that signed the Statement include the DEP, Department

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<sup>3</sup> WaterReuse Foundation, “Irrigation of Parks, Playgrounds, and Schoolyards with Reclaimed Water: Extent and Safety,” Alexandria, Virginia, 2005.

<sup>4</sup> York, D. W., L. Walker-Coleman, L. Williams, and P. Menendez, “Monitoring for Protozoan Pathogens in Reclaimed Water: Florida’s Requirements and Experience,” Proceedings of the 19th Annual WaterReuse Symposium, WaterReuse Association, Phoenix, AZ, 2004.

<sup>5</sup> York, D. W., “Water Reuse: Regulatory and Safety Perspectives,” FWEA, 2006.

<sup>6</sup> Water Reuse Flyer, Southwest Florida Water Management District, available at [http://www.swfwmd.state.fl.us/files/database/site\\_file\\_sets/118/Water\\_Reuse\\_flyer\\_PRINT\\_file.pdf](http://www.swfwmd.state.fl.us/files/database/site_file_sets/118/Water_Reuse_flyer_PRINT_file.pdf).

<sup>7</sup> Chapter 62-610.100, Florida Administrative Code, 1989. Reuse of Reclaimed Water and Land Application.

<sup>8</sup> Sections 403.064(1) and 373.250, F.S.

<sup>9</sup> Section 403.064(1), F.S.

<sup>10</sup> Section 367.0817(3), F.S.

of Agriculture and Consumer Services, Department of Health, Public Service Commission, Department of Community Affairs, U.S. Environmental Protection Agency, and all five water management districts.<sup>11</sup>

## Pasco County

### *Pasco County Reclaimed Water System*

The Pasco County Reclaimed Water System is permitted by DEP as a stand-alone reclaimed distribution and disposal system for treated wastewater effluent produced by county treatment facilities. All of the county's sewage flow is converted to reclaimed water by these sewage treatment facilities – there is no other disposal method for the county's wastewater. Therefore, the amount of reclaimed water cannot be meaningfully reduced as the amount is dependent on the county's water usage.

Currently, the county uses its reclaimed water for irrigation of lands, parks, and golf courses; industrial uses; and rapid infiltration basins. These uses recharge the groundwater system with no surface water discharge. However, demand for these authorized irrigation uses decreases in the rainy season, creating a surplus of reclaimed water. Therefore, the county wants to add additional uses for the reuse system to effectively use the approximately five million gallon surplus. Alternatively, the county will have to build an additional rapid rate infiltration basin system for the five million gallon surplus. This additional storage capacity for use in the rainy season would require property acquisition, engineering, and construction at a cost to taxpayers of approximately \$23,364,870.

### *Natural Rehydration System*

Specifically, the county is interested in natural system rehydration and treatment to enhance wetland ecosystems that have been impacted or altered due to drainage, pumping, or other factors. The county intends to implement a plan to rehydrate certain surface water bodies which are not meeting minimum water levels, such as Crews Lake, or that are otherwise adversely impacted, and whose natural aquatic ecosystems might be restored, recovered, or enhanced by reclaimed water.

### *Law Limiting Discharges*

Implementing an environmental restoration processes using reclaimed water via natural system rehydration and recharge requires discharge into coastal waters. This is currently prohibited by law. Chapter 99-166, L.O.F., forbids new discharges from existing sewage treatment facilities into Pasco County coastal waters with two exceptions. First, the DEP may grant an exception if there is no other practical alternative and the wastewater will undergo treatment before being discharged. Second, the DEP may grant an exception if the discharge is a limited wet weather surface discharge. For both existing exceptions, the discharge must not result in violating water quality standards.

### *Additional Exemption Sought*

Natural system rehydration as an additional use for reclaimed water requires amending the restrictions placed on sewage treatment facility discharges into Pasco County coastal waters by ch. 99-166, L.O.F. The exemption provides for a more cost-effective and environmentally acceptable means of management and disposal of excess reclaimed water flows from Pasco County's Master Reuse System.

Proponents argue that this exemption will allow Pasco County Utilities to forego acquiring property to construct additional facilities to manage the reclaimed water supply. That cost avoidance will allow the utility to maintain its current level of service without raising rates. Additionally, proponents point to the

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<sup>11</sup> Statement of Support for Water Reuse, available at [http://www.dep.state.fl.us/water/reuse/docs/statement\\_of\\_support.pdf](http://www.dep.state.fl.us/water/reuse/docs/statement_of_support.pdf).

economic stimulus of similar wetland projects<sup>12</sup> around Florida, which have become tourist attractions for birders, wildlife enthusiasts, and photographers.

Advantages to the local government, besides the cost-avoidance advantage for Pasco County Utilities, include the Pasco County Environmental Lands Acquisition and Management Program (ELAMP) not having to maintain the dry lake beds and other depleted aquatic lands as terrestrial properties. The mowing, spraying, and routine maintenance of those areas would become unnecessary the impacted wetlands and lakes recover and rehydrate. Additionally, the Pasco County Parks Department will benefit with the recovery of Crews Lake as the amenities (fishing pier, boat ramp, and canoe/kayak launch) at Crews Lake Park will once again be usable. Those features will increase patronage of the park and will generate increased revenues for the county's parks system.

### Effect of Proposed Changes

The proposed amendment to ch. 99-166, L.O.F., would provide the necessary exemption for Pasco County to pursue natural aquatic ecosystems rehydration projects with reclaimed water.

#### B. SECTION DIRECTORY:

Section 1: Amends ch. 99-166, L.O.F., authorizing an additional exception to the rules forbidding new sewage treatment discharges into Pasco County coastal waters.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 18, 2013

WHERE? The *Tampa Bay Times* and *Pasco Times*, daily newspapers published in Pasco County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

<sup>12</sup> Wakodahatchee Wetlands and the Green Cay Wetlands in Palm Beach County welcome more than a million visitors annually.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

1                                   A bill to be entitled  
 2           An act relating to Pasco County; amending chapter 99-  
 3           166, Laws of Florida; authorizing the Department of  
 4           Environmental Protection to grant an exception from  
 5           requirements prohibiting sewage treatment facility  
 6           discharges into certain waters of the state for an  
 7           applicant's discharge from permitted reuse systems as  
 8           part of a plan to rehydrate certain surface water  
 9           bodies; providing an effective date.

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

Section 1. Chapter 99-166, Laws of Florida, is amended to read:

Section 1. Elimination of sewage treatment facility discharges into coastal waters within Pasco County.—

(1) No new discharges, or increased pollutant loadings from existing sewage treatment facilities into the coastal waters of the state within Pasco County, which include, but are not limited to, Anclote Anchorage, Sandy Bay, Cross Bayou, Millers Bayou, Boggy Bay, Hope Bayou, Lighter Bayou, or Fillman Bayou, or into waters tributary thereto, are permitted except as provided in subsection (3).

(2) All existing sewage treatment facility discharges into the coastal waters of the state within Pasco County or into waters tributary thereto, as described in subsection (1), must

27 be eliminated before July 1, 2004, except as provided in  
 28 subsection (3).

29 (3) The Department of Environmental Protection may grant  
 30 an exception to subsection ~~subsections~~ (1) or subsection (2)  
 31 only if in the following circumstances:

32 (a) The applicant conclusively demonstrates that no other  
 33 practical alternative exists, that the discharge will receive  
 34 advanced waste treatment as defined in s. 403.086(4), or a  
 35 higher level of waste treatment, and ~~the applicant conclusively~~  
 36 ~~demonstrates~~ that the proposed discharge will not result in a  
 37 violation of water quality standards; ~~or~~

38 (b) The applicant's discharge is a limited wet weather  
 39 surface water discharge serving as a backup to a reuse system  
 40 pursuant to s. 403.086(7)(a) and will not cause a violation of  
 41 state water quality standards and is subject to the requirements  
 42 of department rules; or

43 (c) The applicant's discharge is from a permitted reuse  
 44 system and is authorized as part of a plan to rehydrate a  
 45 surface water body that is not meeting its minimum water level,  
 46 or is otherwise adversely impacted by drainage modifications or  
 47 groundwater pumping, and the reclaimed water is needed to  
 48 restore, recover, or enhance natural aquatic ecosystems.

49 Section 2. This act shall take effect upon becoming a law.



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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 1027 Carbon Dioxide Emissions from Fossil-fueled Electric Generating Units  
**SPONSOR(S):** Wood and others  
**TIED BILLS:** IDEN./SIM. BILLS: SM 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly <i>KK</i>	Rojas <i>JK</i>
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

HM 1027 urges Congress to direct the Environmental Protection Agency (EPA) to use specified criteria in developing guidelines for regulation of carbon dioxide emissions from existing fossil-fueled electric generating units, including consideration for unique policies, energy needs, resource mixes, and economic priorities of Florida.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Since 1970, Congress has regulated the pollution of air via the Clean Air Act (CAA).<sup>1</sup> Under section 110 and section 112 of the CAA, the Environmental Protection Agency (EPA) has the authority to set National Ambient Air Quality Standards (NAQQS) for certain air pollutants that the EPA has identified as particularly dangerous and ubiquitous, including ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead.<sup>2</sup> Once the NAAQS have been set, states are then charged with the responsibility to come up with a State Implementation Plan (SIP) specifying the limitations and measures the state will take in order to attain the NAQQS.<sup>3</sup>

Section 111 of the CAA allows the EPA to establish emission standards for stationary sources of air pollution that “causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare” (i.e., a pollutant for which there is no NAAQS).<sup>4</sup> Section 111(b) allows the EPA to regulate new and modified sources.<sup>5</sup> In contrast, Section 111(d) of the CAA requires states to develop plans for *existing* sources of noncriteria pollutants whenever the EPA promulgates a standard for a new source. These plans are subject to EPA review and approval.<sup>6</sup>

Recently, the EPA has used section 111 to regulate carbon dioxide. Carbon dioxide is not a pollutant but is a greenhouse gas that is naturally present in the atmosphere as part of the Earth’s carbon cycle (the natural circulation of carbon among the atmosphere, oceans, soil, plants, and animals).<sup>7</sup> The main human activity that emits carbon dioxide is the combustion of fossil fuels (coal, natural gas, and oil) for energy and transportation. The combustion of fossil fuels to generate electricity is the largest single source of carbon dioxide emissions in the nation, accounting for about 38 percent of total U.S. carbon dioxide emissions and 32 percent of total U.S. greenhouse gas emissions in 2011. The type of fossil fuel used to generate electricity will emit different amounts of carbon dioxide, but to produce a given amount of electricity, burning coal will produce more carbon dioxide than oil or natural gas.<sup>8</sup>

The EPA cites its authority to regulate greenhouse gases from two Supreme Court cases. First, in *Massachusetts v. EPA*<sup>9</sup> the Court found the EPA has the authority to regulate vehicular greenhouse gas emissions. Under *Am. Elec. Power Co., Inc. v. Connecticut*,<sup>10</sup> the Court affirmed the EPA’s authority to regulate stationary sources of greenhouse gases (like power plants), so long as the EPA made an “endangerment finding” to justify the regulation.

On June 25, 2013, the President released a Presidential Memorandum that recognized that the EPA has already begun proposing rulemaking for new power plants and directed the EPA to issue standards, regulations, or guidelines that address carbon dioxide emissions for new and modified

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<sup>1</sup> U.S. Environmental Protection Agency, Clean Air Act Requirements and History, *available at* <http://www.epa.gov/air/caa/requirements.html> (last visited Mar. 27, 2014).

<sup>2</sup> 42 U.S.C. § 7410, 7412.

<sup>3</sup> Under Clean Air Act sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance and enforcement of a revised primary or secondary NAAQS.

<sup>4</sup> 42 U.S.C. § 7411.

<sup>5</sup> 42 U.S.C. § 7411(b).

<sup>6</sup> 42 U.S.C. § 7411(d).

<sup>7</sup> U.S. Environmental Protection Agency, Overview of Greenhouse Gases, *available at* <http://www.epa.gov/climatechange/ghgemissions/gases/co2.html> (last visited Mar. 27, 2014).

<sup>8</sup> *Id.*

<sup>9</sup> *Massachusetts v. EPA*, 549 U.S. 497 (2007).

<sup>10</sup> *Am. Elec. Power Co., Inc. v. Connecticut*, 131 S. Ct. 2527 (2011).

sources under section 111(b) of the CAA.<sup>11</sup> Thus, President Obama directed the EPA to propose standards for existing sources under section 111(d) of the CAA. The EPA must finalize the rule by June 1, 2015, and the states must submit a state implementation plan to the EPA no later than June 30, 2016.

Because section 111(d) has been used rarely compared to other sections of the CAA, there are limited precedents for how the EPA will or should implement future performance standards under Section 111(d). There has not been a lawsuit challenging the sufficiency of the guidelines under Section 111(d).

The Florida Department of Environmental Protection (FDEP) is responsible for implementing air pollution programs that are in compliance with federal requirements. The FDEP adopted Rule 62-204, F.A.C., which incorporates the CAA air pollution requirements by reference and identifies Florida's state implementation plan to obtain these requirements. More so, s. 366.015, F.S. encourages the Florida Public Service Commission to participate in federal proceedings that affect the regulation of state utilities.

### **Effect of Proposed Changes**

HM 1027 contains 15 whereas clauses, several of which make reference to coal or coal-fueled power plants. The issue, however, is broader than coal. As noted above, combustion of any fossil fuel produces carbon dioxide, coal simply produces more per unit of electricity generated than natural gas or oil. Additionally, municipal solid waste or waste-to-energy power plants also produce carbon dioxide.<sup>12</sup> The EPA rules will impact almost every type of facility producing electricity in Florida that meets any threshold criteria.<sup>13</sup>

The memorial urges the United State Congress to direct the EPA to take certain steps in developing guidelines for regulating carbon dioxide emissions from existing fossil-fueled electric generating units. These steps include:

- allowing state regulators to develop performance standards which take into account the unique policies, energy needs, resource mix, and economic priorities of the state;
- allowing Florida to set less stringent performance standards or longer compliance schedules; and
- giving Florida maximum flexibility to implement standards.

Support for the memorial asserts that the EPA guidelines for existing electric generating units should avoid setting performance levels that are based on a national uniform approach and instead recognize the varying characteristics of specific states and regions of the U.S. Specifically, in Florida investments have been made in re-powerings, nuclear uprates, and other generating unit efficiency improvements have had a beneficial impact on air quality. As a result, the FDEP estimates Florida's average carbon

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<sup>11</sup> Memorandum to the Environmental Protection Agency from President Barak Obama, (June 25, 2013), *available at* <http://www.whitehouse.gov/the-press-office/2013/06/25/presidential-memorandum-power-sector-carbon-pollution-standards> (last visited Mar. 27, 2014).

<sup>12</sup> US Environmental Protection Agency, Clean Energy, Air Emissions, <http://www.epa.gov/cleanenergy/energy-and-you/affect/air-emissions.html> (last visited March 28, 2014); *see also*, Energy Recovery Council, Waste-to-Energy Reduces Greenhouse Gas Emissions, *available at* <http://energyrecoverycouncil.org/waste-energy-reduces-greenhouse-gas-emissions-a2966> (last visited March 28, 2014); Wheelabrator Technologies Inc., Climate, *available at* <http://www.wheelabratortechologies.com/environment1/climate/> (last visited March 28, 2014).

<sup>13</sup> Wind and geothermal produce negligible emissions in generating electricity because no fuels are combusted; however, Florida has very little of either, and no utility-scale wind turbines or what is commonly thought of as geothermal. Solar also produces negligible emissions, and Florida does have some solar, both utility owned and privately owned. Landfill gas used as a fuel to generate electricity, of which Florida has a small amount, does produce carbon dioxide, however, it is considered to be a part of the natural carbon cycle of the earth. Biomass, which Florida also has, also produces carbon dioxide emissions, which may not result in a net increase in carbon emissions if the biomass resources are managed sustainably, but it is not safe to assume biomass power plants are carbon neutral. US Environmental Protection Agency, Clean Energy, Air Emissions, *available at* <http://www.epa.gov/cleanenergy/energy-and-you/affect/air-emissions.html> (last visited March 28, 2014).

dioxide emissions profile, for power produced in Florida decreased from 1,835 pounds per megawatt-hour (lb./MWh) in 2000 to 1,291 lb./NMWh in 2012.<sup>14</sup>

A copy of the memorial must be delivered to the President of the United States, the EPA administrator, President of the United States Senate, Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United State Congress.

**B. SECTION DIRECTORY:**

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The FDEP will be required to set performance standards for carbon dioxide emissions from existing fossil-fueled power plants.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The Florida Public Service Commission has written that it "is concerned that under the provisions of the proposed [Carbon Pollution Standard for New Power Plants] rule, electric utilities will be precluded from constructing coal-fired generation to meet future needs because the standard can be met solely with costly and unproven carbon capture and sequestration (CCS) technology. CCS at this time is costly and has not been adequately demonstrated on the scale necessary for deployment by the electric generation utility industry."<sup>15</sup>

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

None.

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<sup>14</sup> Public Service Commission, Re: Considerations in the Design of a Program to Reduce Carbon Pollution from Existing Power Plants, December 13, 2013.

<sup>15</sup> PUBLIC SERVICE COMMISSION, in the US Environmental Protection Agency's Docket ID No. EPA-HQ-OAR-2013-0495, page 1, available at <http://www.psc.state.fl.us/dockets/federal/PDFs/EPA-HQ-OAR-2013-495.pdf> (last visited March 28, 2014).

1. Applicability of Municipality/County Mandates Provision:  
None.

2. Other:  
None.

B. RULE-MAKING AUTHORITY:  
Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:  
None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to direct the United States  
 Environmental Protection Agency to use specified  
 criteria in developing guidelines for regulating  
 carbon dioxide emissions from existing fossil-fueled  
 electric generating units.

WHEREAS, a reliable and affordable energy supply is vital  
 to Florida's economy and job growth, as well as the overall  
 interests of its citizens, and

WHEREAS, Florida supports an all-of-the-above energy  
 strategy because it is in the best interest of the state and the  
 nation, and

WHEREAS, the United States has abundant supplies of coal  
 that provide economic and energy security benefits, including  
 affordable and reliable electricity, and

WHEREAS, carbon regulations for existing coal-fueled  
 electric generating units could threaten the affordability and  
 reliability of Florida's electricity supplies, and

WHEREAS, such regulations also impose additional financial  
 burdens on electric generating units that have invested in  
 pollution controls to meet the recent mercury regulations of the  
 United States Environmental Protection Agency, and

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25           WHEREAS, such burdens risk the closure of electric  
26 generating units resulting in substantial job loss, and

27           WHEREAS, carbon dioxide emissions from coal-fueled electric  
28 generating units in the United States represent only 3 percent  
29 of global anthropogenic greenhouse gas emissions, and

30           WHEREAS, the United States Energy Information  
31 Administration projects that the nation's electric sector carbon  
32 dioxide emissions will be 14 percent below 2005 levels in 2020,  
33 and

34           WHEREAS, the United States Energy Information  
35 Administration projects that carbon dioxide emissions from the  
36 nation's coal-fueled electric generating units will be 19  
37 percent below 2005 levels in 2020, and

38           WHEREAS, on June 25, 2013, the President of the United  
39 States directed the United States Environmental Protection  
40 Agency to issue standards, regulations, and guidelines to  
41 address carbon dioxide emissions from new, existing, modified,  
42 and reconstructed fossil-fueled electric generating units, and

43           WHEREAS, the President of the United States has recognized  
44 that states will play a central role in establishing and  
45 implementing carbon standards for existing electric generating  
46 units, and

47           WHEREAS, the Clean Air Act requires the United States  
48 Environmental Protection Agency to establish a procedure under  
49 which each state must develop a plan for establishing and



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50 implementing standards of performance for existing fossil-fueled  
51 electric generating units within the state, and

52 WHEREAS, the Clean Air Act expressly allows states, in  
53 developing and applying such standards of performance, to take  
54 into consideration, among other factors, the remaining useful  
55 life of an existing fossil-fueled electric generating unit to  
56 which such standards apply, and

57 WHEREAS, the existing regulations of the United States  
58 Environmental Protection Agency provide that states may adopt  
59 less stringent emissions standards or longer compliance  
60 schedules than the agency's guidelines based on factors such as  
61 unreasonable cost of control, physical impossibility of  
62 installing necessary control equipment, or other factors that  
63 make less stringent standards or longer compliance times  
64 significantly more reasonable, and

65 WHEREAS, it is in the best interest of electricity  
66 consumers in Florida to continue to benefit from reliable,  
67 affordable electricity provided by coal-based electric  
68 generating units, NOW, THEREFORE,

69

70 Be It Resolved by the Legislature of the State of Florida:

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72 That the Congress of the United States is urged to direct  
73 the United States Environmental Protection Agency, in developing

74 guidelines for regulating carbon dioxide emissions from existing  
 75 fossil-fueled electric generating units, to:

76 (1) Respect the primacy of Florida and rely on state  
 77 regulators to develop performance standards for carbon dioxide  
 78 emissions that take into account the unique policies, energy  
 79 needs, resource mix, and economic priorities of the state.

80 (2) Issue guidelines and approve state-established  
 81 performance standards that are based on reductions of carbon  
 82 dioxide emissions achievable by measures undertaken at fossil-  
 83 fueled electric generating units.

84 (3) Allow Florida to set less stringent performance  
 85 standards or longer compliance schedules for fossil-fueled  
 86 electric generating units.

87 (4) Give Florida maximum flexibility to implement carbon  
 88 dioxide performance standards for fossil-fueled electric  
 89 generating units.

90 BE IT FURTHER RESOLVED that copies of this memorial be  
 91 dispatched to the President of the United States, to the  
 92 Administrator of the United States Environmental Protection  
 93 Agency, to the President of the United States Senate, to the  
 94 Speaker of the United States House of Representatives, and to  
 95 each member of the Florida delegation to the United States  
 96 Congress.

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**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 1101 Terrorism Risk Insurance Program  
**SPONSOR(S):** Beshears  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SM 1538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly KK	Rojas JK
2) Regulatory Affairs Committee			

**SUMMARY ANALYSIS**

HM 1101 urges Congress to extend the Terrorism Risk Insurance Act of 2002. The memorial urges Congress to keep the reforms adopted in 2007 when Congress last reauthorized the Act

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

In response to the terrorist attacks of September 11, 2001, reinsurers became reluctant or unwilling to underwrite insurance for the risk of terrorist attacks. Insurance companies responded to this unwillingness by drastically reducing limits on many types of terrorism coverage, narrowing conditions in insurance contracts or excluding terrorism insurance out-right, and raising prices on insurance policies to reflect additional risk.<sup>1</sup> As a result, commercial lenders were reluctant to make loans on new projects without knowing if adequate terrorism insurance could be maintained when the entire collateral for the loan could be wiped out instantaneously by a terrorist attack.<sup>2</sup>

In response to the insurance industry's reluctance, Congress enacted the Terrorism Risk Insurance Act of 2002 (TRIA) as a way to provide stability to the economy.<sup>3</sup> TRIA created a temporary, federally backed Terrorism Risk Insurance Program administered by the U.S. Treasury Department, which provided reinsurance to insurers that are required to offer terrorism insurance for property and causality lines. Additionally, the federal government provided a "backstop" to terrorism insurance losses by insuring that the federal government would pay for 90 percent of terrorism losses (subject to mandated a deductible), while insurance companies would be responsible for the remaining 10 percent. This backstop provided the incentive for insurance companies to provide affordable premiums and terrorism coverage for a greater number of properties.

Congress intended TRIA to be a temporary measure, with a sunset date only three years later. However, Congress extended the Act in 2005 and again in 2007. In addition to extending the implementation of TRIA, the 2005<sup>4</sup> and 2007<sup>5</sup> amendments increased the event size triggering the program from \$50 million per attack to a floor of \$100 million per attack, increased private co-pays and deductibles, eliminated certain lines of insurance coverage from the federal program (e.g., professional liability and commercial auto), and placed a \$100 billion cap on the program.<sup>6</sup>

Currently, without further Congressional action, the Act is set to expire once again on December 31, 2014.

##### **Effect of Proposed Changes**

HM 1101 urges Congress to extend the Terrorism Risk Insurance Act of 2002.

Proponents for this bill state the extension of the Act will allow insurers to continue offer widespread coverage for future catastrophes resulting from terrorism. It will also provide a safety net for banks who absent of the TRIA, may be unwilling to extend loans for commercial transactions like mortgages, construction projects, and other capital-intensive initiatives. In addition, the adverse effect of reluctant financiers, businesses may be reluctant to invest while commercial consumers may be unable to afford insurance. All of these issues could have a potential to amount to severe adverse effect on the United States economy.

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<sup>1</sup> 33 N.Y.Prac., New York Construction Law Manual § 10:27 (2d ed.).

<sup>2</sup> *Id.*

<sup>3</sup> Pub. L. No. 107-297, 116 Stat. 2322 (2002) (set out as a note under 15 U.S.C.A. § 6701).

<sup>4</sup> Pub. L. 109-144, 119 Stat. 2660 (2005) (known as the Terrorism Risk Insurance Extension Act of 2005).

<sup>5</sup> Pub. L. 110-160, 121 Stat. 1839 (2007) ((known as the Terrorism Risk Insurance program Reauthorization Act of 2007).

<sup>6</sup> 33 N.Y.Prac., New York Construction Law Manual § 10:27 (2d ed.); 15 U.S.C.A. § 6701.

B. SECTION DIRECTORY:

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to extend the Terrorism Risk Insurance  
 Act of 2002.

WHEREAS, the United States continues to be engaged in an  
 ongoing war against terrorism, and threats of future attacks  
 inside the country remain, and

WHEREAS, future attacks could include the use of  
 unconventional weapons, including nuclear, biological, chemical,  
 and radiological weapons, that could result in a large number of  
 casualties or involve attacks such as cyber-terrorism that could  
 impact businesses and critical infrastructure across the nation,  
 and

WHEREAS, the Terrorism Risk Insurance Program, created  
 through enactment of the Terrorism Risk Insurance Act of 2002,  
 and extended in 2005 and 2007, has allowed for a viable and  
 stable terrorism risk insurance market, and

WHEREAS, absent extension by Congress, the Terrorism Risk  
 Insurance Act of 2002 will expire on December 31, 2014, and

WHEREAS, failure by Congress to extend the act would likely  
 result in the inability of insurers to offer widespread coverage  
 for future catastrophes resulting from terrorism or would likely  
 create capacity concerns where terrorism coverage must be  
 provided, and



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26 WHEREAS, without adequate terrorism insurance coverage,  
 27 banks may be unwilling to extend loans for commercial  
 28 transactions, such as mortgages, construction projects, and  
 29 other capital-intensive initiatives, and

30 WHEREAS, the lack of private terrorism insurance to cover  
 31 losses from future terrorist attacks may require the Federal  
 32 Government to cover such losses, and

33 WHEREAS, without the shared public-private responsibility  
 34 program established by the Terrorism Risk Insurance Act of 2002,  
 35 a limited availability of insurance against terrorism would have  
 36 a severe adverse effect on our country's economy as financiers  
 37 may be reluctant to lend, businesses may be reluctant to invest,  
 38 and commercial consumers may be unable to afford insurance, and

39 WHEREAS, the Terrorism Risk Insurance Program is an  
 40 essential component of effective national economic recovery  
 41 following a catastrophic terrorist attack in the United States,  
 42 NOW, THEREFORE,

43

44 Be It Resolved by the Legislature of the State of Florida:

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46 That the Congress of the United States is urged to extend  
 47 the Terrorism Risk Insurance Act of 2002 as soon as possible.

48 BE IT FURTHER RESOLVED that copies of this memorial be  
 49 dispatched to the President of the United States, to the  
 50 President of the United States Senate, to the Speaker of the

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51 | United States House of Representatives, and to each member of  
52 | the Florida delegation to the United States Congress.

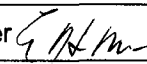

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**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1129 Special Districts  
**SPONSOR(S):** Economic Development & Tourism Subcommittee; Caldwell  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1518

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N	Collins	West
2) Local & Federal Affairs Committee		Miller 	Rojas 
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

Chapter 298, F.S., governs the creation and operation of Water Control Districts (WCDs). These special districts are authorized to construct, complete, operate, maintain, repair, and replace any and all works and improvement necessary to execute a water control plan as defined in s. 298.005, F.S. The primary funding source for WCD activities is special assessments, which must be imposed on property within the district so that the assessment of a particular parcel represents a fair, proportional part of the total cost and maintenance of the improvement. Special assessments are limited to the property benefited, and are not taxes within the meaning of the general constitutional requirement that taxation be imposed at a uniform rate. WCDs may also issue bonds, not to exceed 90 percent of the total amount of special assessments levied.

Chapter 190, F.S., governs the creation and operation of Community Development Districts (CDDs). These special districts are an alternative method available for use by public and private sectors to manage and finance basic services for community developments. Initial financing for a CDD is typically secured through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district, not on the other taxpayers of the county or municipality in which the district is located.

CS/HB 1129 amends s. 189.412, F.S., requiring the Department of Economic Opportunity (DEO) to collect and maintain the documents providing for the creation of each special district in the state. The documents must be made available to the public on DEO's website by December 31, 2014. DEO may coordinate with the Department of State (DOS) to implement this requirement.

The CS designates ss. 190.001 through 190.049, F.S., as part I of Ch. 190, F.S., and creates ss. 190.10 through 190.13, designated as part II of Ch. 190, F.S., authorizing the conversion of certain WCDs to CDDs. The CS allows the popularly elected governing board of a WCD with previously expanded powers to pass a resolution authorizing a referendum on whether the WCD may exercise certain special powers under s. 190.012, F.S. Following approval of the referendum, the WCD is required to submit a local bill to the Legislature codifying the special powers approved by the voters into the district's charter and reestablishing the WCD as a CDD.

The CS amends s. 298.76, F.S., exempting a special act or local law authorizing the conversion of a WCD to a CDD under new part II, Ch. 190, F.S., from the prohibition against special acts or local laws granting additional power or authority to a WCD. The creation of this exemption requires a three-fifths vote by each chamber.

See FISCAL COMMENTS and CONSTITUTIONAL ISSUES.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Water Control Districts

##### *Creation of Water Control Districts*

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). Creating new WCDs is limited to special acts of the Legislature (independent WCDs) or by county ordinance<sup>1</sup> (dependent WCDs).<sup>2</sup> Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by Ch. 298, F.S. There are 72 active WCDs in the state, 69 of which have elected boards.<sup>3</sup>

##### *Powers of Water Control Districts*

The board of supervisors for a WCD is authorized certain powers by statute.<sup>4</sup> These powers include the authority to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.<sup>5</sup> A WCD:

- may build and construct any other works and improvements deemed necessary
- to preserve and maintain the works in or out of said district; acquire, construct,
- operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal
- property, including pumping stations, pumping machinery, motive equipment,
- electric lines and all appurtenant or auxiliary machines, devices, or equipment.<sup>6</sup>

##### Limitation on Granting Additional Authority to Water Control Districts

Section 298.76(1), F.S., prohibits special laws or general laws of local application granting additional authority, powers, rights, or privileges to any WCD formed pursuant to Ch. 298, F.S. Exceptions are special or local legislation:

- amending an existing special act providing for the levy of an annual maintenance tax of a district;
- extending the corporate life of a district;
- consolidating adjacent districts; or
- authorizing the construction or maintenance of roads for agricultural purposes.

The statute expressly authorizes special or local legislation:

- changing the method of voting for a board of supervisors for any WCD;<sup>7</sup>
- changing the term of office for board members and the qualifications to serve on the board of supervisors in a WCD;<sup>8</sup> and

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<sup>1</sup> Under s. 125.01, F.S.

<sup>2</sup> Section 298.01, F.S.

<sup>3</sup> DEO maintains a list of all special districts, including WCD's, at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last accessed on March 15, 2014)

<sup>4</sup> Section 298.22, F.S., subject to the applicable provisions of Chs. 373 and 403, F.S., the "Florida Water Resources Act of 1972" and the "Florida Air and Water Pollution Control Act" respectively.

<sup>5</sup> Section 298.22, F.S.

<sup>6</sup> Section 298.22(3), F.S.

<sup>7</sup> Section 298.76(2), F.S.

- changing the governing authority or governing board of any WCD.<sup>9</sup>

Any special or local law enacted by the Legislature pertaining to a WCD prevails on the district and has the same force and effect as if it was a part of Ch. 298, F.S., at the time the district was created and organized.<sup>10</sup>

Prior to 1980, the statute authorized granting a WCD additional powers by special laws or general laws of local application.<sup>11</sup> In 1980, the Legislature adopted the present language prohibiting granting additional powers by special or local law, which bill passed each chamber by a three-fifths majority.<sup>12</sup> Under the Florida Constitution, a law passed with a three-fifths majority vote may be amended or repealed only by another three-fifths majority vote.<sup>13</sup>

Under s. 189.404(2), F.S., no special law or general law of local application may exempt an independent district from:

- the election requirements of s. 189.405, F.S.;
- the requirements for bond referenda under s. 189.408, F.S.; or
- the requirements for reporting, notice, or public meetings under ss. 189.4085, 189.415, 189.417, or 189.418, F.S.

Section 189.404(2), F.S., also was passed by a three-fifths vote in both chambers.<sup>14</sup> Accordingly, any special act or local law amending the power and authority of a WCD must also comply with s. 189.404(2), F.S.

### Community Development Districts

Chapter 190, F.S.,<sup>15</sup> states the exclusive and uniform procedures for establishing and operating a community development district (CDD).<sup>16</sup> This type of independent special district<sup>17</sup> is an alternative method to manage and finance basic services for community development.<sup>18</sup> There are currently 573 active CDDs in Florida.<sup>19</sup>

### *Creation of Community Development Districts*

<sup>8</sup> Section 298.76(3), F.S.

<sup>9</sup> Section 298.76(4), F.S.

<sup>10</sup> Section 298.76(5), F.S.

<sup>11</sup> Section 298.76(1), F.S. (1979).

<sup>12</sup> Ch. 80-281, s. 5, LOF. As HB 914, as amended, the bill passed the House on 6/4/1980 (107-0) and the Senate on 6/5/1980 (33-0). See, HJ 01023 (1980) and SJ 00727 (1980).

<sup>13</sup> Art. III, s. 11(a)(21), Fla. Const.; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977). The exact text of Art. III, s. 11(a)(21), Fla. Const., is "SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: ... (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote."

<sup>14</sup> Ch. 89-169, s. 67, LOF.

<sup>15</sup> Section 190.001, F.S., the "Uniform Community Development District Act of 1980."

<sup>16</sup> Sections 190.004 & 190.005, F.S.

<sup>17</sup> A "special district" is "a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Section 189.403(1), F.S. An "independent special district" is characterized by having a governing body the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.403(3), F.S.

<sup>18</sup> Section 190.003(6), F.S.

<sup>19</sup> Florida Department of Economic Opportunity, Division of Community Development, Special District Information Program (DEO), *The Official List of Special Districts Online, Create Your Own Report*, at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/createspreadsheet.cfm> (accessed 2/17/2014). While the general powers of a CDD include the authority to issue bonds, s. 190.011(9), F.S., one CDD listed by DEO has no such authority.

The method for establishing a CDD depends upon its size. CDDs of 1,000 acres or more are established exclusively by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)<sup>20</sup> to adopt an administrative rule creating the district.<sup>21</sup> The statute requires each petition to contain specific information, including the written consent to establishing the CDD by all landowners<sup>22</sup> of real property to be included in the district.<sup>23</sup> Prior to filing the petitioner must submit copies of the petition and pay separate filing fees of \$15,000 each to the county or municipality in which the proposed CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.<sup>24</sup> The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.<sup>25</sup> Additionally, a public hearing on notice must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the Administrative Procedure Act<sup>26</sup> before an administrative law judge.<sup>27</sup> Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the FLWAC meeting agenda for final consideration with the petition.<sup>28</sup> If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

CDDs of less than 1,000 acres are established exclusively by ordinance<sup>29</sup> of the county having jurisdiction over the majority of land in the area in which the CDD is to be located, with certain exceptions.<sup>30</sup> A petition to establish a CDD is filed with the county commission.<sup>31</sup> After conducting a local public hearing before an administrative law judge<sup>32</sup> the commission may adopt an ordinance creating the CDD.<sup>33</sup> If any of the land proposed for inclusion in the CDD lies within the area of a municipality the county cannot create the district without approval of the affected municipality.<sup>34</sup>

If all land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the establishment authority normally exercised by the county commission.<sup>35</sup> The CDD would be created by municipal ordinance. Within 90 days of receiving the petition, the county commission (or municipality, as applicable) may transfer the petition to the FLWAC.<sup>36</sup> Finally, if all land of the proposed CDD lies within the territorial jurisdiction of

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<sup>20</sup> Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.

<sup>21</sup> Section 190.005(1), F.S.

<sup>22</sup>“Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it 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 shall also mean 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.” Section 190.003(14), F.S.

<sup>23</sup> Section 190.005(1)(a), F.S.

<sup>24</sup> Section 190.005(1)(b), F.S.

<sup>25</sup> Section 190.005(1)(c), F.S.

<sup>26</sup> Ch. 120, F.S. The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.

<sup>27</sup> Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.

<sup>28</sup> A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. See, FLWAC Agenda Item 1 and attachments (8/16/2011), at <http://www.myflorida.com/myflorida/cabinet/agenda11/0816/index.html> (accessed 2/21/2014).

<sup>29</sup> County commissions are authorized to enact ordinances consistent with general law. Art. VIII, s. 1, Fla. Const.; s. 125.01(1)(t), F.S.

<sup>30</sup> Section 190.005(2), F.S.

<sup>31</sup> Section 190.005(2), F.S. The petition must contain the same information as required for submission to the FLWAC. Section 190.005(2)(a), F.S.

<sup>32</sup> Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.

<sup>33</sup> Section 190.005(2)(d), F.S.

<sup>34</sup> Section 190.005(2)(e), F.S.

<sup>35</sup> Section 190.005(2)(e), F.S.

<sup>36</sup> Section 190.005(2)(f), F.S.

two or more municipalities, the petition must be filed with the FLWAC even if the total area is less than 1,000 acres.<sup>37</sup>

The exclusive charter for any CDD are the terms stated in ss. 190.006 – 190.041, F.S., including the special powers authorized by s. 190.012, F.S., granted to the CDD at the discretion of the creating authority.<sup>38</sup> Within 30 days of the effective date of the rule or ordinance creating the CDD, the district must record a notice of being established in the property records of each county where it is located.<sup>39</sup>

### *Powers of Community Development Districts*

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.<sup>40</sup> Among the statutory grant of general powers to every CDD are the authority to sue and be sued, acquire and dispose of real and personal property, make and execute contracts, borrow money, apply for governmental grants or loans, exercise the power of eminent domain within the district, and to hold, control, acquire, and make use of public easements, dedications to public use, platted reservations for public purposes.<sup>41</sup> CDDs are also empowered to borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness, levy taxes and special assessments, and to assess and impose ad valorem taxes on lands within the district.<sup>42</sup> CDDs also have certain rulemaking authority under Ch. 120, F.S.<sup>43</sup>

CDDs are also granted authority to exercise special powers relating to public improvements and public facilities, including:<sup>44</sup>

- water management and control;
- water supply, sewer and reuse;
- bridges or culverts;
- district roads;
- buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage;
- investigation and remediation costs associated with environmental contamination cleanup;
- conservation areas, mitigation areas, and wildlife habitat;
- any other project inside or outside the boundaries of a district when a local government issues a development order<sup>45</sup> approving or requiring the construction or funding of a project by the district; and
- any other project, facility, or service required by the development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district.

When the general-purpose local government within which jurisdiction a particular power will be exercised consents, a CDD may also exercise specific powers related to the following additional systems and facilities:<sup>46</sup>

- parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- fire prevention and control;

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<sup>37</sup> Section 190.005(2)(e), F.S.

<sup>38</sup> Section 190.004(4), F.S.

<sup>39</sup> Section 190.4085, F.S.

<sup>40</sup> Section 190.004(3), F.S.

<sup>41</sup> Section 190.011, F.S.

<sup>42</sup> Id.

<sup>43</sup> Sections 190.011(5), 190.012(3), (4), F.S.

<sup>44</sup> Section 190.012(1), F.S.

<sup>45</sup> Pursuant to s. 380.06, F.S. or s. 380.061, F.S.

<sup>46</sup> Section 190.012(2), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection.

Section 190.005(1)(f), (2)(d), F.S.



- school buildings and related structures which may be leased, sold, or donated to the school district;
- security;
- mosquito control; and
- waste collection and disposal.

Section 190.049, F.S., prohibits any special law or general law of local application from creating a CDD with the powers specified in two or more paragraphs of s. 190.012, F.S., unless the CDD is created pursuant to the requirements of s. 189.404, F.S. Section 190.049, F.S., also was passed by a three-fifths vote in each chamber.<sup>47</sup>

## **Effect of Proposed Changes**

### Special District Information Program

The CS amends s. 189.412, F.S., requiring DEO to collect and maintain the documents creating each special district in the state. The documents must be made available to the public on DEO's website by December 31, 2014. DEO may coordinate with DOS to implement this requirement.

### Conversion of Water Control Districts

The CS designates ss. 190.001 through 190.049, F.S., as part I of Ch. 190, F.S., and creates ss. 190.10 through 190.13, F.S., which are designated as part II of Ch. 190, F.S.

Section 190.10, F.S., is created to allow for the conversion to a CDD from a WCD established under Ch. 298, F.S., or by special act that incorporates the powers of Ch. 298, F.S. Eligible WCDs include only those with popularly elected governing boards that have previously been granted expanded authority by the Legislature. The CS authorizes the governing board of a WCD to initiate a referendum on the question of whether the WCD may exercise one or more of the special powers of a CDD enumerated in s. 190.012, F.S. The board must adopt a resolution at a regularly scheduled board meeting called to determine whether to conduct the referendum. The resolution must establish the date of the referendum and specify the special powers the governing board is seeking to exercise. The referendum must be conducted by the supervisor of elections by mail ballot of the registered voters residing within the WCD. The cost of the referendum will be paid by the WCD.

Section 190.11, F.S., is created to provide the form of the ballot question and the notice requirements for the referendum. A WCD must provide public notice of the referendum in a newspaper of general circulation in each county where the WCD is located. The notice must be published twice, once in the fifth week and once in the second week before the referendum.

The CS creates s. 190.12, F.S., establishing the effect of a referendum. If approved by the majority, following certification of the results the governing board of the WCD may begin exercising the special powers requested in the referendum. If a majority disapproves, the WCD may not exercise the requested special powers and may not call a subsequent referendum on the question of exercising those special powers for five years after the date of the referendum.

The CS creates s. 190.13, F.S., providing for codification and the conversion of a WCD to a CDD. At the next regular session of the Legislature occurring at least six months after approval of a referendum, the WCD must submit a local bill to the Legislature codifying in the WCD's charter the special powers approved by the referendum and reestablishing the WCD as a CDD. Upon the effective date of such special act of the Legislature, the WCD is converted to a CDD and governed by part II of Ch. 190, F.S., and the district's special act.

