

STORAGE NAME: h3959.ca

DATE: March 17, 1998

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

BILL #: HB 3959

RELATING TO: Greater Orlando Aviation Authority

SPONSOR(S): Representative Sindler and others

COMPANION BILL(S):

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

(1) COMMUNITY AFFAIRS

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill consolidates the provisions creating and amending the charter of the Greater Orlando Aviation Authority, referred to in their special acts as an agency of the City of Orlando, into a codified charter.

This bill categorizes the Greater Orlando Aviation Authority, as an independent special district.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background:

The Greater Orlando Aviation Authority (Authority), was originally created as the Greater Orlando Port Authority (Port Authority), in 1957, by the Legislature, 57-2834, Laws of Florida. The Port Authority, was created as an “agency of the city” authorized, in part to, construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, repair and operate, projects consisting of airport facilities of all kinds for land and sea planes, exhibition halls and markets, administration buildings, tunnels, and causeways and bridges. The Port Authority was authorized to issue revenue bonds of the City of Orlando (payable solely from revenues); and, to fix, regulate and collect rates and charges for services and facilities. The Port Authority’s charter has been amended numerous times, as follows:

Chapter 61-2599, Laws of Florida, which amended the charter by authorizing the Port Authority to issue general obligation bonds subject to the same restrictions as those of the City of Orlando and/or Orange County Florida;

Chapter 67-1834, Laws of Florida, which amended the charter by authorizing the creation of the membership and budgetary procedures;

Chapter 69-1389, Laws of Florida, which amended the charter by prohibiting the sale of the revenue bonds at a price of less than ninety-five percentum of the par value;

Chapter 71-133, Laws of Florida, which repealed all special and local acts or general acts of local application granting specific exemption from property taxation;

Chapter 75-464, Laws of Florida, which supplemented and amended the charter, as follows:

- Changed the name of the Port Authority to **“The Greater Orlando Aviation Authority”**;
- Defined the projects which it was empowered to carry out;
- Defined the terms “improvements” and “costs”;
- Prescribed the nomination, election, removal, qualifications, and terms of the members of the board;
- Defined the purposes of the Authority;
- Prescribed the powers of the Authority;
- Prescribed the appointment and duties of the executive director;

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- Prescribed the terms and conditions under which the Authority could purchase, sell, lease, and dispose of real and personal property;
- Authorized the Authority to enter into agreements with other governmental agencies;
- Authorized the Authority to constitute its own law enforcement and/or fire protection agencies and services, with the prior approval of the Orlando City Council;
- Prescribed the terms and conditions for the Authority's issuance of revenue bonds;
- Authorized the City of Orlando to enforce its ordinances of general application, other than zoning, upon projects of the authority;
- Authorized the Authority to adopt rules and regulations for the operation and use of its projects, services, and facilities;
- Authorized other public bodies to contract with the Authority;
- Provided that the powers conferred by the act must be cumulative to general or special law;
- Prescribed a covenant of the State of Florida not to further amend the act without prior consent of the Orlando City Council, so long as airport revenue bonds of the City of Orlando are outstanding; and
- Provided that the authority shall have the powers conferred by general law upon a municipality with respect to construction, acquisition, and operation of airport and aviation facilities.

Chapter 77-612, Laws of Florida, which amended the charter by providing procedures for the design and construction of new permanent facilities or major additions to existing facilities;

Chapter 78-578, Laws of Florida, which amended the charter by amending the nomination, election, removal, qualifications, and terms of members of the authority; and prescribed the method and procedure for the authority to adopt its annual budget;

Chapter 80-553, Laws of Florida, which amended the charter as follows:

- Reduced the membership of the authority from nine to seven members;
- Provided for the election or appointment, and removal, qualifications, and terms of members of the reconstituted authority; and
- Provided for the expiration of the terms of the current members of the authority.

