

**STORAGE NAME:** h2029.ca

**DATE:** April 18, 1997

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

**BILL #:** HB 2029

**RELATING TO:** St. Lucie County Port and Airport Authority

**SPONSOR(S):** Representative K. Pruitt

**COMPANION BILL(S):** None

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

- (1) COMMUNITY AFFAIRS
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill amends and codifies provisions of the 1988 special act that created the St. Lucie County Port and Airport Authority. The bill does this by:

- Reorganizing provisions relating to meetings, powers and duties of the Authority, employees and consultants, travel expenses, taxation and bonding.
- Authorizing the levy of non-ad valorem assessments and the issuance of bonds secured by those assessments.
- Clarifying purposes for which bonds may be issued.
- Providing authority to enter trust agreements to secure bonds.
- Repealing the 1988 special act creating the Authority.

Although according to the attached Economic Impact Statement this bill has no fiscal impact on either the state government or St. Lucie County, the bill does, however, give the Authority additional power to assess, levy and collect non-ad valorem assessments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**The St. Lucie County Port and Airport Authority**

The St. Lucie County Port and Airport Authority (Authority) is a dependent special district created by special act that operates the St. Lucie County International Airport and the Port of Fort Pierce in St. Lucie County. The Authority currently operates under the provisions of chapter 88-515, Laws of Florida. The St. Lucie County Board of County Commissioners functions as the Board of Directors for the Authority. The Authority is listed a dependent district on the 1996 Official List of Special Districts compiled by the Department of Community Affairs pursuant to chapter 189, F.S.

The Authority has a number of powers and responsibilities. Among these are:

- To construct, maintain, and improve the Fort Pierce Harbor and Inlet.
- To own, hold, control and acquire real or personal property and to condemn lands and easements.
- To rent, lease, and sell to others any real or personal property owned by the Authority.
- To levy special taxes and maintenance taxes.
- To fix and determine the rates, tolls, and charges for the use of Authority facilities.
- To appoint pilots and a harbor master, to grant licenses for stevedores, and to employ personnel as necessary for the operation of the Authority and its facilities.
- To issue bonds to pay for the acquisition, construction, and improvement of Authority facilities.
- To construct, improve, or develop airports and heliports and to enter into arrangements with airlines, ship lines, railroads and other common carriers.
- To construct, own, manage, and maintain industrial parks and other commercial buildings.

**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, F.S., 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. The millage that a dependent special district can tax is limited by the millage cap of the controlling local government.

For special districts created after 1989, section 189.4041, F.S., provides that a charter for a dependent special district "shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected."

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. A referendum vote by the electors determines the millage levied by an independent special district, and the rate that the district can charge is not limited by the local millage cap. By definition, a special district that spans more than one county must be independent, unless the district lies wholly within the boundaries of a single municipality.

Special districts may be authorized by general or special law to impose fees, special assessments, and taxes. They may collect and enforce the fees and special assessments by any method authorized by general law or by the special act creating the district.

**B. EFFECT OF PROPOSED CHANGES:**

This bill amends and codifies provisions of the 1988 special act that created the St. Lucie County Port and Airport Authority. The bill does this by:

- Reorganizing provisions relating to meetings, powers and duties of the Authority, employees and consultants, travel expenses, taxation and bonding.
- Authorizing the levy of non-ad valorem assessments and the issuance of bonds secured by those assessments.
- Clarifying purposes for which bonds may be issued.
- Providing authority to enter trust agreements to secure bonds.
- Repealing chapter 88-515, Laws of Florida.

**C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:**

Chapter 88-515, 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?

Not directly, but the bill does authorize the Authority to levy non-ad valorem assessments. In the event the governing board exercised this authority, taxes in the form of assessments could be raised.

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

Yes. The bill authorizes the Authority to levy non-ad valorem assessments.

- 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?

Not directly, but the bill does authorize the Authority to levy non-ad valorem assessments. In the event the governing board of the Authority (which is the Board of County Commissioners for St. Lucie County) exercised this authority, taxes could be raised in the form of non-ad valorem assessments.

3. Personal Responsibility:

N/A

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

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

4. Individual Freedom:

N/A

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

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

5. Family Empowerment:

N/A

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

- (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?
- 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:
- (1) parents and guardians?
  - (2) service providers?
  - (3) government employees/agencies?