<sup>47</sup> Chs. 80-407, s. 2, 84-360, s. 16, and, most recently, 99-378, s. 47, LOF.

The CS amends s. 298.76, F.S., exempting a special act or local law authorizing the conversion of a WCD to a CDD under new part II, Ch. 190, F.S., from the prohibition against special acts or local laws granting additional power or authority to a WCD. The creation of this exemption requires a three-fifths vote by each chamber.

The bill provides an effective date of July 1, 2014.

**B. SECTION DIRECTORY:**

- Section 1: Amends s. 189.412, F.S., providing for the collection and maintenance of special district charters by the DEO.
- Section 2: Designates ss. 190.001 through 190.049, F.S. as part I of Ch. 190, F.S., and creates ss. 190.10 through 190.13, F.S., designated as part II of Ch. 190, F.S.
- Section 3: Amends s. 298.76, F.S., providing authority for a special law or local law converting a water control district to a community development district under part II, Ch. 190.
- Section 4: Provides for an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
None.
- 2. Expenditures:  
See FISCAL COMMENTS

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
WCDs choosing to convert to CDDs may expand their taxing authority through referendum as CDDs have greater taxing authority than WCDs.
- 2. Expenditures:  
WCDs choosing to conduct a referendum may have additional costs associated with the implementation of the referendum.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

A WCD expanding its taxing authority may levy additional taxes and fees on citizens within its jurisdiction.

**D. FISCAL COMMENTS:**

DEO's agency analysis estimated the changes to the current Special District website proposed in the CS will have a cost of between \$150,000 and \$200,000. DEO estimates it will need between \$50,000 and \$100,000 for Other Personal Services employees to help with the collection, verification, and uploading of the Special District charters and charter amendments. Some of this cost will be recurring.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Pursuant to Art. III, s. 11(a)(21), Fla. Const., a statute passed by a three-fifths majority in each chamber and prohibiting certain special laws or general laws of local application may be amended or repealed only by a similar vote. Passage of amendments to s. 298.76(1), F.S., and, if the strike-all amendment is adopted by the Local & Federal Affairs Committee, to ss. 189.404(2) and 190.049, F.S., will require a three-fifths vote in both chambers.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 3, 2014, the Local & Federal Affairs Committee will consider a strike-all amendment to CS/HB 1129, making the following changes to the CS:

- Creating s. 189.404(2)(f), F.S., clarifying the prohibitions in s. 189.404(2)(b), (c), and (d), F.S. do not apply to the conversion of a WCD to a CDD under part II, Ch. 190, F.S.
- Amending ss. 190.004(4), 190.005(1), 190.005(2), F.S., creating an exception to the exclusivity requirements for establishing and chartering a CDD for those CDDs created under part II, Ch. 190, F.S.
- Amending s. 190.4085, F.S., to require a CDD created under part II, Ch. 190, F.S., to record a notice of being established in the property records of each county where the new CDD is located within thirty days of the effective date of the law creating the CDD.
- Amending s. 190.049, F.S., creating an exception to the statutory prohibition for special or local laws codifying the special powers approved by referendum for a WCD and reestablishing the district as a CDD.
- Revising new s. 190.10, F.S., authorizing the popularly elected board of a WCD granted additional authority, powers, rights, or privileges by special law or act prior to July 1, 2014, to call a referendum on whether the district should be converted to a CDD under part II, Ch. 190, F.S. in order to exercise specified powers under s. 190.012, F.S.
- Revising new s. 190.12, F.S., requiring the governing board, on an affirmative vote in the referendum, to propose legislation codifying the approved powers and the special acts comprising the charter of the WCD into a single, integrated document reestablishing the district as a CDD, with the recodification to comply with the requirements of s. 189.429, F.S.
- Revising new s. 190.13, F.S., requiring the district to submit the proposed legislation to the Legislature at the next regular session following the referendum approving the exercise of additional powers and conversion to a CDD under part II, Ch. 190, F.S., and requiring passage of

legislation before the district may begin exercising the approved powers and all other authority granted by the Legislature.

- Creating new s. 190.14, F.S., pursuant to s. 11(a)(21), Art. III of the State Constitution, prohibiting special laws or general laws of local application granting additional authority, powers, rights, or privileges to a CDD created pursuant to s. 190.13, F.S., except such laws approved by a referendum of the voters in the affected CDD.

A bill to be entitled

An act relating to special districts; amending s. 189.412, F.S.; requiring the Department of Economic Opportunity to publish certain information on its website with respect to special districts; authorizing the department to coordinate with the Department of State for certain purposes; creating part II of chapter 190, F.S., relating to conversion of water control districts to community development districts; authorizing the popularly elected governing board of a water control district to conduct a referendum on the question of whether the district may exercise certain special powers of a community development district; providing referendum requirements and procedures; providing notice requirements; providing for special act, upon referendum approval, to codify special powers in the charter of the water control district and provide for conversion of the district to a community development district; amending s. 298.76, F.S.; authorizing the conversion of a water control district to a community development district by special or local legislation; providing an effective date.

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

27 Section 1. Subsection (9) is added to section 189.412,  
 28 Florida Statutes, to read:

29 189.412 Special District Information Program; duties and  
 30 responsibilities.—The Special District Information Program of  
 31 the Department of Economic Opportunity is created and has the  
 32 following special duties:

33 (9) The collection and maintenance of the special act,  
 34 rule, ordinance, resolution, or other document that provides for  
 35 the creation of each special district. The department shall make  
 36 such documents available to the public on its website by  
 37 December 31, 2014. The department may coordinate with the  
 38 Department of State to implement this subsection.

39 Section 2. Chapter 190, Florida Statutes, consisting of  
 40 sections 190.001 through 190.049, is designated as part I of  
 41 that chapter, and part II, consisting of sections 190.10 through  
 42 190.13, is created to read:

43 PART II

44 CONVERSION OF WATER CONTROL DISTRICTS

45 190.10 Special powers; authorization for water control  
 46 district to conduct referendum.—

47 (1) The popularly elected governing board of a water  
 48 control district established under chapter 298, or established  
 49 by special act that incorporates the powers of chapter 298, that  
 50 has been granted additional authority, powers, rights, or  
 51 privileges by special law or general law of local application,  
 52 is authorized to conduct a referendum on the question of whether

53 the district may exercise one or more of the special powers of a  
 54 community development district relating to public improvements  
 55 and community facilities authorized by s. 190.012. The governing  
 56 board of a water control district may initiate a referendum by  
 57 adoption of a resolution at a regularly scheduled board meeting  
 58 called to determine whether to conduct the referendum. The  
 59 resolution must establish the date of the referendum and specify  
 60 the special powers that the governing board requests  
 61 authorization to exercise.

62 (2) The referendum election shall be conducted by the  
 63 supervisor of elections pursuant to ss. 101.6101-101.6107 by  
 64 mail ballot of the registered electors residing in the district.  
 65 The costs of the election shall be paid by the district  
 66 conducting the referendum.

67 190.11 Referendum requirements and procedures.-

68 (1) Each referendum question shall be in substantially the  
 69 following form:

71 REFERENDUM AUTHORIZING THE ...(district name)... WATER CONTROL  
 72 DISTRICT TO EXERCISE CERTAIN SPECIAL POWERS

74 Shall the ...(district name)... water control district  
 75 be authorized to exercise the following special powers  
 76 within the jurisdiction of the district:

78 ...(List special powers to be exercised)....

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Yes.... No....

(2) Before conducting a referendum, the governing board of the water control district must provide public notice of the referendum in a newspaper of general circulation in the county in which the district is located. If the district is located in more than one county, the notice shall be provided in a newspaper of general circulation in each county in which the district is located. The notice shall be published twice, once in the fifth week and once in the second week before the referendum election.

190.12 Effect of referendum.—If a majority of the electors voting:

(1) Approve the referendum question, following certification of the referendum results, the governing board of the water control district may begin exercising the special powers approved by the referendum; or

(2) Disapprove the referendum question, the governing board may not exercise the requested special powers and is prohibited from calling a subsequent referendum on the question of exercising those special powers for 5 years after the date of the referendum.

190.13 Codification; conversion to community development district.—At the next regular session of the Legislature occurring at least 6 months after approval of a referendum



105 authorizing a water control district to exercise special powers  
 106 of a community development district, the district shall submit a  
 107 local bill to the Legislature codifying in the district's  
 108 charter the special powers approved by the referendum and  
 109 reestablishing the district as a community development district.  
 110 Upon the effective date of such special act of the Legislature,  
 111 the water control district is converted to a community  
 112 development district and shall be governed by this part and the  
 113 district's special act.

114 Section 3. Section 298.76, Florida Statutes, is amended to  
 115 read:

116 298.76 Special or local legislation; effect.—

117 (1) This chapter is amended to provide that, pursuant to  
 118 the authority granted the Legislature in s. 11(a)(21), Art. III  
 119 of the State Constitution, there shall be no special law or  
 120 general law of local application granting additional authority,  
 121 powers, rights, or privileges to any water control district  
 122 formed pursuant to this chapter. However, this subsection shall  
 123 not prohibit special or local legislation which:

124 (a) Amends an existing special act which provides for the  
 125 levy of an annual maintenance tax of a district;

126 (b) Extends the corporate life of a district;

127 (c) Consolidates adjacent districts; or

128 (d) Authorizes the construction or maintenance of roads  
 129 for agricultural purposes as outlined in this chapter.

130 (e) Authorizes the conversion of a district to a community

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131 | development district, as authorized by part II of chapter 190.

132 | Section 4. This act shall take effect July 1, 2014.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 1165 Newborn Adrenoleukodystrophy Screening  
**SPONSOR(S):** La Rosa  
**TIED BILLS:** IDEN./SIM. **BILLS:** SM 1288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	ROJAS 
2) Health & Human Services Committee			

**SUMMARY ANALYSIS**

X-linked adrenoleukodystrophy (ALD) is a genetic disorder that occurs primarily in males and mainly affects the nervous system and the adrenal glands, reducing the nerves' ability to relay information to the brain and causing certain hormonal insufficiencies.

Each state administers a newborn screening panel to test for certain genetic disorders at birth. Although each state determines which conditions to include on its panel, the U.S. Department of Health and Human Services provides a list. This list currently has 57 disorders and more can be added by successfully passing a nomination and review process. Despite its nomination in 2012, ALD is not on the list of recommended conditions to include in newborn screening.

HM 1165 urges Congress to recommend that ALD be included in the recommended panel for newborn screening by the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

This memorial has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### X-linked Adrenoleukodystrophy (ALD)<sup>1</sup>

X-linked adrenoleukodystrophy is a genetic disorder that occurs primarily in males and mainly affects the nervous system and the adrenal glands. In this disorder, the fatty covering that insulates nerves in the brain and spinal cord is prone to deterioration, which reduces the ability of the nerves to relay information to the brain. In addition, damage to the outer layer of the adrenal glands causes a shortage of certain hormones (adrenocortical insufficiency).

According to the National Institute of Health, the prevalence of ALD is 1 in 20,000 to 50,000 individuals worldwide. This condition occurs with a similar frequency in all populations.

ALD is commonly referred to as Addison disease and cerebral sclerosis, melanodermic leukodystrophy, Schilder-Addison Complex, Schilder disease, Siemerling-Creutzfeldt disease, and X-ALD.

##### *Symptoms*

Adrenocortical insufficiency may cause weakness, weight loss, skin changes, vomiting, and coma. Rarely, individuals with ALD develop multiple features of the disorder in adolescence or early adulthood. In addition to adrenocortical insufficiency, these individuals usually have psychiatric disorders and a loss of intellectual function (dementia).

##### *Male Inheritance*

X-linked adrenoleukodystrophy is inherited in an X-linked pattern. A condition is considered X-linked if the mutated gene that causes the disorder is located on the X chromosome, one of the two sex chromosomes in each cell. In males (who have only one X chromosome), one altered copy of the gene in each cell is sufficient to cause the disorder. Because females have two copies of the X chromosome, one altered copy of the gene in each cell is usually not problematic; however, some females with one altered copy of the gene have health problems associated with this disorder. The signs and symptoms of X-linked adrenoleukodystrophy tend to appear at a later age in females than in males. Affected women usually develop features of the adrenomyeloneuropathy type.

##### Types of X-linked Adrenoleukodystrophy

There are three distinct types of ALD: a childhood cerebral form, an adrenomyeloneuropathy type, and a form called Addison disease only.

##### *Childhood Cerebral Form*

Children with the cerebral form of X-linked adrenoleukodystrophy experience learning and behavioral problems that usually begin between the ages of 4 and 10. Over time the symptoms worsen, and these children may have difficulty reading, writing, understanding speech, and comprehending written material. Additional signs and symptoms of the cerebral form include aggressive behavior, vision problems, difficulty swallowing, poor coordination, and impaired adrenal gland function. The rate at which this disorder progresses is variable but can be extremely rapid, often leading to total disability within a few years. The life expectancy of individuals with this type depends on the severity of the signs

<sup>1</sup> See <http://ghr.nlm.nih.gov/condition/x-linked-adrenoleukodystrophy>.

and symptoms and how quickly the disorder progresses. Individuals with the cerebral form of X-linked adrenoleukodystrophy usually survive only a few years after symptoms begin but may survive longer with intensive medical support.

### *Adrenomyeloneuropathy Type*

Signs and symptoms of the adrenomyeloneuropathy type appear between early adulthood and middle age. Affected individuals develop progressive stiffness and weakness in their legs (paraparesis), experience urinary and genital tract disorders, and often show changes in behavior and thinking ability. Most people with the adrenomyeloneuropathy type also have adrenocortical insufficiency. In some severely affected individuals, damage to the brain and nervous system can lead to early death.

### *Addison Disease Only Form*

People with X-linked adrenoleukodystrophy whose only symptom is adrenocortical insufficiency are said to have the Addison disease only form. In these individuals, adrenocortical insufficiency can begin anytime between childhood and adulthood. However, most affected individuals develop the additional features of the adrenomyeloneuropathy type by the time they reach middle age. The life expectancy of individuals with this form depends on the severity of the signs and symptoms, but typically this is the mildest of the three types.

### Advisory Committee

In 2003, the U.S. Department of Health and Human Services created the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children (SACHDNC).<sup>2</sup> The purpose of this committee was to advise the Secretary<sup>3</sup> on the best ways to reduce morbidity and mortality among babies who have, or are at risk for, certain heritable disorders. SACHDNC determined national recommendations for newborn screening panels, the Recommended Uniform Screening Panel (RUSP). On April 24, 2013, the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children (DACHDNC) was chartered<sup>4</sup> to fulfill the functions previously undertaken by SACHDNC.

The committee advises the Secretary on the most appropriate application of universal newborn screening tests, technologies, policies, guidelines, and standards. Specifically, the committee provides the Secretary the following:<sup>5</sup>

- advice and recommendations concerning grants and projects authorized awarded or funded related to screening heritable disorders in newborns and children;
- technical information to develop Heritable Disorders Program policies and priorities to enhance the ability of the state and local health agencies to provide screening, counseling, and health care services for newborns and children who have or are at risk for heritable disorders; and
- recommendations, advice, and information to enhance, expand, or improve the ability of the Secretary to reduce mortality and morbidity from heritable disorders in newborns and children.

The Committee's next meeting is scheduled for May 29-30, 2014.

### State Newborn Screening Panels

Each state administers a newborn screening panel, which tests for a variety of conditions at birth, and each state public health department decides both the number and types of conditions on its panel. Each state's panel is largely determined by the following factors:

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<sup>2</sup> Established under the Section 1111 of the Public Health Service (PHS) Act, 42 U.S.C. 300b-10, as amended in the Newborn Screening Saves Lives Act of 2008 (Act).

<sup>3</sup> Secretary, U.S. Department of Health and Human Services.

<sup>4</sup> Established under the Public Health Service Act (PHS), 42 U.S.C. 217a: Advisory councils or committees.

<sup>5</sup> See <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/index.html>.

- the laws of the state;
- the financial costs of screening;
- the frequency of the disorder in the state;
- the availability of treatments for each condition; and
- the funding sources for the newborn screening program.

### Recommended Uniform Screening Panel (RUSP)

Although each state ultimately determines which conditions to test for, the Committee compiles a list of nationally recommended disorders. The Committee follows a rigorous selection process to determine the included disorders. This selection is based on the *Newborn Screening: Towards a Uniform Screening Panel and System*.<sup>6</sup> The Committee recommends that every newborn screening program include a Uniform Screening Panel<sup>7</sup> that screens for 31 core disorders and 26 secondary disorders.<sup>8</sup>

Newborn screening is specifically designed to identify core conditions, which share the following classifying characteristics:

- there is a specific and sensitive test available to detect it;
- the health outcomes of the condition are well understood;
- there is an available and effective treatment; and
- identification of the condition could affect the future reproductive decisions of the family.

When looking for a core condition, other genetic conditions may be identified unintentionally. These are secondary conditions.

### Process to Add Disorders to the RUSP

#### *Nomination*<sup>9</sup>

In order for the Committee to consider adding a particular disorder to the RUSP, the condition must be nominated. The Committee encourages individuals and organizations to form multi-disciplinary teams to submit nominations for conditions to be considered for inclusion on the RUSP. Teams should include researchers and/or clinicians with expertise on the condition being nominated, advocacy and/or professional organizations with knowledge of issues relevant to newborn screening, and interested consumers/individuals. A Nomination Package must be assembled and submitted to the Committee.

#### *Nomination and Prioritization Workgroup*

The Committee's Nomination and Prioritization Workgroup reviews the completed Nomination Package and compiles a summary for the Committee's consideration. The Committee decides if sufficient evidence is available, and votes to assign, or not assign, the nominated condition to the external Condition Review Workgroup. Nominators whose conditions are not assigned to the Condition Review Workgroup are provided with feedback.

#### *Condition Review Workgroup*

The external Condition Review Workgroup completes a systematic review, provides updates, and presents a final report to the Committee on assigned conditions. The Committee votes to recommend, or not recommend, adding the nominated condition to the RUSP for consideration by the Secretary. Nominators whose conditions are not recommended for addition to the RUSP are provided with

<sup>6</sup> See <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/uniformscreening.pdf>.

<sup>7</sup> See <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/recommendedpanel/uniformscreeningpanel.pdf>.

<sup>8</sup> For the lists of core and secondary conditions as of April 2013, see

<http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/recommendedpanel/uniformscreeningpanel.pdf>.

<sup>9</sup> See <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/nominatecondition/index.html>.

feedback. The Secretary makes the final decision on whether to add, or not add, a recommended condition to the RUSP.<sup>10</sup>

#### X-linked Adrenoleukodystrophy's Former Nomination

The Stop ALD Foundation nominated ALD for consideration in 2012, but it did not pass the SACHDNC's internal review and therefore was not sent to the Condition Review Workgroup.<sup>11</sup>

#### **Effect of Proposed Changes**

HM 1165 urges Congress to recommend that X-linked Adrenoleukodystrophy be included in the Recommended Uniform Screening Panel for state newborn screening programs by the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

#### **B. SECTION DIRECTORY:**

Not applicable.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

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<sup>10</sup> For the latest Nominated Conditions, see

<http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/nominatecondition/workgroup.html#conditions>.

<sup>11</sup> The decision letter is available at

<http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/nominatecondition/reviews/alddecisionletter.pdf>.



D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

HM 1165

2014

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to recommend that X-linked  
 Adrenoleukodystrophy (ALD) be included in the  
 Recommended Uniform Screening Panel for state newborn  
 screening programs by the United States Department of  
 Health and Human Services.

WHEREAS, Adrenoleukodystrophy is a type of hereditary  
 condition that causes damage to the membrane surrounding nerve  
 cells in the brain, and

WHEREAS, screening of newborns can identify the presence of  
 this disease of the central nervous system, which is inherited  
 as an X-linked recessive trait and is characterized by  
 blindness, deafness, tonic spasms, and mental deterioration,  
 NOW, THEREFORE,

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

That the Congress of the United States is urged to  
 recommend that X-linked Adrenoleukodystrophy (ALD) be included  
 in the Recommended Uniform Screening Panel for state newborn  
 screening programs by the Secretary's Advisory Committee on  
 Heritable Disorders in Newborns and Children of the United  
 States Department of Health and Human Services.

HM 1165


2014

26           BE IT FURTHER RESOLVED that copies of this memorial be  
27    dispatched to the President of the United States, to the  
28    President of the United States Senate, to the Speaker of the  
29    United States House of Representatives, and to each member of  
30    the Florida delegation to the United States Congress.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1199 Orange County Civic Facilities Authority, Orange County  
**SPONSOR(S):** Antone  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel MF	Rojas 
2) State Affairs Committee			

**SUMMARY ANALYSIS**

The Orange County Civic Facilities Authority (Authority) was created in 1969 for the purpose of financing the construction, renovation, maintenance and operation of facilities in Orange County. Specifically, the Authority issued bonds to finance the renovation of the Citrus Bowl. The creation of the Authority predated the establishment of the tourist development tax, which has since replaced the Authority as the preferred financing mechanism for facility projects in Orange County. Presently, all debt previously issued by the Authority has been paid in full.

HB 1199 repeals ch. 2005-324, L.O.F., and abolishes the Authority. The bill transfers all assets and liabilities of the Authority to the Orange County Board of County Commissioners. Because the Authority has no assets or liabilities, this bill has a fiscally neutral impact on Orange County.

The bill provides that the act shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Orange County Civic Facilities Authority is a dependent special district that was created by ch. 69-1382, L.O.F., and amended by subsequent special acts. The charter of the Authority was codified and re-enacted by ch. 2005-324, L.O.F.

The Authority was created for the purpose of planning, developing, constructing, acquiring, owning, reconstructing, extending, enlarging, repairing, improving, relocating, equipping, maintaining, and operating facilities in Orange County designed for the holding of conventions and expositions and civic, cultural, recreational, athletic, and similar events and activities.

The Authority is overseen by an 11 member board nominated by various cities in Orange County and appointed by the Orange County Board of Commissioners. The Authority is required to meet from time to time to carry out its duties, such as adopting a resolution for a proposed budget to present to the Board of County Commissioners. The Authority has the power to borrow money and perform other actions necessary to carry out the operation of civic facilities in Orange County. However, the Authority must obtain written consent from the Board of County Commissioners to undertake any action that the cost of which would exceed \$25,000.<sup>1</sup>

The Authority predated the establishment of the tourist development tax financing mechanism, and was originally created for the purpose of issuing bonds for the renovation of the Citrus Bowl in Orlando. Currently, Orange County does not use the Authority as a financing mechanism and all debt previously issued by the Authority has been paid in full.<sup>2</sup>

##### **Effect of Proposed Changes**

HB 1199 repeals ch. 2005-325, L.O.F., and abolishes the Orange County Civic Facilities Authority. The bill transfers all assets and liabilities of the Authority to the Orange County Board of County Commissioners. Because the Authority has no assets or liabilities, this bill has a fiscally neutral impact on Orange County.

#### B. SECTION DIRECTORY:

- |           |   |
|-----------|---|
| Section 1 | Repeals ch. 2005-324, L.O.F.  |
| Section 2 | Transfers all assets and liabilities of the Authority to the Orange County Board of County Commissioners. |
| Section 3 | Provides that the act shall take effect upon becoming law.  |

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 12, 2013

<sup>1</sup> Section 4(17), Orange County Civic Facilities Authority Charter.

<sup>2</sup> Economic Impact Statement, January 29, 2014.

WHERE? The *Orlando Sentinel*, a daily newspaper published at Orlando, in Orange County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? n/a

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

The Authority paid off its bonded indebtedness in 2010 and now serves only as an advisory board.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

# Orlando Sentinel

Published Daily

State of Florida } S.S.  
COUNTY OF ORANGE

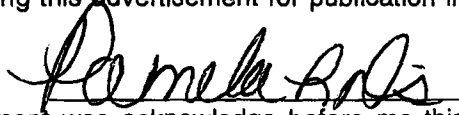
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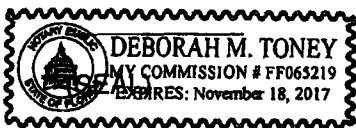
Orange County Attorney's Office  
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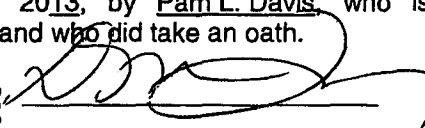
Before the undersigned authority personally appeared Pam L. Davis, who on oath says that he/she is the Legal Advertising Representative of Orlando Sentinel, a daily newspaper published at Orlando in Orange County, Florida; that the attached copy of advertisement, being a Public Notice in the matter of Intent to Seek Legislation - 2014 In Orange County was published in said newspaper in the issue; of 12/12/13

Affiant further says that the said Orlando Sentinel is a newspaper published at Orlando, in said Orange County, Florida, and that the said newspaper has heretofore been continuously published in said Orange County, Florida, daily and has been entered as second-class mail matter at the post office in Orlando in said Orange County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



The foregoing instrument was acknowledge before me this 12 day of December, 2013, by Pam L. Davis, who is personally known to me and who did take an oath.





#### NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to seek legislation before the 2014 Legislature, or 2014 Legislative Sessions, or the 2014 Legislature and any Special or Extended Sessions for passage of an act relating to the Orange County Civic Facilities Authority, Orange County, Florida; repealing chapters 71-803, 72-625, 73-569, 77-611, 78-575 and 2005-324, Laws of Florida; abolishing the district; transferring all assets and liabilities of the district to Orange County; providing an effective date.

Lila I. McHenry  
Assistant County Attorney  
Orange County Attorney's Office  
P.O. Box 1393  
Orlando, FL 32802

COR1265065

12/12/2013

Order# 1265065



HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: 1199 HB  
SPONSOR(S): Representative Antone  
RELATING TO: Orange County Civic Facilities Authority  
(Indicate Area Affected (City, County, or Special District) and Subject)  
NAME OF DELEGATION: Orange County Legislative Delegation  
CONTACT PERSON: Kelley Teague  
PHONE NO.: (407) 421-4863 E-Mail: kelley.teague@ocfl.net

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: January 30, 2014

Location: Orange County Admin Building, Chambers

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE December 12, 2013

Where? Orlando Sentinel County Orange

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [x] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [x] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
Delegation Chair (Original Signature)

3-17-14  
Date

Darren M Soto  
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES  
2014 ECONOMIC IMPACT STATEMENT FORM

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

BILL#: HB 1199  
SPONSOR(S): Rep. Antone  
RELATING TO: Orange County Civic Facilities Authority ("CFA")  
(Indicate Area Affected (City, County or Special District) and Subject)

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ 0	\$ 0
Revenue increase due to bill:	\$ _____	\$ _____

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Civic Facilities Authority has already paid off its bonded indebtedness in 2010 and now serves only as an advisory board.



**III. FUNDING SOURCE(S):**

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ 0	\$ 0
State:	\$ 0	\$ 0
Federal:	\$ 0	\$ 0

**III. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: N/A

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2. Advantages to Businesses: N/A

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3. Advantages to Government: Increased efficiency for Orange County and Orlando in not having to provide support and file reports on an entity that no longer serves any purpose.

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

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2. Disadvantages to Businesses: None

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---

3. Disadvantages to Government: None

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**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:  
None

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2. Impact on the Open Market for Employment:  
None

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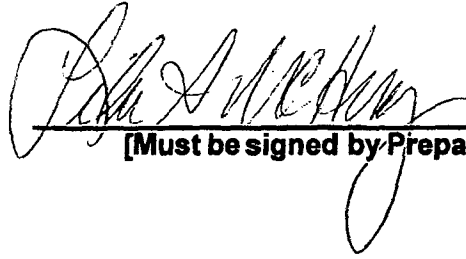
V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

CFA existed to issue bonds for Citrus Bowl. City of Orlando now handles operation and

renovation of Citrus Bowl with tourist development tax assistance from Orange County.

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name: Lila I. McHenry

1/29/14  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Senior Assistant County Attorney

REPRESENTING : Orange County

PHONE: 407-836-7320

E-MAIL ADDRESS: lila.mchenry@ocfl.net

1                                   A bill to be entitled  
2           An act relating to the Orange County Civic Facilities  
3           Authority, Orange County; repealing chapter 2005-324,  
4           Laws of Florida; abolishing the authority;  
5           transferring assets and liabilities of the authority;  
6           providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

- 9  
10           Section 1. Chapter 2005-324, Laws of Florida, is repealed.  
11           Section 2. The Orange County Civic Facilities Authority is  
12 abolished. All assets and liabilities of the authority are  
13 transferred to the Board of County Commissioners of Orange  
14 County in accordance with s. 189.4045(2), Florida Statutes.  
15           Section 3. This act shall take effect upon becoming a law.





**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1229 Port of Palm Beach District, Palm Beach County  
**SPONSOR(S):** Rooney, Jr.  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	800 Rojas <i>JR</i>
2) State Affairs Committee			

**SUMMARY ANALYSIS**

This bill codifies, amends, reenacts, and repeals all special acts and court decrees relating to Port of Palm Beach District (District) to create a single, unified charter. In addition to the current provisions from prior special acts, HB 1229 makes the following substantive changes to the District's charter:

- adding regulation of port facilities to the District's purpose;
- updating boundary description details;
- granting proprietary and regulatory authority to the District as a subdivision of Florida;
- increasing commissioner salaries to \$15,000 with allowable annual adjustments of up to 3 percent by a majority vote of the commission (current compensation is \$9,500 annually);
- adding board authority to act for the development and regulation of projects and facilities;
- adding board authority to construct and maintain wharfs and piers;
- removing provisions for insurance coverage for the immediate dependents of the District's employees, agents, and officers;
- removing board authorization to obtain a group travel insurance plan for the District's employees, agents, and officers;
- removing provision ratifying and approving all previously adopted insurance plans;
- removing requirement that any commissioner participating in any insurance plan must pay for their own pro rata premium;
- adding language allowing for the City of Riviera Beach to conduct plan review and inspection of port facilities or alternatively allowing the District to use the provisions of s. 553.791, F.S., for these purposes;
- changing allowable rate of interest on bonds, revenue bonds, and outstanding obligations to comply with s. 215.84, F.S.;
- specifically authorizing the District to use s. 553.791, F.S., for project or facility plan review and inspection and providing that the District is not subject to any local government plan review or inspection fees; and
- removing the \$200,000 assessment limit on the special ad valorem tax.

According to the Economic Impact Statement, the commissioner's salary increase will cost \$27,500 in Fiscal Year 2014-2015 and \$28,325 in Fiscal Year 2015-2016. These increases are paid for by proceeds of port tenant user fees and not through the District's taxing authority. The District may levy up to two mills of ad valorem tax.

This act is effective upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### The Port of Palm Beach

The Port of Palm Beach District (District) is an independent special taxing district established by ch. 7081, L.O.F, in 1915. The District covers a land area of 971 square miles, approximately 50 percent of Palm Beach County. A board of five commissioners is elected at large by the voters within the District. Its administration is through an executive director and professional staff. The District has statutory authority to levy ad valorem millage tax but has not done so since 1975.

##### *Exports*

Unlike most ports in the United States, the Port of Palm Beach is an export port, with approximately 80 percent of its cargo being exported. The majority of the exported cargo goes toward supporting the island nations of the Caribbean. The Port of Palm Beach supplies 60 percent of everything consumed in the Bahamas and is an essential shipping nexus to the rest of the Caribbean.

In addition to intermodal capacity, the port is a major modal point for the shipment of bulk sugar, molasses, cement, utility fuels, water, produce, and breakbulk items. All of the exported raw sugar that is produced in the Glades area, almost 900,000 tons, is shipped through the Port of Palm Beach.

The port also handles diesel fuel, molasses, liquid asphalt, and other bulk commodities. There is also substantial tonnage involved in the movement of heavy lift and project cargos.

##### *Employment and Port Operations*

The District and its tenants combine to be one of the larger employers in Palm Beach County and is an economic engine for the county. Approximately 2,400 people are employed directly and indirectly because of the port, which contributes \$260 million in business revenue and \$12 million in state and federal taxes.

The Port of Palm Beach is the fourth busiest container port of Florida's 14 deepwater ports and is the 18th busiest container port in the United States. Over \$7 billion worth of commodities moves through the port each year. The Bahamas Celebration cruise ship is based at the port. Sailing every other day for the Bahamas, it brings 275,000 passengers to the port, which is an additional significant economic impact for Palm Beach County.

##### *Florida East Coast Railway Company*

The Florida East Coast Railway Company services the docks and piers through the port's industrial rail switching operations. It is the only port facility in south Florida operating a rail system with pier-side box, hopper, and intermodal cars operating 24 hours a day. Located on port property are six miles of trackage for intermodal transfers and handling.

##### Independent Special Districts

A "special district" is "a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet."<sup>1</sup> Special districts are

created to provide a variety of services, such as mosquito control, beach facilities, children's services,<sup>2</sup> fire control and rescue,<sup>3</sup> or drainage control.<sup>4</sup> An "independent special district" is characterized by having a governing board the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality.<sup>5</sup>

### The Uniform Special District Accountability Act

The 1989 Legislature enacted ch. 189, F.S., the "Uniform Special District Accountability Act," to consolidate and unify the provisions of existing law relating to the creation and accountability of special districts. The act continues to provide for the general governance of special districts, addressing issues such as the creation and operation of special districts, financial reporting requirements, funding authority, election of board members, compliance with general law provisions such as public records and meetings requirements, and comprehensive planning within special districts.

### Codification

Codification is the process of bringing a special district's charter up-to-date by consolidating it in one place. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Current law provides for codification of all special district charters by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.<sup>6</sup> Reenactment of existing law pursuant to s. 189.429, F.S., should not be construed to accomplish the following:

- grant additional authority nor to supersede the authority of an entity;
- modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and
- affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

However, such reenactment will maintain exceptions to law contained in special acts reenacted pursuant to the section.

The special acts and court decrees composing the charter of the District have not been codified into a single, comprehensive act as required by s. 189.429, F.S.

### Requirements of Section 189.404(2), F.S.

Section 189.404(2), F.S., prohibits<sup>7</sup> special laws or general laws of local application which exempt a special district certain from certain statutory requirements.<sup>8</sup> These include provisions on district elections,<sup>9</sup> bond referenda,<sup>10</sup> the issuance of bonds without a referendum,<sup>11</sup> reporting to affected local

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<sup>2</sup> Section 125.901, F.S.

<sup>3</sup> Section 191.002, F.S.

<sup>4</sup> Section 298.01, F.S.

<sup>5</sup> Section 189.403(3), F.S.

<sup>6</sup> Section 189.429, F.S.

<sup>7</sup> Ch. 189, F.S., including s. 189.404(2), F.S., was passed by a 3/5 majority in each chamber. Under the Florida Constitution, a law passed with a 3/5 majority vote may be amended or repealed only by another 3/5 majority vote. Art. III, s. 11(a)(21), Fla. Const.; *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977).

<sup>8</sup> The entire subsection applies to the creation of a new special district. Only paragraphs 189.404(2)(b), (2)(c), and (2)(d), F.S., appear to apply to the recodification of an existing district's charter.

<sup>9</sup> Section 189.405, F.S.

general-purpose governments about district public facilities,<sup>12</sup> requirements for public notice and conducting public meetings,<sup>13</sup> and budget and financial reporting requirements.<sup>14</sup>

## Effect of Proposed Changes

HB 1229 amends and codifies special acts and court decrees currently comprising the District's charter, integrating them into a single, unified charter. This charter is reenacted and the remaining special acts and court decrees are repealed. This bill revises, restructures, and reorganizes certain existing charter language, deletes obsolete provisions, removes some restrictions, and provides new authorities to the District.

In addition to the current provisions from prior special acts, HB 1229 makes the following changes to the District's charter:

- adding regulation of port facilities to the District's purpose;
- updating boundary description details;
- granting proprietary and regulatory authority to the District as a subdivision of Florida;
- amending election procedures so as to bring them into statutory compliance;
- increasing commissioner salaries to \$15,000 with allowable annual adjustments of up to 3 percent by a majority vote of the commission (current compensation is \$9,500 annually);<sup>15</sup>
- updating and expanding definitions;<sup>16</sup>
- adding board authority to act for the development and regulation of projects and facilities;
- adding board authority to construct and maintain wharfs and piers;
- removing provisions for insurance coverage for the immediate dependents of the District's employees, agents, and officers;
- removing board authorization to obtain a group travel insurance plan for the District's employees, agents, and officers;
- removing provision ratifying and approving all previously adopted insurance plans;
- removing requirement that any commissioner participating in any insurance plan must pay for their own pro rata premium;
- adding language allowing for the City of Riviera Beach to conduct plan review and inspection of port facilities or alternatively allowing the District to use the provisions of s. 553.791, F.S., for these purposes;<sup>17</sup>
- changing allowable rate of interest on bonds, revenue bonds, and outstanding obligations to comply with s. 215.84, F.S.;
- removing requirement that advertisement for bids be published in a financial newspaper in New York City, New York;
- specifically authorizing the District to use s. 553.791, F.S., for project or facility plan review and inspection and providing that the District is not subject to any local government plan review or inspection fees;
- removing the \$200,000 assessment limit on the special ad valorem tax;<sup>18</sup> and
- deleting obsolete language.

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<sup>10</sup> Section 189.408, F.S.

<sup>11</sup> Section 189.4085, F.S.

<sup>12</sup> Section 189.415, F.S.

<sup>13</sup> Section 189.417, F.S. This section expressly references ch. 286, F.S. Section 189.417(2), F.S.

<sup>14</sup> Section 189.418, F.S.

<sup>15</sup> According to the Economic Impact Statement, this will cost \$27,500 in Fiscal Year 2014-2015 and \$28,325 in Fiscal Year 2015-2016. These increases are paid for by proceeds of port tenant user fees.

<sup>16</sup> The charter defines certain costs differently than s. 315.02, F.S.; thus, this may be considered an exemption from general law and House Rule 5.5(b) may apply.

<sup>17</sup> This change is removed in the proposed amendment, the passage of which would require compliance with the Florida Building Code, ch. 553, F.S.

<sup>18</sup> See "III. Comments: C. Drafting Issues or Other Comments," below.

According to the Economic Impact Statement, the commissioner's salary increase will cost \$27,500 in Fiscal Year 2014-2015 and \$28,325 in Fiscal Year 2015-2016. These increases are paid for by proceeds of port tenant user fees and not through the District's taxing authority. The District may levy up to two mills of ad valorem tax.

This act is effective upon becoming law.

**B. SECTION DIRECTORY:**

- Section 1: Provides for codification of all special acts and court decrees relating to the Port of Palm Beach District; and provides legislative intent.
- Section 2: Provides that chapters 74-570, 75-468, 81-459, 87-523, 90-462, 95-467, and 99-457, L.O.F., are amended, codified, reenacted, and repealed as provided.
- Section 3: Provides the recreated and reenacted charter provisions.
- Section 4: Provides for the repeal of chapters 74-570, 75-468, 81-459, 87-523, 90-462, 95-467, and 99-457, L.O.F.
- Section 5: Provides an effective date.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 2, 2014

WHERE? The *Palm Beach Post*, a daily newspaper published in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### Potential Tax Increase Requiring Referendum

Current law requires that the annual special ad valorem tax not exceed the lesser of 2 mills or \$200,000. HB 1229 removes the \$200,000 limit, which may be interpreted as a tax increase. Therefore, the District may be required to conduct a referendum if it collects ad valorem tax in excess of \$200,000. According to the Economic Impact Statement, the District does not plan to levy taxes through 2016.

##### Compliance with s. 189.404(2), F.S.

The bill does not explicitly exempt the Port District from the requirements of s. 189.404(2), F.S. The bill does not address the substance of ss. 189.4085, 189.415, 189.417, or 189.418, F.S., but does provide election requirements in accordance with s. 189.405, F.S. Additionally, the bill specifically provides that revenue bonds are not subject to referendum unless constitutionally required while s. 189.408, F.S., provides that the Constitution or general law may require such referenda. Therefore, if a general law applicable to the District requires a bond referendum, the bill does not comply with s. 189.408, F.S. Thus, HB 1229 may only partially comply with s. 189.404(2), F.S.

##### Exemption from General Law

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 3, 2014, the Local & Federal Affairs Commission will consider an amendment removing new language regarding compliance with the Florida Building Code and therefore returning this section to the original charter language currently in the District's special act.

Rep. Rooney  
HB 1229

Port of Palm Beach  
NOTICE OF INTENT TO SEEK  
LEGISLATION

The Commission for the Port of Palm Beach, an independent special district in Palm Beach County Florida hereby gives notice pursuant to Article III, section 10 of the Florida Constitution and section 11.02, Florida Statutes of its intent to seek legislation before the 2014 Florida Legislature. The legislation provides for: codification of all previous special acts governing the Port as required by section 189.429, Florida statutes; conformation of the Port charter to general laws enacted since 1974 governing the activities of special purpose local governments and ports; clarification the Port's authority to regulate facility development and operations on Port property; clarification of the Port's authority to conduct project or facility plan review and inspection pursuant to section 553.791, Florida Statutes; authorization for the Port Commission to establish Commission compensation by majority vote, subject to certain limits; removal of a cap of \$200,000 on ad valorem tax collection; establishment of an effective date.

PUB: The Palm Beach Post  
1-2/2-14 #178336

Signed Rosemary Hindmarch

Donna S Taylor 1/21/2014

Sworn to and subscribed before 01/21/2014.  
Who is personally known to me.

LEWIS LONGMAN & WALKER PA

# PROOF OF PUBLICATION

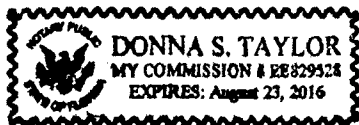
STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Rosemary Hindmarch, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice

was published in said newspaper on  
First date of Publication 01/02/2014 and last date of  
Publication 01/02/2014

Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.

NOTICE OF INTENT  
Ad ID: 371823  
Ad Cost: 141.04



**Port of Palm Beach  
NOTICE OF INTENT TO SEEK  
LEGISLATION**

The Commission for the Port of Palm Beach, an independent special district in Palm Beach County Florida hereby gives notice pursuant to Article III, section 10 of the Florida Constitution and section 11.02, Florida Statutes of its intent to seek legislation before the 2014 Florida Legislature. The legislation provides for: codification of all previous special acts governing the Port as required by section 189.429, Florida statutes; conformation of the Port charter to general laws enacted since 1974 governing the activities of special purpose local governments and ports; clarification the Port's authority to regulate facility development and operations on Port property; clarification of the Port's authority to conduct project or facility plan review and inspection pursuant to section 553.791, Florida Statutes; authorization for the Port Commission to establish Commission compensation by majority vote, subject to certain limits; removal of a cap of \$200,000 on ad valorem tax collection; establishment of an effective date.