Chapter 80-554, Laws of Florida, which amended the charter by establishing the interest rates for revenue bonds issued for the authority;

Chapter 82-347, Laws of Florida, which amended the charter by deleting the requirement that compensation paid to, and fringe benefits received by, employees of the authority, except in unusual or extraordinary cases, not be in excess of compensation paid to, and the fringe benefits received by, employees of the City of Orlando engaged in similar duties;

Chapter 87-555, Laws of Florida, which amended the charter by establishing interest rates of the revenue bonds by the authority and ratified prior actions of the authority, with respect to the issuance of bonds;

Chapter 88-474, Laws of Florida, which amended the charter as follows:

- Removed term limitation of elected members;
- Established procedures for appointing a member until a successor takes office;
- Reduced quorum requirements;
- Deleted conflict of law provision;
- Provided for form, interest rates, and other features of bonds;
- Deleted minimum price requirements of bonds; and
- Deleted certain provisions concerning sufficiency of bond proceeds.

Chapter 91-391, Laws of Florida, which amended the charter to require that one member of the authority be a resident and elector of Osceola County.

Chapter 92-152, Laws of Florida, which regulated the terms of members of legislatively created aviation authorities which operate international airports enplaning more than eight million passengers annually.

Chapter 189, Florida Statutes:

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of special districts' charters (including fire control districts), either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation. However, in the 1997 interim, some districts expressed the need to request substantive changes to their charters but because of the number of amendments (special acts) to their charters, they do not have time to codify.

As a result, the Chair of the Committee on Community Affairs issued a Memorandum on October 3, 1997, explaining the policy of the Committee for charter codifications for the 1998 Legislative Session. In part, the Memorandum states:

1. Although two bills are preferable (one to codify and one to accomplish the substantive change), the House Committee on Community Affairs will accept one bill (containing the codification and substantive change).
2. The substantive change, if included in the codifying local bill, ***must be advertised*** clearly and concisely, i.e., "a substantive change to the charter is being sought affecting membership of the Board," or whatever change(s) is applicable.
3. If a substantive change is needed to a District's charter this Session, but codification is too large a task to accomplish at the same time, the Committee will hear bills for any substantive changes that a legislative delegation deems necessary.
4. The Committee will accept voluntary charter codifications from any district for the 1998 Legislative Session.

Section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

B. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to the Greater Orlando Aviation Authority (Authority), into a single act. This bill makes no substantive changes to the previous acts.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapters 57-1658, 61-2599, 67-1834, 69-1389, §14 of 71-133, 75-46, 77-612, 78-578, 80-553, 80-554, 82-347, 87-555, 88-474, 91-36, 91-391, §9 of 92-152, Laws of Florida

Subsection 189.404(5), Florida Statutes

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?

N/A

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

N/A

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

N/A

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

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

- 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?

N/A

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

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

- 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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1: Codifies, reenacts, amends, and repeals Chapters 57-1658, 61-2599, 67-1834, 69-1389, §14 of 71-133, 75-464, 77-612, 78-578, 80-553, 80-554, 82-347, 87-555, 88-474, 91-369, 91-391, §9 of 92-152, Laws of Florida.

Section 2: Recreates and reenacts the Greater Orlando Airport Authority Act, as follows:

Section 1: SHORT TITLE: Greater Orlando Aviation Authority Act

Section 2: DEFINITIONS

Section 3: Recreates the "Greater Orlando Aviation Authority" (Authority), and provides, in part, the following:

Subsection 1:

- Authorizes the Authority to have an official seal.
- Constitutes the Authority as "an agency of the city."
- Provides the board will consist of 7 members (1 from the City Council, 1 from the County Commission, and 5 appointed by the Governor, subject to approval by the Senate. In addition, the 5 members are subject to certain residency requirements.
- Provides the election, appointment, and residency requirements of the members.

Subsection 2:

- Prohibits persons employed by the City of Orlando or Orange County to be a member of the of the authority.

