

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: CS/SB 2942

INTRODUCER: Environmental Preservation & Conservation Committee

SUBJECT: Clearwater/Property Uses/Pinellas Co.

DATE: April 24, 2007 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------|
| 1. | Branning | Kiger | EP | Fav/CS |
| 2. | | | RC | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This is a local bill to ratify any use of submerged lands conveyed to the City of Clearwater in 1925 for constructing the Memorial Causeway, and authorized by the City of Clearwater for certain uses, notwithstanding the reason for the use. Provides that the city may authorize private uses of such lands if such uses are consistent with the laws and rules governing the management of state sovereignty submerged lands by the Board of Trustees of the Internal Improvement Trust Fund (Board). Provides that if the use of any area under the control of the portions of the property granted under ch. 11050, L.O.F., 1925, including any portion of the property that may include the Clearwater City Beach Marina Property, is altered from the existing public open-space recreation usage or any other existing public land use designation, the change of use must first be approved by a site-specific referendum put before the registered voters of the City of Clearwater. Requires the city to use any revenues generated by the authorization of the private uses to be used to fund water-related activities for the benefit of the public.

Provides for the reversion of the submerged lands granted to the City of Clearwater should the board find any use, which is authorized by the city and not ratified by this act, inconsistent with the laws and rules governing their management of such lands.

Provides that the act does not modify or supersede any provision of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater, including the causeway.

II. Present Situation:

Board of Trustees of the Internal Improvement Trust Fund

Art. IV, s. 4 of the State Constitution, establishes the Board of Trustees of the Internal Improvement Trust Fund (board) as the Governor and the Cabinet. The Governor serves as chair of the board and the other trustees are the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture. Pursuant to s. 253.02, F.S., the board is charged with the acquisition, administration, management, control supervision, conservation, protection and disposition of all lands owned by, or which may inure to, the state or any of its agencies, except as otherwise provided by law. The Department of Environmental Protection (DEP) is directed to provide administrative staffing to the board pursuant to s. 253.002, F.S., and the Division of State Lands with the DEP performs the duties and functions related to the lands which are titled in the name of the board.

Sovereign Submerged Lands

When Florida became a state in 1845, the federal government granted Florida title to all lands beneath its navigable waters, up to the ordinary high water mark. No surveys were required to delineate the boundaries of these sovereign lands, and the title vested in the state to be held as a public trust.¹

Art. X, s. 10 of the State Constitution provides:

The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Rule 18-21.004, F.A.C., is the board's rule providing the management policies, standards, and criteria to be used in determining whether to approve or deny requests for activities on sovereign submerged lands.

Clearwater Harbor—Memorial Causeway Submerged Lands

In 1925, pursuant to ch. 11050, L.O.F., the state conveyed submerged lands to Pinellas County to be surrendered to the City of Clearwater for the purpose of building the Memorial Causeway.² The act provided that the property was to be used exclusively for public purposes by the city, and that it would revert to the state if it was ever used for any other purpose. The act also provided that "the owners (present and future) of the land abutting said land on the north, the City of Clearwater or the County of Pinellas shall have the right to fill said land lying north of said line to be used for public parks and places of recreation only...provided further that should said property ever cease to be used for public parks and places of recreation only, same shall revert to the State."

Submerged lands to the north of the Memorial Causeway Submerged Lands were later filled, resulting in the "Island Estates" subdivision. Consequently, Island Estates' most southerly boundary extended along the northerly boundary of the Memorial Causeway Submerged Lands.

¹ *Coastal Petroleum Co. v. American Cyanamid Co.*, 492 So. 2d 339 (Fla. 1986)

² This land included 500 feet to the north and 700 feet to the south of a centerline, east to west, following the course of the former Memorial Causeway.

In 1958, a Deed of Dedication was granted by the Clearwater City Commission and recorded in the public record to “dedicate, grant and convey unto the Public in general, “ a portion of the Memorial Causeway Submerged Lands, subject to express provisions in the dedication, and conditions and provisions of law. The dedication states that the land was to be used as a “waterway for boating and boat traffic,” “docks, boat sips or piers” by “lessees, tenants, permittees or assigns.” As a result of this dedication, docks were built within the Memorial Causeway Submerged Lands area for use by Island Estates’ upland owners in 1965.

Pursuant to ch. 86-345, L.O.F., the Legislature released a portion of the property granted by the 1925 special act from the right of reverter retained by the state in order to permit the development and maintenance of a nonprofit marine science center as approved by the city commission and electors of the City of Clearwater. The act declared that the use of the property as a marine science center was for a proper public purpose, and conditioned the act upon the city conveying the property to the Clearwater Marine Science Center subject to the restriction that the center devote the property solely to the expansion of its facility, or that such property automatically would revert to the city.

III. Effect of Proposed Changes:

Section 1. The committee substitute provides that any use of the property described in ch. 11050, L.O.F., 1925, and authorized by the City of Clearwater on or before the effective date of this act is ratified notwithstanding the reason for the use. In addition, any use of that portion of the property described in ch. 86-345, L.O.F., which was undertaken on or before the effective date of this act has been and is consistent with the grant made in that act for the purpose of developing and maintaining a marine science center.

Section 2. The City of Clearwater may authorize private uses of the submerged portions of the property granted under ch. 11050, L.O.F., 1925, for which it has received an application on or before December 31, 2006 if the private uses are consistent with the laws and rules governing the management of the sovereignty submerged lands of this state by the board, including rules of the board concerning private marinas and docking facilities. If the use of any area under the control of the portions of the property granted under ch. 11050, L.O.F., 1925, including any portion of the property that may include the Clearwater City Beach Marina Property, is altered from the existing public open-space recreation usage or any other existing public land use designation, the change of use must first be approved by a site-specific referendum put before the registered voters of the City of Clearwater. The committee substitute further provides that a dock or mooring facility for a multifamily dwelling or a dock for a single-family dwelling authorized under this act which is consistent with such laws and rules does not violate this act. The City of Clearwater shall use any revenue generated by authorizing any private use of the submerged land to fund water-related activities for the benefit of the public.

Section 3. If the board finds that any use of a portion of the submerged lands granted under ch. 11050, L.O.F., 1925, which was authorized by the City of Clearwater and not ratified by section 1 of this bill, is consistent with the laws and rules governing the board’s management of the state’s sovereignty submerged lands, that portion shall, notwithstanding the 1925 special act, revert to the state to be held and managed by the board.

Section 4. This act does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater which shall include the causeway.

Section 5. This act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This would allow certain private uses of submerged lands for docking and mooring facilities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill was filed as a local bill. As required, notice of the pending legislation was filed on January 26, 2007, in the *Pinellas News*, a weekly newspaper of general circulation published in Pinellas County.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