PUB: The Palm Beach Post  
1-2/2-14 #178336



HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1229

SPONSOR(S): Rep. Patrick Rooney

RELATING TO: Port of Palm Beach
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Palm Beach

CONTACT PERSON: Rachael Ondrus Merlan

PHONE NO.: (561) 818-8833 E-Mail: rmerlan@pbcgov.org

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [x] NO [ ]

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [x] NO [ ]

Date hearing held: December 18, 2013

Location: Solid Waste Authority Auditorium, 7501 North Jog Road, West Palm Beach, FL 33412

(3) Was this bill formally approved by a majority of the delegation members?

YES [x] NO [ ]

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES [x] NO [ ] DATE January 2, 2014

Where? Palm Beach Post County Palm Beach

Referendum in lieu of publication: YES [ ] NO [x]

Date of Referendum

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [x] NOT APPLICABLE [ ]

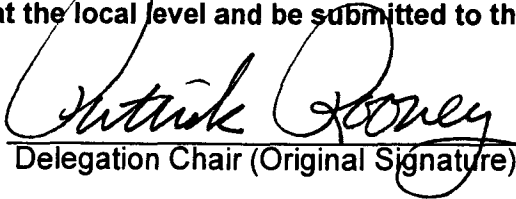
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [x] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
Delegation Chair (Original Signature)

1-15-14  
Date

Rep. Patrick Rooney  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2014 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** 1229  
**SPONSOR(S):** Rooney  
**RELATING TO:** Port of Palm Beach  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ 0	\$ 0 *
Revenue increase due to bill:	\$ 0	\$ 0

*\*While the bill does remove a \$200,000 ad valorem tax cap and potentially authorize the levy of 2 mills, the Board has no plans to levy taxes through 2016.*

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$27,500	\$ 28,325 *

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

*\*The cost increases represent a \$5,500 salary increase for Board members in 2014/15 and A 3% increase in 2015/16. There are no plans to increase current pension insurance and related benefits. All increases are paid for by Port Tenant user fees.*

**III. FUNDING SOURCE(S):**

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ 0	\$ 0 *
State:	\$ 0	\$ 0
Federal:	\$ 0	\$ 0

*\*There are no funds anticipated to be received as a result of this legislation. There is future potential for The levy of up to 2 mills of ad valorem tax.*

**III. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: *The bill is primarily a codification which conforms the Port Charter with current law.*
2. Advantages to Businesses: *The bill is primarily a codification which conforms the Port Charter with current law.*
3. Advantages to Government: *The bill is primarily a codification which conforms\* the Port Charter with current law.*

*\*Potentially, the Port may have the authority to levy up to 2 mills of tax in the future.*

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

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2. Disadvantages to Businesses: None

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3. Disadvantages to Government: None

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**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

*There should be minimal impact on competition. The Port maintains an open door To all marine commerce.*

2. Impact on the Open Market for Employment:

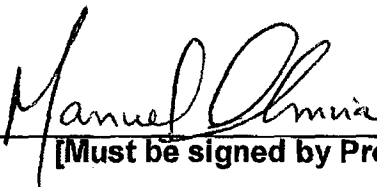
*There should be minimal impact on competition. The Port maintains an open door To all marine commerce.*

**V. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

*Review of Port Financial and operational records.*

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name: Manuel Almira

1/1-14/  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Executive Director

REPRESENTING: Port of Palm Beach

PHONE: 561-383-4100

E-MAIL ADDRESS: malmira@portofpalmbeach.com

**HOUSE OF REPRESENTATIVES  
2014 LOCAL BILL AMENDMENT FORM**

***Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local & Federal Affairs Committee staff prior to consideration. An Amendment Form is not required for technical amendments.***

**BILL NUMBER:** HB 1229

**SPONSOR(S):** Rep. Patrick Rooney

**RELATING TO:** Port of Palm Beach, Palm Beach County  
[Indicate Area Affected (City, County or Special District) and Subject]

**SPONSOR OF AMENDMENT:** Rep. Patrick Rooney

**CONTACT PERSON:** Rachael Ondrus

**PHONE NO:** 561-818-8833 **E-MAIL:** rondrus@pbcgov.org

**REVIEWED BY STAFF OF THE LOCAL & FEDERAL AFFAIRS COMMITTEE** **[x]**  
\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**

*(Attach additional page(s) if necessary)*

The stricken language deletes new language added to the current charter regarding compliance with the Florida Building Code and returns this section to original charter language that exists today in the Port's special act.

**II. REASON/NEED FOR AMENDMENT:**

*(Attach additional page(s) if necessary)*

The inserted language confirms that the Port will comply with applicable provisions of Chapter 553, F.S., the Florida Building Code.

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES  NO  NOT APPLICABLE

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES  NO  NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES [ ] NO [x]

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local & Federal Affairs Committee prior to consideration of the amendment.

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES [ ] NO [x] UNANIMOUSLY APPROVED [ ]

The amendment is not substantive and does not alter the Port's special act.

  
Delegation Chair (Original Signature)

4-1-14  
Date

Rep. Patrick Rooney  
Print Name of Delegation Chair



1                   A bill to be entitled  
 2           An act relating to the Port of Palm Beach District,  
 3           Palm Beach County; codifying, amending, reenacting,  
 4           and repealing special acts relating to the district;  
 5           providing severability and purpose; repealing chapters  
 6           74-570, 75-468, 81-459, 87-523, 90-462, 95-467, and  
 7           99-457, Laws of Florida; providing territorial  
 8           boundaries; providing jurisdiction; providing powers;  
 9           providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Pursuant to s. 189.429, Florida Statutes, this  
 14 act constitutes the codification of all special acts and court  
 15 decrees relating to the Port of Palm Beach District. It is the  
 16 intent of the Legislature in enacting this act to provide a  
 17 single, comprehensive special act charter for the district,  
 18 including all current legislative authority granted to the  
 19 district by its several legislative enactments and any  
 20 additional authority granted by this act. It is further the  
 21 intent of the Legislature that this act preserve all district  
 22 authority in addition to any authority contained in chapter 298,  
 23 Florida Statutes.

24           Section 2. Chapters 74-570, 75-468, 81-459, 87-523, 90-  
 25 462, 95-467, and 99-457, Laws of Florida, are amended, codified,  
 26 reenacted, and repealed as herein provided.

27 Section 3. The Port of Palm Beach District, Palm Beach  
 28 County, is re-created, and the charter for such district is re-  
 29 created and reenacted to read:

30 ARTICLE I

31 PURPOSE

32 Section 1. Name.—The name of the district shall continue  
 33 to be the "Port of Palm Beach District."

34 Section 2. Purposes.—The purposes of the changes as  
 35 contained in this act are to provide an integrated charter of  
 36 the powers and safeguards necessary for the desired promotion,  
 37 development, and regulation of the facilities and services of  
 38 the Port of Palm Beach and to provide for the liberal  
 39 construction of this act so as to effectuate the purposes  
 40 thereof for the welfare and convenience of the citizens and  
 41 taxpayers of the Port of Palm Beach District and of the Port of  
 42 Palm Beach District and the County of Palm Beach.

43 ARTICLE II

44 GENERAL PROVISIONS

45 No obligations or contracts of the Port of Palm Beach  
 46 District, including revenue certificates heretofore issued, the  
 47 issuance of tax anticipation notes, and any and all proceedings  
 48 heretofore begun for any improvement, for the borrowing of  
 49 money, or for the issuing of revenue certificates, shall be  
 50 impaired or voided by this act and such debts, obligations,  
 51 contracts, and revenue certificates shall pass to and shall be  
 52 binding upon the Port of Palm Beach District. All such

53 proceedings heretofore begun for the construction of any  
 54 improvements or for the borrowing of money and issuing of  
 55 revenue certificates may be continued and completed and binding  
 56 upon the Port of Palm Beach District, as said district shall  
 57 continue to exist with provisions relating to jurisdiction,  
 58 powers, and duties being supplemented, amended, and repealed by  
 59 this act.

60 ARTICLE III

61 BOUNDARIES

62 The following shall continue to be the territory known as  
 63 the "Port of Palm Beach District" and shall consist of so much  
 64 of Palm Beach County as is described and embraced in the  
 65 following boundaries:

66  
 67 Beginning at the point of intersection of the Atlantic  
 68 Ocean with the Township line between Townships T-41  
 69 and 42 South; thence run West along said Township line  
 70 and continue West to the Western Boundary of Palm  
 71 Beach County, Florida; thence run South along the  
 72 Western Boundary of said Palm Beach County to a point  
 73 where the Township line between Townships 45 and 46  
 74 South according to the United States Government  
 75 Survey, if extended West, would intersect said West  
 76 line of said Palm Beach County, thence run East to the  
 77 Township Line between Townships 45 and 9G South, and  
 78 continuing East along said Township line to its

79 intersection with the Range Line between Ranges R-41  
 80 and 92 East; thence North along the Range Line between  
 81 Ranges R-41 and 42 East to the point of intersection  
 82 of said Range Line with the Township Line between  
 83 Townships 43 and 44 South; thence run East along the  
 84 Township Line between Townships 43 and 44 South; to  
 85 the Atlantic Ocean; thence run North along the West  
 86 Shore of the Atlantic Ocean to the point of beginning;  
 87 all being in Palm Beach County, Florida.

88 ARTICLE IV

89 GOVERNING BODY

90 Section 1. Commissioners.—The governing body of the Port  
 91 of Palm Beach District shall be known as and designated the  
 92 "Port of Palm Beach District Board of Commissioners" and shall  
 93 be composed of five members who shall be elected as provided for  
 94 in Article V. The Port of Palm Beach District shall constitute a  
 95 body politic and a body corporate and is deemed to be a  
 96 political subdivision of the state within the meaning of  
 97 sovereign immunity from taxation, with proprietary and  
 98 regulatory authority in the same manner as counties and other  
 99 political subdivisions of the state.

100 Section 2. Powers.—Said governing body shall have all  
 101 powers of a body corporate, including, but not limited to, the  
 102 power to sue and be sued as a corporation in said name in any  
 103 court; to make contracts; to adopt and use a common seal and  
 104 alter the same at its pleasure; to buy, hold, lease, sell,

105 exchange, and convey such real estate and personal property as  
 106 the board may deem proper to carry out the purposes of this  
 107 charter; to appoint and employ a chief engineer, a consulting  
 108 engineer, an attorney or attorneys, an accountant or  
 109 accountants, a traffic consultant or traffic consultants, and  
 110 any and all such other consultants, agents, and employees as the  
 111 board may deem necessary; and to borrow money and to issue  
 112 negotiable promissory notes, bonds, revenue certificates, or  
 113 other evidence of indebtedness therefor, in order to enable said  
 114 governing body to carry out this charter.

115 Section 3. Quorum.—At any meeting of the board of  
 116 commissioners, three commissioners shall constitute a quorum for  
 117 the transaction of business, but in the event a quorum is not  
 118 present, the commissioner or commissioners so present may  
 119 adjourn the meeting to some future date.

120 ARTICLE V

121 ELECTION OF BOARD OF COMMISSIONERS

122 Section 1. Conduct of affairs.—The Port of Palm Beach  
 123 District Board of Commissioners shall consist of five  
 124 commissioners, each elected by districtwide vote of the  
 125 qualified electors within the Port of Palm Beach District for a  
 126 term of 4 years. Each candidate for commissioner shall file and  
 127 qualify in one of five groups, designated 1, 2, 3, 4, and 5.

128 Section 2. Requirements of commissioners.—All members of  
 129 the Port of Palm Beach District Board of Commissioners shall be  
 130 duly qualified electors of Palm Beach County and citizens of the

131 United States of America, all of whom must reside within the  
 132 limits of the Port of Palm Beach District. A change of legal  
 133 residence of any commissioner beyond the limits of the Port of  
 134 Palm Beach District shall create a vacancy in such office.

135 Section 3. Election laws.—All existing and future general  
 136 laws of the state which regulate and control primaries and  
 137 elections in connection with county offices are hereby adopted  
 138 for and made applicable to the Port of Palm Beach District.

139 Section 4. Term of office.—At the general election to be  
 140 held in 1976, commissioners elected for groups 1, 2, and 3 shall  
 141 be elected for a term of 4 years. At said election in 1976,  
 142 commissioners for groups 4 and 5 shall be elected for a term of  
 143 2 years. Thereafter, each commissioner elected for all said five  
 144 groups shall be elected for a term of 4 years.

145 Section 5. Bond of commissioners.—Within 30 days after  
 146 assuming the duties of the office of Commissioner of the Port of  
 147 Palm Beach District, the commissioner shall execute and deliver  
 148 to the Port of Palm Beach District a good and sufficient bond,  
 149 executed by himself or herself as principal and a surety company  
 150 licensed to do business in the state as surety, in the principal  
 151 sum of \$25,000 conditioned upon his or her faithful performance  
 152 as such Commissioner of the Port of Palm Beach District of the  
 153 duties thereof. Each bond so given shall be approved by and  
 154 filed with the board of commissioners of said district. The  
 155 failure of any person who is elected or who is appointed as

156 commissioner to give such bond within 30 days after he or she  
 157 has assumed such office shall create a vacancy in such office.

158 Section 6. Vacancies on board.—Any vacancy occurring on  
 159 the board of commissioners shall be filled by the other  
 160 commissioners appointing a person to hold such office for the  
 161 unexpired term; however, if there should be as many as two  
 162 vacancies simultaneously, for any cause whatsoever, said  
 163 vacancies shall be filled by appointment by the Governor and the  
 164 commission members so appointed by the Governor shall serve  
 165 until the next general election is held within the district, at  
 166 which time said vacancies shall be filled according to the  
 167 election laws as provided in section 3, with the term of office  
 168 of each commissioner so elected to be for the unexpired term of  
 169 the commission seat on the board that he or she is filling, or  
 170 for a full term of 2 or 4 years, as the case may be.

171 ARTICLE VI

172 ORGANIZATION AND COMPENSATION OF BOARD OF COMMISSIONERS

173 Section 1. Organization of board.—As soon as practicable,  
 174 after the Commissioners of the Port of Palm Beach District have  
 175 been elected or appointed and have qualified, they shall meet  
 176 and elect the officers of the district as provided in section 2.

177 Section 2. Officers.—The officers of the port district  
 178 shall be chosen from the membership of the board of  
 179 commissioners, and said commissioners shall elect a chairperson,  
 180 a vice chairperson, and a secretary-treasurer. Said officers'  
 181 terms shall be at the pleasure of a majority of the board.

182       Section 3. Compensation of commissioners.—The initial  
 183 salary of each commissioner shall be \$15,000. Thereafter, the  
 184 salary may be adjusted annually by up to 3 percent by a majority  
 185 vote of the commission.

186       Section 4. Secretary-treasurer bond.—The secretary-  
 187 treasurer of the Port of Palm Beach District shall execute and  
 188 deliver to said district a good and sufficient bond, executed by  
 189 himself or herself as principal with a surety company licensed  
 190 to do business in the state as surety, in the principal sum of  
 191 \$25,000, conditioned upon his or her faithful performance as  
 192 secretary-treasurer of the Port of Palm Beach District and his  
 193 or her duties thereof, with said bond to be in addition to the  
 194 bond given by each of the commissioners as provided in section 5  
 195 of Article V. Said bond shall be approved by and filed with the  
 196 board of commissioners of said district, and if the secretary-  
 197 treasurer should fail to give such bond within 30 days after he  
 198 or she has assumed the office of secretary-treasurer, said  
 199 misfeasance shall create a vacancy in such office and a vacancy  
 200 on the board of commissioners.

201       Section 5. Present officers to continue.—The organization  
 202 of the present Board of Commissioners of the Port of Palm Beach  
 203 District shall continue, and the officers as selected by the  
 204 commission shall continue in office, as the officers of the  
 205 district, as provided hereinabove.

206                                   ARTICLE VII

207                                   DEFINITIONS



208 As used in this charter, the following words and terms  
 209 shall be taken to include the following meanings, when the  
 210 context shall require or permit:

211 (1) "And" shall also mean "or" and the word "or" shall  
 212 also mean "and," whenever the context shall so require.

213 (2) "Board of commissioners" or "board" or "commissioners"  
 214 means the Port of Palm Beach District Board of Commissioners.

215 (3) (a) "Cost" as applied to improvements means the cost of  
 216 constructing or acquiring improvements as defined or referred to  
 217 in the definition of "project" and shall embrace the cost of all  
 218 labor and materials, the cost of all machinery and equipment,  
 219 financing charges including interest before, during, and 1 year  
 220 after the construction of said improvements, and the cost of  
 221 engineering, legal expenses, plans, specifications, and such  
 222 other expenses as may be necessary or incident to such  
 223 construction or acquisition.

224 (b) "Cost" as applied to a project acquired, constructed,  
 225 extended, or enlarged shall include the purchase price of any  
 226 project acquired; the cost of improvements; the cost of such  
 227 construction and extension or enlargement; the cost of all  
 228 lands, properties, rights, easements, and franchises acquired;  
 229 the cost of all machinery and equipment; financing charges  
 230 including interest before, during, and 1 year after the  
 231 construction of said improvements; cost of investigations,  
 232 audits, and engineering and legal services; and all other  
 233 expenses necessary or incident to determining the feasibility or

234 practicability of such acquisition or construction,  
 235 administrative expense or expenses, and all such other necessary  
 236 expenses as may be necessary or incident to the financing herein  
 237 authorized and to the acquisition and construction of a project  
 238 and the placing of the same in operation. Any obligation or  
 239 expense lawfully incurred by the district or the board of  
 240 commissioners of said district before the issuance of revenue  
 241 bonds under this charter, including, but not limited to,  
 242 engineering studies, estimates of cost and of revenues, and such  
 243 other technical, financial, or legal services in connection with  
 244 the acquisition, construction, or feasibility of any project,  
 245 may be regarded as a part of the cost of such project.

246 (4) "Federal agency" means and includes the United States  
 247 of America and any department, agency, or instrumentality  
 248 thereof heretofore or hereafter created, designated, or  
 249 established by the United States of America.

250 (5) "Fiscal year" or any term referring to the 12-month  
 251 period of operation of the district means that period of time  
 252 beginning at 12:01 a.m. on October 1 of each and every calendar  
 253 year and expiring at 12:00 midnight on September 30 of each and  
 254 every calendar year.

255 (6) "Governing body" means the board of commissioners of  
 256 the district or any board, agency, or other body that shall  
 257 hereafter be empowered to exercise the general legislative and  
 258 governing powers in said district.

259 |       (7) "Outstanding obligations" means any outstanding  
 260 | revenue bonds or certificates or general obligation bonds of  
 261 | said district.

262 |       (8) "Port district" or "district" means the Port of Palm  
 263 | Beach District, a political subdivision and independent special  
 264 | district as defined by chapter 189, Florida Statutes.

265 |       (9) "Port facilities" means all structures, terminals,  
 266 | warehouses, docks, approaches, berths, slips, roadways,  
 267 | parkways, quaywalls, jetties, lifts, turning basins, machinery,  
 268 | fixtures, equipment, and all property whatsoever, real or  
 269 | personal, tangible or intangible, now or hereafter acquired or  
 270 | constructed by said district pursuant to law, or any facilities  
 271 | of any nature hereafter or at any time acquired or constructed  
 272 | pursuant to law by said district.

273 |       (10) "Port improvements" means additions, extensions, or  
 274 | improvements to the existing port facilities of the district of  
 275 | every type and kind now or hereafter authorized by law, or the  
 276 | acquisition or construction of any new port facilities of any  
 277 | type or kind now or hereafter authorized by law.

278 |       (11) "Port manager" means the person managing the  
 279 | operation of the Port Marine facilities as designated by the  
 280 | Port of Palm Beach District Board of Commissioners.

281 |       (12) "Project" means one or any combination of two or more  
 282 | of the following: harbor, port, shipping, and oceanographic  
 283 | facilities of all kinds, including, but not limited to, harbors,  
 284 | channels, turning basins, anchorage areas, jetties, breakwaters,

285 waterways, canals, locks, tidal basins, wharves, docks, piers,  
 286 slips, bulkheads, public landings, warehouses, terminals,  
 287 refrigerating and cold storage plants, railroads and motor  
 288 terminals for passengers or freight, rolling stock, car ferries,  
 289 boats, and conveyors and appliances of all kinds for the  
 290 handling of storage, inspection, and transportation of freight  
 291 and the handling of passenger traffic, administration buildings,  
 292 service buildings, tunnels, other than subaqueous highway  
 293 tunnels, and may include all property, real and personal,  
 294 structures, facilities, rights, easements, the franchises  
 295 relating to any such project deemed necessary or convenient for  
 296 the acquisition, construction, purchase, or operation thereof,  
 297 and any other project or facility defined or authorized pursuant  
 298 to chapter 315, Florida Statutes, or other general law.

299 (13) "Resolution" and "motion" shall be interchangeable,  
 300 and wherever an action is required by resolution, the same may  
 301 be made by motion, and if required by motion, the same may be  
 302 made by resolution.

303 (14) "Revenue bonds" means revenue bonds, certificates, or  
 304 other obligations payable from the gross or net revenues derived  
 305 from the port facilities of the district, as provided in the  
 306 resolution that authorized their issuance, and shall include  
 307 revenue bonds issued to finance port improvements, to refund  
 308 outstanding obligations, or for both of said purposes.

309 (15) "Terminal facilities" means all property owned or  
310 leased by the Port of Palm Beach District and is not restricted  
311 to the terminal facilities that are waterfront facilities.

312 ARTICLE VIII

313 GRANT OF POWERS TO BOARD OF COMMISSIONERS

314 Section 1. General powers.—The Port of Palm Bench  
315 District, by and through its board of commissioners, in addition  
316 to powers set forth elsewhere in this charter, shall have full  
317 and complete power and authority:

318 (1) GENERAL.—To act as the governing body for the  
319 development, operation, maintenance, management, and regulation  
320 of projects and facilities as herein defined located within the  
321 district, with full power to establish and determine such  
322 policies as may be deemed necessary in the opinion of the board  
323 of commissioners of said district for the operation and  
324 promotion of district projects.

325 (2) PROJECTS.—To construct, acquire, establish, improve,  
326 extend, enlarge, reconstruct, reequip, maintain, repair, and  
327 operate any project as herein defined. This charter does not  
328 authorize the construction of oil refineries, oil tank farms, or  
329 steel mills.

330 (3) ACQUISITION AND DISPOSITION OF PROPERTY.—To acquire by  
331 purchase, gift, devise, condemnation, lease, or otherwise, real  
332 or personal property, or any estate therein, or riparian rights,  
333 or easements therein, streets and roads, public parking lots or  
334 spaces, bridges and tunnel sites, public parks, playgrounds,

335 docks, seawalls, harbors, wharves, warehouses, and any other  
 336 property, real, personal, or mixed, within the port district,  
 337 and to sell at public or private sale, or lease to public or  
 338 private entities, for public or private purposes, all or any  
 339 portion of any property now or hereafter owned by the Port of  
 340 Palm Beach District, including any such properties, port  
 341 facilities, or projects, as extended, enlarged, or improved, on  
 342 such terms and subject to such conditions as the board of  
 343 commissioners shall determine to be in the best interest of the  
 344 district.

345 (4) ACQUISITION OF HARBOR AND PORT FACILITIES.—To lay out,  
 346 construct, condemn, purchase, own, acquire, add to, maintain,  
 347 conduct, operate, build, equip, manage, replace, enlarge,  
 348 improve, regulate, control, repair, and establish jetties,  
 349 piers, quays, wharves, docks, warehouses, storehouses,  
 350 breakwaters, bulkheads, public landings, slips, seawall, turning  
 351 basins, harbors, ports, waterways, channels, moles, terminal  
 352 facilities, canals, elevators, grain bins, cold storage plants,  
 353 terminal icing plants, refrigerating plants, precooling plants,  
 354 bunkers or oil tanks, pipelines, ferries, locks, tidal basins,  
 355 tramways, cableways, railroads, anchorage areas, depots,  
 356 conveyors, modern appliances for economic handling, storage, and  
 357 transportation of freight and handling of passenger traffic, and  
 358 all other harbor improvements and facilities that the board of  
 359 commissioners may determine to be necessary for the port  
 360 district, any project, or the operation of the port facilities

361 or in connection with the operation or improvement of the Port  
 362 of Palm Beach District; to perform all customary services,  
 363 including the handling, weighing, measuring, regulating,  
 364 controlling, inspecting, and reconditioning of all commodities  
 365 and cargo received or shipped through the facilities within the  
 366 port district under the jurisdiction of the Port of Palm Beach  
 367 District.

368 (5) ESTABLISHMENT OF TRADE ZONES.—To exercise complete and  
 369 exclusive control over the port and harbor facilities within the  
 370 port district and to apply to the proper public authorities of  
 371 the United States of America for the right to establish,  
 372 operate, and maintain foreign or domestic trade zones within or  
 373 without the boundaries of the port district and to operate and  
 374 maintain such foreign and domestic trade zones. Such foreign  
 375 trade zones shall comply with federal laws and regulations  
 376 applicable to trade zones and shall be located within the  
 377 corporate limits of Palm Beach County, and the trade zone, if  
 378 operating, shall maintain trade zone operations within the  
 379 boundaries of the port district. In the event a trade zone site  
 380 is established outside the boundaries of the port district, the  
 381 county government, or, if within an incorporated area, the local  
 382 municipal government, shall have approved the establishment of  
 383 the trade zone within its jurisdiction, and such trade zone site  
 384 shall be subject to such local government's applicable codes and  
 385 ordinances. In the event the Port of Palm Beach District Board  
 386 of Commissioners approves a grant of the right to operate any

387 portion of a foreign or domestic trade zone to a private owner-  
 388 operator, such grant shall be in writing and shall include the  
 389 obligation of the owner-operator to provide to and maintain with  
 390 the Port of Palm Beach District comprehensive general liability  
 391 insurance with minimum coverage amounts as determined by the  
 392 Port of Palm Beach District, and indemnity and hold harmless  
 393 agreements for any damages, claims, liabilities, losses, fines,  
 394 demands, and costs which may arise out of the owner-operator's  
 395 acts or omissions related to such foreign or domestic trade  
 396 zone.

397 (6) IMPROVEMENT OF WATER FACILITIES.-To improve all  
 398 navigable and nonnavigable waters situated within the port  
 399 district necessary to the operation, improvement, and  
 400 maintenance of the port and harbor facilities within the port  
 401 district; to apply for and obtain permission from the United  
 402 States of America to create, improve, regulate, and control all  
 403 water and natural or artificial waterways within the port  
 404 district necessary to the operation and maintenance of the  
 405 harbor and port facilities within said district; to construct  
 406 and maintain such inlets, slips, wharfs, piers, turning basins,  
 407 and channels; and to enact, adopt, and establish rules and  
 408 regulations for the complete and exclusive exercise of  
 409 jurisdiction and control over all of the waters and harbors  
 410 within the port district.

411 (7) ESTABLISHMENT OF RATES, TOLLS, AND CHARGES.-To fix and  
 412 determine uniform rates of wharfage, dockage, warehousing,



413 storage, port, and terminal charges upon all improvements and  
 414 harbor facilities located within the terminal facilities owned  
 415 or leased by the Port of Palm Beach District, and to fix and  
 416 determine the rates, tolls, and other charges for the use of  
 417 harbor improvements and harbor facilities located within the  
 418 port district insofar as it may be permissible for the port  
 419 district to do so under the State Constitution, federal law, and  
 420 the United States Constitution.

421 (8) ESTABLISHMENT AND CONTROL OF SCHEDULE OF CHARGES BY  
 422 STEVEDORING AND LONGSHOREMEN'S COMPANIES.-To provide a procedure  
 423 whereby the board of commissioners establishes rules and  
 424 regulations concerning the publication of a schedule of charges  
 425 made by all private stevedoring and longshoremen's companies  
 426 operating within the harbor and waterfront facilities or within  
 427 the terminal facilities in the port district; to provide  
 428 reasonable rules and regulations requiring stevedoring and  
 429 longshoremen's companies to publish charges made for services  
 430 furnished within the terminal facilities; and to provide rules  
 431 and regulations establishing a procedure whereby sufficient  
 432 notice shall be given to the board of commissioners of any  
 433 proposed changes in rates or charges made by stevedoring or  
 434 longshoremen's companies operating within the terminal  
 435 facilities for their services.

436 (9) FRANCHISES, LEASES, AND RIGHTS-OF-WAY.-To grant  
 437 franchises of all kinds for the use of port, terminal, and  
 438 harbor facilities or projects within the port district upon such

439 terms and conditions, and to grant leases and rights-of-way upon  
 440 such terms and conditions, as the board of commissioners may by  
 441 resolution determine.

442 (10) EXPENDITURE OF MONEYS.—To expend the money of the  
 443 Port of Palm Beach District for any and all purposes as provided  
 444 for in this charter and for any other lawful purpose.

445 (11) BORROWING OF MONEY.—To provide, by resolution adopted  
 446 by a majority of the five members, for the borrowing of money  
 447 and to issue notes for any purpose or purposes for which bonds  
 448 or revenue certificates may be issued under this charter and to  
 449 refund the same; to issue notes in anticipation of the receipt  
 450 of the proceeds of the sale of any revenue certificates or  
 451 bonds; to secure an advance of credit for any such purpose or  
 452 purposes under a credit agreement or other agreement with any  
 453 bank or trust company or any person, firm, or corporation within  
 454 or without the state; and to secure any such borrowing, notes,  
 455 or agreement by pledge of all or any part of the available  
 456 income or revenues to be received by the district under this  
 457 charter or by an agreement to exercise any of the powers  
 458 conferred by this charter.

459 (12) TAXES AND ASSESSMENTS.—To raise annually by taxes and  
 460 assessments in the port district such sums of money as the board  
 461 of commissioners shall deem necessary for the purposes and needs  
 462 of said district within the limitations as hereinafter provided.

463 (13) RAILROAD TRANSPORTATION FACILITIES.—To construct,  
 464 purchase, sell, lease, maintain, operate, equip, replace,

465 enlarge, repair, condemn, own, and otherwise acquire, regulate,  
 466 and control a single or multiple track line or lines of railway,  
 467 and also yards, terminals, stations, warehouses, team, and other  
 468 tracks, switches, turnouts, and all buildings and appurtenances  
 469 deemed necessary and appropriate in connection therewith for the  
 470 receipt, transportation, housing, and delivery of passengers,  
 471 freight, mail, and express; to extend or connect with the lines  
 472 and facilities of any common carrier; to enter into such  
 473 contract, lease, or franchise with the Florida East Coast  
 474 Railway, and its respective successors and assigns, and any  
 475 other common carrier whatsoever as the board of commissioners  
 476 shall by resolution determine to be necessary for the  
 477 development and promotion of the shipping and transportation  
 478 facilities of said port district and the development and  
 479 promotion of the harbor, terminal facilities, and port  
 480 facilities within said port district; to acquire by grant,  
 481 purchase, gift, devise, condemnation, exchange, or in any other  
 482 manner all land, easements, and rights-of-way by resolution  
 483 deemed to be necessary by the district for such purpose; to  
 484 execute whatever documents and make such arrangements as may be  
 485 necessary in the opinion of the Interstate Commerce Commission  
 486 of the United States of America, so as to avoid submitting the  
 487 entire port district to the jurisdiction of said Interstate  
 488 Commerce Commission; and to perform and comply with all rules  
 489 and regulations promulgated by the Interstate Commerce  
 490 Commission or any other state or federal agency covering the

491 operation, maintenance, development, and ownership of the  
 492 transportation facilities used in connection with the harbor and  
 493 port facilities within the district.

494 (14) OPERATION OF RAILROAD TRANSPORTATION FACILITIES AS A  
 495 SEPARATE DEPARTMENT.—To provide for the operation, maintenance,  
 496 and regulation of railroad transportation facilities within the  
 497 port district as a separate department of the port district,  
 498 with the right to maintain separate records and accounting  
 499 procedures for such department. The board of commissioners may  
 500 by resolution authorize the creation of a separate department  
 501 that shall have the authority, under the port district, to  
 502 operate railroad transportation facilities within the district  
 503 that are owned or leased by the district.

504 (15) REGULATION OF TRANSPORTATION.—To regulate the  
 505 transportation of persons and property for hire over the  
 506 streets, waterways, and property within the terminal facilities  
 507 of the district and over property owned or leased by the  
 508 district and to grant to any person, firm, or corporation  
 509 franchises for the use of the streets, roads, or other property  
 510 owned or leased by the district for the operation of any  
 511 automobile, bus, ferry, water transportation system, public  
 512 service or utility, taxicab, car for hire, "U-Drive-It" car, or  
 513 other transportation facility, and any and all other business  
 514 enterprises whatsoever, subject to the terms and restrictions of  
 515 any resolution adopted by the Port of Palm Beach District Board  
 516 of Commissioners in the manner provided therein.

517 (16) DEVELOPMENT OF PORT FACILITIES OR PROJECTS.-To guide,  
 518 stimulate, and promote the coordinated, efficient, and  
 519 beneficial development of facilities under the jurisdiction of  
 520 the port district in accordance with present and future needs  
 521 and requirements of the prosperity and welfare of the people  
 522 served by the facilities of the port district, the Port of Palm  
 523 Bench District Board of Commissioners shall have the power and  
 524 authority to promote and encourage the development of business,  
 525 agriculture, industry, commerce, and employment within the  
 526 district; to establish, directly or indirectly, oceanographic  
 527 facilities of all kinds, including, but not limited to, the  
 528 encouragement of oceanographic research, development, commerce,  
 529 and the encouragement of all businesses related to oceanographic  
 530 purposes; to conduct a campaign of information, advertising, and  
 531 publicity relating to the facilities under the jurisdiction of  
 532 the district and to disseminate any and all such information; to  
 533 encourage and cooperate (including the granting of port funds)  
 534 with public and private organizations or groups in their efforts  
 535 to publicize facilities under the jurisdiction of the port  
 536 district; to plan and carry out programs designed to enlarge and  
 537 improve trade within the state, with other states, and with  
 538 foreign countries through the use and facilities under the  
 539 jurisdiction of the district; and to advise, assist, and  
 540 cooperate (including the granting of funds) with municipal,  
 541 county, regional, and governmental planning and development  
 542 agencies in preparing and putting into effect plans and programs

543 for economic development of areas which will benefit through or  
 544 by the development of the facilities under the jurisdiction of  
 545 the district or will encourage the development of the district  
 546 and its facilities.

547 (17) APPOINTMENT OF HARBORMASTER AND OTHER NECESSARY  
 548 PERSONS.—To appoint a harbormaster and all persons necessary to  
 549 properly transact the shipping business in the Port of Palm  
 550 Beach terminals and to fix their powers and duties and  
 551 compensation. All such appointees shall serve at the pleasure of  
 552 the Palm Beach District Board of Commissioners; provided,  
 553 however, that in any event, their term of office shall terminate  
 554 with the term of office of the board of commissioners so  
 555 appointing them. This provision shall repeal chapter 313,  
 556 Florida Statutes, insofar as said statute applies to the Port of  
 557 Palm Beach District.

558 Section 2. Special powers.—The Port of Palm Beach District  
 559 shall have the following specific powers in addition to the  
 560 other powers hereinbefore or hereinafter conferred:

561 (1) PENSIONS, INSURANCE COVERAGE, AND STATE RETIREMENT.—To  
 562 provide for life, hospitalization, medical, and surgical  
 563 insurance, including disability insurance, for its employees,  
 564 agents, and officers, not their immediate dependents, on a group  
 565 insurance plan or plans approved by the board of commissioners;  
 566 to pay all or such portions of the premium or premiums thereon  
 567 as the board of commissioners, by resolution, may determine; and  
 568 to assist each and every employee, agent, and officer to come

569 under the State of Florida Retirement System as provided by  
 570 Florida Statutes. The Commissioners of the Port of Palm Beach  
 571 District may participate in any insurance plan on the same basis  
 572 as any employee.

573 (2) TAX ANTICIPATION LOANS.—To borrow money from time to  
 574 time and to issue notes in anticipation of the taxes levied in  
 575 any year, not in excess of the amount of the tax levied in such  
 576 year by the board of commissioners, and to evidence the loan or  
 577 loans incurred in anticipation of the collection of taxes, the  
 578 board of commissioners is hereby authorized to issue negotiable  
 579 tax anticipation notes, with or without interest coupons, as  
 580 said board may determine, said note or notes to mature no later  
 581 than 1 year after the date thereof and to bear interest at a  
 582 rate not exceeding the legal limit as set by the state.

583 (3) ACQUISITION OF FACILITIES.—To acquire by purchase,  
 584 grant, gift, or lease or by the exercise of the right of eminent  
 585 domain and to hold and dispose of any property, real or  
 586 personal, tangible or intangible, or any right or interest in  
 587 any such property, for or in connection with any port facilities  
 588 or projects, whether or not subject to mortgage, lien, charge,  
 589 or other encumbrance. In exercising the power of eminent domain,  
 590 proceedings shall be instituted and conducted in the name of the  
 591 Port of Palm Beach District in exact accordance with the  
 592 procedure described by chapters 73 and 74, Florida Statutes.

593 (4) FILLING IN OF LANDS.—To add to or extend, or cause or  
 594 permit to be added to or extended, any existing land, including

595 submerged land, or islands, now or hereafter owned by the  
 596 district, bordering on or being in any waters within the  
 597 district, by the pumping of sand or earth from any land, under  
 598 or above water, or by any other means of construction, as a part  
 599 of or for the purpose of providing any project or facility, or  
 600 for the purpose of improving, creating, or extending any  
 601 property of the district, for the use of or disposal of the  
 602 district.

603 (5) CONSTRUCTION OF ISLANDS.—To construct, or cause or  
 604 permit to be constructed, any island or islands in any waters  
 605 within the district by the pumping of sand or earth from any  
 606 land above or under water or by any other means of construction  
 607 as a part of or for the purpose of providing any port project or  
 608 facility herein, including, but not limited to, the creation of  
 609 any recreational area to be maintained or supervised by the  
 610 district or to be turned over to any governing body, public or  
 611 private, as a public recreational area.

612 (6) ACCESS.—To construct or permit to be constructed any  
 613 bridge, tunnel, or causeway, or any combination thereof, to,  
 614 from, or between any project. If such be within the limits of  
 615 any municipality, the consent of the governing body of said  
 616 municipality must first be obtained.

617 (7) DREDGING.—To dredge or deepen harbors, channels, and  
 618 turning basins; to cooperate with the United States of America  
 619 or any agency thereof in the dredging or deepening of any  
 620 harbor, channel, or turning basin; to enter into contracts with



621 the United States of America or with any agency thereof  
 622 concerning any such dredging or deepening project; to pay such  
 623 amounts to the United States of America or any agency thereof,  
 624 as required by the terms of such contract, and in addition  
 625 thereto to likewise contract with any private person, firm, or  
 626 corporation in connection with any of the aforesaid dredging or  
 627 deepening; and to pay such amounts as shall be required by the  
 628 terms of any such contract entered into.

629 (8) EXTEND EXISTING PROJECT.—To fill in, extend, and  
 630 enlarge, or cause or permit to be filled in, extended, and  
 631 enlarged, any existing project; to demolish and remove any and  
 632 all structures thereon or constituting a part thereof; and  
 633 otherwise to prepare the same for sale or lease in order to  
 634 provide funds for financing projects under this charter.

635 (9) ACQUIRE EXISTING PROJECTS.—To acquire any existing  
 636 projects and to fill in, extend, enlarge, or improve the same,  
 637 or to cause or permit the same to be extended, enlarged, or  
 638 improved, for any public purpose or for sale or lease for the  
 639 purpose of providing funds for the acquisition by the port  
 640 district of any project or for the payment of bonds, notes, or  
 641 other obligations of the port district or in connection with any  
 642 project.

643 (10) SALE OR LEASE OF PROJECTS.—To sell at public or  
 644 private sale or lease for public or private purposes all or any  
 645 portion of any project now or hereafter owned by the port  
 646 district, including any such project as extended, enlarged, or

647 improved, and all or any portion of any property of the district  
 648 created, extended, or enlarged under the authority of the  
 649 district, deemed necessary, in the opinion of the board of  
 650 commissioners of said district, on such terms and subject to  
 651 such conditions as the board of commissioners shall determine to  
 652 be in the best interests of the port district.

653 (11) CONTRACTS FOR PROJECTS OR FACILITIES.—To contract for  
 654 the purchase by the port district of any port facilities or a  
 655 port project, to be constructed, enlarged, extended, or improved  
 656 by any public body, agency, or instrumentality or by any private  
 657 person, firm, or corporation, and to provide for payment of the  
 658 purchase price thereof in such manner as may be deemed by the  
 659 governing body to be in the best interests of the port district,  
 660 including, but without limitation, the sale or exchange of any  
 661 property of the port district thereof or the issuance of bonds  
 662 or other obligations of the port district.

663 (12) LOANS OR GRANTS.—To accept loans or grants of money,  
 664 materials, or property at any time from the United States of  
 665 America, the State of Florida, or any agency, instrumentality,  
 666 or subdivision thereof, upon such terms and conditions as the  
 667 United States of America, the State of Florida, or such agency,  
 668 instrumentality, or subdivision thereof may impose.

669 (13) CONTROL.—To exercise jurisdiction, control, and  
 670 supervision over any port project or port facilities now or  
 671 hereafter acquired, owned, controlled, or constructed by the  
 672 port district.

673       (14) RENTALS, RATES, AND FEES.—To operate and maintain,  
 674 and to fix and collect rates, rentals, fees, and other charges,  
 675 and to provide regulations and controls for any of the services  
 676 and facilities provided by the port facilities or projects now  
 677 or hereafter acquired, owned, or constructed by the port  
 678 district, excluding state bar pilots.

679       (15) CONTRACT DEBTS.—To contract debts for the acquisition  
 680 of any port facilities or port project, or for any other  
 681 purposes of this charter, to borrow money, to make advances, and  
 682 to issue bonds or other obligations to finance all or any part  
 683 of such acquisition or acquisitions or construction or in the  
 684 carrying out of any purposes of this charter.

685       (16) ADVANCES TO UNITED STATES OF AMERICA.—To make  
 686 advances to the United States of America or any agency or  
 687 instrumentality thereof in connection with any port project or  
 688 port facilities, including, but not limited to, the dredging or  
 689 deepening of any harbor, channel, or turning basin in connection  
 690 with, or in order to serve, any port facility or any port  
 691 project.

692       (17) SURVEY RIGHTS.—To enter on any lands, waters, or  
 693 premises, within or without the port district, or within the  
 694 corporate limits of any county, port district, port authority,  
 695 or municipality, for the purpose of making surveys, soundings,  
 696 and examinations with relation to any existing or proposed port  
 697 facilities or port projects.

698       (18) CONTRACT WITH GOVERNMENTAL AGENCIES.—To contract with  
 699 the United States of America or the State of Florida or any  
 700 agency, instrumentality, or subdivision thereof, with any public  
 701 body or political subdivision, or with any private person, firm,  
 702 or corporation with reference to any one or more of the powers  
 703 granted by this charter.