Subsection 3:

- Provides procedure for appointment due to vacancy in membership.

Subsection 4:

- Provides for the election of the Chairman by members of the board.
- Provides for the terms and term limits of the chairman.
- Provides for the option of electing a Secretary, who would serve at the will of the authority.
- Provides for the option of electing a member, nonmember, or the Director of Finance of the City to serve as Treasurer of the authority.
- Provides for a quorum.

Subsection 5:

- Provides requirement for oath of duty by members to be filed with city clerk.
- Provides requirement for appointed members to execute a \$10,000 bond, payable to the city for faithful performance.

Subsection 6:

- Provides that members serve without compensation.
- Provides for travel reimbursement of members.
- Provides for salary for the Secretary.

Subsection 7:

- Provides for suspension of members.

Section 4 Provides procedures for “CONTROL OF EXISTING FACILITIES” procedures.

Section 5: Provides procedures for “CONSTRUCTION OF NEW PROJECTS” including the following:

- Fast-track construction scheduling.
- Construction and project management.
- Design and build bidding.

Section 6: Provides procedures for “EXPENDITURE OF FUNDS FOR PRELIMINARY ACTS.”

Section 7: Provides procedures for “CONVEYANCE OF SUBMERGED LANDS.”

Section 8: Provides the “PURPOSES” and “POWERS OF AUTHORITY”, including the following:

Subsection 1: Project construction authorization.

Subsection 2: Authorization to issue city revenue bonds payable from Authority revenues.

Subsection 3: Authorization to set rates and fees.

Subsection 4: Rulemaking authority, subject to monthly, public meetings.

Subsection 5: Authorization to operate, manage, and control all projects under its authority.

Subsection 6: Authorization to acquire real property in the name of the Authority.

Subsection 7: Authorization to appoint, compensate, supervise, and discharge an executive director.

Subsection 8: Authorization to enter into contracts and agreements.

Subsection 9: Authorization to apply, accept, and use, for public or private, loans, grants, guarantees or other financial assistance in aid of projects.

Subsection 10: Authorization to enter into agreements with governmental agencies.

Subsection 11: Authorization of exclusive control of revenues derived from projects, except as otherwise provided in the act.

Subsection 12: Authorization to adopt and enforce reasonable rules and regulations regarding projects.

Subsection 13: Subject to certain provisions, authorization to enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements, not exceeding 50 years.

Subsection 14: Authorization to enter into contracts, leases, or other agreements with air carriers.

Subsection 15: Authorization to enter into contracts with persons, firms, or public or private corporations to supply goods, commodities, facilities, and services.

Subsection 16: Authorization to acquire property by, but not limited to, eminent domain and to dispose of property by, but not limited to sales.

Subsection 17: Authorization to make and apply with the U.S. Government to establish a free port.

Subsection 18: Requirement of express prior approval by ordinance of the city council before providing its own law enforcement or fire protection services.

Subsection 19: Requirement to acquire by agreement and not eminent domain, any aviation projects of the city or, with prior approval by the city, any aviation projects of Orange County.

Subsection 20: Requirement to enter into agreements with the city regarding any other public body owning or operating aviation projects, with respect to transfer of employees.

Subsection 21: Requirement to establish retirement, disability, hospitalization, and other fringe benefits for employees.

Subsection 22: Authorization to exercise powers not inconsistent with express provisions of this act and notification that all expenses incurred by the authority in exercising its powers and functions will be paid solely from the process of the Authority issued revenue bonds.

Section 9: States that the "CREDIT OF THE CITY IS NOT PLEDGED" through the issuance of the revenue bonds.

Section 10: Authorizes "BOND ISSUE FOR PURPOSE OF FINANCING PROJECTS AUTHORIZED BY THIS ACT."

Section 11: Authorizes the issuance of "REVENUE BONDS" as follows:

Subsection 1: Authorizes the issuance of revenue bonds and establishes requirements regarding maturity, price, terms, conditions, etc. of the bonds.

