

By Senators Grant, Crist and Lee

13-586B-98

1                                   A bill to be entitled  
2           An act relating to Hillsborough County;  
3           amending s. 7, ch. 95-488, Laws of Florida, as  
4           amended; revising powers of the Tampa Port  
5           Authority; authorizing certain transfers of  
6           property and interests in property; amending s.  
7           15, ch. 95-488, Laws of Florida; prescribing  
8           procedures for the Tampa Port Authority to use  
9           in awarding contracts; providing an effective  
10          date.

11

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

13

14           Section 1. Section 7 of chapter 95-488, Laws of  
15 Florida, as amended by section 1 of chapter 97-341, Laws of  
16 Florida, is amended to read:

17

18           Section 7. POWERS.--The port authority shall have all  
19 the powers necessary to carry out the provisions of this act.  
20 The port authority shall have the specific responsibility of  
21 planning and of carrying out plans for the long-range  
22 development of the facilities of and traffic through the port  
23 in the port district. The port authority, prior to acquiring  
24 ownership, control, or undertaking the operation of any  
25 project, shall give 20 days' notice of a public hearing, at  
26 which hearing the public's views shall be heard; except that  
27 such public hearing is not required if the ownership, control,  
28 or undertaking of operation constitutes or is occasioned by  
29 the retaking of possession, ownership, or control of the  
30 project by the port authority through lease termination,  
31 default or eviction proceeding, bankruptcy proceeding, or  
settlement with a tenant in lieu of such proceeding or if the

1 total cost to the port authority of acquiring, controlling, or  
2 undertaking operation of the project does not exceed the  
3 amount specified in section 15. Such notice shall be made by  
4 advertisement in a newspaper of general circulation published  
5 in the port district, with a brief description of the general  
6 nature of the project. Without in any manner limiting or  
7 restricting the other powers conferred upon it, the port  
8 authority shall have the power:

9 (a) To have and to exercise the power of eminent  
10 domain over real and personal property and the right to  
11 maintain condemnation proceedings, in form and in manner  
12 prescribed by law, with respect to all projects owned,  
13 controlled, or operated by it. In any such condemnation  
14 proceedings, the burden of the port authority to show  
15 reasonable necessity is the same as the burden in other types  
16 of eminent domain proceedings. The power of eminent domain,  
17 however, may not be exercised over property already devoted to  
18 public use.

19 (b) To acquire by purchase, eminent domain, gift,  
20 grant, franchise, lease, or contract any property, real or  
21 personal, tangible or intangible, or any estate, right, or  
22 interest therein, including franchises and grants of any and  
23 all kinds. The port authority may sell, lease, or otherwise  
24 dispose of any of the property it owns, provided that no  
25 property shall be leased for a period of over 40 years with an  
26 option to renew for an additional 40 years. Notice of such  
27 proposed sale or lease and of the time and place where  
28 objections may be filed shall be advertised in a newspaper  
29 published in the port district at least 20 days before the  
30 date of a public hearing for the purposes of hearing  
31 objections thereto. The public hearing may be before the port

1 authority or a hearing examiner as determined by the port  
2 authority. However, advertisement and public hearing shall  
3 not be required for leases entered into on a month-to-month  
4 basis or for leases entered into for a period of less than 1  
5 year. Such leases, however, shall require approval of the  
6 governing board of the port authority. If a petition signed  
7 by 5 percent of the qualified electors of the port district is  
8 filed, objecting to the proposed sale or lease, an election  
9 shall be held to pass upon the same. If a petition is not  
10 filed, the port authority may proceed with the sale or lease  
11 without the necessity of an election. Such election shall be  
12 held under the jurisdiction and direction of the election  
13 officials of the county. The expense of such election shall be  
14 borne by the port authority. A majority of the votes cast at  
15 the election by the qualified electors of the port district  
16 participating therein for or against the question voted upon  
17 shall be decisive thereof. Easements for rights-of-way for  
18 railroads, pipelines, gas pipes, and electric transmission,  
19 telephone, and telegraph lines may be granted by the port  
20 authority for a period not to exceed 40 years with an option  
21 of 40 years without the approval of the electors, but no such  
22 easement shall be exclusive, and every easement shall be  
23 subject to the right of the port authority or its successors  
24 and assigns to use and occupy the lands over or under the pipe  
25 or other line for any legitimate purpose. Notwithstanding the  
26 provisions of this section or of section 6, easements for  
27 rights-of-way or fee simple title to rights-of-way for  
28 channels, roadways, sewers, water lines, and drainage over or  
29 through any lands owned by the port authority or port district  
30 may be granted and conveyed by the port authority to a  
31 municipality within the port district ~~the City of Tampa~~, to