704       (19) CONTRACTS IN GENERAL.—To make and enter into all  
 705 contracts and agreements and to do and perform all acts and  
 706 deeds necessary and incidental to the performance of the duties  
 707 of the board of commissioners and of the district, and of the  
 708 exercise of its powers, as provided in this charter.

709       (20) JOINT ARRANGEMENTS.—To enter into joint arrangements  
 710 with steamship lines, railroads, airlines, or other  
 711 transportation lines, or any common carrier, if in the opinion  
 712 of the board of commissioners it is advantageous for the  
 713 district to do so.

714       (21) RATES AND CHARGES.—To fix the rates of wharfage,  
 715 dockage, warehousing, storage, and port and terminal charges for  
 716 the use of the port, port terminal, and harbor facilities  
 717 located within said district and to fix and determine the rates,  
 718 tolls, and other charges for the use of harbor facilities within  
 719 said district over which the district has established  
 720 jurisdiction insofar as it may do so under this charter, the  
 721 State Constitution, federal law, and the United States  
 722 Constitution.

723 (22) REGULATION OF WATER CRAFT.-To regulate the operation,  
 724 docking, storing, and conduct of all water craft of any kind  
 725 plying or using the waterways under the control of the district.

726 (23) PURPOSES.-To do all acts and things and to enter into  
 727 all contracts and agreements necessary or convenient to carry  
 728 out the purposes of this charter.

729 (24) PUBLICIZE, ADVERTISE, AND PROMOTE.-To publicize,  
 730 advertise, and promote the activities and projects authorized by  
 731 this charter, and to promote the projects of said district, in  
 732 the manner set forth by resolution of the board of commissioners  
 733 of said district; to make known to the users, potential users,  
 734 and public in general the advantages, facilities, resources,  
 735 products, attractions, and attributes of the activities and  
 736 projects authorized by this charter; to further create a  
 737 favorable climate of opinion concerning the activities and  
 738 projects authorized and indicated by this charter; to cooperate,  
 739 including the grant or expenditure of funds, to and with other  
 740 agencies, both public and private, in accomplishing the purposes  
 741 enumerated and indicated by this charter; and in furtherance  
 742 thereof, to authorize reasonable expenditures by supporting  
 743 voucher to be filed for audit for the purposes herein  
 744 enumerated, including, but not limited to, meals, hospitality,  
 745 and entertainment of persons in the interest of promoting and  
 746 engendering good will towards the activities and projects herein  
 747 authorized.

748        (25) OTHER APPROVAL UNNECESSARY.—Except as provided in  
 749 this charter, the approval or consent of any other political  
 750 subdivision or public body, agency, or instrumentality of the  
 751 State of Florida, except the Board of Trustees of the Internal  
 752 Improvement Trust Fund, shall not be required for the approval,  
 753 grant, or exercise of any of the powers, both general and  
 754 special, granted by this charter. The State of Florida hereby  
 755 consents to the exercise of any and all powers granted by this  
 756 charter without further authorization or approval thereof by any  
 757 of its agencies or instrumentalities, except as may be required  
 758 from the Board of Trustees of the Internal Improvement Trust  
 759 Fund as to the use of any state lands lying under water and  
 760 which are necessary for the accomplishment of the purposes of  
 761 this charter. The district may consent to plan review and  
 762 inspection by the City of Riviera Beach of port facilities  
 763 specified by this charter and s. 315.03, Florida Statutes.  
 764 Alternatively, the district may in its discretion use the  
 765 procedures for review and inspections of port facilities  
 766 specified by s. 553.791, Florida Statutes. If the district used  
 767 section 553.791, Florida Statutes, no facility plan review or  
 768 inspection fee shall be due to the city.

769        (26) ADVERTISING.—To advertise the Port of Palm Beach  
 770 District and its facilities or projects therein in such manner  
 771 as the board of commissioners deems advisable and to negotiate  
 772 and contract with shipping companies and such other private  
 773 firms, persons, and institutions as the board of commissioners

774 may deem necessary for the development of the Port of Palm Beach  
 775 District and the extension of commerce through it. All expenses  
 776 incurred in exercise of the powers conferred by this subsection  
 777 shall be approved by the board of commissioners and shall be  
 778 reimbursed or paid out of the operating fund of the district.

779 ARTICLE IX

780 GENERAL OBLIGATION BONDS

781 Section 1. Authorization to issue.—The Port of Palm Beach  
 782 District, by and through its board of commissioners, shall have  
 783 the power, and is hereby authorized, to issue general obligation  
 784 bonds to finance the cost or part of the cost of the  
 785 construction, acquisition, reconstruction, extension, repair, or  
 786 improvement of any works, projects, properties, improvements, or  
 787 other purposes, except for the payment of current expenses,  
 788 which the district is authorized by this charter or any other  
 789 law to construct, acquire, or undertake.

790 Section 2. Restrictions on issuance.—Said bonds may be in  
 791 such form and denomination, and bear such rate of interest,  
 792 authorized pursuant to s. 215.84, Florida Statutes, and becoming  
 793 due at such time, but not exceeding 40 years from the date of  
 794 issuance, and upon such conditions as may be determined by the  
 795 board of commissioners of said district; further, the amount  
 796 thereof shall not exceed, in the aggregate, 15 percent of the  
 797 assessed valuation of the taxable property of the district, as  
 798 certified by the tax assessor of Palm Beach County at the time  
 799 of issue.

800       Section 3. Vote of qualified electors.-All general  
 801 obligation bonds issued by the district, except refunding bonds,  
 802 which excludes revenue bonds or certificates and time warrants,  
 803 shall be issued only after the same have been approved by the  
 804 qualified electors residing in said district as provided for in  
 805 the State Constitution.

806       Section 4. State law.-As far as practicable, and where not  
 807 inconsistent with this charter, the procedure provided in  
 808 chapter 100, Florida Statutes, shall govern.

809       Section 5. Advertisement.-In the event an election of the  
 810 qualified electors is to be held, the Port of Palm Beach  
 811 District Board of Commissioners shall by resolution order such  
 812 election to be held in the port district and shall give 30 days'  
 813 notice of said election by publication in a newspaper or  
 814 newspapers published in general circulation in said port  
 815 district once a week for 4 consecutive weeks during such period,  
 816 and no other advertisement shall be required; however, the board  
 817 of commissioners may, at their option, provide for additional  
 818 advertisements of said election.

819       Section 6. Use of Palm Beach County registration system.-  
 820 In determining the persons who are qualified registered electors  
 821 within the port district, the registration system of Palm Beach  
 822 County shall be used, and the supervisor of elections in and for  
 823 Palm Beach County shall conduct the necessary election on behalf  
 824 of the Port of Palm Beach District.



825 Section 7. Form and content of bonds.-All bonds issued  
 826 under this charter shall bear interest as provided hereinabove,  
 827 payable annually or semiannually, and both principal and  
 828 interest shall be payable at such place or places as the board  
 829 of commissioners of the district may determine. The form of such  
 830 bonds shall be fixed by resolution of the board of  
 831 commissioners, and said bonds shall be signed by the manual or  
 832 facsimile signature of the chairperson or vice chairperson, its  
 833 corporate seal to be affixed thereto, or reproduced or imprinted  
 834 thereon, attested by the manual or facsimile signature of the  
 835 secretary-treasurer of said district; however, one of said  
 836 officers shall manually apply his or her signature. Coupons  
 837 attached to said bonds shall be executed by the facsimile  
 838 signatures of said officers. The delivery at any subsequent date  
 839 of any bond and coupon so executed shall be valid, although  
 840 before the date of delivery the person or persons signing the  
 841 bonds or coupons shall cease to hold office.

842 Section 8. Registered or coupon bonds.-Bonds issued  
 843 hereunder may be either registered or coupon bonds. A coupon  
 844 bond may be registered as to principal to the holders' name on  
 845 the books of the secretary-treasurer of the board of  
 846 commissioners, with the registration being noted upon the bond,  
 847 after which no transfers shall be valid unless made on said  
 848 books of the district by the registered owner or by his or her  
 849 duly authorized agent or representative and similarly noted on  
 850 the bond. Bonds registered as to the principal may be discharged

851 from registration by being transferred to the bearer, after  
 852 which they shall be transferable by delivery, but may again be  
 853 registered as to principal as before. The registration of the  
 854 bonds as to principal shall not restrain the negotiability of  
 855 the coupons by delivery only.

856 Section 9. More than one improvement included.—In issuing  
 857 bonds under this charter, it shall be lawful for the board of  
 858 commissioners to include more than one improvement or purpose in  
 859 any bond issue.

860 Section 10. Advertising for bids.—All general obligation  
 861 bonds issued under this charter shall be advertised for sale on  
 862 sealed bids, which advertisement shall be published at least  
 863 once, not less than 14 days before the date fixed for the  
 864 reception of bids, in a newspaper of general circulation  
 865 published in the port district. The board of commissioners may  
 866 reject any and all bids. If the general obligation bonds are not  
 867 sold pursuant to such advertisements, they may be sold by the  
 868 board of commissioners at private sale within 60 days after the  
 869 date advertised for the reception of scaled bids, but no such  
 870 private sale shall be made at a price less than the most  
 871 favorable bid received at said public bidding. If not sold  
 872 within 60 days, general obligation bonds shall be readvertised  
 873 in the manner herein prescribed if the board of commissioners  
 874 deems it advisable to continue to attempt to sell said bonds. A  
 875 general obligation bond issued hereunder may not be sold for  
 876 less than 95 percent of the par value and accrued interest.

877 Section 11. Refunding bonds.—The board of commissioners  
 878 shall have the power to provide by resolution for the issuance  
 879 of refunding bonds to refund the principal and interest of an  
 880 existing bond indebtedness, for the payment of which the credit  
 881 of the Port of Palm Beach District is pledged, and such bonds  
 882 may be issued at or before maturity of the bonds to be refunded.  
 883 It is determined and declared as a matter of legislative intent  
 884 that no election to authorize the issuance of refunding bonds  
 885 shall be necessary except in cases where an election may be  
 886 required by the State Constitution. In all cases where it is not  
 887 necessary under the State Constitution to hold an election on  
 888 the issuance of such refunding bonds, such resolution shall take  
 889 effect immediately upon the adoption thereof. No other  
 890 proceedings or procedures of any character whatever shall be  
 891 required for the issuance of such bonds by the port district.

892 Section 12. Terms of refunding bonds.—The resolution of  
 893 the board of commissioners authorizing the issuance of the  
 894 refunding bonds may provide that the refunding bonds may be  
 895 issued in one or more series as the board of commissioners may  
 896 determine; may mature at such time as the board of commissioners  
 897 may determine, not to exceed 40 years after their respective  
 898 dates; may bear interest at such rates, not exceeding the  
 899 maximum rate of interest borne by the notes, bonds, or other  
 900 obligations refinanced thereby; may be in such denominations as  
 901 desired; may be in such form, either coupon or registered as  
 902 desired; may carry such registration and conversion privileges

903 as desired; may be executed in such manner and may be payable in  
 904 such medium of payment, at such place, as desired; may be  
 905 subject to such terms of redemption, with or without a premium;  
 906 may provide for the replacement of mutilated, destroyed, stolen,  
 907 or lost bonds; may be authenticated in such manner and upon  
 908 compliance with such conditions as desired; and may contain such  
 909 other terms and covenants as may be desired. Notwithstanding the  
 910 form or tenor thereof, and in the absence of an express recital  
 911 on the face thereof that the bond is not negotiable, all  
 912 refunding bonds shall at all times be, and shall be treated as,  
 913 negotiable instruments for all purposes.

914 Section 13. Validity of refunding bonds.—Refunding bonds  
 915 bearing the signatures of officers of the Port of Palm Beach  
 916 District in office on the date of the signing thereof shall be  
 917 valid and binding obligations of the port district for all  
 918 purposes, notwithstanding that before the delivery thereof, any  
 919 or all of the persons whose signatures appear thereon shall have  
 920 ceased to be officers of the port district. A resolution  
 921 authorizing refunding bonds may provide that any such refunding  
 922 bond shall be conclusively deemed to be valid and to have been  
 923 issued in conformity with this charter. The authority of the  
 924 Port of Palm Beach District to issue obligations under this  
 925 charter may be determined, and obligations to be issued under  
 926 this charter may be validated, all as provided by law.

927 Section 14. Sale or exchange of refunding bonds.—Refunding  
 928 bonds may be sold or exchanged as follows:

929       (1) In installments at different time or times, or an  
 930 entire issue or series may be sold or exchanged at one time. Any  
 931 issue or series of refunding bonds may be exchanged in part or  
 932 sold in part in installments at different times or at one time.  
 933 The refunding bonds may be sold or exchanged at any time on,  
 934 before, or after the maturity of any of the outstanding notes,  
 935 bonds, certificates, or other obligations to be refinanced  
 936 thereby.

937       (2) If the board of commissioners determines to exchange  
 938 any refunding bonds, such refunding bonds may be exchanged  
 939 privately for and in payment and discharge of any of the  
 940 outstanding notes, bonds, or other obligations of the Port of  
 941 Palm Beach District. The refunding bonds may be exchanged for a  
 942 like or greater principal amount of such notes, bonds, or other  
 943 obligations of the port district, except that the principal  
 944 amount of the refunding bonds may exceed the principal amount of  
 945 such outstanding notes, bonds, or other obligations to the  
 946 extent necessary or advisable, in the discretion of the board of  
 947 commissioners, to fund interest in arrears or about to become  
 948 due. The holder of such outstanding notes, bonds, or other  
 949 obligations need not pay accrued interest on the refunding bonds  
 950 to be delivered in exchange therefor if and to the extent that  
 951 interest is due or accrued and unpaid on such outstanding notes,  
 952 bonds, or other obligations to be surrendered.

953       (3) If the board of commissioners determines to sell any  
 954 refunding bonds, such refunding bonds shall be sold at not less

955 than 95 percent of the par at either private or public sale, in  
 956 such manner and upon such terms as the board of commissioners  
 957 shall deem best for the interest of the Port of Palm Beach  
 958 District.

959 Section 15. Expenses to be included in cost.—The cost of  
 960 any works, projects, properties, improvements, or other purposes  
 961 financed by the issuance of either general obligation bonds or  
 962 refunding bonds under this article shall include, but is not  
 963 limited to, construction costs, engineering, fiscal or financial  
 964 and legal expenses, surveys, plans and specifications, interest  
 965 during construction or acquisition and for 1 year thereafter,  
 966 initial reserve funds, discount, if any, on the sale or exchange  
 967 of bonds, acquisition of real or personal property, and such  
 968 other costs as are necessary and incidental to the construction  
 969 or acquisition of such works, projects, properties,  
 970 improvements, or other purposes and the financing thereof. The  
 971 district shall have the power to retain and enter into  
 972 agreements with engineers, fiscal agents, financial advisors,  
 973 attorneys, architects, or other consultants or advisors for the  
 974 planning, supervision, and financing of such works, projects,  
 975 properties, improvements, or other purposes upon such terms and  
 976 conditions as shall be deemed advisable to the board of  
 977 commissioners.

978 Section 16. Passage of resolutions.—Any resolution  
 979 required to be passed under this article may be adopted at a  
 980 regular or a special meeting, and at the same meeting in which

981 it is introduced, by a majority of all of the members of the  
 982 board of commissioners then in office.

983 ARTICLE X

984 REVENUE BONDS OR CERTIFICATES

985 Section 1. How issued.—The Board of Commissioners of the  
 986 Port of Palm Beach District shall have the full power to provide  
 987 by resolution for the issuance or sale of revenue bonds or  
 988 revenue certificates to provide money for any of the purposes  
 989 for which the Port of Palm Beach District has the power and  
 990 authority to expend the money, including the power to refund any  
 991 and all previous issues of bonds, and for any other lawful  
 992 purposes of the Port of Palm Beach District, and to provide that  
 993 such revenue bonds or revenue certificates and interest thereon  
 994 shall be payable as hereinafter provided.

995 Section 2. Refunding revenue bonds.—In addition to the  
 996 revenue bonds provided for in section 1, said district shall  
 997 also have power and is authorized to issue its revenue bonds for  
 998 the purpose of refunding at any time any outstanding obligations  
 999 of said district and shall further have power in the event such  
 1000 outstanding obligations have not reached maturity or are not yet  
 1001 subject to call for prior redemption to issue and sell its  
 1002 revenue bonds to:

1003 (1) Refund such outstanding obligations at their maturity  
 1004 or the first date upon which such outstanding obligations are  
 1005 callable before the stated dates of maturity thereof and deposit  
 1006 a sufficient amount of the proceeds of such revenue bonds

1007 irrevocably in escrow for the payment at maturity or redemption  
 1008 on the first call date of such outstanding obligations of all  
 1009 principal of or interest on such outstanding obligations; and  
 1010 (2) To pay all expenses incurred in the issuance thereof.

1011  
 1012 Pending the date upon which such outstanding obligations mature  
 1013 or are first callable before maturity, the district may invest  
 1014 the moneys so deposited in escrow for the payment of the  
 1015 principal of and interest on said outstanding obligations only  
 1016 in direct obligations of the United States of America maturing  
 1017 not later than the date or dates upon which such moneys so  
 1018 deposited in escrow shall be needed for the payment of maturing  
 1019 principal or interest, or the redemption on the first call date,  
 1020 of such outstanding obligations. Said revenue bonds issued to  
 1021 refund such outstanding obligations may be issued in such  
 1022 principal amount as shall be necessary, at the price received at  
 1023 the sale of such revenue bonds, to pay the principal of and  
 1024 interest, and redemption premiums, if any, on such outstanding  
 1025 obligations to the date of maturity of such outstanding  
 1026 obligations, or to the date on which such outstanding  
 1027 obligations shall be callable before maturity, and to pay all  
 1028 expenses incurred in the issuance thereof.

1029 Section 3. Payment provisions for revenue bonds.—The  
 1030 revenue bonds issued pursuant to this charter shall be payable  
 1031 from the revenues derived from the port facilities of the  
 1032 district, and the full faith and credit of said district shall



1033 | not be pledged for such revenue bonds. A holder of revenue bonds  
 1034 | does not have the right to require ad valorem taxes on real  
 1035 | estate to be levied for the payment of the principal of or  
 1036 | interest on such revenue bonds, and such revenue bonds are not  
 1037 | an indebtedness of said district within the meaning of any  
 1038 | constitutional charter or statutory limitation or for any  
 1039 | purpose. A referendum or election is not required for the  
 1040 | issuance of such revenue bonds unless such a referendum or  
 1041 | election is required by the State Constitution.

1042 |       Section 4. Partial pledging of revenues.--In providing for  
 1043 | the payment of revenue certificates or revenue bonds issued  
 1044 | pursuant to this charter, the board of commissioners may, by  
 1045 | resolution, limit the revenues pledged for the payment thereof  
 1046 | to a specific project or projects so that not all of the  
 1047 | revenues of the district at that time or in the future are  
 1048 | encumbered or, in the alternative, may specifically omit the  
 1049 | pledging of certain revenues or potential revenues.

1050 |       Section 5. Approval, interest, and term.--Such revenue  
 1051 | bonds or such revenue refunding bonds, as the case may be, may  
 1052 | be authorized to be issued under this charter to provide funds  
 1053 | for the purpose or purposes prescribed in this article, by  
 1054 | resolution or resolutions of the board of commissioners, and  
 1055 | shall take effect immediately upon adoption. It is further  
 1056 | provided that notice of intention to pass such resolution shall  
 1057 | be published once in a newspaper of general circulation within  
 1058 | the district at least 14 days before the meeting at which such

1059 resolution is adopted. Said revenue bonds shall bear interest at  
 1060 such rate or rates authorized pursuant to s. 215.84, Florida  
 1061 Statutes, payable semiannually, may be in one or more series,  
 1062 may bear such date or dates, may mature at such time or times  
 1063 not exceeding 40 years after their respective dates, may be  
 1064 payable in such medium of payment, at such place or places  
 1065 within or without the state, may carry such registration  
 1066 privileges, may lie subject to such terms of redemption, with or  
 1067 without premium, may be executed in such manner, may contain  
 1068 such terms, covenants, or conditions, and may be in such form,  
 1069 either coupon or registered, as such resolutions or subsequent  
 1070 resolutions may provide. Said revenue bonds may be sold, all at  
 1071 one time or in blocks from time to time, at public or private  
 1072 sale, or, if issued to refund outstanding obligations to be  
 1073 refunded thereby, in such manner as the governing body shall  
 1074 determine by resolution, at such price or prices, computed  
 1075 according to standard tables of bond values, as will yield to  
 1076 the purchasers or the holders of the outstanding obligations  
 1077 surrendered in exchange therefor income at a rate authorized  
 1078 pursuant to s. 215.84, Florida Statutes, per annum to the  
 1079 maturity dates of the revenue bonds so sold or exchanged on the  
 1080 money paid or the principal amount of outstanding obligations  
 1081 surrendered therefor to the district. Pending the preparation of  
 1082 the definitive revenue bonds, interim certificates or receipts  
 1083 or temporary revenue bonds in such form and with such provisions  
 1084 as the governing body may determine may be issued to the

1085 purchaser or purchasers of revenue bonds issued pursuant to this  
 1086 charter. Said revenue bonds, and such interim certificates or  
 1087 receipts or temporary revenue bonds, shall be and constitute  
 1088 negotiable instruments within the meaning of and for all  
 1089 purposes of the law merchant and the Uniform Commercial Code-  
 1090 Investment Securities Law of the state. Revenue bonds issued  
 1091 pursuant to this charter may also be delivered to the contractor  
 1092 or contractors constructing any port improvements in the  
 1093 district to be financed by the issuance of such revenue bonds in  
 1094 payment for such construction.

1095 Section 6. Covenants in resolutions.-Any resolution  
 1096 authorizing the issuance of revenue bonds under this charter may  
 1097 contain covenants as to:

1098 (1) The purpose or purposes to which the proceeds of sale  
 1099 of said revenue bonds may be applied and the securing, use, and  
 1100 disposition thereof, including, if deemed desirable, the  
 1101 appointment of a trustee or depository for such funds.

1102 (2) The use and disposition of the gross revenues derived  
 1103 from the port facilities, including the parts thereof heretofore  
 1104 or hereafter constructed or acquired, and the creation and  
 1105 maintenance of reserve funds, and including, if deemed  
 1106 desirable, the appointment of a trustee or depository for such  
 1107 funds.

1108 (3) The pledging of all or any part of the gross revenues  
 1109 derived from the port facilities, including any part thereof  
 1110 heretofore or hereafter constructed or acquired, or derived from

1111 any sources, to the payment of the principal of and interest on  
 1112 revenue bonds issued pursuant to this charter, and for such  
 1113 reserve and other funds as may be deemed necessary or desirable.

1114 (4) The fixing, establishing, and collecting of such fees,  
 1115 rates, rentals, or other charges for the use of the port  
 1116 facilities of the district, including the parts thereof  
 1117 heretofore or hereafter constructed or acquired, and the  
 1118 revision of same from time to time, as will always provide  
 1119 revenues at least sufficient to pay all of the principal of and  
 1120 interest on such revenue bonds or any other obligations payable  
 1121 from the revenues of such port facilities, including reserves  
 1122 therefor, and the expenses of operation, maintenance, and repair  
 1123 of such port facilities, to the full extent the same are not  
 1124 paid from other legally available funds, or any other payments  
 1125 required by the terms of the resolution or resolutions  
 1126 authorizing the issuance of such revenue bonds.

1127 (5) Limitations or restrictions upon the issuance of  
 1128 additional revenue bonds or other obligations payable from the  
 1129 revenues of such port facilities and the rights and remedies of  
 1130 the holders of such additional revenue bonds issued thereafter.

1131 (6) The appointment of a trustee or trustees to apply and  
 1132 hold any revenues derived from such port facilities.

1133 (7) The appointment of a trustee or trustees to act for  
 1134 and in behalf of bondholders, the manner and terms of such  
 1135 appointment, and the powers of such trustee or trustees.

1136       (8) Budgets for the annual operation, maintenance, and  
 1137 repair of such port facilities, restrictions and limitations  
 1138 upon expenditures for such purposes, and the manner of adoption,  
 1139 modification, repeal, or amendment thereof.

1140       (9) The amounts of insurance to be maintained upon such  
 1141 port facilities, or any part thereof, and the use and  
 1142 disposition of the proceeds of any such insurance.

1143       (10) The keeping of books of account relating to such port  
 1144 facilities and the audit and inspection thereof.

1145       (11) Limitations and restrictions on the right of the  
 1146 district to sell, mortgage, dispose of, or otherwise encumber  
 1147 such port facilities or any part thereof.

1148       (12) Such other additional covenants as shall be deemed  
 1149 necessary and desirable by the governing body of the district  
 1150 for the security of the holders of revenue bonds issued pursuant  
 1151 to this charter.

1152  
 1153 All such covenants and agreements shall constitute valid and  
 1154 legally binding contracts between the district and the holders  
 1155 of any revenue bonds issued pursuant to this charter, and such  
 1156 resolutions, regardless of the time of issuance and subject to  
 1157 any limitations contained in such resolutions, shall be  
 1158 enforceable by any holder or holders of such revenue bonds  
 1159 acting either for himself or herself or themselves alone or  
 1160 acting in behalf of all other holders of such revenue bonds by  
 1161 appropriate proceedings in any court of competent jurisdiction.

1162       Section 7. Validity of revenue bonds and coupons.—Any  
 1163 revenue bonds issued pursuant to this charter bearing the  
 1164 signatures of any officer or officers in office on the date of  
 1165 the signing thereof shall be valid and legally binding  
 1166 obligations, notwithstanding that before the delivery thereof  
 1167 and payment therefor any or all of the persons whose signatures  
 1168 appear thereon, or on any coupons pertaining thereto, shall have  
 1169 ceased to be officers of the district. The validity of said  
 1170 revenue bonds, or any of the coupons appertaining thereto, shall  
 1171 not be dependent on, nor affected by, the validity or regularity  
 1172 of any proceedings relating to the construction or acquisition  
 1173 of such port improvements for which said revenue bonds are  
 1174 issued or the validity or regularity of any proceedings relating  
 1175 to the establishment and collection of fees, rates, rentals, or  
 1176 other charges for the use of the port facilities of said  
 1177 district.

1178       Section 8. Lien of revenue bonds.—All revenue bonds issued  
 1179 pursuant to this charter shall have a lien upon the revenues  
 1180 derived from said port facilities to the extent and in the  
 1181 manner provided in the resolution authorizing the issuance of  
 1182 such revenue bonds, which lien shall be prior and paramount to  
 1183 any other lien or obligation of any nature against said revenues  
 1184 subsequently arising or subsequently incurred, except as may be  
 1185 provided in the resolution or resolutions authorizing such  
 1186 revenue bonds. The rank and priority of different issues of  
 1187 revenue bonds issued pursuant to this charter shall be provided

1188 in the resolution or resolutions authorizing such revenue bonds;  
 1189 however, nothing herein shall be construed to impair in any  
 1190 manner any of the rights of the holders of any outstanding  
 1191 obligations heretofore issued by the district and not  
 1192 outstanding, and the rights of the holders of revenue bonds  
 1193 pursuant to this charter shall be subject to any of the valid  
 1194 and legal rights of the holders of such outstanding obligations.

1195 Section 9. Duty to fix and collect charges.—The governing  
 1196 body of the district shall prescribe and collect fees, rates,  
 1197 rentals, or other charges for the port facilities of said  
 1198 district and shall revise such rates, fees, rentals, or other  
 1199 charges from time to time whenever necessary, and it shall be  
 1200 the mandatory duty of the district at all times to fix,  
 1201 establish, and maintain such fees, rates, rentals, or other  
 1202 charges as will produce sufficient revenues to pay when due the  
 1203 principal of and interest on all revenue bonds or other  
 1204 obligations for the payment of which such revenues are or shall  
 1205 have been pledged or encumbered, including reserves therefor,  
 1206 and to provide for any other funds that may be required pursuant  
 1207 to the resolution authorizing the issuance of such revenue  
 1208 bonds, and to provide for all expenses of operation and  
 1209 maintenance of such port facilities, to the full extent that  
 1210 such cost of operation and maintenance is not paid from other  
 1211 legally available funds.

1212 Section 10. Default provisions.—The resolution authorizing  
 1213 the issuance of such revenue bonds may provide that in the event

1214 of a default in the payment of the principal of or interest on  
 1215 the revenue bonds issued pursuant to this charter, or in the  
 1216 performance by the district of any duties imposed upon the  
 1217 district by this charter, or by any covenants or agreements  
 1218 theretofore entered into between the district and the holders of  
 1219 such revenue bonds, any holder or holders of such revenue bonds  
 1220 (unless the resolution authorizing the issuance of such revenue  
 1221 bonds shall limit the right of the appointment of a receiver to  
 1222 a specified number of the percentage of bondholders), acting for  
 1223 himself or herself or themselves alone, or also acting for all  
 1224 other holders of such revenue bonds, shall be entitled as of  
 1225 right to the appointment of a receiver of the port facilities,  
 1226 including all parts thereof heretofore or hereafter constructed  
 1227 or acquired, by any court of competent jurisdiction of the  
 1228 state. Jurisdiction shall be that prescribed by general law in  
 1229 any action or proceeding for the appointment of such receiver,  
 1230 and such receiver is authorized and empowered in the event of  
 1231 such default or defaults to take over, operate, manage, and  
 1232 control such port facilities and to collect the revenues derived  
 1233 from the use of such port facilities to the same extent and in  
 1234 the same manner as the district is authorized to do. Such  
 1235 receiver shall so operate, manage, and control such port  
 1236 facilities only under the supervision and direction of the  
 1237 appropriate circuit court, and such operation, management, and  
 1238 control shall be in the name of the district. Notwithstanding  
 1239 any provision of any other law to the contrary, such port



1240 facilities shall be deemed to be in the district's control and  
 1241 management through such court and its duly appointed receiver  
 1242 for the joint protection of the district and such bondholders.

1243 Section 11. Exemption of property and revenues from  
 1244 taxation.-All property of and all revenues derived from such  
 1245 port facilities, including such parts thereof heretofore or  
 1246 hereafter constructed or acquired, shall be exempt from all  
 1247 taxation by the state or by any county, municipality, or other  
 1248 political subdivision thereof.

1249 Section 12. Power to contract.-The district shall have  
 1250 power to contract with any person, any private or public  
 1251 corporation, the state, or any agency, instrumentality, county,  
 1252 municipality, or political subdivision thereof, or any agency,  
 1253 instrumentality, or corporation of or created by the United  
 1254 States of America, with respect to such port facilities or any  
 1255 port improvements or any parts thereof and shall also have power  
 1256 to accept and receive grants or loans from the same and in  
 1257 connection with any such contract, grant, or loan. The district  
 1258 may to stipulate and agree to such covenants, terms, and  
 1259 conditions as the governing body of the district shall deem  
 1260 appropriate.

1261 Section 13. Waiver of other control.-The fees, rates,  
 1262 rentals, or other charges for the port facilities of said  
 1263 district, when constructed, acquired, or improved as provided in  
 1264 this charter, shall not be subject to supervision, regulation,

1265 or control of any bureau, board, commission, or other like  
 1266 instrumentality of the state.

1267 Section 14. Covenants of the state.—The state covenants  
 1268 with the holders of any revenue bonds issued pursuant to this  
 1269 charter and coupons appertaining thereto that it will not in any  
 1270 manner limit or alter the powers and obligations vested by this  
 1271 charter in the district to establish and collect, in the manner  
 1272 provided in this charter, fees, rates, rentals, or other charges  
 1273 for the port facilities of the district, and to revise the same  
 1274 from time to time whenever necessary, which will always be  
 1275 sufficient to comply with and fully perform the terms of all the  
 1276 covenants and agreements made by the district with the holders  
 1277 of such revenue bonds until all principal of and interest on  
 1278 said revenue bonds and all the costs and expenses in connection  
 1279 with any action or proceedings by and on behalf of the holders  
 1280 of such revenue bonds are fully paid and discharged, or adequate  
 1281 provisions made for the payment or discharge thereof.

1282 Section 15. Covenants of district.—The board of  
 1283 commissioners covenants and agrees with any holder or holders of  
 1284 said revenue certificates or revenue bonds that the governing  
 1285 body of said district will cause, to the best of its judgment,  
 1286 the facilities of the district to be made known to all potential  
 1287 shippers and users of said district by the active promotion or  
 1288 advertising of the facilities of the district so as to attempt  
 1289 to increase the potential revenues to be derived by the  
 1290 district.

1291        Section 16. Waiver of limitations in any other law.—Any  
 1292 and all port improvements authorized herein may be constructed,  
 1293 acquired, or improved and revenue bonds or certificates issued  
 1294 pursuant to this charter without regard to, or necessity for,  
 1295 compliance with the limitations or restrictions contained in any  
 1296 other law, general, special, or local. Further, the district is  
 1297 specifically authorized to use s. 553.791, Florida Statutes, for  
 1298 project or facility plan review and inspection and shall not be  
 1299 subject to any local government plan review or inspection fees.

1300        Section 17. Power to issue.—The district, by and through  
 1301 its board of commissioners, shall have the power and authority  
 1302 to issue revenue certificates and refunding revenue certificates  
 1303 to finance the cost or part of the cost of the construction,  
 1304 acquisition, reconstruction, extension, repair, or improvement  
 1305 of any works, projects, properties, improvements, or other  
 1306 purposes, including any lawful purpose, which the district is  
 1307 authorized by this charter or any other law to construct,  
 1308 acquire, or undertake.

1309        Section 18. Expenses to be included in cost.—The cost of  
 1310 any works, projects, properties, improvements, or other purposes  
 1311 financed by the issuance of either revenue certificates or  
 1312 refunding revenue certificates under this article shall include,  
 1313 but is not limited to, construction costs, engineering, fiscal  
 1314 or financial and legal expenses, surveys, plans, and  
 1315 specifications, interest during construction or acquisition and  
 1316 for 1 year thereafter, initial reserve funds, discount, if any,

1317 on the sale or exchange of certificates, acquisition of real or  
 1318 personal property, and such other costs as are necessary and  
 1319 incidental to the construction or acquisition of such works,  
 1320 projects, properties, improvements, or other purposes and the  
 1321 financing thereof. The district shall have the power to retain  
 1322 and enter into agreements with engineers, fiscal agents,  
 1323 financial advisors, attorneys, architects, or other consultants  
 1324 or advisors for the planning, supervision, and financing of such  
 1325 works, projects, properties, improvements, or other purposes  
 1326 upon such terms and conditions as shall be deemed advisable to  
 1327 the board of commissioners of said district.

1328 Section 19. Passage of resolutions.—Any resolution  
 1329 required to be passed under this article may be adopted at a  
 1330 regular or a special meeting, and at the same meeting in which  
 1331 it is introduced, by a majority of all of the members of the  
 1332 Port of Palm Beach District Board of Commissioners then in  
 1333 office.

1334 ARTICLE XI

1335 AD VALOREM TAXES

1336 Annual levy.—The board is hereby authorized and empowered  
 1337 to levy upon all the real and personal taxable property of said  
 1338 district a special tax sufficient in amount to pay the interest  
 1339 becoming due and payable annually upon any bonds issued or to be  
 1340 issued, or money borrowed or to be borrowed, by the said  
 1341 district, for which the full faith and credit of the district is  
 1342 pledged, and also to create a sinking fund for the payment of

1343 | principal thereof at maturity, and in addition, a special tax  
 1344 | not exceeding 2 mills on the dollar of the assessed valuation of  
 1345 | taxable property in the district to pay the costs of operation,  
 1346 | maintenance, and other purposes of the district authorized and  
 1347 | prescribed by this charter. Said levy shall be made each year  
 1348 | not later than July 1 of each year by resolution of said board  
 1349 | of a majority thereof duly entered at large upon its minutes.  
 1350 | Certified copies of such resolution executed in the name of said  
 1351 | board by its chairperson and secretary under its corporate seal  
 1352 | shall be made and delivered to the Board of County Commissioners  
 1353 | of Palm Beach County, and to the comptroller of the state, not  
 1354 | later than July 15 of each and every year thereafter. It shall  
 1355 | be the duty of the commissioners of Palm Beach County to order  
 1356 | the assessor of said county to assess and the collector of said  
 1357 | county to collect the amount of taxes so assessed by the board  
 1358 | of commissioners of the district upon all the taxable real and  
 1359 | personal property in the district at the rate of taxation  
 1360 | adopted by the said board for the said year and included in said  
 1361 | resolution, and said levy shall be included in the warrant of  
 1362 | the tax assessor and attached to the assessment roll of taxes  
 1363 | for said county each year. The tax collector shall collect such  
 1364 | taxes so levied by said board in the same manner as other taxes  
 1365 | are collected, except as otherwise provided in this charter, and  
 1366 | shall pay the same to the treasurer of said board on or before  
 1367 | the 1st and 15th of each month. The said tax assessor and the  
 1368 | said tax collector shall be paid for such services by the board

1369 of commissioners of the district such commissions as shall be  
 1370 prescribed by the laws of the state. It shall be the duty of  
 1371 said comptroller to assess and levy upon all the railroad lines,  
 1372 railroad property, telegraph lines, and telegraphs situated in  
 1373 said district the amount of each such levy as in case of other  
 1374 state and county taxes, and collect said taxes thereon in the  
 1375 same manner as is required by law to assess and collect taxes  
 1376 for state and county purposes, and to remit the same to the  
 1377 treasurer of said board. All such taxes shall be held by said  
 1378 treasurer for the credit of said board and paid out by him or  
 1379 her as provided herein.

1380 ARTICLE XII

1381 EMPLOYMENT OF PORT MANAGER, EMPLOYEES, AND CONSULTANTS

1382 Section 1. Port manager and employees.—The board of  
 1383 commissioners shall have the authority to employ a port manager  
 1384 and to prescribe his or her duties and compensation; however,  
 1385 the manager of the Port of Palm Beach District shall not be a  
 1386 commissioner of the Port of Palm Beach District. The board of  
 1387 commissioners may employ or may authorize the manager to employ  
 1388 agents, clerks, and servants to administer any project under the  
 1389 rules, regulations, directions, and supervision of the port  
 1390 manager or the board of commissioners and may exact of said  
 1391 manager, agent, clerk, and servant a good and sufficient bond  
 1392 with proper surety thereon to secure the faithful performance of  
 1393 his or her or their duties in an amount and in the form  
 1394 determined by said board.

1395       Section 2. Consultants.-The board of commissioners shall  
 1396 have full power to employ such consultants and professional  
 1397 persons as said board shall deem fit and necessary and to  
 1398 prescribe the compensation to be paid to said consultants or  
 1399 professional persons. Any such contracts shall be reduced to  
 1400 writing and shall be signed by the consultant or professional  
 1401 person and by the board of commissioners, with an executed copy  
 1402 to be filed by the secretary of the board.

1403                               ARTICLE XIII

1404                               PUBLICIZING OF PORT FACILITIES

1405       Section 1. General.-The board of commissioners is hereby  
 1406 authorized and empowered to publicize, advertise, and promote  
 1407 the activities, projects, and facilities referred to in this  
 1408 charter, and said board is authorized to expend such amounts as  
 1409 it deems necessary and advisable, not to exceed 10 percent of  
 1410 the sum collected by the district from all sources, including  
 1411 its operation, but specifically excluding any taxes that are  
 1412 levied and collected, all in the preceding fiscal year of the  
 1413 district for the publicizing of the port facilities and the  
 1414 promotion thereof.

1415       Section 2. Payment of vouchers.-All obligations, expenses,  
 1416 and costs incurred under this article shall be paid when  
 1417 vouchers thereof, approved by the board of commissioners, are  
 1418 exhibited.

1419                               ARTICLE XIV

1420                               BONDS; LEGAL INVESTMENTS

1421 General obligation and refunding bonds and revenue and  
 1422 revenue refunding bonds issued by the port district under this  
 1423 charter are hereby made securities in which all public officers  
 1424 and public bodies of the state and its political subdivisions  
 1425 and all insurance companies, trust companies, banking  
 1426 associations, investment companies, executors, administrators,  
 1427 trustees, and other fiduciaries may properly and legally invest  
 1428 funds, including capital in their control or belonging to them.  
 1429 Such bonds are hereby made securities that may properly and  
 1430 legally be deposited with and received by any state or port  
 1431 district officer or any agency or political subdivision of the  
 1432 state for any purpose for which the deposit of bonds or  
 1433 obligations of the port district is now or may hereafter be  
 1434 authorized by law.

1435 ARTICLE XV

1436 AUDIT

1437 At least once each year, the Port of Palm Beach District  
 1438 Board of Commissioners shall employ a certified public  
 1439 accountant for the purpose of auditing the books of said Port of  
 1440 Palm Beach District and pay him or her a reasonable compensation  
 1441 therefor. Such audit shall be made public by publication in the  
 1442 community. An audit by the state auditor should also be  
 1443 performed at least once every 2 years. At least once each year,  
 1444 the board of commissioners shall name a committee of three  
 1445 representative businesspersons of said district for the purpose  
 1446 of auditing the books of said board. Such committee shall have



1447 the power to audit or to employ a competent accountant or  
 1448 auditor to audit the books, accounts, and records of said board  
 1449 of commissioners and of the secretary-treasurer thereof. No  
 1450 person acting on such committee within the last preceding 12  
 1451 months shall be appointed to such committee. The compensation of  
 1452 such committee shall not exceed that of the commissioners under  
 1453 this charter. Such compensation of the committee shall, together  
 1454 with a reasonable compensation for a competent auditor or  
 1455 accountant, be paid by the board of commissioners as other bills  
 1456 are paid by said board.

1457 ARTICLE XVI

1458 INVESTMENT OF PORT FUNDS

1459 The board is hereby authorized and empowered to invest the  
 1460 moneys belonging to the Port of Palm Beach District in direct  
 1461 obligations of the United States of America, certificates of  
 1462 deposits of state and national banks, general obligations of  
 1463 states, general obligations of counties, municipalities, or  
 1464 other public purpose districts of the state, bonds and  
 1465 securities not subject to limitation, obligations of agencies  
 1466 created by act of the United States Congress and authorized  
 1467 thereby to issue securities or evidences of indebtedness,  
 1468 regardless of guaranty of repayment by the United States  
 1469 Government, public housing authority obligations, and in direct  
 1470 ownership or in leasehold improvements, of land and buildings  
 1471 used by the Port of Palm Beach District in the transaction of  
 1472 its business, for such periods of time as the board shall deem

1473 to be in the best interests of the district and in keeping with  
 1474 good business practices. The board is hereby authorized and  
 1475 empowered when necessary to protect the interest of said board  
 1476 and said funds of the district, to sell and dispose of any of  
 1477 the securities and authorized investments in which said funds  
 1478 may be invested, and reinvest the proceeds thereof from time to  
 1479 time in conformity with this charter as said board shall deem  
 1480 expedient. The secretary-treasurer of the board of commissioners  
 1481 shall act as the custodian of all funds belonging to said board  
 1482 and to said district.