Subsection 2: Establishes the procedure for the printing and the signing of the bonds.

Subsection 3: Acknowledges negotiable instrument status of bonds.

Subsection 4: Regulates the use of bond proceeds.

Subsection 5: Authorizes trust agreement limitations on bonds.

Subsection 6: Authorizes Authority to issue revenue refunding bonds.

Subsection 7: Excludes Authority's revenue bonds from general limits of indebtedness of city.

Section 12: Authorization to secure bonds with a "TRUST AGREEMENT."

Section 13: Establishes the "REVENUE AND BUDGETING" procedures of the Authority, as follows:

Subsection 1: The budget adoption process is as follows:

- The Authority must use the same fiscal year as the city.
- Not less than 1 month before the end of the fiscal year, the authority will adopt, by resolution, its proposed budget.
- After receiving the proposed budget, the city council must, within 10 days, conduct a public hearing regarding the proposed budget.
- The Chairman and executive director of the authority must be present at the hearing.
- Following the hearing, the authority, at any regular or special meeting held before the beginning of the next fiscal year must adopt the proposed budget.
- Once the budget is adopted, the budget may not be amended except by the following: Giving of 10 days written notice of the proposed amendment to the budget to the city council and giving public notice of the authority's intent to amend the budget (in a newspaper of general circulation in Orange County, at least 10 days before the meeting).

Subsection 2: Requires the Authority's submission of a comprehensive financial report on its projects within 90 days following the close of each fiscal year. The report is to be submitted to the secretary of the authority, the city council, the Board of County Commissioners of Orange County, and if revenue bonds are secured by a trust agreement, the trustee under the agreement. The report must be made open to the inspection of all interested persons.

Subsection 3: Establishes an annual audit requirement of the Authority's books and accounts. The audit must be made by an independent certified public account and accompanied with the accountant's opinion and qualifications relating to the report.

Section 14: Authorizes payments to "TRUST FUND" trustees.

Section 15: Declares the "REMEDIES" available to holders of revenue bonds issued under this act.

Section 16: Provides procedures for the Authority's use of the "POWER OF EMINENT DOMAIN."

Section 17: Authorizes the application of city ordinances of general application, with the exception of zoning ordinances, to areas of land and water owned or controlled by the Authority.

Section 18: Authorizes the "EXECUTION OF CONTRACTS, LEASES AND OTHER LEGAL INSTRUMENTS" by the Authority.

Section 19: Declares the intent of "COOPERATION BETWEEN MUNICIPALITIES, COUNTY, AND AUTHORITY."

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Section 20: Establishes a "CONFLICT OF INTEREST" prohibition.

Section 21: Declares that this "ACT CONFERS ADDITIONAL AUTHORITY" and that the powers of this act are to be cumulative and in addition to general law.

Section 22: Provides for the reversion to the city all property of the Authority in the event of the Authority's termination.

Section 3: Provides for the severability of the Act.

Section 4: Repeals previous special acts of the Authority, including the following: chapters 57-1658, 61-2599, 67-1389, 75-464, 77-612, 78-578, 80-553, 80-554, 82-555, 88-474, 91-369, and 91-391, Laws of Florida.

Section 5: Provides this act will take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? 01/16/98 - 01/17/98

WHERE? Orlando, Florida; *The Orlando Sentinel*

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:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike everything after the enactment clause is offered by the sponsor. The difference between HB 3959 and the strike everything amendment is as follows:

- The amendment clarifies the status of the Authority. The Authority is categorized as an **independent special district** for the purposes of the applicable requirements of section 189.404, Florida Statutes.
- The amendment acknowledges that the Authority **does not** have ad valorem tax authority.

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- The amendment clarifies the language directing the chairman and the executive director to be present at the public hearing on the Authority's proposed annual budget.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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