

STORAGE NAME: h1987.ca

DATE: April 17, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1987

RELATING TO: Gilchrist County Development Authority

SPONSOR(S): Representative Mackey

COMPANION BILL(S): SB 2512 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill changes the appointing authority for the Gilchrist County Development Authority (created by special act), from the Governor to the Gilchrist County Board of County Commissioners. This bill increases the number of members of the Gilchrist County Development Authority from 5 to 9. This bill provides that the membership of the Gilchrist County Development Authority be the same as the Gilchrist County Industrial Authority (created by county resolution). This bill provides that both authorities shall operate as one authority.

This bill does not appear to create any significant impact on state or local revenues.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Special Districts

A special district is defined as a local unit of government that has a specific purpose and a limited boundary, and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. Special districts have unique functions and powers that are prescribed by law. In 1989, the Legislature enacted chapter 189, Florida Statutes, that governs special districts in Florida.

Special districts in Florida have either **independent** or **dependent** status. A dependent special district is defined as one that either has: 1) a governing body that is identical to the governing body of a single county or municipality; 2) governing board members that are appointed by a single county or municipal governing board; 3) a governing body whose members may be removed by a single county or municipality; or 4) a budget that must be approved or vetoed by a single county or municipality. An independent special district, on the other hand, has a governing board and budget that are not controlled by a local county or municipal government.

For special districts created after 1989, section 189.4041, Florida Statutes, provides:

A charter for the creation of a dependent special district created after September 30, 1989, shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected.

Although this requirement does not affect special districts created prior to 1989, it is the specific intent of the Legislature that dependent districts be created at the prerogative of the counties and municipalities according to subsection 189.402(1), Florida Statutes.

Gilchrist County Development Authority: In 1959, the Legislature enacted chapter 59-1308, Laws of Florida, which created the Gilchrist County Development Authority (Development Authority), for the purpose of "performing such acts as shall be necessary for the sound planning for, and development of Gilchrist [C]ounty." The Development Authority is a **dependent special district**. The Development Authority was granted the power, in part, to:

- Acquire, hold, and dispose of personal property for its corporate purposes;
- Enter into contracts with the county of Gilchrist and all incorporated cities therein;
- Acquire in its own name by purchase real property, liens, easements, franchises necessary or convenient for its corporate purposes, and to lease or make contracts.
- Construct projects or use projects already constructed.

The Development Authority was originally composed of 9 members appointed by the Governor as follows: 1 member from the County Commission and 8 members from the

County at large. Each member was required to be a landowner and qualified voter of the County. Initial membership terms were set for various lengths, however, subsequent membership terms were set for 4-year terms.

In 1981, the Legislature amended chapter 59-1308, Laws of Florida, with chapter 81-382, Laws of Florida, which changed the membership, appointment, and term of office of the Development Authority. Membership changed from 9 members to 5 members with appointment authority granted to the Board of County Commissioners. Members were still required to be landowners and qualified voters of the County. Initial membership terms were set for various lengths. Subsequent membership terms were set for 4-year terms. Quorum requirements were lowered from 5 members present to 3 members present (with any affirmative action requiring a minimum of 3 affirmative votes).

Gilchrist County Industrial Development Authority: In 1990, the Gilchrist County Board of County Commissioners enacted Resolution 90-5, pursuant to section 159.45, Florida Statutes, creating the Gilchrist County Industrial Development Authority (Industrial Development Authority). The purpose of the Industrial Development Authority was to supplement and coincide with the Gilchrist County Development Authority, as previously established by chapter 59-1308, Laws of Florida, as amended. The Industrial Development Authority was granted the powers authorized by chapter 159, F.S. (relating to industrial development authorities). The purposes of industrial development authorities as defined by sections 159.44-159.53, F.S., include the financing and refinancing of projects for industrial development. The powers of such authorities include, in part, the following:

- To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;
- To adopt an official seal and alter the same at its pleasure;
- To maintain an office at such place or places in the County as it may designate;
- To sue and be sued in its own name and to plead and be impleaded;
- To enter into contracts for any of the purposes enumerated in the act;
- To issue revenue bonds or other debt obligations repayable solely from revenues derived from the sale, operation, or leasing of projects or other payments received under financing agreements, subject to the approval or disapproval of the County Commission;
- To exercise all the powers in connection with the authorization, issuance, and sale of revenue bonds to finance the cost of projects;
- To acquire by lease, purchase, or option real and personal property for use as sites for the location of projects;
- To prepare sites for industrial use, including industrial parks to be used in connection with one or more projects;

- To construct access roads, drainage facilities, utilities, and other improvements necessary for ultimate use by industrial projects; and
- To secure the issuance and repayment of industrial development bonds by a lease, mortgage, or other security instrument encumbering only the capital improvements which are financed or refinanced by the authority.

B. EFFECT OF PROPOSED CHANGES:

This bill changes the membership of the Gilchrist County Development Authority from 5 members to 9 members.

This bill requires the membership of the Gilchrist Development Authority be identical to the Gilchrist County Industrial Development Authority.

This bill requires the Gilchrist County Development Authority and the Gilchrist County Industrial Authority operate as one body.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapters 59-1308 and 81-382, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not applicable (N/A).

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

N/A

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 4 of chapter 59-1308, Laws of Florida, as amended by chapter 81-382, Laws of Florida, to increase the membership of the Development Authority from 5 members to 9 members. Requires that the membership of the Development Authority (created by special act), to be identical to the membership of the Industrial Development Authority (created by county resolution, under the authority of chapter 159, F.S.). Requires that the two authorities operate as one body.

Section 2: Provides that this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 6, 1997

WHERE? Gilchrist County Journal, Trenton, Gilchrist 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

IV. COMMENTS:

Contradictions Between the Bill and Chapter 189, Florida Statutes:

As a dependent district created by special act of the Legislature, the Gilchrist Development Authority constitutes a pre-1989 relic inconsistent with chapter 189, Florida Statutes. The intent of chapter 189, F.S., was to have independent districts created and modified by special act, while dependent districts are to be created and governed by local ordinance. In this case, by amending the special act, when the county could achieve the same results by obtaining a repeal of the special act from the Legislature and then passing a local ordinance, the Legislature is perpetuating an exception to general law. However, in this case, this bill could not repeal the special acts because such a repeal has not been properly noticed. Due to the limited amount of time remaining in the 1997 Legislative Session and due to the public notice and public hearing requirements that are required for special acts, this Legislature is unable to repeal the special acts of the Gilchrist County Development Authority at this time.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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