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1:** Provides the short title of the act. Provides that the act shall be known as the "St. Lucie County Port and Airport Authority Act."

**Section 2:** Provides definitions for terms to be used in the act. The terms defined are: "Authority," "Board" or "board of commissioners," "Bonds," "District," "Project," "Port facilities," "Airport," "Air navigation facility," "Air navigation," "Airport facilities," "Non-ad valorem assessment," and "Person."

**Section 3:** Provides for the continuing existence of the special district which had been known as the Fort Pierce Port and Airport Authority pursuant to chapter 61-2754, Laws of Florida, as amended, and is currently known as the St. Lucie County Port and Airport Authority pursuant to chapter 88-515, Laws of Florida.

**Section 4:** Stipulates that the title, rights, and ownership of all real and personal property, uncollected taxes, and claims retained by the St. Lucie County Port and Airport

Authority shall remain in effect. Further stipulates that debts and obligations incurred by the Fort Pierce Port and Airport Authority now existing or outstanding shall remain valid and unimpaired as the debts, contracts, bonds, and obligations of the St. Lucie County Port and Airport Authority prior to this act shall also remain in effect.

**Section 5:** Authorizes the St. Lucie County Port and Airport Authority to levy taxes to retire obligations that were assumed by the Authority under the provisions of chapter 88-515, Laws of Florida.

**Section 6:** States that the governing body the St. Lucie County Port and Airport Authority shall be the "Board of Commissioners of the St. Lucie County Port and Airport Authority." States that the Board shall be comprised of St. Lucie County's five County Commissioners who shall elect from their number a chair and vice chair. Requires the Board of Commissioners to meet at least once monthly. Special meetings are to be held pursuant to chapter 189, F.S.. States that three members constitute a quorum.

**Section 7:** States that the Clerk of the Circuit Court for St. Lucie County shall serve as ex officio Secretary/Treasurer for the St. Lucie County Port and Airport Authority. Requires that the Secretary/Treasurer for the St. Lucie County Port and Airport Authority give a \$10,000 surety bond to the Board of Commissioners, to be paid out of the funds of the Authority. Outlines provisions for the deposit of funds into Authority accounts.

**Section 8:** States that Board members for the Authority shall be reimbursed for travel expenses for travel outside of St. Lucie County in accordance with provisions of section 112.061, F.S. States that the expenses be paid from the maintenance fund of the Authority.

**Section 9:** States that the St. Lucie County Port and Airport Authority shall be a dependent special district and operate as an arm of the St. Lucie County government.

Provides the Authority with the power to:

- sue and be sued;
- adopt, use, and alter a seal;
- make and execute contracts;
- hire employees;
- own, construct, and maintain port and airport facilities;
- construct, own, repair, maintain, extend, enlarge, develop and promote the Ft. Pierce Harbor and Inlet between the Indian River and the Atlantic Ocean connecting with the harbor, the navigable waterways connected therewith, and such port facilities and other works in connection with the inlet, harbor and waterways as may be owned or controlled by the Authority;
- approve or disapprove the location, establishment, construction, and operation of privately owned airports within the district;

- enter into joint arrangements with airlines, steamship lines, and other common carriers;
- construct, own, manage, maintain and control industrial parks and industrial commercial buildings;
- contract debts for the acquisition or construction of any port or airport facilities or improvements;
- borrow money, issue bonds, issue notes in anticipation of the receipt of revenues from taxes or other revenue sources, issue certificates of participation, issue obligations to finance all or any part of such acquisition;
- receive, administer, and comply with conditions and requirements respecting any gift, grant, or donation of any property, money, labor, or other things of value from any source;
- adopt rules, regulations and policies for the operation of the Authority;
- fix and determine rates, tolls, and charges for the use of Authority facilities;
- appoint pilots for the Authority and appoint a harbor master and prescribe his or her powers and duties;
- acquire, rent, condemn, and dispose of property;
- exercise eminent domain;
- rent, lease and sell real and personal property;
- make and exercise financing agreements and contracts;
- assess, levy, and collect ad valorem taxes and non-ad valorem assessments on property;
- provide adequate insurance on all real and personal property, equipment, employees, and other personnel; and
- do all other acts and things necessary or proper in the exercise of the powers of this act.