1483 ARTICLE XVII

1484 DISBURSEMENT OF FUNDS

1485 All funds of the district shall be disbursed upon the order  
 1486 of said board signed by any two officers thereof; however, the  
 1487 board may disburse funds of the district into an impress account  
 1488 and, when establishing said account, may authorize and designate  
 1489 the port manager or other employee of the district to disburse  
 1490 funds from said particular impress account, upon such directions  
 1491 as the board of commissioners shall give, all in keeping with  
 1492 good business practices. The port manager or employee of the  
 1493 district who has the authority to disburse funds of the district  
 1494 from any account indicated hereinabove shall at all times be  
 1495 bonded with a fidelity bond in at least an amount equal to the  
 1496 maximum amount of funds that would be held in said account at  
 1497 any one time and be subject to withdrawal by the manager or  
 1498 employee.

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ARTICLE XVIII

DEPOSITORIES

The board of commissioners shall be empowered and authorized to select as depositories, in which the funds of said board and said district shall be deposited, any bank or trust company authorized under the laws of the United States or under the laws of the state, upon such terms and conditions as said board may deem just and reasonable, and upon such terms as to security as the board shall deem proper.

ARTICLE XIX

ACTION BY RESOLUTION

All action required or authorized to be taken under this charter by the board of commissioners may be by resolution, which resolution may be adopted at the meeting of the board of commissioners at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this charter, no resolution under this charter need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the board of commissioners then in office.

ARTICLE XX

PUBLIC PURPOSES

It is hereby determined and declared that each and all of the powers conferred by this charter and the exercise thereof are proper public and proprietary purposes.

ARTICLE XXI

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ADDITIONAL AND ALTERNATIVE METHOD

This charter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, shall be regarded as supplemental and additional to the powers conferred by any other law, and shall not be regarded as in derogation of any powers now existing, nor a limitation thereof. General obligation and refunding bonds and revenue and revenue refunding bonds may be issued and any other action may be taken hereunder notwithstanding that any other law may provide for the issuance of such bonds for like purposes or the taking of like action and without regard to the requirements, restrictions, or procedural provisions contained in any other law.

ARTICLE XXII

LIBERAL CONSTRUCTION

This charter, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to effect the purposes thereof.

ARTICLE XXIII

SEVERABILITY

The provisions of this charter are severable, and it is the intention to confer the whole or any part of the powers provided herein. If any of the provisions of this charter shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall have no effect to impair any of the remaining provisions.

HB 1229

2014

1551 | Section 4. Chapters 74-570, 75-468, 81-459, 87-523, 90-  
1552 | 462, 95-467, and 99-457, Laws of Florida, are repealed.  
1553 | Section 5. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 1285 Regulation Freedom Amendment  
**SPONSOR(S):** Raulerson  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel MF	Rojas <i>gr</i>
2) State Affairs Committee			

**SUMMARY ANALYSIS**

HM 261 petitions the Congress of the United States to propose to the states an amendment to the U.S. Constitution entitled the "Regulation Freedom Amendment." The amendment would require the House and Senate to adopt proposed federal regulations by majority vote, whenever one quarter of either body objects to the proposed regulation.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This memorial does not have a fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

##### *Congressional Amendments*

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

##### *Constitutional Convention Amendments*

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

##### Federal Administrative Law

Administrative agencies of the federal government of the United States of America are controlled by the executive branch. The legislative branch has the power to create, abolish or modify the powers and



structure of administrative agencies. Laws passed by the legislative branch and actions taken by the executive branch are subject to review by the judicial branch.

Due to the size and scope of administrative agencies, the agencies have quasi-legislative (rulemaking) and quasi-judicial (adjudicatory) powers to assist them in carrying out their executive functions. The rule-making and adjudicatory powers of federal agencies are regulated by the Administrative Procedures Act.

The scope of the federal administrative state expanded greatly during the 20<sup>th</sup> century. In the 1930's, President Franklin Delano Roosevelt's New Deal programs designed to combat the Great Depression lead to the creation of a wave of new administrative agencies such as the National Labor Relations Board, the Securities and Exchange Commission, the Social Security Administration, the Federal Communications Commission, and the Tennessee Valley Authority. Since the 1930's, the scope of the federal administrative state has continued to expand. In the 1970's for instance, a wave of quality of life oriented regulations lead to the creation of the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and the Consumer Product Safety Commission (CPSC).

Critics of this vast expansion of federal administrative authority charged that it jeopardized the separation of powers in the U.S. Constitution and created a "fourth branch" of government. In response to the criticisms of the expansion of administrative power in the 1930's, the federal legislature passed the Administrative Procedures Act (APA) in 1946. The APA has been described as a "bill of rights" for the regulatory state. Administrative agencies must follow procedures established by the APA when exercising their rulemaking and adjudicatory powers.<sup>1</sup>

Administrative agencies adopt rules through the rulemaking procedures set forth in the APA. When adopting a new rule an agency must publish the proposed rule in the Federal Register, allow interested parties an opportunity to submit comments on the proposal, and incorporate in the final rule a concise general statement of the basis and purpose of the rule.

Presently, the administrative branch of the federal government is comprised of 15 cabinet level executive departments which oversee 149 dependent agencies, in addition to 72 independent agencies and government corporations.

### Cabinet Level Departments and Related Agencies

- Department of Agriculture (USDA)
  - Agricultural Marketing Service
  - Agricultural Research Service
  - Animal and Plant Health Inspection Service
  - Center for Nutrition Policy and Promotion (CNPP)
  - Economic Research Service
  - Farm Service Agency
  - Food and Nutrition Service
  - Food Safety and Inspection Service
  - Forest Service
  - Grain Inspection, Packers and Stockyards Administration
  - Marketing and Regulatory Programs (Agriculture Department)
  - National Agricultural Statistics Service
  - National Institute of Food and Agriculture
  - Natural Resources Conservation Service
  - Risk Management Agency (Agriculture Department)
  - Rural Development

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<sup>1</sup> Koch, C., et al. *Administrative Law: Cases and Material*, 6<sup>th</sup> ed., Ch. 1, part B.

- Department of Commerce (DOC)
  - Bureau of Economic Analysis (BEA)
  - Bureau of Industry and Security
  - Committee for the Implementation of Textile Agreements
  - Economics and Statistics Administration
  - Economic Development Administration (EDA)
  - International Trade Administration (ITA)
  - Minority Business Development Agency
  - National Institute of Standards and Technology (NIST)
  - National Oceanic and Atmospheric Administration (NOAA)
  - National Technical Information Service
  - National Telecommunications and Information Administration
  - Bureau of the Census
  - U.S. Patent and Trademark Office
  
- Department of Defense (DOD)
  - Department of Defense Inspector General
  - National Defense University
  - National Geospatial-Intelligence Agency
  - National Security Agency (NSA)
  - Navy
  - Pentagon Force Protection Agency
  - Prisoner of War/Missing Personnel Office
  - TRICARE Management
  - U.S. Air Force
  - U.S. Army
  - U.S. Fleet Forces Command
  - U.S. Military Academy, West Point
  - Unified Combatant Commands (Defense Department)
  - Uniformed Services University of the Health Sciences
  - Washington Headquarters Services
  - Federal Voting Assistance Program
  
- Department of Education (ED)
  - The Education Publications Center (EDPUBS)
  - Office for Civil Rights, Department of Education
  - Office of Elementary and Secondary Education (OESE)
  - Office of Postsecondary Education (OPE)
  - Office of Special Education and Rehabilitative Services (OSERS)
  - Office of Vocational and Adult Education (OVAE)
  - White House Commission on Presidential Scholars
  
- Department of Energy (DOE)
  - Energy Efficiency and Renewable Energy (EERE)
  - Fossil Energy
  - National Laboratories (Energy Department)
  - National Nuclear Security Administration
  - Nuclear Energy, Science and Technology
  - Power Administrations
  - Public Affairs
  - Science Office (Energy Department)
  
- Department of Health and Human Services (HHS)
  - Administration on Aging (AoA)

- Administration for Children and Families (ACF)
  - AIDS.gov
  - CDC National STD Hotline
  - Centers for Disease Control and Prevention (CDC)
  - Centers for Medicare & Medicaid Services (CMS)
  - Child Welfare Information Gateway
  - Eldercare Locator
  - Food and Drug Administration (FDA)
  - HHS-TIPS Fraud Hotline
  - National Runaway Switchboard (NRS)
  - National Institutes of Health (NIH)
  - National Institute of Mental Health (NIMH)
  - National Institute of Allergy and Infectious Diseases (NIAID)
  - National Health Information Center
  - Office of Child Support Enforcement (OCSE)
  - Substance Abuse and Mental Health Services Administration
- Department of Homeland Security (DHS)
    - Computer Emergency Readiness Team (US CERT)
    - Federal Emergency Management Agency (FEMA)
    - FEMA Disaster Assistance
    - Federal Law Enforcement Training Center
    - Secret Service
    - Transportation Security Administration (TSA)
    - U.S. Citizenship and Immigration Services
    - U.S. Coast Guard
    - U.S. Customs and Border Protection
    - U.S. Immigration and Customs Enforcement
- Department of Housing and Urban Development (HUD)
    - Federal Housing Administration (FHA)
    - Multifamily Housing Office
    - Office of Community Planning and Development
    - Office of Fair Housing and Equal Opportunity
    - Policy Development and Research (HUD)
    - Public and Indian Housing
- Department of Justice (DOJ)
    - Antitrust Division
    - Bureau of Alcohol, Tobacco, Firearms, and Explosives
    - Bureau of Justice Statistics
    - Bureau of Prisons
    - Community Oriented Policing Services (COPS)
    - Drug Enforcement Administration
    - Executive Office for Immigration Review
    - Federal Bureau of Investigation (FBI)
    - Marshals Service
    - Office of Justice Programs
    - Office of the Pardon Attorney
    - Parole Commission (Justice Department)
    - U.S. National Central Bureau - Interpol (Justice Department)
    - U.S. Trustee Program
- Department of Labor (DOL)
    - Employee Benefits Security Administration (EBSA)
    - Job Corps

- Mine Safety and Health Administration
- National Contact Center
- Occupational Safety and Health Administration (OSHA)
- Office of Disability Employment Policy
- Veterans' Employment and Training Service
- Women's Bureau (Labor Department)
  
- Department of State (DOS)
  - American Citizens Services and Crisis Management
  - National Passport Information Center (NPIC)
  - U.S. Mission to the United Nations
  - Visa Services
  
- Department of the Interior (DOI)
  - Bureau of Indian Affairs (BIA)
  - Bureau of Land Management (BLM)
  - Bureau of Reclamation
  - Fish and Wildlife Service
  - National Park Service (NPS)
  - Surface Mining, Reclamation and Enforcement
  - U.S. Geological Survey (USGS)
  - Bureau of Ocean Energy Management
  - Bureau of Safety and Environmental Enforcement
  
- Department of the Treasury
  - Alcohol and Tobacco Tax and Trade Bureau
  - Bureau of Engraving and Printing
  - Bureau of the Public Debt
  - Internal Revenue Service (IRS)
  - Office of the Comptroller of the Currency (OCC)
  - Taxpayer Advocacy Panel
  - United States Mint
  - Financial Management Service
  
- Department of Transportation (DOT)
  - Federal Aviation Administration (FAA)
  - Maritime Administration
  - National Highway Traffic Safety Administration
  - Pipeline and Hazardous Materials Safety Administration
  - Research and Innovative Technology Administration
  - Saint Lawrence Seaway Development Corporation
  - Surface Transportation Board
  
- Department of Veterans Affairs (VA)
  - National Cemetery Administration (NCA)
  - Veterans Benefits Administration
  - Veterans Day National Committee

#### Independent Agencies and Government Corporations

- Administrative Conference of the United States
- Advisory Council on Historic Preservation
- African Development Foundation
- AMTRAK (National Railroad Passenger Corporation)

- Broadcasting Board of Governors
- Central Intelligence Agency (CIA)
- Commission on Civil Rights
- Commodity Futures Trading Commission
- Consumer Product Safety Commission (CPSC)
- Corporation for National and Community Service
- Court Services and Offender Supervision Agency for the District of Columbia
- Defense Nuclear Facilities Safety Board
- Director of National Intelligence
- Environmental Protection Agency (EPA)
- Equal Employment Opportunity Commission (EEOC)
- Export-Import Bank of the United States
- Farm Credit Administration
- Farm Credit System Insurance Corporation
- Federal Communications Commission (FCC)
- Federal Deposit Insurance Corporation (FDIC)
- Federal Election Commission (FEC)
- Federal Energy Regulatory Commission
- Federal Housing Finance Agency
- Federal Labor Relations Authority
- Federal Maritime Commission
- Federal Mediation and Conciliation Service
- Federal Mine Safety and Health Review Commission
- Federal Reserve System
- Federal Retirement Thrift Investment Board
- Federal Trade Commission (FTC)
- General Services Administration (GSA)
- Institute of Museum and Library Services
- Inter-American Foundation
- Merit Systems Protection Board
- Millennium Challenge Corporation
- National Aeronautics and Space Administration (NASA)
- National Archives and Records Administration (NARA)
- National Capital Planning Commission
- National Council on Disability
- National Credit Union Administration (NCUA)
- National Endowment for the Arts
- National Endowment for the Humanities
- National Labor Relations Board (NLRB)
- National Mediation Board
- National Railroad Passenger Corporation (AMTRAK)
- National Science Foundation (NSF)
- National Transportation Safety Board
- Nuclear Regulatory Commission (NRC)
- Occupational Safety and Health Review Commission
- Office of Compliance
- Office of Government Ethics
- Office of Personnel Management
- Office of Special Counsel
- Office of the Director of National Intelligence
- Office of the National Counterintelligence Executive
- Overseas Private Investment Corporation

- Panama Canal Commission
- Peace Corps
- Pension Benefit Guaranty Corporation
- Postal Regulatory Commission
- Railroad Retirement Board
- Securities and Exchange Commission (SEC)
- Selective Service System
- Small Business Administration (SBA)
- Social Security Administration (SSA)
- Tennessee Valley Authority
- U.S. Trade and Development Agency
- United States Agency for International Development (USAID)
- United States International Trade Commission
- United States Postal Service (USPS)

Regulations from the Executive in Need of Scrutiny (REINS) Act

The purpose of the REINS Act is to increase accountability for and transparency in the federal regulatory process by requiring Congress to approve all new major regulations. The Act sets forth procedures federal agencies must follow to implement the act, including preparing a report to congress which classifies rules as major or non-major, lists agency actions designed to implement a statutory provision or objective, and lists the aggregate economic impact of those actions.

The Act passed the House on August 2, 2013, and was received by the Senate and referred to the Committee on Homeland Security and Governmental Affairs. The Act is presently awaiting action by the Senate.

**Effect of Proposed Changes**

HM 261 petitions the Congress of the United States to propose to the states an amendment to the U.S. Constitution entitled the “Regulation Freedom Amendment.” The amendment would require the House and Senate to adopt proposed federal regulations by majority vote, whenever one quarter of either body objects to the proposed regulation.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

**B. SECTION DIRECTORY:**

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

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House Memorial

A memorial to the Congress of the United States, urging Congress to propose to the states an amendment to the Constitution of the United States entitled the "Regulation Freedom Amendment," which would require a federal regulation be adopted by a majority vote of both houses of Congress if opposed by a specified percentage of the membership of either house.

WHEREAS, the growth and abuse of federal regulatory authority threaten our constitutional liberties, including those guaranteed by the Bill of Rights in the First, Second, Fourth, and Fifth Amendments to the Constitution of the United States, and

WHEREAS, federal regulators must be more accountable to the elected representatives of the people and not immune from such accountability, and

WHEREAS, the Declaration of Independence decried the imposition of the central government of "absolute Tyranny over these States" that "erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance," and

WHEREAS, the states too often find themselves in a similar position today, and



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25           WHEREAS, the United States House of Representatives has  
 26 passed with bipartisan support the Regulations from the  
 27 Executive in Need of Scrutiny (REINS) Act of 2013, H.R. 367, to  
 28 require that Congress approve major new federal regulations  
 29 before they may take effect, and

30           WHEREAS, the President of the United States has  
 31 unfortunately shown no inclination to sign the REINS Act if it  
 32 were passed by both houses of Congress, and

33           WHEREAS, even if enacted, the law may be repealed or not  
 34 enforced by a future Congress or the President, and

35           WHEREAS, an amendment to the United States Constitution  
 36 does not require the President's approval and cannot be waived  
 37 by a future Congress or the President, NOW, THEREFORE,

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39 Be It Resolved by the Legislature of the State of Florida:

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41           That the Florida Legislature respectfully petitions the  
 42 Congress of the United States to propose to the states an  
 43 amendment to the Constitution of the United States entitled the  
 44 "Regulation Freedom Amendment," as follows:

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46           "Whenever one quarter of the Members of the United States  
 47 House or the United States Senate transmit to the President  
 48 their written declaration of opposition to a proposed

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49            federal regulation, it shall require a majority vote of the  
50            House and Senate to adopt that regulation."

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52            BE IT FURTHER RESOLVED that copies of this memorial be  
53            dispatched to the President of the United States, to the  
54            President of the United States Senate, to the Speaker of the  
55            United States House of Representatives, and to each member of  
56            the Florida delegation to the United States Congress.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1315 Local Ethics Agency or Commission Procedures

**SPONSOR(S):** Ethics & Elections Subcommittee, McBurney and others

**TIED BILLS:** HB 1317 **IDEN./SIM. BILLS:** CS/SB 1474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ethics & Elections Subcommittee	11 Y, 0 N	Davison	Marino
2) Local & Federal Affairs Committee		Dougherty <i>SD</i>	Rojas <i>JR</i>
3) State Affairs Committee			

### SUMMARY ANALYSIS

Part III of Chapter 112, F.S., provides the Code of Ethics for Public Officers and Employees. The Commission on Ethics (Commission) is required to investigate complaints concerning breach of the public trust by public officers or employees under the Code of Ethics. Section 112.324, F.S., provides for the procedures on complaints of violations and referrals to the Commission.

Pursuant to section 112.326, F.S., the governing body of any political subdivision, by ordinance, or agency, by rule, is permitted to impose additional or more stringent standards of conduct and disclosure requirements than are contained in the Code of Ethics. The governing body of a political subdivision or agency may not adopt standards of conduct and disclosure requirements that conflict with the Code of Ethics.

The bill requires local ethics agencies and commissions to conform their ethics complaint and investigation procedures to the Commission's procedures under section 112.324, F.S.

The bill does not appear to have a fiscal impact on state government and may have an indeterminate negative fiscal impact on local governments that must modify current ethics complaint and investigative procedures.

The bill provides an effective date of October 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### ***Current Situation***

Part III of Chapter 112, F.S., provides the Code of Ethics for Public Officers and Employees. The Commission on Ethics (Commission) is required to investigate complaints concerning breach of the public trust by public officers or employees under the Code of Ethics.<sup>1</sup> Section 112.324, F.S., provides for the procedures on complaints of violations and referrals to the Commission. The Commission may only initiate an investigation upon receipt of a sworn complaint from any person or a referral from the Governor, the Florida Department of Law Enforcement, a state attorney, or a United States Attorney. A complaint against a candidate in any special, primary, or general election may not be filed with the Commission on Election Day or 30 days prior to the election, unless the complaint is based on information other than hearsay.<sup>2</sup> The Commission must transmit a copy of the complaint or referral to the alleged violator within 5 days of receipt.<sup>3</sup> The Executive Director first reviews the complaint for legal sufficiency.<sup>4</sup>

If the Executive Director determines that the complaint is sufficient to invoke the jurisdiction of the Commission, an investigation is conducted.<sup>5</sup> After the investigation is completed, the Commission reviews the complaint and investigative findings to determine whether probable cause exists to believe that a violation has occurred.<sup>6</sup> If the Commission determines that probable cause does not exist, the complaint is dismissed and all records become public record.<sup>7</sup>

If the Commission determines that probable cause exists to believe a violation has occurred, the officer or employee who is the subject of the complaint has a right to a public hearing.<sup>8</sup> The Commission does not have the authority to impose penalties if a violation is found, but rather must forward its findings to the appropriate body or official for discipline.<sup>9</sup> Also, if the Commission determines that probable cause exists, the complaint, files, and any further proceedings become public record.<sup>10</sup> The subject of any complaint may waive, in writing, confidentiality of the complaint at any time during the proceedings.<sup>11</sup>

The Commission may dismiss a complaint or referral during any stage of proceeding if it determines that the violation or alleged violation is a de minimis violation attributable to inadvertent or unintentional error. A violation is de minimis if it is unintentional and not material in nature, and if the interests of the public were protected despite the violation.<sup>12</sup>

Pursuant to section 112.326, F.S., the governing body of any political subdivision, by ordinance, or agency, by rule, may impose on its own officers and employees additional or more stringent standards of conduct and disclosure requirements than are contained in the Code of Ethics. However, a governing body may not adopt standards of conduct and disclosure requirements that conflict with the Code of Ethics. According to Integrity Florida, as of November 2012, twelve counties had adopted an

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<sup>1</sup> Art. II, s. 8(f) Fla. Const.

<sup>2</sup> s. 112.324(2)(f), F.S.

<sup>3</sup> s. 112.324(1), F.S. (2013).

<sup>4</sup> s. 112.324(3), F.S. (2013).

<sup>5</sup> *Id.*

<sup>6</sup> s. 112.324(3), F.S. (2013).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> s. 112.324(4)-(9), F.S. (2013).

<sup>10</sup> s. 112.324(4), F.S. (2013).

<sup>11</sup> s. 112.324(2)(e), F.S. (2013).

<sup>12</sup> s. 112.324 (11)(a), F.S. (2013).

ethics code that is more stringent than the state code. The more stringent requirements generally relate to voting conflicts, gifts, and financial disclosure.<sup>13</sup>

### ***Effect of Proposed Changes***

The bill amends section 112.326, F.S., to require local ethics agencies and commissions to conform their ethics complaint and investigation procedures to the Commission's procedures under section 112.324, F.S.

#### **B. SECTION DIRECTORY:**

Section 1: amends s. 112.326, F.S., requiring a local ethics agency or commission to establish certain procedures.

Section 2: provides an effective date of October 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: None.
2. Expenditures: The bill may have an indeterminate negative fiscal impact on local governments that must modify current ethics complaint and investigative procedures.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

## **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:  
Not applicable. This bill does not appear to affect revenues or expenditures of county or municipal governments.
2. Other: None.

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<sup>13</sup> *Tough Choices: Florida Counties Bridge the Ethics Policy Gap*, LeRoy Collins Institute at Florida State University and Integrity Florida, November 2012, available at <http://www.integrityflorida.org/county-ethics-report/> (last visited March 21, 2014).

**B. RULE-MAKING AUTHORITY:**

Rulemaking authority is not provided in the bill and additional rulemaking authority does not appear to be necessary.

**C. DRAFTING ISSUES OR OTHER COMMENTS: None.**

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2014, the Ethics & Elections Subcommittee considered, approved, and reported favorably a Proposed Committee Substitute revising the original bill. This analysis is drawn to the PCS.

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A bill to be entitled  
 An act relating to local ethics agency or commission procedures; amending s. 112.326, F.S.; requiring the procedures of a local ethics agency or commission to conform to certain procedures governing ethics complaints and investigations; providing an effective date.

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

Section 1. Section 112.326, Florida Statutes, is amended to read:

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part. The procedures of a local ethics agency or commission governing complaints and investigations shall conform to the procedures established under s. 112.324.

Section 2. This act shall take effect October 1, 2014.



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HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1335 Loxahatchee Groves Water District, Palm Beach County
SPONSOR(S): Pafford
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Local & Federal Affairs Committee, Flegiel MF, Rojas 9/2. Row 2: 2) State Affairs Committee.

SUMMARY ANALYSIS

The Loxahatchee Groves Water Control District (District) provides surface water management, road maintenance, and related services for the Loxahatchee Groves community and a portion of Royal Palm Beach. Its area covers 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals in Northern Palm Beach County. The District was founded in 1917 and all of its prior special acts have been codified into one special act pursuant to ch. 99-425, L.O.F., as amended by: ch. 2004-410, L.O.F.; ch. 2011-257, L.O.F.; and ch. 2012-262, L.O.F.

As a water control district, the drainage and water control provisions of state law governs its enabling special acts and authority. In addition to the powers provided in state law, the District has the power to construct, maintain, improve, and repair roadways and roads necessary to exercise the powers and duties of the District or the five member board of supervisors (Board). The District's Board may, at its discretion, accept dedication of a road within the boundaries of the District pursuant to the procedures outlined in its charter.

HB 1335 creates section 9 of the District's charter providing for the presumed dedication of right-of-way easements to the public over roads constructed by the District. Only roads that have been constructed by the District and maintained or repaired continuously and uninterruptedly by the District for seven years may be dedicated. Once dedicated, an easement vests in the road to the public for right-of-way purposes. The dedication vests automatically when a road meets all conditions set forth in section 9, regardless of whether there is a record of conveyance, dedication or appropriation to the public use.

The bill provides procedures by which a map may be filed with the county clerk to establish prima facie evidence of the existence of an easement over the dedicated roads. The bill clarifies that it does not apply to any facility of an electric facility which is located on property otherwise subject to section 9. The bill provides that the Town of Loxahatchee Groves shall continue to have traffic control jurisdiction over all public roads located within the District.

The bill provides that it shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Loxahatchee Groves Water Control District (District) provides surface water management, road maintenance, and related services for the Loxahatchee Groves community<sup>1</sup> and a portion of Royal Palm Beach. Its area covers 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals in Northern Palm Beach County.<sup>2</sup> The District was founded in 1917<sup>3</sup> and all of its prior special acts have been codified into one special act pursuant to ch. 99-425, L.O.F., later amended by: ch. 2004-410, L.O.F.; ch. 2011-257, L.O.F.; and ch. 2012-262, L.O.F.

As a water control district, the drainage and water control provisions of state law<sup>4</sup> governs its enabling special acts and authority.<sup>5</sup> In addition to the powers provided in state law, the District has the power to construct, maintain, improve, and repair roadways and roads necessary to exercise the powers and duties of the District or the five member board of supervisors (Board), including but not limited to, all roads shown on the replat of Loxahatchee Groves. Included in the District's authority is the power to:

- Provide access to and development of areas within the District, or both.
- Provide funds for such construction, maintenance, improvement, or repair through the levying of assessments pursuant to ch. 298, F.S, or special act, or both.

The District's Board may, at its discretion, accept dedication of a road within the boundaries of the District pursuant to the following procedures:<sup>6</sup>

- The landowners possessing the easements to the road must petition the board in writing for dedication of the road. Those signing the petition must agree to give the District their respective easements at no cost to the District, pursuant to policies established by the District.
- At least a simple majority of landowners on the road, on a per-acre basis, must petition the Board to dedicate the road.
- The Board then determines whether or not to accept such petition. If the Board accepts the petition, then the District will project all estimated costs<sup>7</sup> involved with the dedication of the road.
- The Board provides this estimated cost information to the affected landowners and a referendum must be held among those landowners to create a special taxing unit, consisting of all of the benefited land contiguous to and inclusive of the road to be dedicated to cover such cost. If the referendum passes by majority vote, on a per-acre basis, then the District must create a special taxing unit and levy assessments for the costs associated with the dedication of the road.

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<sup>1</sup> There are more than 1,200 homes in the District with an estimated population of 3,500. Loxahatchee Groves Water Control District, About Us, <http://www.lgwcd.org/index.php?go=home.category&categoryId=2> (last visited March 31, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Chapter 298, F.S.

<sup>5</sup> See ch. 298, F.S., and chapters 99-425, 2004-410, 2011-257 and 2012-262 L.O.F.

<sup>6</sup> Paragraph c., Section 4, Powers of the District, ch. 99-425, L.O.F., as amended by ch. 2004-410, L.O.F..

<sup>7</sup> These costs include the cost of planning, designing, and building the road or improving the existing road to meet specifications acceptable to the District, the cost of improving or replacing any culvert crossing or bridge that connects the road to be dedicated to an existing District road or roads, the cost of any eminent domain proceeding to obtain road easements from those landowners who did not sign the petition and give the District their respective easements, the cost of establishing the special taxing unit, and any other costs anticipated to be incurred by the District as a result of any action involved with the road dedication. Chapter 2004-410, L.O.F.

- If the dedication is approved, then the District will acquire, by sale or through eminent domain, the necessary easements and build the road or make the necessary improvements to the existing road to meet all District specifications.
- The road is then dedicated to the District and maintained by the District under its general maintenance assessment.

The charter preserves the District's ability, under ch. 298, F.S., to create and assess units of development.

Chapter 2011-257, L.O.F. created section 8 of the District's charter providing for the dedication of width of four roads located within the District. The section provided that the improvements of the four public roads were approved by the affected landowners participating in four separate referendum elections<sup>8</sup> held between January 1, 2009 and December 31, 2010. The affected landowners agreed to pay the costs for the road stabilization improvements for each of the respective roads through a special assessment. The width of the four roads, to the extent that they were actually constructed and maintained or repaired continuously and without interruption by the District for seven years, were dedicated through easement rights to the public pursuant to the District's charter.

The four roads dedicated by the Ch. 2011-257, L.O.F., were:

- "A" Road
- "C" Road (South)
- "C" Road (North)
- "D" Road

#### Chapter 95, Florida Statutes

Chapter 95.361, F.S., provides for the presumed dedication of roads constructed by a county, a municipality, or the Department of Transportation, and maintained or repaired continuously and uninterruptedly for four years by the county, municipality, or the Department of Transportation. The width of a road falling under the statute is deemed to be dedicated to the public to the extent it has been actually maintained for the prescribed period, whether or not the road has been formally established as a public highway. An applicable dedication vests all right, title, easement and appurtenances in and to the road in: the county, if it is a county road; the municipality, if it is a municipal street or road; or the state, if it is a road in the State Highway System or State Park Road System.

The filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has vested in the state, a county, or a municipality in accordance with statute, as duly certified by the proper authority, shall be prima facie evidence of ownership of the land by the state, county, or municipality, as the case may be.

Chapter 95.361, F.S., does not apply to water control districts that are governed by ch. 298, F.S.

#### **Effect of Proposed Changes**

HB 1335 adds section 9 to the charter of the District, which is codified in section 2 of ch. 99-425, L.O.F., as amended. The bill provides for the presumed dedication of a right-of-way easement to the public for all roads in the District that have been constructed by the District and maintained or repaired by the District continuously and uninterruptedly for seven years. The easement is dedicated over the width of the road that has actually been maintained for the prescribed period of time, whether or not the road has been formally established as a public road. The dedication vests the easement in and to the road in the public, whether or not there is a record of conveyance, dedication, or appropriation to the

<sup>8</sup> Paragraph c., section 4, Powers of the District, ch. 99-425, L.O.F., as amended by ch. 2004-410, L.O.F.

public use. The easement allows the public to travel over, under, across, upon, through and within the area of road it covers.

The bill establishes the filing of a map as prima facie evidence of the public's easement rights. To be valid, the map must be filed in the office of the clerk of the circuit court of the county where the road is located. Furthermore, the map must recite that the road has been dedicated in accordance with the procedures set forth in section 9 and must be certified by the chair and secretary of the District.

The bill provides that the provisions of section 9 shall not apply to any facility of an electric utility which is located on property otherwise subject to the section. It also provides for the Town of Loxahatchee Groves to retain traffic control jurisdiction over all public roads located within the District.

**B. SECTION DIRECTORY:**

- Section 1 Amends ch. 99-425, L.O.F., as amended; provides for the dedication of road right-of-way easements to the public; provides requirements for such dedication; provides for prima facie evidence of such public road right-of-way easements; exempts certain property of an electric utility; assigns continuing traffic control jurisdiction on all public roads within the District to the Town of Loxahatchee Groves.
- Section 2 Provides that the act shall take effect upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 16, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper published at West Palm Beach in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? n/a

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

HB 1335 adds section 9 to the charter of the District, as codified in section 2 of ch. 99-425, L.O.F.; HB 1337, which provides for the dedication of easements for public trails in Loxahatchee Groves, also adds section 9 to section 2 of ch. 99-425, L.O.F.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

LOXAHATCHEE GROVES  
WATER CONTROL DISTRICT  
NOTICE OF  
INTENTION TO APPLY FOR  
PASSAGE OF LOCAL LEGISLATION

Notice is hereby given that at the session of the Legislature of the State of Florida, which convenes March 4, 2014, application shall be made by Loxahatchee Groves Water Control District for the passage of special or local legislation, the substance of which is as follows:

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending chapter 99-425, Laws of Florida, as amended; providing for the dedication of road right-of-way easements to the public; providing requirements for such dedication; providing for prima facie evidence of such public road right-of-way easements; exempting certain property of an electric utility; assigning continuing traffic control jurisdiction on all public roads within the district to the Town of Loxahatchee Groves; providing an effective date.

Dated this 16 day of January, 2014.

LOXAHATCHEE GROVES  
WATER CONTROL DISTRICT

Loxahatchee Groves  
Water Control District  
P.O. Box 407  
Loxahatchee, FL 33470  
PUB: The Palm Beach Post  
1-22/2014 #187333

Signed *Justin Peterson*  
*April D. Emberton*

Sworn to and subscribed before 01/27/2014.  
Who is personally known to me.



APRIL D. EMBERTON  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
October 01, 2018

CALDWELL PACETTI EDWARDS ET AL

# PROOF OF PUBLICATION

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Justin Peterson, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice

was published in said newspaper on  
First date of Publication 01/22/2014 and last date of  
Publication 01/22/2014

Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.

LOXAHATCHEE GROVES  
Ad ID: 388383  
Ad Cost: 147.92

**HOUSE OF REPRESENTATIVES**  
**2014 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB 1335  
**SPONSOR(S):** Rep. Mark Pafford  
**RELATING TO:** Loxahatchee Groves Water Control District (LGWCD) - Right-of-Way Easements to the Public  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Palm Beach County Legislative Delegation  
**CONTACT PERSON:** Rachael Ondrus Merlan  
**PHONE NO.:** (561) 818-8833      **E-Mail:** rmerlan@pbcgov.org

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

**(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?**

YES  NO

**(2) Did the delegation conduct a public hearing on the subject of the bill?**

YES  NO

**Date hearing held:** December 18, 2013

**Location:** Solid Waste Authority Auditorium, 7501 North Jog Road, West Palm Beach, FL 33412

**(3) Was this bill formally approved by a majority of the delegation members?**

YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

**Has this constitutional notice requirement been met?**

**Notice published:** YES  NO  **DATE** January 22, 2014

**Where?** Palm Beach Post **County** Palm Beach

**Referendum in lieu of publication:** YES  NO

**Date of Referendum** \_\_\_\_\_



III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [x] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [x] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
Delegation Chair (Original Signature)

1-15-14  
Date

Rep. Patrick Rooney, Jr.  
Printed Name of Delegation Chair



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III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ <u>None</u>	\$ <u>None</u>
State:	\$ <u>None</u>	\$ <u>None</u>
Federal:	\$ <u>None</u>	\$ <u>None</u>

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Amending the District's enabling legislation to provide for the dedication of road right-of-way easements to the public.
2. Advantages to Businesses: Amending the District's enabling legislation to provide for the dedication of road right-of-way easements to the public.
3. Advantages to Government: Amending the District's enabling legislation to provide for the dedication of road right-of-way easements to the public.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

\_\_\_\_\_  
\_\_\_\_\_

2. Disadvantages to Businesses: None

\_\_\_\_\_  
\_\_\_\_\_

3. Disadvantages to Government: None

\_\_\_\_\_  
\_\_\_\_\_

**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

None of a material or substantive effect.  
\_\_\_\_\_  
\_\_\_\_\_

2. Impact on the Open Market for Employment:

None of a material or substantive effect.  
\_\_\_\_\_  
\_\_\_\_\_

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

N/A

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PREPARED BY:

  
\_\_\_\_\_  
[Must be signed by Preparer]

Print preparer's name:

Mary M. Viator

1/29/14  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Attorney

REPRESENTING:

Loxahatchee Groves Water Control District

PHONE:

(561) 655-0620

E-MAIL ADDRESS:

viator@caldwellpacetti.com

1                                   A bill to be entitled  
 2           An act relating to the Loxahatchee Groves Water  
 3           Control District, Palm Beach County; amending chapter  
 4           99-425, Laws of Florida, as amended; providing for the  
 5           dedication of road right-of-way easements to the  
 6           public; providing requirements for such dedication;  
 7           providing for prima facie evidence of such public road  
 8           right-of-way easements; exempting certain property of  
 9           an electric utility; assigning continuing traffic  
 10          control jurisdiction on all public roads within the  
 11          district to the Town of Loxahatchee Groves; providing  
 12          an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Section 9 is added to section 2 of chapter 99-  
 17           425, Laws of Florida, as amended, to read:  
 18           Section 9. Roads presumed to be dedicated.-  
 19           a. When a road within the district has been constructed by  
 20           the district, and when such road has been maintained or repaired  
 21           continuously and uninterruptedly for 7 years by the district, an  
 22           easement for such road over, under, across, upon, through, and  
 23           within the underlying real property for road right-of-way  
 24           purposes shall be deemed to be dedicated to the public to the  
 25           extent of the width that has been actually maintained or  
 26           repaired for the prescribed period, whether or not the road has

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 been formally established as a public road. The dedication shall  
28 vest such easement in and to the road in the public, whether or  
29 not there is a record of conveyance, dedication, or  
30 appropriation to the public use.

31 b. The filing of a map in the office of the clerk of the  
32 circuit court of the county where the road is located showing  
33 the lands and reciting on it that the road has been dedicated in  
34 accordance with subsection a., or by any other means of  
35 acquisition, duly certified by the chair and secretary of the  
36 district, shall be prima facie evidence of the public's easement  
37 rights.

38 c. This section does not apply to any facility of an  
39 electric utility which is located on property otherwise subject  
40 to this section.

41 d. The Town of Loxahatchee Groves shall continue to have  
42 traffic control jurisdiction over all public roads located  
43 within the district.

44 Section 2. This act shall take effect upon becoming a law.





HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1337 Loxahatchee Groves Water Control District, Palm Beach County  
SPONSOR(S): Pafford  
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel MF	Rojas JN
2) State Affairs Committee			

SUMMARY ANALYSIS

The Loxahatchee Groves Water Control District (District) provides surface water management, road maintenance, and related services for the Loxahatchee Groves community and a portion of Royal Palm Beach. Its area covers 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals in Northern Palm Beach County. The District was founded in 1917 and all of its prior special acts have been codified into one special act pursuant to ch. 99-425, L.O.F., as amended by: ch. 2004-410, L.O.F.; ch. 2011-257, L.O.F.; and ch. 2012-262, L.O.F.

As a water control district, the drainage and water control provisions of state law governs its enabling special acts and authority. General law grants the District broad powers to construct and maintain canals and other water control works, including the authority to acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property. In addition to maintaining and preserving water control works, general law grants the District the authority to construct and manage recreational trail facilities within the district.

HB 1337 creates section 9 of the District charter to provide for the dedication of maintenance easements to the District for all lands adjacent to canals that have been maintained by the District for district-related purposes continuously and uninterruptedly for seven years. The bill provides procedures for establishing easement rights. The bill authorizes the public to use any of these maintenance easements for recreational trail purposes, including, but not limited to, equestrian uses. Furthermore, the bill authorizes the district to issue permits to the Town of Loxahatchee Groves to construct and maintain the recreational trails established within the maintenance easements.

The bill provides that the provisions of section 9 shall not apply to any facility of an electric utility which is located on property otherwise subject to the section.

The bill provides that the act shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Loxahatchee Groves Water Control District (District) provides surface water management, road maintenance, and related services for the Loxahatchee Groves community<sup>1</sup> and a portion of Royal Palm Beach. Its area covers 12.5 square miles with 29 miles of unpaved roads and 30 miles of canals in Northern Palm Beach County.<sup>2</sup> The District was founded in 1917<sup>3</sup> and all of its prior special acts have been codified into one special act pursuant to ch. 99-425, L.O.F., later amended by: ch. 2004-410, L.O.F.; ch. 2011-257, L.O.F.; and ch. 2012-262, L.O.F.

As a water control district, the drainage and water control provisions of state law<sup>4</sup> governs its enabling special acts and authority.<sup>5</sup> General law grants the District broad powers to construct and maintain canals and other water control works. Those powers include the authority to acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property as necessary to maintain and preserve the works in and out of the District. The District also has the right to hold, control and acquire by donation or purchase and if need be, condemn any land, easement, railroad right-of-way, sluice, reservoir, holding basin or franchise, in or out of said district, for right-of-way purposes.<sup>6</sup>

General law further grants the District the authority to construct, manage, or authorize construction and management of resource-based recreational facilities that may include greenways, trails and other associated facilities within the District.<sup>7</sup>

##### **Effect of Proposed Changes**

HB 1337 adds section 9 to the charter of the District, which is codified in section 2 of ch. 99-425, L.O.F., as amended. The bill provides for the dedication of maintenance easements to the District for all lands adjacent to canals that have been maintained by the District for district-related purposes continuously and uninterruptedly for seven years. The easement is dedicated over the width of the maintenance area that has actually been used, maintained or repaired for the prescribed period of time, regardless of whether the land has been formally established as an easement in favor of the district. The dedication vests the easement in and to the land to the District, regardless of whether there is a record of conveyance, dedication, or appropriation to the public use. The easement allows the district to travel over, under, across, upon, through and within the underlying real property for maintenance purposes.

The bill establishes the filing of a map as prima facie evidence of the District's easement rights. To be valid, the map must be filed in the office of the clerk of the circuit court of the county where the land is located. Furthermore, the map must recite that the land has been dedicated in accordance with the procedures set forth in section 9 and must be certified by the chair and secretary of the District.

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<sup>1</sup> There are more than 1,200 homes in the District with an estimated population of 3,500. Loxahatchee Groves Water Control District, About Us, <http://www.lgwcd.org/index.php?go=home.category&categoryId=2> (last visited March 31, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Chapter 298, F.S.

<sup>5</sup> See ch. 298, F.S., and chapters 99-425, 2004-410, 2011-257 and 2012-262 L.O.F.

<sup>6</sup> Chapter 298.22, F.S.

<sup>7</sup> *Id.*

The bill authorizes the public to use any maintenance easement established pursuant to section 9 for recreational trail purposes. The use of recreational trails includes, but is not limited to, equestrian uses. The bill authorizes the district to issue permits to the Town of Loxahatchee Groves to construct and maintain the recreational trails established along the maintenance easements. The bill deems any permit issued by the District for perpetual use by the public for recreational trail purposes to satisfy any and all current or future state grant requirements for property control of the town.

The bill provides that the provisions of section 9 shall not apply to any facility of an electric utility which is located on property otherwise subject to the section.