1 the county, to the State of Florida or its agencies, or to the  
2 United States of America, for public purposes under such terms  
3 and conditions as may be negotiated by the port authority with  
4 the appropriate governmental body, but all without the  
5 approval of the electors. All easements for rights-of-way or  
6 fee simple title to rights-of-way heretofore granted and  
7 conveyed by the port authority under previous acts are  
8 approved, ratified, and confirmed. Notwithstanding the  
9 provisions of this section or of section 6, fee simple title  
10 to spoil islands and submerged lands owned by the port  
11 authority or port district may be granted and conveyed by the  
12 port authority to a municipality within the port district ~~the~~  
13 ~~City of Tampa~~, to the county, to the State of Florida or its  
14 agencies, or to the United States of America, for public  
15 purposes under such terms and conditions as may be negotiated  
16 by the port authority with the appropriate governmental body,  
17 but without approval of the electors. All fee simple titles to  
18 spoil islands and submerged lands heretofore granted and  
19 conveyed by the authority under previous acts are hereby  
20 approved, ratified, and confirmed.

21 (c) To construct, acquire, establish, extend, enlarge,  
22 improve, reconstruct, maintain, equip, repair, and operate any  
23 project on land owned by the port district or the port  
24 authority or on land leased from or to another by the port  
25 district or the port authority or on land being acquired by  
26 the port district or the port authority under or subject to a  
27 contract to purchase or by condemnation.

28 (d) To borrow money and incur indebtedness; to issue  
29 revenue bonds or revenue certificates with or without security  
30 as it may determine. Revenue bonds or revenue certificates of  
31 the port authority shall in no way be considered a debt of the

1 county or of the port district; however, the port authority  
2 may issue general obligation bonds pledging the full faith and  
3 credit of the port district or of the county as provided by  
4 law.

5 (e) To establish and revise from time to time and to  
6 collect rates, rentals, fees, and other charges for the use of  
7 any project, on such terms and conditions and for such periods  
8 of time as it shall determine, without regard to any  
9 limitations, conditions, or restrictions contained in any  
10 other law.

11 (f) To make and enter into all contracts and  
12 agreements necessary or incidental to the performance of its  
13 duties and the execution of its powers, including a trust  
14 agreement or trust agreements securing any bonds.

15 (g) To exercise jurisdiction, control, and supervision  
16 over any project owned, operated, or maintained by it and to  
17 make and enforce such rules and regulations for the  
18 maintenance and operation of any such project as may in its  
19 judgment be necessary or desirable for the efficient operation  
20 thereof.

21 (h) Subject to such provisions and restrictions as may  
22 be set forth in any resolution or trust agreement authorizing  
23 or securing any bonds issued under this act, to enter into  
24 contracts with the government of the United States or of the  
25 State of Florida or with any agency, instrumentality, or  
26 corporation, or with any copartnership, association, or  
27 individual, providing for or relating to any project or the  
28 purchase or use of the services or facilities furnished by any  
29 project.

30 (i) To fix uniform rates and charges for wharfage,  
31 dockage, transit, storage, sheddage, and handling to and from

1 vessel, if such facilities are owned by the port authority, or  
2 otherwise, insofar as it is permissible for the port authority  
3 to do so under the constitution and laws of the United States  
4 of America and in conformance with section 19 of this act.

5 (j) To adopt rules and regulations for its own  
6 government and to hold regular meetings at least once a month,  
7 which meetings shall be open to the public.

8 (k) To operate, manage, and control all projects  
9 acquired or constructed under this act.

10 (l) To enter into joint agreements, contracts, and  
11 arrangements with steamship lines, railroads, common carriers,  
12 or any other commercial enterprise related to the port  
13 authority's mission if the port authority deems it  
14 advantageous to do so.