**Section 10:** Authorizes the St. Lucie County Port and Airport Authority to assess ad valorem taxes. These assessments are to be used for debt service upon bonds and to create a sinking fund. An additional maintenance tax, not exceeding 3 mills, may be levied to help develop and maintain Authority properties. These taxes are to be levied, assessed, collected, enforced, disbursed, and administered under the provisions of general law.

**Section 11:** Authorizes the St. Lucie County Port and Airport Authority to assess, levy, and collect non-ad valorem assessments. These assessments are to be used to acquire,



improve, and maintain Authority properties. Such assessments are to be levied and collected as provided for in Chapter 197, F.S.

**Section 12:** Authorizes the St. Lucie County Port and Airport Authority to issue general revenue bonds, limited tax revenue bonds, revenue bonds, and non-ad valorem assessment bonds. Provides guidelines for the issuance of such bonds.

**Section 13:** Provides for bonds issued by the St. Lucie County Port and Airport Authority to be secured by a trust agreement between the Authority and a corporate trustee. Outlines provisions for protecting and enforcing the rights and remedies of bondholders.

**Section 14:** Outlines additional provisions regarding the negotiability of bonds issued by the St. Lucie County Port and Airport Authority.

**Section 15:** Permits the Board of Commissioners of the St. Lucie County Port and Airport Authority to procure commodities and services. Procurements are to be conducted in accordance with procedures established by St. Lucie County.

**Section 16:** Specifies which projects of the St. Lucie County Port and Airport Authority are to be for public purposes.

**Section 17:** Establishes legislative intent. Provides that it is the intent of the Legislature to reorganize, clarify and modernize provisions of the Authority's enabling act, and to clarify the status of the Authority under existing law.

**Section 18:** Repeals chapter 88-515, Laws of Florida.

**Section 19:** Provides that clauses or sections of this act which are declared invalid may be removed from the act. Remaining portions may remain valid if they had not been incorporated in the invalidated clauses.

**Section 20:** Provides that the act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No [ ]

IF YES, WHEN? November 30, 1996

WHERE? The Tribune, Fort Pierce, St. Lucie County, Florida

B. REFERENDUM(S) REQUIRED? Yes [ ] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

**Sponsor's Intent**

The purpose of HB 2029 is to reorganize, update, and clarify certain provisions in chapter 88-515, Laws of Florida, which is the act under which the St. Lucie County Port and Airport Authority now operates.

**St. Lucie County Position**

St. Lucie County Attorney Daniel S. McIntyre has stated that HB 2029 conforms chapter 88-515, Laws of Florida, to existing general law, particularly as the law relates to the adoption of budgets. The bill does not change existing sources of funding for the St. Lucie County Port and Airport Authority, but it does give the Authority the power to levy and collect non-ad valorem assessments in accordance with general law. The St. Lucie County Commission supports the passage of HB 2029. The County Commission also serves as the Board of Directors for the St. Lucie County Port and Airport Authority.

**General Law Contradictions (Chapter 189, F.S.)**

For special districts created after 1989, section 189.4041, F.S., provides that a charter for a dependent special district "shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected."

As a dependent district created by special act of the Legislature, the Authority constitutes a pre-1989 relic inconsistent with the intent of chapter 189, F.S., which is to have independent districts governed by special act and dependent districts created and governed by local ordinance. By recreating the Authority by special act, the 1997 Legislature is perpetuating an exception to general law.

The attorney's for the Authority explain that there are two reasons for keeping the special act authorization for the Authority, instead of repealing the acts and having the County Commission pass an ordinance. First, there is concern with the expense and politics of holding another referendum throughout the County and its municipalities to implement the tax requirements of a new ordinance pursuant to subsection 200.01(5), F.S.. Retaining the current dependent status by special act eliminates the possible need for such a referendum. Second, the Authority is the recipient of grants from the Federal Aviation Administration and currently has agreements with the U. S. Army Corps of Engineers. There is concern that without some state Legislative oversight, these arrangements might be in jeopardy.

**STORAGE NAME:** h2029.ca

**DATE:** April 18, 1997

**PAGE 11**

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Jenny Underwood Dietzel

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