**B. SECTION DIRECTORY:**

Section 1 Amends ch. 99-425, L.O.F., as amended; provides for the dedication of canal maintenance easements to the district; provides requirements for such dedication; provides for prima facie evidence of such maintenance easements; provides for the use of maintenance easements for recreational trail purposes by the public through district permits issued to the Town of Loxahatchee Groves; provides that any permit issued by the district to the town for perpetual use by the public for recreational trail purposes shall satisfy property control requirements for state grant purposes; provides applicability.

Section 2 Provides that the act shall take effect upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 25, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, FL.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? n/a

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- D. HB 1337 adds section 9 to the charter of the District, as codified in section 2 of ch. 99-425, L.O.F.; HB 1335, which provides for the dedication of right-of-way easements for roads in the District, also adds section 9 to the charter of the District.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

The Palm Beach Post  
REAL NEWS STARTS HERE  
Palm Beach Daily News

Rep. Paffard

HB 1337

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
NOTICE OF INTENTION TO APPLY FOR PASSAGE OF LOCAL LEGISLATION**

Notice is hereby given that at the session of the Legislature of the State of Florida, which convenes March 4, 2014, application shall be made by Loxahatchee Groves Water Control District for the passage of special or local legislation, the substance of which is as follows:

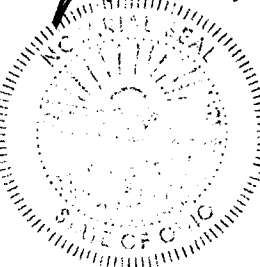
An act relating to the Loxahatchee Groves Water Control District, Palm Beach County, Florida; amending Chapter 99-425, Laws of Florida, as amended; providing for the dedication of canal maintenance easements to the district; providing requirements for such dedication; providing for prima facie evidence of such maintenance easements; providing for the use of the maintenance easements for recreational trail purposes by the public through district permits issued to the Town of Loxahatchee Groves; providing that any permit issued by the district to the Town for perpetual use by the public for recreational trail purposes shall satisfy property control requirements for state grant purposes; providing an effective date. Dated this 23rd day of January, 2014.

LOXAHATCHEE GROVES  
WATER CONTROL DISTRICT  
Loxahatchee Groves  
Water Control District  
P.O. Box 407  
Loxahatchee, FL 33470  
PUB: The Palm Beach Post  
1-25/2014 #190046

Signed

*Justin Peterson*  
*April D. Emberton*

Sworn to and subscribed before 01/28/2014.  
Who is personally known to me.



APRIL D. EMBERTON  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
October 01, 2018

CALDWELL PACETTI EDWARDS ET AL

**PROOF OF PUBLICATION**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Justin Peterson, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice

was published in said newspaper on  
First date of Publication 01/25/2014 and last date of  
Publication 01/25/2014

Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.

NOTICE OF INTENTION  
Ad ID: 393606  
Ad Cost: 175.44

**HOUSE OF REPRESENTATIVES**  
**2014 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB 1337  
**SPONSOR(S):** Rep. Mark Pafford  
**RELATING TO:** Loxahatchee Groves Water Control District (LGWCD) - Dedication of Canal Maintenance Easements to the District  
[Indicate Area Affected (City, County, or Special District) and Subject] and the use of such for recreational trail purposes by the Public  
**NAME OF DELEGATION:** Palm Beach County Legislative Delegation  
**CONTACT PERSON:** Rachael Ondrus Merlan  
**PHONE NO.:** (561) 818-8833 **E-Mail:** rmerlan@pbcgov.org

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

**(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?**  
YES  NO

**(2) Did the delegation conduct a public hearing on the subject of the bill?**  
YES  NO

**Date hearing held:** December 18, 2013

**Location:** Solid Waste Authority Auditorium, 7501 North Jog Road, West Palm Beach, FL 33412

**(3) Was this bill formally approved by a majority of the delegation members?**  
YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

**Has this constitutional notice requirement been met?**

**Notice published:** YES  NO  **DATE** January 25, 2014

**Where?** Palm Beach Post **County** Palm Beach

**Referendum in lieu of publication:** YES  NO

**Date of Referendum** \_\_\_\_\_

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [x] NOT APPLICABLE [ ]

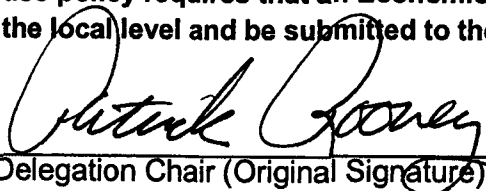
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [x] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
Delegation Chair (Original Signature)

1-15-14  
Date

Rep. Patrick Rooney, Jr.  
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES  
2014 ECONOMIC IMPACT STATEMENT FORM

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

BILL #: HB 1337  
SPONSOR(S): Rep. Mark Pafford  
RELATING TO: Loxahatchee Groves Water Control District - Amendment to its Codified  
[Indicate Area Affected (City, County or Special District) and Subject] Legislation

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>None</u>	\$ <u>None</u>
Revenue increase due to bill:	\$ <u>None</u>	\$ <u>None</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>Minimal</u>	\$ <u>Minimal</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

N/A



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**III. FUNDING SOURCE(S):**

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ <u>None</u>	\$ <u>None</u>
State:	\$ <u>None</u>	\$ <u>None</u>
Federal:	\$ <u>None</u>	\$ <u>None</u>

**III. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Amending the District's enabling legislation to provide for the dedication of canal maintenance easements to the District and the use of such for recreational trail purposes by the public.
2. Advantages to Businesses: Amending the District's enabling legislation to provide for the dedication of canal maintenance easements to the District and the use of such for recreational trail purposes by the public.
3. Advantages to Government: Amending the District's enabling legislation to provide for the dedication of canal maintenance easements to the District and the use of such for recreational trail purposes by the public.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

\_\_\_\_\_  
\_\_\_\_\_

2. Disadvantages to Businesses: None

\_\_\_\_\_  
\_\_\_\_\_

3. Disadvantages to Government: None

\_\_\_\_\_  
\_\_\_\_\_

**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

None of a material or substantive effect.

\_\_\_\_\_  
\_\_\_\_\_

2. Impact on the Open Market for Employment:

None of a material or substantive effect.

\_\_\_\_\_  
\_\_\_\_\_

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PREPARED BY:

  
\_\_\_\_\_  
[Must be signed by Preparer]

Print preparer's name:

Mary M. Viator

1/29/14  
\_\_\_\_\_  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Attorney

REPRESENTING:

Loxahatchee Groves Water Control District

PHONE:

(561) 655-0620

E-MAIL ADDRESS:

viator@caldwellpacetti.com

A bill to be entitled

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending chapter 99-425, Laws of Florida, as amended; providing for the dedication of canal maintenance easements to the district; providing requirements for such dedication; providing for prima facie evidence of such maintenance easements; providing for the use of maintenance easements for recreational trail purposes by the public through district permits issued to the Town of Loxahatchee Groves; providing that any permit issued by the district to the town for perpetual use by the public for recreational trail purposes shall satisfy property control requirements for state grant purposes; providing applicability; providing an effective date.

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

Section 1. Section 9 is added to section 2 of chapter 99-425, Laws of Florida, as amended, to read:

Section 9. Maintenance easements and use for public trail purposes.-

a. When land adjacent to canals has been used and maintained for district-related purposes by the district to access its canals continuously and uninterruptedly for 7 years,

27 a maintenance easement for such land over, under, across, upon,  
 28 through, and within the underlying real property for maintenance  
 29 purposes is deemed to be dedicated to the district to the extent  
 30 of the width that has been actually used, maintained, or  
 31 repaired for the prescribed period, regardless of whether the  
 32 land has been formally established as an easement in favor of  
 33 the district. The dedication shall vest such easement in and to  
 34 the land to the district, regardless of whether there is a  
 35 record of conveyance, dedication, or appropriation to the  
 36 district.

37 b. The filing of a map in the office of the clerk of the  
 38 circuit court of the county where the maintenance easement is  
 39 located showing the lands and reciting on it that the land has  
 40 been dedicated in accordance with subsection a., or by any other  
 41 means of acquisition, duly certified by the chair and secretary  
 42 of the district shall be prima facie evidence of the district's  
 43 easement rights.

44 c. For any maintenance easement established pursuant to  
 45 this section, the use by the public for recreational trail  
 46 purposes, including, without limitation, equestrian trails,  
 47 shall be authorized. The district is authorized to issue permits  
 48 to the Town of Loxahatchee Groves to construct and maintain such  
 49 recreational trails within the maintenance easements. Any permit  
 50 issued by the district for perpetual use by the public for  
 51 recreational trail purposes is deemed to satisfy any and all

HB 1337

2014

52 | current or future state grant requirements for property control  
53 | by the town.

54 | d. This section does not apply to any facility of an  
55 | electric utility which is located on property otherwise subject  
56 | to this section.

57 | Section 2. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1401 Town of St. Leo, Pasco County  
SPONSOR(S): Murphy  
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel MF	Rojas SM
2) State Affairs Committee			

SUMMARY ANALYSIS

The Town of St. Leo is a small town located in Pasco County with a population of 1,369. The Legislature incorporated the Town of St. Leo in 1891, and has previously modified town boundaries in 1925, 1967, and 1974. The town is centered around St. Leo University, formerly St. Leo College, a catholic university founded by the Order of St. Benedict of Florida.

In 1998, Lake Jovita Joint Venture began construction on an 871 unit planned unit development called the Lake Jovita Golf and Country Club. The majority of the development is located in unincorporated Pasco County. However, 109 plats are located in the north east corner of the Town of St. Leo, 85 of which have been developed. The population of the Lake Jovita subdivision within the Town of St. Leo is approximately 196.

HB 1401 contracts a portion of the north east corner of the Town of St. Leo to exclude portions of land containing the Lake Jovita Golf and Country Club Development from the town boundaries. The town population after contraction will be approximately 1173. As a result of contraction and loss of tax base, the Town of St. Leo anticipates a revenue loss of approximately \$50,000 per year. The 85 households in the Lake Jovita Subdivision that are leaving the Town of St. Leo may anticipate a per household tax savings of approximately \$600.

The bill provides authority to Pasco County over the contracted area, and provides for the protection of contracts between the town and third parties and for contracts between non-governmental entities.

The bill provides that it will take effect upon becoming law.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Town of St. Leo elected to become a municipality and was incorporated by the Legislature in 1891.<sup>1</sup> The Legislature amended the town boundaries several times in 1925, 1967 and 1974.<sup>2</sup>

Throughout most of the 20<sup>th</sup> century, a large majority of the population of the Town of St. Leo was associated with St. Leo College, now St. Leo University, and the Benedictine Monastery that founded the College. This remains true today, however events in 1998 & 1999 have shifted the demographics of the town in recent years.

In the 1998, Lake Jovita Joint Venture began construction on an 871 unit planned unit development called the Lake Jovita Golf and Country Club. The majority of the development is located in unincorporated Pasco County. However, 109 plats are located in the north east corner of the Town of St. Leo, 85 of which have been developed.<sup>3</sup> The population of the Lake Jovita subdivision within the Town of St. Leo is approximately 196.<sup>4</sup>

In 1999, St. Leo College became a University, increasing the number of resident students (but not registered voters) in the town.<sup>5</sup>

These changes caused the town population to increase from 595 in 2000 to 1,340 in 2010.<sup>6</sup> At the same time, the number of housing units in the town increased from 44 in 2000 to 140 in 2010.<sup>7</sup> Approximately 85 of the 96 housing units added in between 2000 and 2010 were added in the Lake Jovita subdivision. Presently, 75 percent of the town's population is comprised of students.<sup>8</sup>

##### Budget

The town generates 44.5 percent of its revenue from sources independent of population, 43.2 percent from sources dependent on population, and 12.3 percent from ad valorem tax. The town has a property tax of .75 mil and charges franchise fees to utilities, which are passed along to customers on their utility bill. Cumulatively, the average per household tax charged by the town is approximately \$600.<sup>9</sup>

In FY 2011-2012, the town generated \$340,769 in revenue, expended \$330,373, and was left with \$359,396 in reserves. The town expended \$204,843 on general government services, \$92,630 on public safety, \$24,000 on the physical environment, and the remaining \$8,900 on miscellaneous expenditures. The town also made a one-time special expenditure of \$170,500 on transportation and special projects, and spent \$93,000 in special revenue on other non-operating uses.<sup>10</sup>

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<sup>1</sup> Ch. 4088, L.O.F., Articles of 1891.

<sup>2</sup> See Ch. 67-1989, L.O.F., and Ch. 74-599, L.O.F.

<sup>3</sup> Economic Impact Statement, February 14, 2014.

<sup>4</sup> Based on 2010 average household size in the Town of St. Leo of 2.3 times 85 households (2.3 x 85 = 195.5). Household size data retrieved from: [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1)

<sup>5</sup> Memo prepared by Town of St. Leo, March 28, 2014. On file with Local & Federal Affairs Committee Staff.

<sup>6</sup> [http://factfinder2.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml)

<sup>7</sup> Id.

<sup>8</sup> Economic Impact Statement, February 14, 2014.

<sup>9</sup> Id.

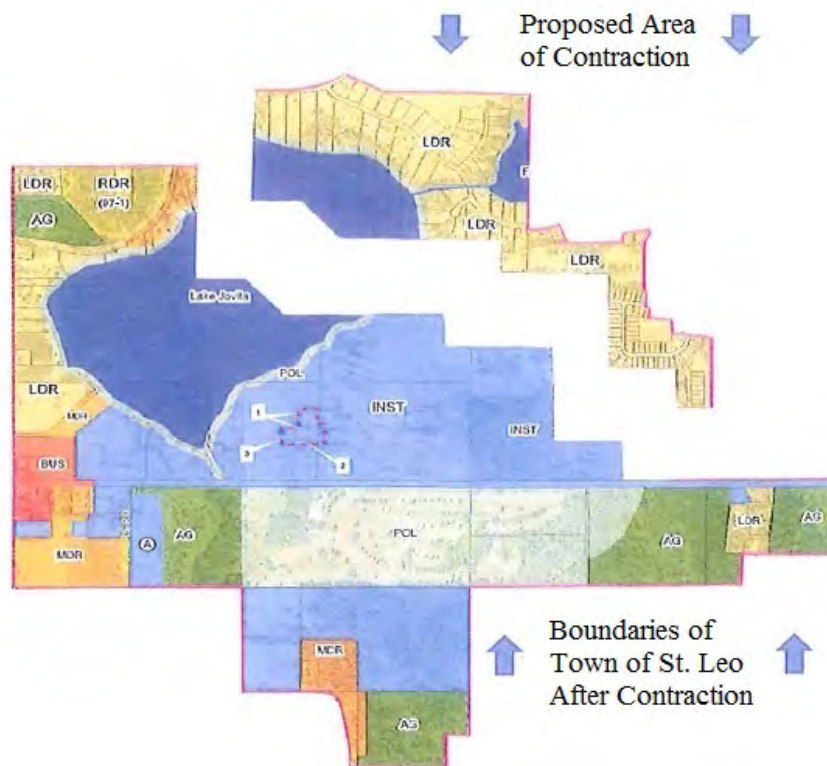
<sup>10</sup> Budget Summary, Town of St. Leo, FY 2011-2012.

## Chapter 171, F.S., Contraction Procedures

Florida Statute provides procedures enabling municipalities to contract locally, without having to seek passage of a special act.<sup>11</sup> To be eligible to use these local contraction procedures, the area to be contracted must not be contiguous to the municipality's boundaries and must not be developed for urban purposes.<sup>12</sup> The area seeking contraction in the Town of St. Leo does not qualify to use the local procedures for contraction set out in Florida Statutes because it is contiguous in nature and is developed for urban purposes.

### **Effect of Proposed Changes**

HB 1401 contracts the boundaries of the Town of St. Leo to exclude all of Lake Jovita Golf and Country Club Phase One. The bill provides a detailed land survey of the lands to be contracted, which are generally those lands encompassing the Lake Jovita subdivision, which consists of approximately 85 developed homes in the Town of St. Leo, and an additional 24 lots that may be developed. The following map shows the approximate boundaries contracted by the bill.



The population of the area to be contracted is approximately 196.<sup>13</sup> The town population after contraction will be approximately 1173, and the percentage of students composing the town population will increase.<sup>14</sup>

As a result of contraction and loss of tax base, the Town of St. Leo anticipates a revenue loss of approximately \$50,000 per year. The 85 households in the Lake Jovita Subdivision that are leaving the Town of St. Leo may anticipate a per household tax savings of approximately \$600.

<sup>11</sup> Ch. 171.051, F.S.

<sup>12</sup> Ch. 171.052, F.S. referencing ch. 171.043, F.S.

<sup>13</sup> Based on 2010 average household size in the Town of St. Leo of 2.3 times 85 households ( $2.3 \times 85 = 195.5$ ). Household size data retrieved from: [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1)

<sup>14</sup> Based on 2013 population estimate of 1,369 minus the estimated population of area to be contracted ( $1369 - 196 = 1173$ ).

The bill states that following the effective date of the act, Pasco County shall be responsible for and embodied will all powers granted in ch. 125, F.S., over the territory to be excluded by the act from the Town of St. Leo.

The bill states that the act does not affect or abrogate the rights of parties to any contracts in effect before the effective date of the act, whether such contracts are between the Town of St. Leo and a third party or between nongovernmental entities.

**B. SECTION DIRECTORY:**

- Section 1      Contracts the boundaries of the Town to St. Leo to exclude certain lands; defines the lands to be excluded.
- Section 2      Provides that upon effective date of act Pasco County shall be responsible for and embodied with all powers granted in ch. 125, F.S., over the territory excluded by the act.
- Section 3      States that the act does not affect or abrogate the rights of any parties to any contracts in effect before the effective date of the act, for contracts between the Town of St. Leo and a third party, and contracts between non-governmental entities.
- Section 4      Provides that the act shall take effect upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED?    Yes     No

IF YES, WHEN?      February 1, 2014

WHERE?      *Tampa Bay Times (Pasco Times Edition)*, a daily newspaper published at Port Richey in Pasco County, Florida.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?      n/a

C. LOCAL BILL CERTIFICATION FILED?    Yes, attached     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes, attached     No

As a result of contraction and loss of tax base, the Town of St. Leo anticipates a revenue loss of approximately \$50,000 per year. The 85 households in the Lake Jovita Subdivision that are leaving the St. Leo may anticipate a per household tax savings of approximately \$600.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

Rep. Murphy

HB 1401

**Pasco Times**

**Published Daily**

**Port Richey, Pasco County, Florida**

**STATE OF FLORIDA  
COUNTY OF Pasco**

} **s.s.**

Before the undersigned authority personally appeared **L. Phillips** who on oath says that he/she is **Legal Clerk** of the Pasco Times, an edition of the **Tampa Bay Times** a daily newspaper published at Port Richey, in Pasco County, Florida; that the attached copy of advertisement, being a **Legal Notice** in the matter **RE: Notice Of Special Legislation** was published in said newspaper in the issues of **Classified Pasco** , 2/1/2014 .

Affiant further says the said **Pasco Times**, an edition of the **Tampa Bay Times** is a newspaper published at Port Richey, in said Pasco County, Florida; and that the said newspaper has heretofore been continuously published in said Pasco County, Florida; each day and has been entered as second class mail matter at the post office in Port Richey, in said Pasco County, Florida; for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he /she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

**NOTICE OF SPECIAL LEGISLATION**

**TO WHOM IT MAY CONCERN:** Notice is hereby given of the Town of St. Leo's intent to apply to the 2014 Session of the Florida Legislature for passage of:

An act relating to the Town of St. Leo, Pasco County; contracting the corporate limits of the Town of St. Leo to exclude specified municipal lands located within the boundaries of the Lake Jovita subdivision containing ± 174 acres from the Town; providing an effective date. A full copy of the proposed legislation and legal description of the lands to be excluded along with a survey of same may be viewed at the Town Hall of the Town of St. Leo, 34544 SR 52, St Leo, FL 33574, from 8 am to 4 pm Monday thru Friday.

Town of St. Leo  
P.O. Box 2479  
Saint Leo, FL 33574  
1004104689 2/1/14

*L. Phillips*

**Signature of Affiant**

Sworn to and subscribed before me  
this **3rd** day of **February** A.D.2014



**JESSICA ATTARD**  
MY COMMISSION # EE 078485  
EXPIRES: March 28, 2015  
Bonded Thru Budget Notary Services

*Jessica Attard*

**Signature of Notary Public**

Personally known  X  or produced indentification \_\_\_\_\_

Type of indentification produced \_\_\_\_\_

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: 1401

SPONSOR(S): Rep. Murphy

RELATING TO: Town of St. Leo, Pasco County  
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Pasco County

CONTACT PERSON: Patty Harrison

PHONE NO.: ( ) \_\_\_\_\_ E-Mail: Patty.Harrison@flsenate.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: January 22<sup>nd</sup>, 2014

Location: 18654 Mentmore Boulevard, Land O'Lakes, FL

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 02/1/2014

Where? Tampa Bay Times County Pasco

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO  NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO  NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

3-13-24  
\_\_\_\_\_  
Date

Wilton Simpson  
\_\_\_\_\_  
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2014 ECONOMIC IMPACT STATEMENT FORM

*\*Read all instructions carefully.*

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

BILL #: HB 1401

SPONSOR(S): Rep. Amanda Murphy [D]

RELATING TO: The Town of St. Leo

[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

**These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.**

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ 50,000	\$ 50,000
<p>The FY 2015 estimated decrease in General Fund revenue is based on rounding the FY 2012 amount shown on page 3 (359,170 -308,848). The FY 2015 estimate is simplified to show the full impact of contraction in the year after the proposed effective date of 9/30/14. With property taxes being paid in arrears, a partial impact is expected in FY 2015 and a full impact in FY 2016 (compared to FY 2012). The maximum decrease in FY 2015 will be 22,000 in variable revenue. Using property values from FY 2012, property tax revenue from the contracted area will be about 16,200 in FY 2014 and 16,200 or less in FY 2015, and zero in FY 2016 after being about 24,800 in FY 2013. Contraction will remove approximately 14.3% of the Town's census and 63.5% of the taxable base. Contraction would have reduced the FY 2012 gross taxable value of about 36,716,900 to 13,401,669.</p>		

Revenue increase due to bill: \$ -0- \$ -0-

**II. COST:**

**Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.**

**Expenditures for Implementation, Administration and Enforcement:**

<u>FY13-14</u>	<u>FY14-15</u>
\$ 7,000	\$ 7,500



Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

FY 13-14 is based on actual costs to Town incurred by the Town Attorney, Town Planner, Surveyor and advertising costs.

FY 14-15 is based on costs related to preparing amendments of the Comprehensive Plan, Future Land Use, Zoning and other maps are prepared by the Town Planner. Additional costs for advertising appropriate Notices of Public Hearings is included within the estimated expenses.

### III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ -0-	\$ -0-
State:	\$ -0-	\$ -0-
Federal:	\$ -0-	\$ -0-

### III. ECONOMIC IMPACT:

#### Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

#### 1. Advantages to Individuals:

Contraction will eliminate one layer of taxation for 85 households and result in all (620 now, 871 at completion) households in the Lake Jovita Subdivision being in the same taxing district. Savings per household for FY 2012 would have averaged approximately \$592.00 (50,322 divided by 85).

2. Advantages to Businesses: -0-

3. Advantages to Government: -0-

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training. State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals:

After contraction, the 41 remaining households, two monasteries, and several owners of business properties may pay higher taxes or receive reduced services. In the 2010 census, residents at Saint Leo University equaled 75% of the Town's population. After contraction, the Town will be more vulnerable to any decline in student enrollment.

2. Disadvantages to Businesses: None

3. Disadvantages to Government:

Impact on the Town of St. Leo for the Fiscal Year Ending 09/30/2012

<u>General Fund</u>	<u>Actual</u>	<u>Without Lake Jovita Subdivision</u>
Revenue	359,170	308,848
Expenditures	316,572	306,359
Revenues > Expenditures	42,598	2,489

Notes: the millage rates were as follows: 1.3000 in FY 2012, 1.1500 in FY 2013, and .75000 in FY 2014. The largest expense in FY 2012 was the contract with the Pasco County Sheriff in the amount of 76,630. The Town has no long term debt.

Special Revenue - Fiscal Year Ending 09/30/2012

	<u>Actual</u>
Revenue	119,516
Expenditures	14,697
Revenues > Expenditures	104,819

Notes: Contraction will have a low impact on special revenue funds. Contraction would not have reduced revenues or expenditures because no "road impact" fees were received for parcels in the Lake Jovita Subdivision residents during FY 2012.

The Town's largest special revenue is the local governmental infrastructure sales tax (Penny for Pasco) and is based on our share of the municipal population of Pasco County.

The next time the Interlocal agreement is amended, the Town's share should drop from about 3.5% of 40,000 to 3.00%. Based on FY 2012 revenue, the Town will receive about 8,150 less per year after the agreement is amended.

The Special Revenue Fund balance on 09/30/2012 was 806,208 which included the transportation impact fee balance of 185,216. In FY 2014, the Town is scheduled to refund 24,000 collected in FY 2000 and 2001 from Lake Jovita parcels as well as 9,000 in FY 2015 and 8,000 in FY 2016.

Summary: The General fund balance on 09/30/2012 was 437,537. The FY 2012 surplus was typical of the past decade. After contraction, the annual rate of economic impact on the Town (government and residents) should be consistently less than the annual rate of economic benefit to the Town from the 85 households in the Lake Jovita Subdivision.

**V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

**1. Impact on Competition:**

None. The area of contraction is entirely residential and there is no anticipated impact upon competition and the open market for employment.

**2. Impact on the Open Market for Employment:**

None. The area of contraction is entirely residential and there is no anticipated impact upon competition and the open market for employment.

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

The Town audit for FY 2012 and other data on file were used to make statements about Revenues and Economic Impact as well as this section.

If the contraction had been effective 09/30/2011 and for simplification, all revenue reductions were effective immediately, what would have been the impact on the fiscal year ending 09/30/2012?

First, adjusted for property tax reduction (down 28,083 or 63.5%). State Revenue Sharing and franchise fee income was reduced in proportion to the estimated decrease in population (192 Lake Jovita subdivision residents divided by 1,340 or 14.33%). The intention was to generate a worst case projection without making any assumptions about reductions in staff or services. Thus, the only expenditure change was a proportional adjustment for solid waste, down 10,399 or 67.5%.

General Fund Revenue Summary FY 2012 Restated After Contraction

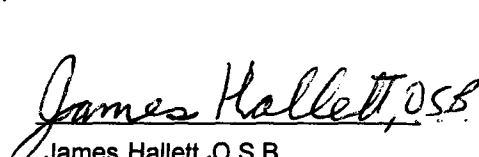
	<u>Actual</u>	<u>Town</u>	<u>Lake Jovita Subdivision</u>
Fixed	159,786	136,888.65	22,897.35
Variable	155,186	132,947.85	22,238.15
Ad Valorem	44,198	16,114.60	28,083.40
General Revenue Total	359,170	285,951.10	73,218.90

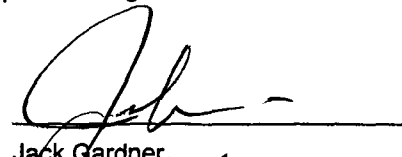
The fixed revenue (independent of population) was 44.5%, the variable revenue (dependent on population) was 43.2%, and the ad valorem tax was 12.3% of the total. The difference between the revenue generated by 85 households in Lake Jovita and the revenue lost by contraction is their share of fixed revenue (not reduced by contraction). The amount generated, 73,218.90 less the fixed revenue of 22,897.35 equals 50,321.55 or the economic benefit to the area contacted. The Town would have retained 308,848.45 and lost 50,321.55.

Restated on a per household basis: 861.39 less 269.38 equals savings of 592.01.

**PREPARED BY:**

Print preparer's name:

  
James Hallett, O.S.B.  
Date: 2/14/2014  
Title: Commissioner

  
Jack Gardner  
Date: 2/14/14  
Title: Mayor

**REPRESENTING:**

The Town of St. Leo

**PHONE:**

(352) 588-2622

**E-MAIL ADDRESS:**

hallettj@townofstleo-fl.gov or townclerk@townofstleo-fl.gov



26 RECORD BOOK 5067, PAGE 1476 RECORDED IN THE PUBLIC  
 27 RECORDS OF PASCO COUNTY, FLORIDA.  
 28  
 29 ALL BEING FURTHER DESCRIBED AS FOLLOWS:  
 30  
 31 FOR A POINT OF BEGINNING COMMENCE AT THE NORTHEAST  
 32 CORNER OF SECTION 1, TOWNSHIP 25 SOUTH, RANGE 20 EAST,  
 33 PASCO COUNTY, FLORIDA; THENCE N. 89°47'15" W., ALONG  
 34 THE NORTH BOUNDARY OF THE NORTHEAST% OF SAID SECTION  
 35 1, A DISTANCE OF 1689.00 FEET; THENCE DEPARTING SAID  
 36 LINE, N. 64°38'57" W., A DISTANCE OF 469.48 FEET;  
 37 THENCE N. 46°14'10" W., A DISTANCE OF 60.00 FEET;  
 38 THENCE 547.34 FEET ALONG THE ARC OF A CURVE CONCAVE TO  
 39 THE NORTHWEST (SAID CURVE HAVING A RADIUS OF 670.00  
 40 FEET, DELTA ANGLE OF 46°48'23", AND A CHORD BEARING  
 41 AND DISTANCE OF S. 67°10'02" W., 532.25 FEET) TO A  
 42 POINT ON THE WEST BOUNDARY OF THE SOUTHEAST 1/4 OF  
 43 SECTION 36, TOWNSHIP 24 SOUTH, RANGE 20 EAST; THENCE  
 44 S. 00°18'16" W., ALONG SAID WEST BOUNDARY, A DISTANCE  
 45 OF 32.43 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST  
 46 1/4 OF SAID SECTION 1; THENCE S. 00°10'44" W., ALONG  
 47 SAID WEST BOUNDARY, A DISTANCE OF 20.99 FEET TO A  
 48 POINT ON THE SOUTHERLY MAINTAINED RIGHT-OF-WAY LINE OF  
 49 DUNNE ROAD; THENCE N. 89°38'56" W., ALONG SAID RIGHT-  
 50 OF-WAY LINE, A DISTANCE OF 530.00 FEET; THENCE S.  
 51 00°10'44" W., A DISTANCE OF 1412.62 FEET; THENCE S.

52 89°54'37" E., A DISTANCE OF 530.00 FEET TO THE  
 53 NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHEAST  
 54 1/4 OF SAID SECTION 1; THENCE S. 44°37'43" E., ALONG  
 55 THE NORTHERLY LINE OF THE SOUTHWEST 1/4 OF THE  
 56 SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 1,  
 57 A DISTANCE OF 639.42 FEET; THENCE S. 89°36'24" E., A  
 58 DISTANCE OF 1890.15 FEET; THENCE S. 00°22'41" W., A  
 59 DISTANCE OF 400.00 FEET; THENCE S. 89°36'24" E., A  
 60 DISTANCE OF 1236.86 FEET; THENCE S. 00°22'33" W., A  
 61 DISTANCE OF 1226.34 FEET; THENCE N. 89°53'31" E., A  
 62 DISTANCE OF 785.00 FEET; THENCE S. 00°06'29" E., A  
 63 DISTANCE OF 515.00 FEET TO A POINT ON THE NORTH RIGHT-  
 64 OF-WAY LINE OF STATE ROAD 52; THENCE N. 89°53'31" E.,  
 65 ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 400.00  
 66 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, N.  
 67 00°06'29" W., A DISTANCE OF 915.00 FEET; THENCE S.  
 68 89°53'31" W., A DISTANCE OF 93.03 FEET; THENCE N.  
 69 01°47'48" E., A DISTANCE OF 26.63 FEET; THENCE S.  
 70 88°43'37" W., A DISTANCE OF 150.68 FEET; THENCE 7.04  
 71 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE WEST  
 72 (SAID CURVE HAVING A RADIUS OF 275.00 FEET, DELTA  
 73 ANGLE OF 01°28'03", AND A CHORD BEARING AND DISTANCE  
 74 OF N. 00°38'17" W., 7.04 FEET); THENCE S. 88°43'37"  
 75 W., A DISTANCE OF 50.00 FEET; THENCE N. 01°16'23" W.,  
 76 A DISTANCE OF 21.45 FEET; THENCE S. 88°43'37" W., A  
 77 DISTANCE OF 155.36 FEET; THENCE N. 02°21'55" W., A

78 DISTANCE OF 185.02 FEET; THENCE N. 85°15'56" W., A  
 79 DISTANCE OF 269.46 FEET; THENCE N. 07°40'43" E., A  
 80 DISTANCE OF 139.06 FEET; THENCE N. 82°19'17" W., A  
 81 DISTANCE OF 60.08 FEET; THENCE N. 07°40'43" E., A  
 82 DISTANCE OF 200.00 FEET; THENCE N. 82°19'17" W., A  
 83 DISTANCE OF 38.86 FEET; THENCE N. 00°22'33" E., A  
 84 DISTANCE OF 617.97 FEET; THENCE N. 29°22'55" E., A  
 85 DISTANCE OF 148.92 FEET; THENCE 61.70 FEET ALONG THE  
 86 ARC OF A CURVE CONCAVE TO THE NORTHEAST (SAID CURVE  
 87 HAVING A RADIUS OF 60.00 FEET, DELTA ANGLE OF  
 88 58°54'58", AND A CHORD BEARING AND DISTANCE OF N.  
 89 31°09'37" W., 59.01 FEET); THENCE S. 76°30'26" W., A  
 90 DISTANCE OF 288.11 FEET; THENCE S. 00°10'15" W., A  
 91 DISTANCE OF 111.41 FEET; THENCE N. 89°36'24" W., A  
 92 DISTANCE OF 732.63 FEET; THENCE N. 76°28'35" E., A  
 93 DISTANCE OF 90.06 FEET; THENCE N. 23°05'00" W., A  
 94 DISTANCE OF 225.42 FEET; THENCE 364.73 FEET ALONG THE  
 95 ARC OF A CURVE CONCAVE TO THE NORTHWEST (SAID CURVE  
 96 HAVING A RADIUS OF 630.00 FEET, DELTA ANGLE OF  
 97 33°10'15", AND A CHORD BEARING AND DISTANCE OF S.  
 98 77°47'45" W., 359.66 FEET); THENCE N. 85°37'07" W., A  
 99 DISTANCE OF 12.93 FEET TO A POINT ON THE WEST BOUNDARY  
 100 OF THE NORTHWEST 1/4 OF SAID SECTION 6; THENCE N.  
 101 00°22'41" E., ALONG SAID WEST BOUNDARY, A DISTANCE OF  
 102 1740.63 FEET TO THE POINT OF BEGINNING.  
 103

104 SAID LAND CONTAINING 174.94 ACRES, MORE OR LESS.

105

106 Section 2. Upon the effective date of this act, Pasco  
 107 County shall be responsible for and embodied with all powers  
 108 granted in chapter 125, Florida Statutes, over the territory  
 109 excluded by this act from the Town of St. Leo.

110 Section 3. This act does not affect or abrogate the rights  
 111 of parties to any contracts in effect before the effective date  
 112 of this act, whether such contracts are between the Town of St.  
 113 Leo and a third party or between nongovernmental entities.

114 Section 4. This act shall take effect upon becoming a law.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for CS/HB 947 Fuel Terminals  
**SPONSOR(S):** Local & Federal Affairs Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local & Federal Affairs Committee		Miller	<i>E. H. Rojas</i>

**SUMMARY ANALYSIS**

The bill creates s. 163.3206, F.S., addressing the authority of local government to amend a comprehensive plan, land use designation or regulation, or zoning to render as nonconforming the occupation and use of land by an existing, authorized fuel terminal.

The bill provides legislative intent, defines "fuel" and "fuel terminal," and prospectively limits the authority of local government to change its land use designations to render a permitted and allowed fuel terminal a nonconforming use. The authority of local government to enforce applicable laws for safety and operation of a fuel terminal is not limited. The bill authorizes repairing or rebuilding a fuel terminal to its preexisting capacity if damaged or destroyed due to natural disaster or other catastrophe.

The bill does not have a fiscal impact on state or local governments. The designated land use for a permitted and allowed fuel terminal under any comprehensive plan, land use map, zoning district or land development regulation will not be changed to conflict with the fuel terminal's authorized use.

The bill provides the act shall take effect July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act (the Act),<sup>1</sup> also known as Florida's Growth Management Act, was adopted in 1985. The Act requires counties and municipalities to adopt local government comprehensive plans guiding future growth and development.<sup>2</sup> Comprehensive plans contain chapters or "elements" addressing topics including future land use, housing, transportation, conservation, and capital improvements, among others.<sup>3</sup> The Act is administered by the state land planning agency, the Department of Economic Opportunity.<sup>4</sup>

##### Land Development Regulation

Within one year of adopting a local comprehensive plan, a county or municipality must promulgate land development regulations implementing the plan.<sup>5</sup> Land is divided into districts and certain uses and developments are assigned to those distinct districts through the process of "zoning."<sup>6</sup> Typical zoning classifications include "residential," "commercial," and "industrial." These classifications can include finer distinctions. For example, a district designated for residential use may be restricted to apartment buildings while another may only permit single family housing.

A "permitted use" within a particular zoning district is one authorized as a matter of right.<sup>7</sup> A "conditional use" may only be utilized secondarily to a permitted use and a local government has some discretion as to its approval.<sup>8</sup> A "special exception" is a departure from the general provisions of a zoning ordinance granted through the exercise of the local government's legislative authority.<sup>9</sup> A "nonconforming use" or structure is one in which the use or structure was legally permitted prior to a change in the law but the change no longer permits the re-establishment of such structure or use.<sup>10</sup>

##### Fuel Terminals

The Internal Revenue Service (IRS) defines a "terminal" used for fuel as "a storage and distribution facility supplied by pipeline or vessel, and from which taxable fuel may be removed at a rack..."<sup>11</sup>

---

<sup>1</sup> See Ch. 163, part II, F.S.

<sup>2</sup> Section 163.3167, F.S.

<sup>3</sup> Section 163.3177, F.S.

<sup>4</sup> Section 163.3221, F.S.

<sup>5</sup> Section 163.3202(1), F.S.

<sup>6</sup> 7 Fla. Jur 2d Building, Zoning, and Land Controls s. 111 *Generally; "Zoning" and "Planning" Defined and Distinguished* (2014).

<sup>7</sup> *BMS Enters. LLC v. City of Fort Lauderdale*, 929 So.2d 9, 10 (Fla. 4th DCA 2006).

<sup>8</sup> *Id.*

<sup>9</sup> 7 Fla. Jur 2d Building, Zoning, and Land Controls s. 242 *Special Exception or Permit Distinguished from Variance* (2014).

<sup>10</sup> See, e.g., *JPM Inv. Group, Inc. v. Brevard County Bd. of County Commissioners*, 818 So. 2d 595 (Fla. 5th D.C.A. 2002), citing §62-1181, Brevard County Code.

<sup>11</sup> Internal Revenue Service, *Publication 510, Excise Taxes: Part One – Fuel Taxes and Fuel Tax Credits and Refunds*, available at <http://www.irs.gov/publications/p510/ch01.html> (last visited March 4, 2014).

According to the IRS, there are currently 42 active fuel terminals in Florida.<sup>12</sup> At least one fuel terminal facility is alleged to be a nonconforming use.<sup>13</sup>

Tampa is home to 11 fuel terminals<sup>14</sup> and the Port of Tampa receives approximately 500 petroleum ships and unloads 2.4 billion gallons a year.<sup>15</sup> Approximately 12.5 million gallons of fuel are delivered daily through Port Everglades to thirteen terminal and pipeline operators,<sup>16</sup> over half of which is gasoline.<sup>17</sup>

## Effect of Proposed Changes

### Legislative Intent

The bill creates s. 163.3206, F.S., and declares the intent of the Legislature to maintain, encourage, and ensure adequate and reliable fuel terminal infrastructure in Florida. The bill states fuel terminals are essential to ensure efficient and reliable transportation and delivery of an adequate quantity of fuel throughout the state. Further, the ability to receive, store, and distribute fuel is essential to the state's economy and to the health, safety, welfare, and quality of life of residents and visitors.

### Definitions

"Fuel" is defined to include any of the following:

- "Alternative fuel" is defined in s. 525.01, F.S., as:
  - Methanol, denatured ethanol, or other alcohols;
  - Mixtures of gasoline or other fuels with methanol, denatured ethanol, or other alcohols;
  - Hydrogen;
  - Coal-derived liquid fuels; and
  - Fuels, other than alcohol, derived from biological materials.
- "Aviation fuel" is defined in s. 206.9815, F.S., as fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications.
- "Diesel fuel" is defined in s. 206.86, F.S., as all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.
- "Gas" is defined in s. 206.9925, F.S., as all natural gas, including casing head gas, and all other hydrocarbons not defined as oil in subsection (2).
- "Oil" is defined in s. 206.9925, F.S., as crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the reservoir.
- "Motor fuel" is defined in s. 206.01, F.S., as all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.
- "Natural gas fuel" is defined in s. 206.9951, F.S., as any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23), F.S. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of

<sup>12</sup> Internal Revenue Service, *Approved Terminals 2-28-14*, available at [http://www.irs.gov/pub/irs-utl/tcn\\_db.pdf](http://www.irs.gov/pub/irs-utl/tcn_db.pdf) (last visited March 4, 2014).

<sup>13</sup> Information provided by the Florida League of Cities. Due to incomplete information it is unknown if there are more fuel terminal facilities that are nonconforming uses. The one fuel terminal known to be a nonconforming use is a facility in the City of Cape Canaveral.

<sup>14</sup> *Id.*

<sup>15</sup> Jamal Thalji, "Port of Tampa will fuel region with new \$56 million petroleum terminal," Tampa Bay Times, Oct. 30, 2013, available at <http://marketplace.tampabay.com/news/business/energy/port-of-tampa-unveils-new-55-million-petroleum-terminal/2149912> (accessed March 4, 2014).

<sup>16</sup> At <http://www.porteverglades.net/cargo/petroleum/> (accessed 3/25/2014).

<sup>17</sup> At <http://www.porteverglades.net/cargo/petroleum/from-tanker-to-gas-tank/> (accessed 3/25/2014).

liquefied petroleum gas, compressed natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.

- “Petroleum fuel” is defined in s. 525.01, F.S., as all gasoline, kerosene (except when used as aviation turbine fuel), diesel fuel, benzine, other like products of petroleum under whatever name designated, or an alternative fuel used for illuminating, heating, cooking, or power purposes, sold, offered, or exposed for sale in this state.
- “Petroleum product” is defined in s. 206.9925, F.S., as any refined liquid commodity made wholly or partially from oil or gas, or blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, or blends or mixtures of two or more liquid products or byproducts derived from oil or gas, and includes, but is not limited to, motor gasoline, gasohol, aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, motor oil and other lubricants, naphtha of less than 400°F for petroleum feed, special naphthas, road oil, still gas, unfinished oils, motor gas blending components, including petroleum-derived ethanol when used for such purpose, and aviation gas blending components.