15 (m) To make and enter into any contract or agreement  
16 necessary or incidental to the performance of its duties and  
17 the execution of its powers and to appoint and employ such  
18 engineers, architects, attorneys, agents, and other employees  
19 as may be necessary in its judgment, and to fix their  
20 compensation, provided that such compensation is within the  
21 amount allocated for such purpose in the annual budget of the  
22 port authority.

23 (n) To exercise such police powers as it deems  
24 necessary for the effective control and regulation of all  
25 facilities, areas, and districts under its jurisdiction.

26 (o) To have and to exercise all of the powers, rights,  
27 and authority now vested by the Florida Statutes for the  
28 operation of ports and harbors, except the examination,  
29 appointment, and licensing of pilots and the fixing of rates  
30 of pilotage.

31

1           (p) To receive and accept from the Federal Government,  
2 or any agency thereof, grants in the aid of construction,  
3 reconstruction, enlargement, planning, or improvement of any  
4 project and to receive and accept aid or contributions, from  
5 any source, of either money, property, labor, or other things  
6 of value to be held, used, and applied only for the purposes  
7 for which such loans, grants, or contributions may be made.

8           (q) Subject to the jurisdiction of the United States  
9 of America and the State of Florida, to improve and develop  
10 the Tampa Harbor and all navigable and nonnavigable waters  
11 connected therewith.

12           (r) To perform all customary port services, including  
13 lighterage, stevedoring, handling, inspecting, conditioning,  
14 and reconditioning of all commodities and cargo handled,  
15 received, or shipped through the facilities and port district  
16 of the port authority, subject to the limitation that these  
17 powers shall apply only with reference to facilities owned,  
18 controlled, or operated by the port authority, unless, after  
19 public hearing, it is determined that such services are not  
20 being properly and acceptably performed by private operators.

21           (s) To adopt rules and regulations governing the  
22 speed, operation, docking, movement, and stationing of all  
23 watercraft plying waterways in the port district under the  
24 jurisdiction of the port authority, subject to the provisions  
25 of section 19 of this act.

26           (t) To impose franchise, license, or other fees upon  
27 businesses and occupations carried on or operated under and by  
28 virtue of any franchises, licenses, or privileges granted by  
29 the port authority.

30           (u) To advertise the Port of Tampa in such manner as  
31 the port authority deems advisable and to promote and

1 publicize the activities, projects, facilities, and advantages  
2 of the port, the port district, and surrounding territories.  
3 The port authority may employ public relations, promotion, and  
4 sales personnel as may be necessary in its judgment to  
5 effectuate the promotion, public relations, and sales program.

6 (v) To own any real or personal property or to acquire  
7 any estate therein.

8 (w) To require steamship agents, freight forwarders,  
9 stevedores, steamship companies, barge lines, towing  
10 companies, ship operators, and any other person or corporation  
11 operating a commercial vessel into or out of the port district  
12 to report, within 30 days, the arrival and departure of  
13 vessels into and out of the port district; and to adopt rules  
14 and regulations concerning the reports.

15 (x) To require steamship agents, freight forwarders,  
16 stevedores, steamship companies, barge lines, towing  
17 companies, ship operators, and any other person or corporation  
18 operating a vessel into or out of the port district to report,  
19 within 30 days, cargoes moving into or out of the port  
20 district to the port authority for the purpose of the port  
21 authority's compiling detailed statistical material on port  
22 traffic; and to adopt rules and regulations concerning the  
23 reports.

24 (y) In accordance with state and federal law, to  
25 regulate, control, license, and establish safety regulations  
26 for any common carrier of passengers by water which common  
27 carrier is operated for compensation in intrastate commerce  
28 over a regular route and which embarks from and returns to any  
29 portion of the waters within the port district. After a  
30 hearing conducted by the port authority in accordance with  
31 chapter 120, Florida Statutes, the port authority may impose a



1 fine not to exceed \$1,000 against any person who so operates  
2 such a common carrier in violation of any regulation adopted  
3 under this subsection or may revoke or suspend the license of  
4 any such common carrier that is so operated in violation of  
5 any regulation adopted under this subsection. Any person who  
6 so operates such a common carrier without obtaining a license,  
7 if required by the port authority, or who so operates such a  
8 common carrier while the license to do so is suspended by the  
9 port authority, is guilty of a misdemeanor of the first  
10 degree, punishable as provided in section 775.082 or section  
11 775.083, Florida Statutes. The port authority may not  
12 regulate the rates or fares charged by a common carrier of  
13 passengers which is operating under this subsection.

14 (z) To enter into contracts or interlocal agreements  
15 adopted pursuant to applicable law with respect to the  
16 transfer of responsibility for the control and regulation of  
17 submerged lands and the issuance of minor work permits and  
18 other permits.

19 Section 2. Section 15 of chapter 95-488, Laws of  
20 Florida, is amended to read:

21 Section 15. AWARDING OF CONTRACTS.--No contract shall  
22 be let by the port authority for any construction,  
23 improvement, repair, or building, nor shall any goods,  
24 supplies, or materials for port district purposes or uses be  
25 purchased, if the amount to be paid by the authority exceeds  
26 \$25,000, unless notice thereof has been advertised at least  
27 once no fewer than 10 days nor more than 90 days prior to  
28 receiving bids, in a daily newspaper of general circulation  
29 published in the City of Tampa, which notice calls for bids  
30 upon the work to be done or for the goods, supplies, or  
31 materials to be purchased; provided, however, that as to any

1 such contract let without competitive bid in an amount in  
2 excess of \$15,000, the port director shall inform the port  
3 authority, at its next public meeting, of that contract and  
4 the reasons why competitive bidding was not employed, it being  
5 the intent that public bidding on purchases exceeding \$15,000  
6 be employed unless, in the judgment of the port director, it  
7 is necessary to contract sooner than would be possible through  
8 the public bidding process and it is in the best interest of  
9 the port to so contract. In each case, the bid of the lowest  
10 responsible bidder shall be accepted, except that the port  
11 authority in any event shall have the right to reject all  
12 bids. The port authority shall establish policies to ensure  
13 that minority-owned and women-owned businesses have an equal  
14 opportunity to participate as vendors for such purposes. No  
15 newspaper shall charge more than its minimum commercial rate  
16 therefor, and such advertisements shall be set on 6-point type  
17 on 6-point body. The port authority may require the deposit  
18 of cash or a certified check in an amount not to exceed 15  
19 percent of the bid as evidence of good faith on the part of  
20 the bidders, and such deposit shall be returned when the bid  
21 is rejected or the contract is performed. The port authority  
22 may reject any and all bids and, if bids are alike or similar,  
23 may make its own election as to which shall be accepted or  
24 rejected. No goods, supplies, or materials shall be purchased  
25 in separate lots or parcels so as to avoid advertising for  
26 bids thereon; and any commissioner, officer, or employee who  
27 does so or is responsible therefor shall be personally liable  
28 to the port authority for the full price of any goods,  
29 supplies, or materials so purchased. Except as otherwise  
30 required by law, the port authority must engage professional  
31 services through a selection process that is approved by the

1 port authority so as to ensure qualified professional services  
2 at a fair and reasonable cost. Notwithstanding any of the  
3 foregoing provisions, the port authority may negotiate to  
4 purchase goods and services under the following circumstances:  
5 in the event of emergencies, when a delay in procurement could  
6 endanger lives or property or subject the port authority to  
7 undue liability; to procure government surplus material and  
8 equipment; to procure used equipment and material to be used  
9 for port purposes, provided two independent appraisals are  
10 obtained and considered; and, with the prior approval of at  
11 least three members of the port authority, to procure goods  
12 and services when procurement by competitive bid is not  
13 practicable. The publication and bidding requirements of this  
14 section do not apply when the port authority purchases goods,  
15 supplies, materials, or services through a contract issued by  
16 the United States of America or through a contract issued by  
17 any other unit or agency of government if such contract was  
18 issued upon competitive bid. The port authority may use the  
19 provisions of section 255.20, Florida Statutes, as amended, to  
20 satisfy the competitive-bidding requirements of this section.

21 Section 3. This act shall take effect upon becoming a  
22 law.

23  
24  
25  
26  
27  
28  
29  
30  
31