“Fuel terminal” is defined as “a storage and distribution facility for fuel, supplied by pipeline or marine vessel,” with the capacity to receive and store bulk transfers of fuel, is equipped with a loading rack for the physical transfer of fuel into tanker trucks or rail cars, and is registered as a terminal with the Internal Revenue Service.

#### Limitation on Changes to Local Land Use Designations

Beginning on July 1, 2014, a local government may not amend its comprehensive plan or land use regulations to conflict with an existing fuel terminal’s classification as a permitted or allowable use, including amendments making a terminal a nonconforming use. If the fuel terminal is damaged or destroyed due to natural disaster “or other catastrophe,” the bill requires the applicable local governments to allow the timely repair or reconstruction of the terminal to its preexisting capacity.

The bill does not limit the authority of a local government to enforce federal and state requirements for fuel terminals, including safety and building standards. However, the exercise of such authority may not conflict with federal or state safety and security requirements.

#### B. SECTION DIRECTORY:

**Section 1.** Creates s. 163.3206, F.S., designating fuel terminals as critical infrastructure, providing definitions, and preventing local governments from changing certain land use designations to conflict with the classification of an existing fuel terminal as a permitted and allowed use. Local governments retain the authority to applicable federal and state requirements for fuel terminals. If damaged or destroyed due to a natural or other catastrophe, a fuel terminal may be restored to its preexisting capacity.

**Section 2.** provides an effective date of July 1, 2014.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Restricting changes in local land use designations pertaining to existing permitted and authorized fuel terminals to those which do not conflict with such use provides greater stability for the fuel terminal industry, meeting in part the legislative intent stated in section 1 of the bill.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 3, 2014, the Local & Federal Affairs Committee will consider a proposed committee substitute for CS/HB 947. This analysis is drafted to the proposed committee substitute.

1                   A bill to be entitled  
2           An act relating to fuel terminals; creating s.  
3           163.3206, F.S.; providing legislative intent;  
4           providing definitions; prohibiting a local government  
5           from amending its local comprehensive plan, land use  
6           map, zoning districts, or land development regulations  
7           to make such fuel terminals a nonconforming use under  
8           the provisions thereof after a certain date; providing  
9           for the repair or reconstruction of a fuel terminal to  
10          its preexisting capacity after certain events;  
11          providing applicability; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Section 163.3206, Florida Statutes, is created  
16 to read:

17           163.3206 Fuel terminals.-

18           (1) It is the intent of the Legislature to maintain,  
19           encourage, and ensure adequate and reliable fuel terminal  
20           infrastructure in this state. Fuel terminals are a critical  
21           component of fuel storage and distribution. The ability to  
22           receive, store, and distribute fuel is essential to the state's  
23           economy and to the health, safety, welfare, and quality of life  
24           of residents and visitors. It is essential that fuel terminal  
25           infrastructure be constructed and maintained in various  
26           locations in order to ensure the efficient and reliable

27 transportation and delivery of an adequate quantity of fuel  
 28 throughout the state.

29 (2) As used in this section, the term:

30 (a) "Fuel" means any of the following:

31 1. Alternative fuel as defined in s. 525.01.

32 2. Aviation fuel as defined in s. 206.9815.

33 3. Diesel fuel as defined in s. 206.86.

34 4. Gas as defined in s. 206.9925.

35 5. Motor fuel as defined in s. 206.01.

36 6. Natural gas fuel as defined in s. 206.9951.

37 7. Oil as defined in s. 206.9925.

38 8. Petroleum fuel as defined in s. 525.01.

39 9. Petroleum product as defined in s. 206.9925.

40 (b) "Fuel terminal" means a storage and distribution

41 facility for fuel, supplied by pipeline or marine vessel, which

42 has the capacity to receive and store a bulk transfer of fuel,

43 is equipped with a loading rack through which fuel is physically

44 transferred into tanker trucks or rail cars, and which is

45 registered with the Internal Revenue Service as a terminal.

46 (3) After July 1, 2014, a local government may not amend

47 its comprehensive plan, land use map, zoning districts, or land

48 development regulations in a manner that would conflict with a

49 fuel terminal's classification as a permitted and allowable use

50 under this section, including, but not limited to, an amendment

51 that causes a fuel terminal to be a nonconforming use,

52 structure, or development.



53        (4) This section does not limit the authority of a local  
 54 government to implement and enforce applicable federal and state  
 55 requirements for fuel terminals, including safety and building  
 56 standards. However, the exercise of such authority may not  
 57 conflict with federal or state safety and security requirements  
 58 for fuel terminals. In the event of damage or destruction to a  
 59 fuel terminal as a result of natural disaster or other  
 60 catastrophe, a local government shall allow the timely repair of  
 61 a fuel terminal to the capacity of the fuel terminal as it  
 62 existed prior to the disaster.

63        Section 2. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** PCS for HB 1445 Citrus County Hospital Board, Citrus County  
**SPONSOR(S):** Smith  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	800 Rojas <i>JK</i>
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

The Citrus County Hospital Board (Board) and the Citrus County Health Foundation, Inc. (Foundation) operate and manage the Citrus County Hospital. The hospital is facing significant administrative problems and has been operating at a loss for several years. The Board and the Foundation decided to lease the hospital to Hospital Corporation of America (HCA), a for-profit hospital management corporation, for approximately \$140 million. HCA's greater financial resources will allow the hospital to avoid foreclosure on a \$5.6 million loan and will continue to provide health care in Citrus County.

Currently, the Board is only authorized to enter contracts or leases with not-for-profit Florida corporations.

PCS for HB 1445 authorizes the Board to enter into contracts or leases with for-profit Florida corporations. This change would allow the lease with HCA to be legally executed.

This bill also authorizes the Board to create an irrevocable community trust or foundation to manage the net proceeds of the lease to HCA, estimated to be approximately \$90 million.

This bill eliminates the Board's authority to levy ad valorem taxes. The Economic Impact Statement estimates that this will result in a loss of \$1,714,820 for Fiscal Year 2014-2015 and \$1,531,334 for Fiscal Year 2015-2016.

This bill becomes effective October 15, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Chapter 155, Florida Statutes/Public Hospitals

Section 155.40, F.S., authorizes a county, district, or municipal hospital organized and existing under the laws of this state, acting by and through its governing board, to sell or lease such hospital to a for-profit or not-for-profit Florida corporation, and enter into leases or other contracts with the corporation for the purpose of operating and managing the hospital and its facilities. The governing board of the hospital must find that the sale, lease, or contract is in the best interests of the public.

The term of any such lease, contract, or agreement and the conditions, covenants, and agreements contained therein is determined by the governing board of the hospital. The lease, contract, or agreement must accomplish the following:

- provide that the articles of incorporation of such for-profit or not-for-profit corporation are subject to the approval of the board of directors of the hospital;
- require that the not-for-profit corporation become qualified under s. 501(c)(3) of the United States Internal Revenue Code;
- provide for the orderly transition of the operation and management of facilities;
- provide for the return of such facilities to the county, municipality, or district upon the termination of any lease, contract, or agreement; and
- provide for the continued treatment of indigent patients pursuant to the Florida Health Care Responsibility Act (ss. 154.301-154.316, F.S.) and ch. 87-92, L.O.F.

In the event a hospital operated by a Florida corporation receives more than \$100,000 annually in revenues from the county, district, or municipality that owns the hospital, the corporation must be accountable to the county, district, or municipality with respect to the manner in which the funds are expended. Either:

- the revenues must be subject to annual appropriations by the county, district, or municipality; or
- where there is a contract to provide revenues to the hospital, the term of which is longer than 12 months, the governing board of the county, district, or municipality must be able to modify the contract upon 12 months notice to the hospital.<sup>1</sup>

Unless otherwise expressly stated in the lease documents, the transaction involving the sale or lease of a hospital is not to be construed as:

- a transfer of a governmental function from the county, district, or municipality to the private purchaser or lessee;
- constituting a financial interest of the public lessor in the private lessee; or
- making a private lessee an integral part of the public lessor's decision-making process.<sup>2</sup>

Section 155.40(7), F.S., provides that the lessee of a hospital, operating under that section or any special act of the Legislature, shall not be construed to be "acting on behalf of" the lessor as that term is used in statute, unless the lease document expressly provides to the contrary.

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<sup>1</sup> Section 155.40(5), F.S.

<sup>2</sup> Section 155.40(6), F.S.

## The Citrus County Hospital and Medical Nursing and Convalescent Home Act

The Citrus County Hospital Board (Board) is an independent special district,<sup>3</sup> created by a special act of the Legislature in 1949, to be run by five gubernatorial appointees to acquire, build, construct, maintain, and operate a public hospital in Citrus County.<sup>4</sup> The enabling act was amended in 1969 to require confirmation of the trustees by the Florida Senate.<sup>5</sup> Chapter 99-442, L.O.F.,<sup>6</sup> codifies all special acts relating to the Board.

The purpose of the Board is to create and maintain public medical facilities in Citrus County. The Board is authorized to borrow money, issue notes, raise bonds, contract for services, and adopt rules and regulations for the operation of the medical facilities. The Board may levy up to a maximum of three mills per year on taxable residential or commercial real estate in Citrus County. Board members serve four-year terms.

### Relevant History of the Board

#### *Creating the Not-for-Profit Foundation*

In 1987, the Board created the Citrus County Health Foundation, Inc. (Foundation) under the authority of ch. 155.40, F.S. The Foundation was created as a not-for-profit corporation,<sup>7</sup> with the Board as its sole member, to carry out the purposes of the special act. The Foundation is managed by a board of directors comprised of (1) the five trustees of the hospital board, (2) a minimum of five and a maximum of seven at-large directors, and (3) the chief of the medical staff of Citrus Memorial Hospital. The Foundation is currently doing business as the Citrus Memorial Health System, which includes:

- a 198-bed in-patient hospital;
- a 24-hour emergency room;
- laboratory and diagnostic services;
- a walk-in clinic;
- a home health agency;
- rehabilitation services;
- a heart center; and
- orthopedic services.

#### *Lease of Hospital to the Foundation*

The Board entered into a lease agreement and an agreement for hospital care with the Foundation, both effective on March 1, 1990. At that time, the same Board members controlled both the Board and the Foundation.

Under the lease agreement, the Foundation has leased from the Board all of the land, buildings, improvements, equipment, furniture, and fixtures of the Citrus Memorial Health System and agreed to make rental payments equal to the principal and interest and any premiums on the Hospital Revenue and Revenue Refunding Bonds issued by the Board. Under the agreement for hospital care, the Board agreed to assist the Foundation with funding for uncompensated care and the acquisition, expansion, and maintenance of proposed and existing hospital and health facilities in exchange for medical services provided by the Foundation to the residents of Citrus County. In addition, the Foundation is

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<sup>3</sup> A special district is provided for in s. 1, Art. VIII of the State Constitution and in s. 189.403(1), F.S., to be a "local unit of special purpose, as opposed to general purpose, government, within a limited boundary, created by general law, special act, local ordinance or by rule of the Governor and Cabinet." A special district can levy taxes, and is subject to the legislative provisions for open meetings, credit and bond financing. *See*, ch. 189, F.S.

<sup>4</sup> Chapter 25728, L.O.F.

<sup>5</sup> Chapter 69-944, L.O.F.

<sup>6</sup> As subsequently amended by ch. 2001-308, L.O.F.

<sup>7</sup> Under ch. 617, F.S.

required to submit an annual operating and capital budget to the Board. The Board is required to review the budget in conjunction with its own budget and, in accordance with its enabling legislation, certify to the Citrus County Board of County Commissioners the millage rate required to be levied. Public budget hearings are held as required by law. The Board is then required to pay the Foundation its share of the ad valorem tax revenues to fund activities and services identified in the Foundation operating and capital budget.

The lease agreement expires on June 15, 2033, unless terminated earlier in accordance with its terms. The Foundation has the right to unconditionally renew the lease for an additional 45-year term, if it is not in default of the lease agreement. The agreement for hospital care is automatically renewed each year for a total of 40 years, or for as long as the lease agreement remains in effect, unless terminated by the Foundation in accordance with the agreement. In the event of dissolution of the Foundation, its assets, after payment of its liabilities, revert to the Board.

Board entered into the agreement for hospital care with the Foundation to better provide medical and emergency care for the county. This agreement required the Foundation to submit an annual operating and capital budget to the Board, and obligated the Board to appropriate and pay to the Foundation the money necessary to fund such budget. The funds are raised by the levy of ad valorem taxes on Citrus County property owners.<sup>8</sup>

#### *Control Shift*

In 2006, the Foundation amended its Articles of Incorporation to have a board of directors composed of the Board trustees, five to seven at-large members, the Foundation's president, and the chair of hospital's medical staff. This brought the number of board members to not less than 12 or more than 14, with the consequence that the Board's five trustees could no longer constitute a majority of the board.

#### *Operational Audit*

From January 2006 through December 2008, the Auditor General conducted an operational audit of both the Board and the Foundation, and issued a report in February 2010. The Auditor General made several findings that noted concern with the governance and operation of both entities in relation to the hospital. Specifically, the Auditor General's report found problems with the Foundation's accountability to the Board, use of funds for travel and bonuses that were not approved by the Board, contracts that were executed outside the scope of the Foundation's chief executive officer's expenditure authority, and conflicts of interest that were not disclosed.

Despite no finding that the Citrus County Hospital lease expressly provided that the Foundation was "acting on behalf of" the Board, an Attorney General opinion found that the Foundation was an instrumentality of Board, and subject to the sovereign immunity provisions of s. 768.28, F.S.<sup>9</sup>

#### Litigation<sup>10</sup>

Both the Board and the Foundation have filed various lawsuits against one another alleging a variety of claims, including contractual breaches, public records violations, and fiduciary duty breaches by

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<sup>8</sup> Section 6, Ch. 2011-256, L.O.F.

<sup>9</sup> Florida Attorney General Opinion 2006-36 (August 2006).

<sup>10</sup> *Citrus Memorial Health Foundation Inc., vs. Citrus County Hospital Board*, 2010-CA-005399 (5th Cir. 2010); *Citrus County Hospital Board vs. Citrus Memorial Health Foundation Inc.*, 2010-CA-005702 (5th Cir. 2010); *Citrus Memorial Health Foundation Inc., vs. Upender*, 2011-CA-001476 (5th Cir. 2011); *Citrus Memorial Health Foundation Inc., vs. Upender*, 2011-CA-001388 (5th Cir. 2011); *Citrus County Hospital Board vs. Ryan Beaty*, 2011-CA-809 (5th Cir. 2011); *Citrus Memorial Health Foundation, Inc. vs. Trustees Rao, Ressler and Smalridge*, 2011-CA-1388 (5th Cir. 2011); *Citrus Memorial Health Foundation, Inc. vs. Citrus County Hospital Board*, 2011-CA-1653 (5th Cir. 2011); *Citrus County Hospital Board vs. Citrus Memorial Health Foundation, Inc.*, 2012-CA-219 (5th Cir. 2012); *Citrus County Hospital Board v. Citrus Memorial Health Foundation, Inc.*, SC13-411 (Supreme Court 2013).

individually named directors. As of publication of this analysis, there are still two ongoing cases – one of which is before the Supreme Court.<sup>11</sup> See section III Comments: C. Drafting Issues or Other Comments, below.

### Lease of Hospital to For-Profit Corporation

#### *Need for Improved Administration*

An in-depth review of the hospital's finances and operations in October 2012 revealed significant problems with the administration of the hospital, which had been operating at a loss for several years. The hospital defaulted on a \$5.6 million loan from SunTrust Bank on October 1, 2013 by not meeting a bond covenant requiring the hospital to have at least 65 operational days of cash on hand. The loan was scheduled to be foreclosed on April 2, 2014.<sup>12</sup> The Board and the Foundation decided to lease or sell the hospital to an outside hospital management team that has greater financial resources.

#### *Bidding Process*

The Board and the Foundation considered bids from three for-profit hospital groups and one not-for-profit hospital.<sup>13</sup> For-profit hospital groups would likely pay off the hospital debt, cover the pension plan deficit, and provide capital to update the hospital facilities. Additionally, these for-profit entities would provide approximately \$2.1 million in property tax revenues annually. A not-for-profit entity would most likely not be able to invest as much capital into the hospital and would not pay property taxes. Not-for-profit hospitals are also less likely to be able to withstand the planned cuts to hospitals under the Affordable Care Act. In September 2013, the Board and Foundation voted to award the bid for the lease or sale to the Hospital Corporation of America (HCA), a for-profit corporation. Section 155.40, F.S., governs the sale or lease of the hospital.

#### *Decision to Lease*

Despite much public support for selling the hospital to HCA, the Board and the Foundation decided to lease. HCA offered \$140 million with an additional \$45 million in capital investment over five years. Of the \$140 million, \$50 million is expected to pay off the debt and cover the pension plan deficit, leaving \$90 million in net profit.<sup>14</sup>

On January 10, 2014, both the Board and the Foundation voted to sign the letter of intent<sup>15</sup> with HCA to lease the hospital and came to an agreement on the terms of the master settlement of lawsuits. The Board began due diligence with HCA for the lease on January 24, 2014. As of the publication date of this analysis, the specific contract terms of the lease are still being negotiated by the Board, the Foundation, and HCA. The final lease agreement is expected to be completed in late summer 2014.

### Irrevocable Community Trust or Foundation

Net proceeds from the lease agreement are expected to be approximately \$90 million. In order to maintain control of those proceeds, the Board and the Foundation agreed to create an irrevocable

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<sup>11</sup> *Citrus Memorial Health Foundation Inc., vs. Citrus County Hospital Board*, 2010-CA-005399 (5th Cir. 2010) and *Citrus County Hospital Board v. Citrus Memorial Health Foundation, Inc.*, SC13-411 (Supreme Court 2013).

<sup>12</sup> Write, Mike. "Foundation votes for cooperation," *Citrus County Chronicle* 27 Aug. 2013: A1, available at <http://ufdcimages.uflib.ufl.edu/UF/00/02/83/15/03216/08-27-2013.pdf>.

<sup>13</sup> The for-profit corporations included Hospital Corporation of America, Health Management Associates, and RegionalCare Hospital Partners. The not-for-profit was Tampa General Hospital.

<sup>14</sup> "Courtship complete," *Citrus County Chronicle Online* 19 Sept. 2013, available at <http://www.chronicleonline.com/content/courtship-complete>. Some reports indicate HCA offered up to \$145.6 million, leaving net profit of \$95 million.

<sup>15</sup> The letter of intent is a non-binding letter to HCA, but signals to HCA that the governing bodies of the hospital are ready to start the formal negotiation process and gives them a written list of priorities and requests to consider from the Board and the Foundation.

community trust or foundation. The purpose of the trust or foundation must be to provide for the medical needs of county residents. The governing body must be elected by the process provided in the bill.

### Effect of Proposed Changes

PCS for HB 1445 authorizes the Citrus County Hospital Board (Board) to enter into contracts or leases with for-profit Florida corporations. Under current law, the Board may only contract with not-for-profit corporations. This change would allow the lease with HCA to be legally executed.

PCS for HB 1445 authorizes the Board to create an irrevocable community trust or foundation to manage the net proceeds of the lease of hospital facilities.

PCS for HB 1445 also eliminates the Board's authority to levy ad valorem taxes. The Economic Impact Statement estimates that this will result in a loss of \$1,714,820 for Fiscal Year 2014-2015 and \$1,531,334 for Fiscal Year 2015-2016.

Proponents claim that leasing the hospital to HCA is the best option for financial stability and healthcare.<sup>16</sup> They allege that approximately \$90 million will go directly to the community through the creation of the charitable trust and all of the net proceeds of the lease will benefit the community. The lease ensures that hospital bonds will be funded; pensions will be secured; and the county will retain ownership of the hospital. HCA will pay \$2 million in property taxes.

Both the Board and the Foundation agree that the lease is in the best interest of the community and support creating a community trust for the proceeds left from the lease.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 3 of ch. 2011-256, L.O.F.

Section 2: Provides qualifications of amendments made by this act to ch. 2011-256, L.O.F.

Section 3: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 15, 2014

WHERE? The *Citrus County Chronicle*, a daily newspaper of general circulation published in Citrus County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

<sup>16</sup> See pro-lease ad at [http://careforcitruscounty.org/wp-content/uploads/2013/08/working\\_together\\_to\\_lease.jpg](http://careforcitruscounty.org/wp-content/uploads/2013/08/working_together_to_lease.jpg).



### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### Need for Additional Special Act

##### *Unlimited Bonding Authority without Taxing Authority*

Upon passage of this bill, internal inconsistencies and obsolete language will be created. The Board's bonding authority is capped by its taxing authority in section 14 of section 3 of ch. 2011-256, L.O.F. However, this bill removes the Board's taxing authority. This should be addressed in a future special act.

##### *Ongoing Litigation - Creating Internal Inconsistencies in the Law*

Due to the pending litigation at the Florida Supreme Court, parts of ch. 2011-256, L.O.F., have not been updated to reflect the changes made by this bill. Specifically, ss. 3(16), 5, and 6, ch. 2011-256, L.O.F., refer to not-for-profit corporations and taxing authority that will not be accurate if this bill becomes law. At issue in the case, *Citrus County Hospital Board v. Citrus Memorial Health Foundation, Inc.*, are the whereas clauses and sections 3 – 5 of ch. 2011-256. The Supreme Court heard oral arguments in November 2013 and is expected to rule on it in 2014. Therefore, upon passage of this bill, there will be internal inconsistencies in the updated Laws of Florida. These inconsistencies should be corrected in a future special act.

##### Status as a "Florida Corporation"

According to ch. 2011-256, L.O.F., and the language of this bill, the Board may enter into contracts or leases with Florida corporations. HCA, with whom the Board is currently executing a lease agreement, is incorporated in Delaware. HCA was also incorporated in Florida, but voluntarily withdrew their incorporation status in 1994 and have never been reinstated.

Allegedly the terms of the lease agreement will create a for-profit corporation incorporated in Florida, called HCA West Florida. HCA West Florida is a hospital network in Tampa whose parent company is HCA. However, the Department of Corporation's website does not have records of it being incorporated yet.

Regardless, the negotiating parties intentionally kept the language "Florida corporation."

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 3, 2014, the Local & Federal Affairs Committee will consider a Proposed Committee Substitute revising the original bill. This analysis is drawn to the PCS.

Rep. Smith

HB 1445

**Proof of Publication**  
 from the  
**CITRUS COUNTY CHRONICLE**  
 Crystal River, Citrus County, Florida  
**PUBLISHED DAILY**

STATE OF FLORIDA  
 COUNTY OF CITRUS  
 Before the undersigned authority personally appeared

Lakeshia Brisco  
 Of the Citrus County Chronicle, a newspaper published daily at Crystal River, in Citrus County, Florida, that the attached copy of advertisement being a public notice in the matter of the

**Insertion Order: 000H52Q**  
**Legal number: NOTICE 12/04 WCRN**  
**Description: Citrus County Hospital Board**  
**Display Advertisement: to run 1 time(s)**

Court, was published in said newspaper in the issue of  
**Date of publication: Wed Jan 15, 2014**

Affiant further says that the Citrus County Chronicle is a Newspaper published at Crystal River in said Citrus County, Florida, and that the said newspaper has heretofore been continuously published in Citrus County, Marion County and Levy County, Florida, each week and has been entered as second class mail matter at the post office in Inverness in said Citrus County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Lakeshia Brisco*  
 The foregoing instrument was acknowledged before me  
 This *Jan 16, 2014*

By: Lakeshia Brisco

who is personally known to me and who did take an oath.

Notary Public *Theresa J Savery*

1204-WCRN

**NOTICE OF INTENT TO SEEK LEGISLATION**

**To Whom It May Concern:** Notice is hereby given of intention to Apply to the 2014 session of the Florida Legislature or any Legislative Sessions of the Florida Legislature during 2014 and, including any special or extended session(s) of the Florida Legislature for the passage of an act relating to Governance reforms and to other matters relating to the Citrus County Hospital Board's laws of Florida, as follows:

An act relating to Citrus County; providing for codification of special laws relating to the Citrus County Hospital Board, an independent special district in Citrus County; providing legislative intent; codifying, amending, reenacting, and repealing chapter 2011-256, Laws of Florida, as the "Citrus County Hospital and Medical Nursing and Convalescent Home Act"; providing for the reduction and qualification of the maximum taxing authority of the Citrus County Hospital Board from 3.0 mills to a lower amount, while still allowing the Citrus County Hospital Board to adequately provide for the public welfare of the local community; amending existing provisions as necessary providing for interpretation and implementation of the act and for court enforcement; providing application; amending chapter 2011-256, Laws of Florida, relating to the Citrus County Hospital Board; providing severability; providing construction; providing an effective date; providing for whatever is necessary and/or appropriate to effectuate reforming and/or reducing the maximum taxing authority of the Citrus County Hospital Board; to provide for the stability and long term viability of the public hospital and the surrounding Citrus County community.

Copies of the actual Legislative Proposal will be available at the Office of Representative Jimmie T. Smith, at 352-560-6062 or at the office of Citrus County Hospital Board, at 352-341-2250.

000H52Q

NOTARY PUBLIC  
 STATE OF FLORIDA  
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 EXPIRES September 26, 2017  
 (307) 398-0181 FloridaNotaryServices.com

**HOUSE OF REPRESENTATIVES  
2014 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB 1445  
**SPONSOR(S):** Representative Jimmie T. Smith  
**RELATING TO:** Citrus Memorial Hospital, Inverness, Citrus County, Florida  
(Indicate Area Affected (City, County, or Special District) and Subject)  
**NAME OF DELEGATION:** Citrus County Legislative Delegation  
**CONTACT PERSON:** Representative Jimmie T. Smith  
**PHONE NO.:** (352) 560-6062 **E-Mail:** jimmie.smith@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, and the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?  
YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?  
YES  NO

Date hearing held: October 29, 2013

Location: Citrus County Courthouse

(3) Was this bill formally approved by a majority of the delegation members?  
YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

**Has this constitutional notice requirement met?**

Notice published: YES  NO  DATE \_\_\_\_\_

Where? Citrus Chronicle County Citrus County

Referendum in lieu of publication: YES  NO

Date of Referendum N/A

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [X] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [X\*] NO [ ] NOT APPLICABLE [ ] \*Bill is a reduction of millage

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [X]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local & Federal Affairs Committee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

03/26/14  
Date

Jimmie T. Smith  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2014 ECONOMIC IMPACT STATEMENT FORM**

**\*Read all instructions carefully.\***

**House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.**

**BILL #;** HB 1445 (Amended)  
**SPONSOR(S)** Representative Jimmie T. Smith  
**RELATING TO:** Citrus Memorial Hospital, Inverness, Citrus County, Florida  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees, and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill: The passage of this Bill will result in the elimination of all Ad Valorem local funding for the Citrus County Hospital Board.	\$1,714,820 Approximate	\$1,531,334 Approximate
Revenue increase due to bill: The passage of this Bill will result in the elimination of all Ad Valorem local funding for the Citrus County Hospital Board.	None/ Eliminated	None/ Eliminated

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

<u>FY 14-15</u>	<u>FY 15-16</u>
None	None

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost:

No costs are anticipated to be associated with the removal of the Ad Valorem Taxes previously imposed by the Citrus County Hospital Board

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### III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local: The passage of this Bill will result in an elimination of all Ad Valorem local funding for the Citrus County Hospital Board.	None/ Eliminated	None/ Eliminated
State: No increase or decrease in state funds will result from the passage of this bill.	No change	No change
Federal: No increase or decrease in federal funds will result from the passage of this bill.	No change	No change

### III. ECONOMIC IMPACT

#### Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

1. Advantages to Individuals: Individuals in Citrus County will receive a positive advantage in the form of the elimination of Ad Valorem taxes for the Citrus County Hospital Board.
2. Advantages to Businesses: Businesses in Citrus County will receive a positive advantage in the form of the elimination of Ad Valorem taxes for the Citrus County Hospital Board.
3. Advantages to Government: Citrus County will see increased efficiency in the form of the elimination of the need to collect Ad Valorem taxes for the Citrus County Hospital Board.

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1, Disadvantages to Individuals: This bill will not create any disadvantages to  
individuals.

2. Disadvantages to Businesses: This bill will not creates any disadvantages to  
businesses.

3. Disadvantages to Government: This bill will not create any disadvantages to  
government other than the removal of the collection  
of Ad Valorem taxes for the Citrus County Hospital  
Board.

**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None", explain the reasons why. Also, state whether the bill May require a governmental entity to reduce the services it provides.

1. Impact on Competition:

This bill will not create an impact on competition because the Ad Valorem taxes  
eliminated by this bill never had an impact (positive or negative) on competition  
No governmental entities will be required to reduce the services they provide.


2. Impact on the Open Market for Employment:

This bill will not create an impact on the Open Market for Employment because the Ad  
Valorem taxes eliminated by this bill never had an impact (positive or negative) on the  
Open Market for Employment.

**V. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Data used included the amounts of revenue received by the Citrus County Hospital Board from Ad Valorem taxes over the previous three-year period. Further data analysis was unnecessary as this bill only addresses the elimination of the Ad Valorem taxes previously assessed on Citrus County residents by the Citrus County Hospital Board.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: Fred D. Mangello

3/26/14  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

REPRESENTING Office of General Counsel

PHONE: (352) 726-5111

E-MAIL ADDRESS: \_\_\_\_\_



**HOUSE OF REPRESENTATIVES**  
**2014 ECONOMIC IMPACT STATEMENT FORM**

**\*Read all instructions carefully.\***

**House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.**

**BILL #;** HB 1445  
**SPONSOR(S)** Representative Jimmie T. Smith  
**RELATING TO:** Citrus Memorial Hospital, Inverness, Citrus County, Florida  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees, and special assessments, For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill: The passage of this Bill will result in the reduction of Ad Valorem local funding for the Citrus County Hospital Board.		Amount of revenue decrease is dependent on actual reduction to the applicable millage rate.
Revenue increase due to bill: The passage of this Bill will result in the reduction of Ad Valorem local funding for the Citrus County Hospital Board.	None/ Eliminated	None/ Eliminated

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

<u>FY 14-15</u>	<u>FY 15-16</u>
None	None

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost:

No costs are anticipated to be associated with the reduction of the Ad Valorem Taxes imposed by the Citrus County Hospital Board

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**III. FUNDING SOURCE(S):**

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local: The passage of this Bill will result in the reduction of Ad Valorem local funding for the Citrus County Hospital Board.	Ad Valorem taxation of Citrus County residents.	Ad Valorem taxation of Citrus County residents.
State: No increase or decrease in state funds will result from the passage of this bill.	No change	No change
Federal: No increase or decrease in federal funds will result from the passage of this bill.	No change	No change

**III. ECONOMIC IMPACT**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

1. Advantages to Individuals: Individuals in Citrus County will receive a positive advantage in the form of the reduction of Ad Valorem taxes for the Citrus County Hospital Board.
2. Advantages to Businesses: Businesses in Citrus County will receive a positive advantage in the form of the reduction of Ad Valorem taxes for the Citrus County Hospital Board.
3. Advantages to Government: The passage of this bill is not expected to create any advantages, positive or negative to any level of government

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1, Disadvantages to Individuals: This bill will not create any disadvantages to individuals.

2. Disadvantages to Businesses: This bill will not creates any disadvantages to businesses.

3. Disadvantages to Government: This bill will not create any disadvantages to government other than the reduction of the collection of Ad Valorem taxes for the Citrus County Hospital Board.

**IV. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None", explain the reasons why. Also, state whether the bill May require a governmental entity to reduce the services it provides.

1. Impact on Competition:

This bill will not create an impact on competition because the Ad Valorem taxes eliminated by this bill never had an impact (positive or negative) on competition  
No governmental entities will be required to reduce the services they provide.

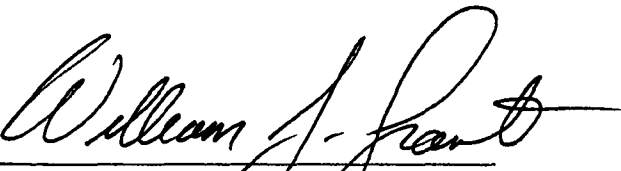
2. Impact on the Open Market for Employment:

This bill will not create an impact on the Open Market for Employment because the Ad Valorem taxes eliminated by this bill never had an impact (positive or negative) on the Open Market for Employment.

**V. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Specific sources and data were unnecessary for the preparation of these estimates because  
this bill addresses the reduction of the Ad Valorem taxes assessed on Citrus County  
by the Citrus County Hospital Board, with the actual amount of reduction not yet  
determined.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: William J. Grant  
3/26/2014  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

REPRESENTING General Council  
Citrus Cty Hosp Bd  
PHONE: (352) 726-5111  
E-MAIL ADDRESS: \_\_\_\_\_

**HOUSE OF REPRESENTATIVES  
2014 LOCAL BILL AMENDMENT FORM**

*Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local & Federal Affairs Committee staff prior to consideration. An Amendment Form is not required for technical amendments.*

BILL NUMBER: 1445  
SPONSOR(S): Smith  
RELATING TO: Citrus County Hospital Board  
[Indicate Area Affected (City, County or Special District) and Subject]  
SPONSOR OF AMENDMENT: Smith  
CONTACT PERSON: Gabe Peters  
PHONE NO: 717-5037 E-MAIL: Gabe.Peters@myfloridahouse.gov  
REVIEWED BY STAFF OF THE LOCAL & FEDERAL AFFAIRS COMMITTEE

\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**

*(Attach additional page(s) if necessary)*

Deletes taxing authority

**II. REASON/NEED FOR AMENDMENT:**

*(Attach additional page(s) if necessary)*

To remove taxing authority, hospital will be leased

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES  NO [ ] NOT APPLICABLE [ ]

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES [ ] NO [ ] NOT APPLICABLE

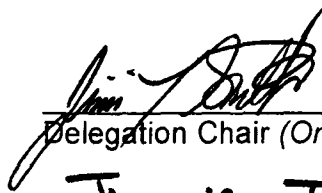
**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES  NO

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local & Federal Affairs Committee prior to consideration of the amendment.

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES  NO  UNANIMOUSLY APPROVED

  
\_\_\_\_\_  
Delegation Chair (Original Signature)  
Jimmie T. Smith  
\_\_\_\_\_  
Print Name of Delegation Chair

3/26/14  
\_\_\_\_\_  
Date

1                                   A bill to be entitled  
2       An act relating to the Citrus County Hospital Board,  
3       Citrus County; amending ch. 2011-256, Laws of Florida;  
4       authorizing the board to create an irrevocable  
5       community foundation or trust to manage the proceeds  
6       of a lease of the hospital and its facilities to a  
7       private for-profit entity; requiring the board to  
8       create and staff an irrevocable community foundation  
9       or trust to manage the proceeds of certain leases;  
10      providing that proceeds of certain leases may only be  
11      used for medically related needs of citizens and  
12      residents of Citrus County; providing for certain  
13      members of the governing body of the irrevocable  
14      community trust or foundation; requiring the  
15      Supervisor of Elections to conduct elections to select  
16      such members upon the request of the board; requiring  
17      the irrevocable community trust or foundation to  
18      comply with certain rules and laws applicable to  
19      governmental entities and their elected and appointed  
20      officials; providing that an irrevocable community  
21      trust or foundation created by the board is subject to  
22      the audit authority of the clerk of the court;  
23      authorizing the board to enter into leases or  
24      contracts with any Florida corporation, rather than  
25      only a Florida nonprofit corporation, for the purpose  
26      of operating or managing the hospital and its

27 facilities; providing retroactive applicability;  
 28 providing an effective date.

29

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

31

32 Section 1. Section 3 of chapter 2011-256, Laws of Florida,  
 33 is amended to read:

34 Section 1. This act may be cited as the "Citrus County  
 35 Hospital and Medical Nursing and Convalescent Home Act."

36 Section 2. As used in this act, the following words and  
 37 terms have the following meanings:

38 (1) "Citrus County Hospital Board," "hospital board," and  
 39 "board" means the Citrus County Hospital Board.

40 (2) "County" means Citrus County.

41 (3) "County hospital and medical nursing and convalescent  
 42 homes" includes hospitals, medical care facilities, clinics, and  
 43 other allied medical care units.

44 (4) "Indigent care" means medically necessary health care  
 45 provided to Citrus County residents who are determined to be  
 46 qualified pursuant to the provisions of the Florida Health Care  
 47 Responsibility Act, section 154.304(9), Florida Statutes, and  
 48 the Florida Health Care Indigency Eligibility Certification  
 49 Standards, Florida Administrative Code, rule 59H-1.0035(30).

50 (5) "Operate" includes build, construct, maintain, repair,  
 51 alter, expand, equip, lease pursuant to and consistent with the  
 52 provisions of this act, finance, and operate.



53 (6) "Property" means real and personal property of every  
 54 nature whatsoever.

55 (7) "State" means the State of Florida.

56 Section 3. (1) There is hereby created the Citrus County  
 57 Hospital Board, an independent special district, and by that  
 58 name the board may sue and be sued, plead and be impleaded,  
 59 contract and be contracted with, acquire and dispose of property  
 60 or any interest therein, and have an official seal. The board is  
 61 created as a public nonprofit corporation without stock and is  
 62 composed of and governed by the five members herein provided  
 63 for, to be known as trustees. The hospital board is hereby  
 64 constituted and declared to be an agency of the county and  
 65 incorporated for the purpose of operating hospitals, medical  
 66 nursing homes, and convalescent homes in the county. The  
 67 hospital board shall consist of five trustees appointed by the  
 68 Governor, and, upon this act becoming a law, the present members  
 69 will automatically become trustees and shall constitute the  
 70 board. Their respective terms of office shall be the term each  
 71 member is presently serving. All subsequent appointments, upon  
 72 the expiration of the present terms, shall be for terms of 4  
 73 years each. Upon the expiration of the term of each trustee, the  
 74 successor shall be appointed by the Governor. Likewise, any  
 75 vacancy occurring shall be filled by appointment by the Governor  
 76 for the unexpired term. Each appointment by the Governor is  
 77 subject to approval and confirmation by the Senate.

78 (2) The trustees of the board shall elect from among its

79 members a chair, a vice chair, and a secretary-treasurer, who  
 80 shall each hold office for a period of 1 year. Each trustee  
 81 shall execute a bond in the penal sum of \$5,000 with a good and  
 82 sufficient surety of a surety company authorized under the laws  
 83 of the state to become surety, payable to the Citrus County  
 84 Hospital Board, conditioned upon the faithful performance of the  
 85 duties of the trustee, which bonds shall be approved by the  
 86 remaining trustees of the board and shall be filed with the  
 87 Board of County Commissioners of Citrus County. The premiums on  
 88 such bonds shall be paid by the hospital board.

89 (3) The hospital board shall comply with the applicable  
 90 requirements of chapter 280, Florida Statutes, and part IV of  
 91 chapter 218, Florida Statutes.

92 (4) Any and all funds so deposited shall be withdrawn by a  
 93 check or warrant signed by two trustees of the hospital board,  
 94 of which one shall be the chair, vice chair, or secretary-  
 95 treasurer. No check or warrant exceeding the sum of \$25,000  
 96 shall be delivered to the payee without approval thereof shown  
 97 in the minutes of the hospital board meeting.

98 Section 4. The trustees of the board shall receive no  
 99 compensation for their services. Three trustees shall constitute  
 100 a quorum of the hospital board for the purpose of conducting its  
 101 business and exercising its powers and for all other purposes.  
 102 Action may be taken by the board only upon a vote in the  
 103 affirmative of three trustees thereof.

104 Section 5. The Citrus County Hospital Board as hereby

PCS for HB 1445

ORIGINAL

2014

105 | created shall be for the purpose of operating, in Citrus County,  
 106 | public hospitals, medical nursing homes, and convalescent homes,  
 107 | primarily and chiefly for the benefit of the citizens and  
 108 | residents of Citrus County. Authority is hereby given to the  
 109 | board to build, erect, expand, equip, maintain, operate, alter,  
 110 | change, lease pursuant to and consistent with the provisions of  
 111 | this act, and repair public hospitals, medical nursing homes,  
 112 | and convalescent homes in Citrus County. The corporation is  
 113 | authorized, when rooms and services are available, without  
 114 | detriment or deprivation to the citizens and residents of Citrus  
 115 | County, to extend the hospitalization and medical nursing home  
 116 | and convalescent home services provided by such hospitals,  
 117 | medical nursing homes, and convalescent homes to patients from  
 118 | adjoining and other counties of Florida and from other states,  
 119 | upon the payment of the cost of such hospitalization, medical  
 120 | nursing home services, and convalescent home services as may be  
 121 | determined by the trustees of the hospital board. The board  
 122 | shall have the power and authority to operate an ambulance  
 123 | system and ambulance services and to charge all patients for all  
 124 | services rendered in any facility owned or operated by the  
 125 | hospital board, including the ambulance facility. The board may  
 126 | charge a patient interest on the patient's account; sell,  
 127 | discount, or assign such account to a bank, finance company,  
 128 | collection agency, or other type of collection facility; accept  
 129 | promissory notes or other types of debt obligations from a  
 130 | patient; assign or discount such accounts receivable, notes, or

131 other obligations; require a patient to guarantee the payment of  
 132 an existing account or note; require a guarantee of payment  
 133 before admitting a patient; and receive and assign any  
 134 assignment of all types of insurance proceeds. In addition to  
 135 all other powers, the board shall have the power and authority  
 136 to:

137 (1) Provide for the payment of indigent care services by  
 138 private health care providers in the county, or to partner with  
 139 other entities such as the Department of Health, in furtherance  
 140 of the hospital board's public purpose and the necessity for the  
 141 preservation of the public health and welfare of the residents  
 142 of the county by the hospital board.

143 (2) Develop and implement a county health plan.

144 (3) In its discretion, create an irrevocable community  
 145 trust or foundation to manage the proceeds of a lease of the  
 146 hospital and its facilities to a private for-profit entity.

147 (a) The board may create and staff an irrevocable  
 148 community trust or foundation to manage the proceeds of a lease  
 149 of the hospital and its facilities to a private for-profit  
 150 entity if such lease results in net proceeds that exceed  
 151 existing debt associated with the hospital and its facilities  
 152 for loans, notes, revenue bonds, or other bond obligations and a  
 153 reasonable estimate of the board's administrative costs and  
 154 costs to facilitate, manage, or enforce the lease and its  
 155 covenants for the term of the lease. Such proceeds and any  
 156 interest derived therefrom may be appropriated by the

157 | irrevocable community trust or foundation only for the medically  
 158 | related needs of citizens and residents of Citrus County.

159 |       (b) The governing body of the community trust or  
 160 | foundation must include at least two members who are citizens of  
 161 | Citrus County who shall be elected on a nonpartisan, countywide  
 162 | basis to serve a single 4-year term, except, for purposes of  
 163 | establishing staggered terms, the term of one initial citizen  
 164 | member shall be for 2 years. A citizen member may not serve more  
 165 | than one term on the governing body of the irrevocable community  
 166 | trust or foundation. Any vacancy occurring during a term of  
 167 | office for a citizen member shall be filled by appointment of  
 168 | the board for the remainder of the unexpired portion of the  
 169 | term. Upon the request of the board, the Supervisor of Elections  
 170 | for Citrus County shall conduct elections to fill the seats of  
 171 | the citizen members of the governing body of the irrevocable  
 172 | community trust or foundation.

173 |       (c) The irrevocable community trust or foundation shall be  
 174 | considered a quasi-governmental entity and must comply with all  
 175 | disclosure, accountability, ethics, and government-in-the-  
 176 | sunshine requirements which apply both to governmental entities  
 177 | and to their elected and appointed officials.

178 |       (d) The irrevocable community trust or foundation is  
 179 | subject to the audit authority of the Clerk of the Court for  
 180 | Citrus County.

181 |       ~~Section 6. The board of county commissioners shall levy or~~  
 182 | ~~cause to be levied each year beginning July 1, 1965, the millage~~

183 ~~certified to the board of county commissioners by the trustees~~  
 184 ~~of the board upon all taxable real and personal property in~~  
 185 ~~Citrus County, not including, however, homestead property that~~  
 186 ~~is exempt from general taxation by the Constitution of the State~~  
 187 ~~of Florida, for the purpose of erecting, building, equipping,~~  
 188 ~~maintaining, changing, altering, repairing, leasing, and~~  
 189 ~~operating the public hospital provided for in this act. Such tax~~  
 190 ~~shall be known as the hospital tax, and the property appraiser~~  
 191 ~~shall make such assessments and the tax collector shall collect~~  
 192 ~~such assessments when made. The money collected shall be paid~~  
 193 ~~monthly to the board. However, the annual tax levied under this~~  
 194 ~~section may not exceed 3 mills.~~

195       Section 6.7. The hospital board is hereby authorized and  
 196 empowered to own and acquire property by purchase, lease, gift,  
 197 grant, or transfer from the county, the state, or the Federal  
 198 Government, or any subdivision or agency thereof, or from any  
 199 municipality, person, partnership, or corporation and to  
 200 acquire, construct, maintain, operate, expand, alter, repair,  
 201 change, lease, finance, and equip hospitals, medical nursing  
 202 homes, convalescent homes, medical care facilities, and clinics  
 203 in the county.

204       Section 7.8. The hospital board is authorized and  
 205 empowered to enter into contracts with individuals,  
 206 partnerships, corporations, municipalities, the county, the  
 207 state or any subdivision or agency thereof, or the United States  
 208 of America or any subdivision or agency thereof to carry out the

209 purposes of this act.

210 Section 8.9. The hospital board is empowered to and shall  
 211 adopt all necessary rules, regulations, and bylaws for the  
 212 operation of hospitals, medical nursing homes, and convalescent  
 213 homes; provide for the admission thereto and treatment of such  
 214 charity patients who are citizens of the state and residents of  
 215 the county for the preceding 2 years; set the fees and charges  
 216 to be made for the admission and treatment therein of all  
 217 patients; and establish the qualifications for members of the  
 218 medical profession to be entitled to practice therein.

219 Section 9.10. The hospital board shall have the power to  
 220 purchase any and all equipment that may be needed for the  
 221 operation of hospitals, medical nursing homes, and convalescent  
 222 homes and shall have the power to appoint and hire such agent or  
 223 agents, technical experts, attorneys, and all other employees as  
 224 are necessary for carrying out the purposes of this act,  
 225 regardless of any lease to a not-for-profit corporation,  
 226 including the hiring and maintenance of staff personnel as it  
 227 may deem appropriate to assist the board in the discharge of its  
 228 operational, financial, and statutory responsibilities, and in  
 229 carrying out its fiduciary duties to the taxpayers of Citrus  
 230 County, and to prescribe their salaries and duties. The board  
 231 shall have the power to discharge all employees or agents when  
 232 deemed necessary by the board for the carrying out of the  
 233 purposes of this act.

234 Section 10.11. At the end of each fiscal year, the Citrus

235 County Hospital Board shall within 30 days file with the Clerk  
 236 of the Circuit Court of Citrus County a full, complete, and  
 237 detailed accounting of the preceding year and at the same time  
 238 shall file a certified copy of such financial report with the  
 239 Board of County Commissioners of Citrus County, which report  
 240 shall be recorded in the minutes of the board of county  
 241 commissioners. The board of county commissioners, at its  
 242 discretion and at the expense of the county, may publish and  
 243 report an accounting in a newspaper of general circulation in  
 244 Citrus County.

245 Section 11.12. In addition to all other implied and  
 246 express powers contained in this act, the board shall have the  
 247 express authority to negotiate loans to borrow money from any  
 248 state or federal agency for the purpose or purposes of  
 249 constructing, maintaining, repairing, altering, expanding,  
 250 equipping, leasing, and operating county hospitals, medical  
 251 nursing homes, convalescent homes, medical care facilities,  
 252 clinics, and all other types of allied medical care units.

253 Section 12.13. (1) In addition to all other implied and  
 254 express powers contained in this act, the board shall have the  
 255 express authority to borrow money, with or without issuing notes  
 256 therefor, for the purpose or purposes of constructing,  
 257 maintaining, repairing, altering, expanding, equipping, leasing,  
 258 and operating county hospitals, medical nursing homes,  
 259 convalescent homes, medical care facilities, clinics, and all  
 260 other types of allied medical care units. The board's authority



261 to borrow money, with or without issuing notes, shall be subject  
 262 to the conditions of this act applying to the board's right to  
 263 issue revenue bonds.

264 (2) The board shall have express authority to issue bonds,  
 265 subject to approval at a referendum of the voters of the county,  
 266 and to issue revenue bonds, without a referendum of the voters  
 267 of the county, the proceeds of which shall be used for erecting,  
 268 equipping, building, expanding, altering, changing, maintaining,  
 269 operating, leasing, and repairing such hospitals, medical  
 270 nursing homes, and convalescent homes. Such bonds, federal or  
 271 state hospital loans, notes, or revenue bonds shall mature  
 272 within 30 years after the year in which they are issued or made  
 273 and shall be payable in such years and amounts as shall be  
 274 approved by the board.

275 (3) The board shall determine the form of the loans,  
 276 notes, bonds, and revenue bonds, including any interest coupons  
 277 to be attached thereto, and the manner of executing them, and  
 278 shall fix the denomination or denominations thereof and the  
 279 place or places of payment of principal and interest, which may  
 280 be at any bank or trust company within or without the state. In  
 281 case a trustee whose signature or a facsimile of whose signature  
 282 appears on any loan, note, bond, or revenue certificate or  
 283 coupon ceases to be such trustee before the delivery thereof,  
 284 such signature or facsimile shall nevertheless be valid and  
 285 sufficient for all purposes the same as if the trustee had  
 286 remained in office until such delivery. All loan agreements,

287 notes, bonds, and revenue bonds issued hereunder shall have and  
 288 are hereby declared to have all the qualities and incidents of  
 289 negotiable instruments under the negotiable instruments law of  
 290 the state.

291 (4) Whenever the board passes a resolution approving the  
 292 issuance of such bonds, the board shall call for an election  
 293 and, subject to such election, permit the repayment of the bonds  
 294 out of an annual levy not to exceed 1.5 mills per year. Such  
 295 millage is included in the maximum millage of 3 mills per year.  
 296 Subject to such limitations, such bonds shall be payable from  
 297 the full faith and credit of the board.

298 (5) The loans, notes, and revenue bonds, together with the  
 299 interest, shall be payable from gross or net receipts of the  
 300 hospital board or any portion thereof.

301 (6) Such loans, notes, bonds, or revenue bonds shall not  
 302 bear interest in excess of the maximum rate permitted by the  
 303 laws of the state.

304 (7) The board may sell bonds, loans, notes, or revenue  
 305 bonds in such manner, either at public or private sale, and for  
 306 such price as it may determine to be for the best interest of  
 307 the hospital board.

308 Section 13.14. The total amount of outstanding bonds of  
 309 the hospital payable from ad valorem taxation at any one time  
 310 shall not exceed an amount equal to 6 times the annual hospital  
 311 tax, assuming such tax is based upon the yearly millage of 3  
 312 mills.

313 Section ~~14.15.~~ (1) The Citrus County Hospital Board shall  
 314 have the authority to enter into leases or contracts with a ~~net-~~  
 315 ~~for-profit~~ Florida corporation for the purpose of operating and  
 316 managing the hospital and any or all of its facilities of any  
 317 kind and nature.

318 (2) The Citrus County Hospital Board shall have the power  
 319 and authority to:

320 (a) Provide health care services to residents of the  
 321 county through the use of health care facilities not owned and  
 322 operated by the hospital board. The provision of such care is  
 323 hereby found and declared to be a public purpose and necessary  
 324 for the preservation of the public health and welfare of the  
 325 residents of the county.

326 (b) Maintain an office.

327 (c) Provide for reimbursement to hospitals, physicians, or  
 328 other health care providers or facilities, whether public or  
 329 private, and pay private physicians for indigent care.

330 (3) The hospital board is hereby restricted from  
 331 reimbursing any health care providers or facilities, including  
 332 hospitals and physicians, for their bad debts arising from those  
 333 patients who are not eligible for reimbursement under hospital  
 334 board guidelines. The hospital board, however, shall continue to  
 335 reimburse such health care providers for the medical care of  
 336 medically needy patients, to the extent of the hospital board's  
 337 financial resources, taking into account funds available from  
 338 other sources, including other governmental funding sources.

339 Section ~~15.16~~. To ensure public oversight, accountability,  
 340 and public benefit, in addition to the requirements for any such  
 341 lease set forth in section 155.40, Florida Statutes:

342 (1) The not-for-profit corporation shall separately  
 343 account for the expenditure of all ad valorem tax moneys  
 344 provided to it by the Citrus County Hospital Board, including  
 345 maintaining them in a separate accounting fund. The expenditure  
 346 for all such public tax funds shall be approved in a public  
 347 meeting and separately accounted for annually by the not-for-  
 348 profit corporation in a report provided to the Citrus County  
 349 Hospital Board.

350 (2) The articles of incorporation, all amendments or  
 351 restatements of the articles of incorporation, all corporate  
 352 bylaws, all amendments or restatements of the corporate bylaws,  
 353 and all other governing documents of the not-for-profit  
 354 corporation shall be subject to the approval of the hospital  
 355 board, and any such documents that have not heretofore been  
 356 approved by the hospital board shall be submitted forthwith to  
 357 the hospital board for approval.

358 (3) The hospital board shall be the sole member of the  
 359 not-for-profit corporation.

360 (4) The hospital board shall independently approve any  
 361 plan of merger or dissolution of the not-for-profit corporation  
 362 pursuant to sections 617.1103 and 617.1402, Florida Statutes,  
 363 and may reject any such plan in its sole discretion.

364 (5) The members of the hospital board shall be voting

365 | directors of the not-for-profit board of directors who  
 366 | constitute a majority of the voting directors of the not-for-  
 367 | profit corporation; and, to the extent that any governance  
 368 | documents of the not-for-profit corporation do not so presently  
 369 | provide, the not-for-profit corporation shall forthwith take all  
 370 | steps necessary to bring them into conformity with this majority  
 371 | membership requirement.

372 |         (6) All members of the not-for-profit board of directors  
 373 | shall be subject to approval by the hospital board, and any  
 374 | board members presently serving who have not heretofore been  
 375 | approved by the hospital board shall be submitted forthwith to  
 376 | the hospital board for approval.

377 |         (7) The chief executive officer of the not-for-profit  
 378 | corporation and his or her term of office and any extensions  
 379 | thereof shall be approved by the hospital board, and the  
 380 | hospital board may terminate the term of the chief executive  
 381 | officer of the not-for-profit corporation with or without cause  
 382 | in its sole discretion, subject to the terms of any and all  
 383 | then-existing contracts.

384 |         (8) The hospital board shall approve all borrowing of  
 385 | money by the not-for-profit corporation in any form and for any  
 386 | reason in an amount exceeding \$100,000, any additional loan  
 387 | indebtedness or leases in excess of \$1.25 million per instrument  
 388 | or contract, and all policies of the not-for-profit corporation  
 389 | that govern travel reimbursements and contract bid procedures.

390 |         (9) No annual operating and capital budget of the not-for-

391 | profit corporation shall become effective until approved by the  
 392 | hospital board.

393 |       (10) Any capital project of the not-for-profit corporation  
 394 | having a value in excess of \$250,000 per project, and any  
 395 | nonbudgeted operative expenditure in excess of \$125,000 in the  
 396 | per annum aggregate, shall be approved by the hospital board.

397 |       (11) At the discretion of the hospital board, each and  
 398 | every year the not-for-profit corporation shall complete an  
 399 | independent audit of the fiscal management of the hospital by an  
 400 | auditor chosen by the hospital board, with the audit to be paid  
 401 | for by the not-for-profit corporation.

402 |       (12) All records of the not-for-profit corporation shall  
 403 | be public records unless exempt by law.

404 |       (13) Subject to the annual approved budget, the hospital  
 405 | board shall reimburse the not-for-profit corporation for  
 406 | indigent care pursuant to the Florida Health Care Responsibility  
 407 | Act and the Florida Indigent Certification Standards and shall  
 408 | take into account funds available from other sources, including  
 409 | other governmental funding sources.

410 |       (14) The provisions in this act and the hospital board's  
 411 | lease with the not-for-profit corporation shall be construed and  
 412 | interpreted as furthering the public health and welfare and the  
 413 | open government requirements of s. 24, Art. I of the State  
 414 | Constitution and sections 119.01 and 286.011, Florida Statutes.

415 |       (15) Any dispute between the hospital board and the not-  
 416 | for-profit corporation shall be subject to any court action

PCS for HB 1445

ORIGINAL

2014

417 pursuant to sections 164.101-164.1065, Florida Statutes.

418 Section 2. The amendments made by this act to section 5 of  
419 the charter of the Citrus County Hospital Board apply to leases  
420 entered into after January 1, 2014, with a for-profit Florida  
421 corporation.

422 Section 3. This act shall take effect upon becoming a law.



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# **LOCAL & FEDERAL AFFAIRS COMMITTEE**

**Thursday, April 3, 2014  
8:45 A.M.  
Webster Hall (212 Knott)**

**Amendments:**

**HB 651  
CS/HB 1129  
HM 1165  
HB 1229  
CS/HB 1315  
HB 1337**





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
2 Committee

3 Representatives Fresen and Gonzalez offered the following:  
4

5 **Amendment (with directory and title amendments)**

6 Remove lines 37-48 and insert:

7 (g) An the individual, agent, or legal entity may become  
8 ~~that signs the petition becomes~~ an agent of the taxpayer for the  
9 purpose of serving process to obtain personal jurisdiction over  
10 the taxpayer for all the entire value adjustment board  
11 proceedings, including any appeals of a board decision by the  
12 property appraiser pursuant to s. 194.036, if the taxpayer  
13 provides written authorization to the individual, agent, or  
14 legal entity.

15 (4)

16 (b) No later than 7 days before the hearing, if the  
17 petitioner has provided the information required under paragraph



Amendment No. 1

44 property record card containing relevant information used in  
45 computing the current assessment, the property appraiser must  
46 provide the copy to the petitioner upon receipt of the petition  
47 from the clerk regardless of whether the petitioner initiates  
48 evidence exchange, unless the property record card is available  
49 online from the property appraiser. ~~Upon receipt of the notice,~~  
50 ~~the petitioner may reschedule the hearing a single time by~~  
51 ~~submitting to the clerk a written request to reschedule, at~~  
52 ~~least 5 calendar days before the day of the originally scheduled~~  
53 ~~hearing.~~

54 (b) A request to reschedule a hearing by either party may  
55 be denied by the board or the board's designee if the hearing  
56 has twice previously been rescheduled.

57 ~~(c)(b)~~ A petitioner may not be required to wait for more  
58 than a reasonable time, not to exceed 2 hours, after the  
59 scheduled time for the hearing to commence. If the hearing is  
60 not commenced within 2 hours after the scheduled time ~~that time,~~  
61 the petitioner may inform the clerk ~~chairperson of the meeting~~  
62 that he or she intends to leave. If the petitioner leaves, the  
63 clerk shall reschedule the hearing, and the rescheduling is not  
64 considered to be a request to reschedule as provided in  
65 paragraph (b) ~~(a)~~.

66 ~~(d)(e)~~ Failure on three occasions with respect to any  
67 single tax year to convene at the scheduled time of meetings of  
68 the board is grounds for removal from office by the Governor for  
69 neglect of duties.



Amendment No. 1

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**D I R E C T O R Y   A M E N D M E N T**

Remove line 16 and insert:

Section 1. Paragraphs (a), (f), and (g) of subsection (3)

and

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**T I T L E   A M E N D M E N T**

Remove line 11 and insert:

under certain circumstances; authorizing an individual, agent, or legal entity to become an agent of a taxpayer for the purpose of obtaining personal jurisdiction over the taxpayer for value adjustment board proceedings if certain criteria are met; amending s. 194.032, F.S.; deleting a provision authorizing the petitioner to obtain one rescheduling of a hearing as a matter of course upon providing proper notice; authorizing the value adjustment board or the board's designee to deny a request to reschedule a value adjustment board hearing under certain circumstances; authorizing petitioners to notify the clerk and leave if a hearing does not commence within a specified period; providing an effective



Amendment No. 1

18 (a), and if requested in writing by the petitioner, the property  
19 appraiser shall provide to the petitioner a list of evidence to  
20 be presented at the hearing, together with copies of all  
21 documentation to be considered by the value adjustment board and  
22 a summary of evidence to be presented by witnesses. The evidence  
23 list must contain the property appraiser's property record card  
24 ~~if provided by the clerk~~. Failure of the property appraiser to  
25 timely comply with the requirements of this paragraph shall  
26 result in a rescheduling of the hearing.

27 Section 2. Subsection (2) of section 194.032, Florida  
28 Statutes, is amended to read:

29 194.032 Hearing purposes; timetable.-

30 (2)(a) The clerk of the governing body of the county shall  
31 prepare a schedule of appearances before the board based on  
32 petitions timely filed with him or her. The clerk shall notify  
33 each petitioner of the scheduled time of his or her appearance  
34 at least 25 calendar days before the day of the scheduled  
35 appearance. The notice must indicate whether the petition has  
36 been scheduled to be heard at a particular time or during a  
37 block of time. If the petition has been scheduled to be heard  
38 within a block of time, the beginning and ending of that block  
39 of time must be indicated on the notice; ~~however, as provided in~~  
40 ~~paragraph (b), a petitioner may not be required to wait for more~~  
41 ~~than a reasonable time, not to exceed 2 hours, after the~~  
42 ~~beginning of the block of time~~. If the petitioner checked the  
43 appropriate box on the petition form to request a copy of the



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee  
 3 Representative Caldwell offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Subsection (2) of section 189.404, Florida  
 8 Statutes, is amended to read:

9 189.404 Legislative intent for the creation of independent  
 10 special districts; special act prohibitions; model elements and  
 11 other requirements; general-purpose local government/Governor  
 12 and Cabinet creation authorizations.-

13 (2) SPECIAL ACTS PROHIBITED.—Pursuant to s. 11(a)(21),  
 14 Art. III of the State Constitution, the Legislature hereby  
 15 prohibits special laws or general laws of local application  
 16 which:



Amendment No. 1

17 (a) Create independent special districts that do not, at a  
18 minimum, conform to the minimum requirements in subsection (3);

19 (b) Exempt independent special district elections from the  
20 appropriate requirements in s. 189.405;

21 (c) Exempt an independent special district from the  
22 requirements for bond referenda in s. 189.408;

23 (d) Exempt an independent special district from the  
24 reporting, notice, or public meetings requirements of s.  
25 189.4085, s. 189.415, s. 189.417, or s. 189.418;

26 (e) Create an independent special district for which a  
27 statement has not been submitted to the Legislature that  
28 documents the following:

29 1. The purpose of the proposed district;

30 2. The authority of the proposed district;

31 3. An explanation of why the district is the best  
32 alternative; and

33 4. A resolution or official statement of the governing  
34 body or an appropriate administrator of the local jurisdiction  
35 within which the proposed district is located stating that the  
36 creation of the proposed district is consistent with the  
37 approved local government plans of the local governing body and  
38 that the local government has no objection to the creation of  
39 the proposed district;

40 (f) The prohibitions of this subsection do not apply to the  
41 conversion of a water control district established under chapter  
42 298, or established by a special act that incorporates the



Amendment No. 1

43 powers of chapter 298, to a community development district under  
44 part II of chapter 190.

45 Section 2. Subsection (9) is added to section 189.412,  
46 Florida Statutes, to read:

47 189.412 Special District Information Program; duties and  
48 responsibilities.—The Special District Information Program of  
49 the Department of Economic Opportunity is created and has the  
50 following special duties:

51 (9) The collection and maintenance of the special act,  
52 rule, ordinance, resolution, or other document that provides for  
53 the creation of each special district. The department shall make  
54 such documents available to the public on its website by  
55 December 31, 2014. The department may coordinate with the  
56 Department of State to implement this subsection.

57 Section 3. Subsection (4) of section 190.004, Florida  
58 Statutes, is amended to read:

59 190.004 Preemption; sole authority.—

60 (4) Except for conversions of water control districts  
61 under part II of this chapter, the ~~The~~ exclusive charter for a  
62 community development district shall be the uniform community  
63 development district charter as set forth in ss. 190.006-  
64 190.041, including the special powers provided by s. 190.012.

65 Section 4. Subsections (1) and (2) of section 190.005,  
66 Florida Statutes, are amended to read:

67 190.005 Establishment of district.—



Amendment No. 1

68 (1) With the exception of a community development district  
69 established by the conversion of a water control district under  
70 part II of this chapter, the ~~The~~ exclusive and uniform method  
71 for the establishment of a community development district with a  
72 size of 1,000 acres or more shall be pursuant to a rule, adopted  
73 under chapter 120 by the Florida Land and Water Adjudicatory  
74 Commission, granting a petition for the establishment of a  
75 community development district.

76 (a) A petition for the establishment of a community  
77 development district shall be filed by the petitioner with the  
78 Florida Land and Water Adjudicatory Commission. The petition  
79 shall contain:

80 1. A metes and bounds description of the external  
81 boundaries of the district. Any real property within the  
82 external boundaries of the district which is to be excluded from  
83 the district shall be specifically described, and the last known  
84 address of all owners of such real property shall be listed. The  
85 petition shall also address the impact of the proposed district  
86 on any real property within the external boundaries of the  
87 district which is to be excluded from the district.

88 2. The written consent to the establishment of the  
89 district by all landowners whose real property is to be included  
90 in the district or documentation demonstrating that the  
91 petitioner has control by deed, trust agreement, contract, or  
92 option of 100 percent of the real property to be included in the  
93 district, and when real property to be included in the district





Amendment No. 1

94 is owned by a governmental entity and subject to a ground lease  
95 as described in s. 190.003(14), the written consent by such  
96 governmental entity.

97 3. A designation of five persons to be the initial members  
98 of the board of supervisors, who shall serve in that office  
99 until replaced by elected members as provided in s. 190.006.

100 4. The proposed name of the district.

101 5. A map of the proposed district showing current major  
102 trunk water mains and sewer interceptors and outfalls if in  
103 existence.

104 6. Based upon available data, the proposed timetable for  
105 construction of the district services and the estimated cost of  
106 constructing the proposed services. These estimates shall be  
107 submitted in good faith but are not binding and may be subject  
108 to change.

109 7. A designation of the future general distribution,  
110 location, and extent of public and private uses of land proposed  
111 for the area within the district by the future land use plan  
112 element of the effective local government comprehensive plan of  
113 which all mandatory elements have been adopted by the applicable  
114 general-purpose local government in compliance with the  
115 Community Planning Act.

116 8. A statement of estimated regulatory costs in accordance  
117 with the requirements of s. 120.541.

118 (b) Prior to filing the petition, the petitioner shall:



Amendment No. 1

119 1. Pay a filing fee of \$15,000 to the county, if located  
120 within an unincorporated area, or to the municipality, if  
121 located within an incorporated area, and to each municipality  
122 the boundaries of which are contiguous with, or contain all or a  
123 portion of the land within, the external boundaries of the  
124 district.

125 2. Submit a copy of the petition to the county, if located  
126 within an unincorporated area, or to the municipality, if  
127 located within an incorporated area, and to each municipality  
128 the boundaries of which are contiguous with, or contain all or a  
129 portion of, the land within the external boundaries of the  
130 district.

131 3. If land to be included within a district is located  
132 partially within the unincorporated area of one or more counties  
133 and partially within a municipality or within two or more  
134 municipalities, pay a \$15,000 filing fee to each entity.  
135 Districts established across county boundaries shall be required  
136 to maintain records, hold meetings and hearings, and publish  
137 notices only in the county where the majority of the acreage  
138 within the district lies.

139 (c) Such county and each such municipality required by law  
140 to receive a petition may conduct a public hearing to consider  
141 the relationship of the petition to the factors specified in  
142 paragraph (e). The public hearing shall be concluded within 45  
143 days after the date the petition is filed unless an extension of  
144 time is requested by the petitioner and granted by the county or



Amendment No. 1

145 municipality. The county or municipality holding such public  
146 hearing may by resolution express its support of, or objection  
147 to the granting of, the petition by the Florida Land and Water  
148 Adjudicatory Commission. A resolution must base any objection to  
149 the granting of the petition upon the factors specified in  
150 paragraph (e). Such county or municipality may present its  
151 resolution of support or objection at the Florida Land and Water  
152 Adjudicatory Commission hearing and shall be afforded an  
153 opportunity to present relevant information in support of its  
154 resolution.

155 (d) A local public hearing on the petition shall be  
156 conducted by a hearing officer in conformance with the  
157 applicable requirements and procedures of the Administrative  
158 Procedure Act. The hearing shall include oral and written  
159 comments on the petition pertinent to the factors specified in  
160 paragraph (e). The hearing shall be held at an accessible  
161 location in the county in which the community development  
162 district is to be located. The petitioner shall cause a notice  
163 of the hearing to be published in a newspaper at least once a  
164 week for the 4 successive weeks immediately prior to the  
165 hearing. Such notice shall give the time and place for the  
166 hearing, a description of the area to be included in the  
167 district, which description shall include a map showing clearly  
168 the area to be covered by the district, and any other relevant  
169 information which the establishing governing bodies may require.  
170 The advertisement shall not be placed in that portion of the



Amendment No. 1

171 newspaper where legal notices and classified advertisements  
172 appear. The advertisement shall be published in a newspaper of  
173 general paid circulation in the county and of general interest  
174 and readership in the community, not one of limited subject  
175 matter, pursuant to chapter 50. Whenever possible, the  
176 advertisement shall appear in a newspaper that is published at  
177 least 5 days a week, unless the only newspaper in the community  
178 is published fewer than 5 days a week. In addition to being  
179 published in the newspaper, the map referenced above must be  
180 part of the online advertisement required pursuant to s.  
181 50.0211. All affected units of general-purpose local government  
182 and the general public shall be given an opportunity to appear  
183 at the hearing and present oral or written comments on the  
184 petition.

185 (e) The Florida Land and Water Adjudicatory Commission  
186 shall consider the entire record of the local hearing, the  
187 transcript of the hearing, resolutions adopted by local general-  
188 purpose governments as provided in paragraph (c), and the  
189 following factors and make a determination to grant or deny a  
190 petition for the establishment of a community development  
191 district:

192 1. Whether all statements contained within the petition  
193 have been found to be true and correct.

194 2. Whether the establishment of the district is  
195 inconsistent with any applicable element or portion of the state



Amendment No. 1

196 comprehensive plan or of the effective local government  
197 comprehensive plan.

198 3. Whether the area of land within the proposed district  
199 is of sufficient size, is sufficiently compact, and is  
200 sufficiently contiguous to be developable as one functional  
201 interrelated community.

202 4. Whether the district is the best alternative available  
203 for delivering community development services and facilities to  
204 the area that will be served by the district.

205 5. Whether the community development services and  
206 facilities of the district will be incompatible with the  
207 capacity and uses of existing local and regional community  
208 development services and facilities.

209 6. Whether the area that will be served by the district is  
210 amenable to separate special-district government.

211 (f) The Florida Land and Water Adjudicatory Commission  
212 shall not adopt any rule which would expand, modify, or delete  
213 any provision of the uniform community development district  
214 charter as set forth in ss. 190.006-190.041, except as provided  
215 in s. 190.012. A rule establishing a community development  
216 district shall only contain the following:

217 1. A metes and bounds description of the external  
218 boundaries of the district and any real property within the  
219 external boundaries of the district which is to be excluded.

220 2. The names of five persons designated to be the initial  
221 members of the board of supervisors.



Amendment No. 1

222 3. The name of the district.

223 (g) The Florida Land and Water Adjudicatory Commission may  
224 adopt rules setting forth its procedures for considering  
225 petitions to establish, expand, modify, or delete uniform  
226 community development districts or portions thereof consistent  
227 with the provisions of this section.

228 (2) With the exception of a community development district  
229 established by the conversion of a water control district under  
230 part II of this chapter, the ~~The~~ exclusive and uniform method  
231 for the establishment of a community development district of  
232 less than 1,000 acres in size shall be pursuant to an ordinance  
233 adopted by the county commission of the county having  
234 jurisdiction over the majority of land in the area in which the  
235 district is to be located granting a petition for the  
236 establishment of a community development district as follows:

237 (a) A petition for the establishment of a community  
238 development district shall be filed by the petitioner with the  
239 county commission. The petition shall contain the same  
240 information as required in paragraph (1)(a).

241 (b) A public hearing on the petition shall be conducted by  
242 the county commission in accordance with the requirements and  
243 procedures of paragraph (1)(d).

244 (c) The county commission shall consider the record of the  
245 public hearing and the factors set forth in paragraph (1)(e) in  
246 making its determination to grant or deny a petition for the  
247 establishment of a community development district.



Amendment No. 1

248 (d) The county commission shall not adopt any ordinance  
249 which would expand, modify, or delete any provision of the  
250 uniform community development district charter as set forth in  
251 ss. 190.006-190.041. An ordinance establishing a community  
252 development district shall only include the matters provided for  
253 in paragraph (1)(f) unless the commission consents to any of the  
254 optional powers under s. 190.012(2) at the request of the  
255 petitioner.

256 (e) If all of the land in the area for the proposed  
257 district is within the territorial jurisdiction of a municipal  
258 corporation, then the petition requesting establishment of a  
259 community development district under this act shall be filed by  
260 the petitioner with that particular municipal corporation. In  
261 such event, the duties of the county, hereinabove described, in  
262 action upon the petition shall be the duties of the municipal  
263 corporation. If any of the land area of a proposed district is  
264 within the land area of a municipality, the county commission  
265 may not create the district without municipal approval. If all  
266 of the land in the area for the proposed district, even if less  
267 than 1,000 acres, is within the territorial jurisdiction of two  
268 or more municipalities, the petition shall be filed with the  
269 Florida Land and Water Adjudicatory Commission and proceed in  
270 accordance with subsection (1).

271 (f) Notwithstanding any other provision of this  
272 subsection, within 90 days after a petition for the  
273 establishment of a community development district has been filed



Amendment No. 1

274 | pursuant to this subsection, the governing body of the county or  
275 | municipal corporation may transfer the petition to the Florida  
276 | Land and Water Adjudicatory Commission, which shall make the  
277 | determination to grant or deny the petition as provided in  
278 | subsection (1). A county or municipal corporation shall have no  
279 | right or power to grant or deny a petition that has been  
280 | transferred to the Florida Land and Water Adjudicatory  
281 | Commission.

282 |       Section 5. Section 190.0485, Florida Statutes, is amended  
283 | to read:

284 |       190.0485 Notice of establishment.—Within 30 days after the  
285 | effective date of a rule or ordinance under this part I or a  
286 | special law or general law of local application under part II  
287 | establishing a community development district under this  
288 | chapter~~act~~, the district shall cause to be recorded in the  
289 | property records in the county in which it is located a "Notice  
290 | of Establishment of the ..... Community Development  
291 | District." The notice shall, at a minimum, include the legal  
292 | description of the district and a copy of the disclosure  
293 | statement specified in s. 190.048.

294 |       Section 6. Section 190.049, Florida Statutes, is amended  
295 | to read:

296 |       190.049 Special acts prohibited.—Pursuant to s. 11(a)(21),  
297 | Art. III of the State Constitution, there shall be no special  
298 | law or general law of local application creating an independent  
299 | special district which has the powers enumerated in two or more





Amendment No. 1

300 of the paragraphs contained in s. 190.012, unless such district  
301 is created pursuant to the provisions of s. 189.404. This section  
302 shall not prohibit special or local laws which codify special  
303 powers approved by referendum in the charter of a water  
304 management district existing under chapter 298 and reestablish  
305 such district as a community development district under part II  
306 of this chapter.

307 Section 7. Chapter 190, Florida Statutes, consisting of  
308 sections 190.001 through 190.049, is designated as part I of  
309 that chapter, and part II, consisting of sections 190.10 through  
310 190.14, is created to read:

311 PART II

312 CONVERSION OF WATER CONTROL DISTRICTS

313 190.10 Special powers; authorization for water control  
314 district to conduct referendum.-

315 (1) The popularly elected governing board of a water  
316 control district established under chapter 298, or established  
317 by special act that incorporates the powers of chapter 298, that  
318 has been granted additional authority, powers, rights, or  
319 privileges by special law or general law of local application  
320 prior to July 1, 2014, is authorized to conduct a referendum on  
321 the question of whether the district should be converted to a  
322 community development district under this part II in order to  
323 exercise one or more of the special powers of a community  
324 development district relating to public improvements and  
325 community facilities authorized by s. 190.012. The governing



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326 board of a water control district shall initiate a referendum  
327 under this section by adopting a resolution at a regularly  
328 scheduled board meeting called to determine whether to conduct  
329 the referendum. The resolution must establish the date of the  
330 referendum, state the purpose is to consider whether the  
331 district should be converted to a community development district  
332 under this part II, and specify the special powers that the  
333 governing board requests authorization to exercise.

334 (2) The referendum election shall be conducted by the  
335 supervisor of elections pursuant to ss. 101.6101-101.6107 by  
336 mail ballot of the registered electors residing in the district.  
337 The costs of the election shall be paid by the district  
338 conducting the referendum.

339 190.11 Referendum requirements and procedures.—

340 (1) Each referendum question shall be in substantially the  
341 following form:

342  
343 REFERENDUM AUTHORIZING THE ...(district name)... WATER CONTROL  
344 DISTRICT TO EXERCISE CERTAIN SPECIAL POWERS

345  
346 Shall the ...(district name)... water control district  
347 be authorized to exercise the following special powers  
348 within the jurisdiction of the district:

349  
350 ...(List special powers to be exercised)....  
351



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352 Yes.... No....

353

354 (2) Before conducting a referendum, the governing  
355 board of the water control district must provide public notice  
356 of the referendum in a newspaper of general circulation in the  
357 county in which the district is located. If the district is  
358 located in more than one county, the notice shall be provided in  
359 a newspaper of general circulation in each county in which the  
360 district is located. The notice shall be published twice, once  
361 in the fifth week and once in the second week before the  
362 referendum election.

363 190.12 Effect of referendum.—If a majority of the electors  
364 voting:

365 (1) Approve the referendum question, following  
366 certification of the referendum results the governing board of  
367 the water control district shall prepare at its own expense  
368 proposed legislation codifying the approved powers together with  
369 all special acts comprising the district's charter in a single  
370 act to comprise a single, integrated district charter and  
371 reestablishing the district as a community development district,  
372 such recodification to conform with the requirements of s.  
373 189.429; or

374 (2) Disapprove the referendum question, the governing  
375 board may not exercise the requested special powers and is  
376 prohibited from calling a subsequent referendum on the question



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377 | of exercising those special powers for 5 years after the date of  
378 | the referendum.

379 | 190.13 Codification; conversion to community development  
380 | district.—At the next regular session of the Legislature after  
381 | approval of a referendum authorizing a water control district to  
382 | exercise special powers of a community development district, the  
383 | district shall submit the local bill required by s. 190.12 to  
384 | the Legislature. Upon the effective date of such special act or  
385 | general law of local application of the Legislature, the water  
386 | control district is converted to a community development  
387 | district, may begin exercising all additional authority, powers,  
388 | rights, or privileges granted by the Legislature, and shall be  
389 | governed by this part, the district's special act, and all  
390 | provisions of part I of this chapter not inconsistent with this  
391 | part or the district's special act.

392 | 190.14 Special and general acts of local application  
393 | prohibited.— Pursuant to s. 11(a)(21), Art. III of the State  
394 | Constitution, there shall be no special law or general law of  
395 | local application granting additional authority, powers, rights,  
396 | or privileges to a district converted to a community development  
397 | district under s. 190.13 except a special law or general law of  
398 | local application codifying additional powers approved by a  
399 | majority of the qualified electors within the district in a  
400 | referendum as provided for in this part.

401



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402 Section 8. Subsection (1) of section 298.76, Florida  
403 Statutes, is amended to read:

404 298.76 Special or local legislation; effect.--

405 (1) This chapter is amended to provide that, pursuant to  
406 the authority granted the Legislature in s. 11(a)(21), Art. III  
407 of the State Constitution, there shall be no special law or  
408 general law of local application granting additional authority,  
409 powers, rights, or privileges to any water control district  
410 formed pursuant to this chapter. However, this subsection shall  
411 not prohibit special or local legislation which:

412 (a) Amends an existing special act which provides for the  
413 levy of an annual maintenance tax of a district;

414 (b) Extends the corporate life of a district;

415 (c) Consolidates adjacent districts; or

416 (d) Authorizes the construction or maintenance of roads  
417 for agricultural purposes as outlined in this chapter.

418 (e) Authorizes the conversion of a district to a community  
419 development district, as authorized by part II of chapter 190.

420 Section 9. This act shall take effect July 1, 2014.

421

422

423

424

-----  
**T I T L E A M E N D M E N T**

425

Remove everything before the enacting clause and insert:

426

An act relating to special districts; amending s. 189.404, F.S.;

427

exempting the conversion of certain water control districts from



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428 specific charter requirements; amending s. 189.412, F.S.;

429 requiring the Department of Economic Opportunity to publish

430 certain information on its website with respect to special

431 districts; authorizing the department to coordinate with the

432 Department of State for certain purposes; amending s. 190.004,

433 F.S.; creating an exception for the conversion of certain water

434 control districts; amending s. 190.005, F.S.; creating an

435 exception for a community development district created by the

436 conversion of a water control district; amending s. 190.0485,

437 F.S.; requiring districts created by the conversion of water

438 control districts to record a notice of establishment; amending

439 s. 190.049, F.S.; exempting acts creating districts by the

440 conversion of water control districts; creating part II of

441 chapter 190, F.S., relating to conversion of water control

442 districts to community development districts; authorizing the

443 popularly elected governing board of a water control district to

444 conduct a referendum on the question of whether the district may

445 convert to a community development district; providing

446 referendum requirements and procedures; providing notice

447 requirements; providing for special act, upon referendum

448 approval, to codify special powers in the charter of the water

449 control district and provide for conversion of the district to a

450 community development district; creating a prohibition on

451 enacting special laws granting additional powers without prior

452 referendum; amending s. 298.76, F.S.; authorizing the conversion



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1129 (2014)

Amendment No. 1

453 of a water control district to a community development district  
454 by special or local legislation; providing an effective date.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee

3 Representative La Rosa offered the following:

4

5 **Amendment**

6 Remove line 23 and insert:  
 7 screening programs by the Discretionary Advisory Committee on  
 8





Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee

3 Representative Rooney offered the following:

4

5 **Amendment**

6 Remove line 192 and insert:

7 secretary-treasurer of the Port of Palm Beach District and his

8

9 Remove line 314 and insert:

10 Section 1. General powers.—The Port of Palm Beach

11

12 Remove line 523 and insert:

13 Beach District Board of Commissioners shall have the power and

14

15 Remove lines 761-768 and insert:



Amendment No.

16 this charter. Provided however, the Port is obligated to comply  
17 with all applicable provisions of the Florida Building Code,  
18 Chapter 553, Florida Statutes.

19  
20 Remove line 869 and insert:  
21 date advertised for the reception of sealed bids, but no such  
22

23 Remove line 915 and insert:  
24 bearing the signatures of officers of the Port of Palm Beach  
25



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee

3 Representative McBurney offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 112.326, Florida Statutes, is amended to  
8 read:

9 112.326 Additional requirements by political subdivisions  
 10 and agencies not prohibited. ~~Nothing in This part does not~~  
 11 prohibit the electors or act shall prohibit the governing body  
 12 of a any political subdivision, by ordinance, or agency, by  
 13 rule, from imposing upon its own officers and employees  
 14 additional or more stringent standards of conduct and disclosure  
 15 requirements than those specified in this part, if provided that  
 16 those standards of conduct and disclosure requirements do not  
 17 otherwise conflict with ~~the provisions of this part.~~ If a local  
 18 ethics agency, board, or commission determines that probable



Amendment No.

19 cause exists to believe a violation of a local ethics ordinance  
 20 occurred, the respondent is entitled to a public hearing. The  
 21 local ethics ordinance shall establish procedures concerning  
 22 request of, and waiver of the right to, a public hearing. The  
 23 respondent may elect to have the public hearing conducted by the  
 24 local ethics agency, board, or commission, or by a hearing  
 25 officer who is not a member of the local ethics agency, board,  
 26 or commission. This section does not prohibit a respondent and  
 27 the local ethics agency, board or commission from entering into  
 28 a stipulation or consent agreement to resolve the allegations.

29 Section 2. This act shall take effect October 1, 2014.  
30

31  
32  
33  
34 -----  
35 **T I T L E A M E N D M E N T**

36 Remove everything before the enacting clause and insert:  
 37 An act relating to public officers and employees; amending s.  
 38 112.326, F.S.; authorizing the electors of a political  
 39 subdivision to impose additional or more stringent standards of  
 40 conduct and disclosure requirements upon the political  
 41 subdivision's officers and employees; providing that a  
 42 respondent is entitled to a public hearing upon a finding of  
 43 probable cause of a violation of a local ethics ordinance;  
 44 requiring a local ethics ordinance to establish certain



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1315 (2014)

Amendment No.

45 | procedures; providing for construction; providing an effective  
46 | date.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee  
 3 Representative Pafford offered the following:

**Amendment**

Remove lines 20-22 and insert:

Section 1. Section 10 is added to section 2 of chapter 99-425, Laws of Florida, as amended, to read:

Section 10. Maintenance easements and use for public trail