

STORAGE NAME: h4127z.ca
DATE: June 12, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

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

BILL #: 1ST ENG/HB 4127

RELATING TO: Palm Beach County/Delray Beach Downtown Development Authority

SPONSOR(S): Representative Jacobs

COMPANION BILL(S): None.

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

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 4127 was introduced on March 12, 1998. The bill was referred to the House Committee on Community Affairs on March 17, 1998. The Committee on Community Affairs approved the bill with one amendment on March 30, 1998. The bill was placed on the House Local Calendar on April 24, 1998. On April 24, 1998, the House passed HB 4127 with one technical amendment. The amendment corrected a scrivener's error. HB 4127 passed the House with a vote of 120 Yeas and 0 Nays. On May 1, 1998, HB 4127 passed the Senate with a vote of 40 Yeas and 0 Nays. The bill became law on May 28, 1998 without the Governor's signature, as chapter 98-503, Laws of Florida.

II. SUMMARY:

Primarily, this bill expands the Delray Beach Downtown Development Authority (Authority) district in Palm Beach County for economic development purposes. It also increases the Authority's membership and functions.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Palm Beach County Delray Beach Downtown Development Authority (Authority) is listed in the **1997 Official List of Special Districts** as a dependent special district. It was created by special act (chapter 71-604, Laws of Florida, as amended).

The five-member Authority's functions are:

- (1) Analyze economic conditions and changes occurring in the downtown area of the district;
- (2) Devise long-range plans for improving the attractiveness and accessibility to the public of downtown facilities;
- (3) Recommend to the city council, downtown business persons, and residents the most suitable actions for implementing downtown development plans;
- (4) Participate in the implementation and execution of downtown development plans; and
- (5) Implement all projects authorized by law relating to the downtown area.

The act establishes term limits for the Authority's membership including that two members must be appointed for three year terms beginning July 1, 1994. It requires that at least three members be owners of real estate in the Authority's downtown area. It also requires three affirmative votes for all action pertaining to Authority matters.

Chapter 80-495, Laws of Florida, increased the Authority's membership from five to seven. However, following passage by the Legislature, the act also required approval by referendum. According to a Palm Beach County assistant city attorney, approval at referendum of chapter 80-495, Laws of Florida, failed. Thus, the provisions in chapter 80-495, Laws of Florida, were invalid and the provisions of the original act, chapter 71-604, Laws of Florida, remained unchanged (five members).

Subsequently, chapter 94-476, Laws of Florida, mistakenly provided that the Authority's membership was seven rather than five. This act did not require a referendum. Consequently, it appears that the bill is attempting to amend a provision into law that already exists in law, but not in actuality. The bill corrects this glitch.

The above scenario raises a concern over whether the Legislature has or needs a mechanism to report referendum results of special acts requiring both legislative passage and referendum approvals. Special acts are published in the Laws of Florida prior to referendum approval. Currently, if the act fails to pass referendum, the Legislature is probably not aware that the act published in the Laws of Florida is invalid.

B. EFFECT OF PROPOSED CHANGES:

The bill provides for the expansion of the Delray Beach Downtown Development Authority (Authority) area. It establishes legal boundaries pertaining to the same.

The bill correctly amends the law to increase the Authority's membership from five to seven. The bill provides that two members must be appointed beginning July 1 following the referendum approving the expansion of the Authority's boundaries.

The bill requires that at least four Authority members be owners of real estate within the Authority's downtown area. The bill requires at least four affirmative votes on all action pertaining to development authority matters. The bill increases the Authority's list of functions to require the Authority's active participation in plans and programs to encourage economic development and promotion of the downtown as a prosperous downtown area.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 71-604, Laws of Florida, as amended, is affected.

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?

Yes. Property owners captured in the Delray Beach Downtown Development Authority district expansion are required to pay an additional up to 1 mil ad valorem tax. However, such owners offset this tax expenditure with significant property value increases and other economic development benefits resulting from the expansion.

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?

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:

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(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1-- Amends section 3 of chapter 71-604, Laws of Florida, as amended, provides for the expansion of the Delray Beach Downtown Development Authority (Authority) district and establishes legal boundaries for the same.

Section 2--Amends section 4 of chapter 71-604, Laws of Florida, as amended, increase the Authority's board membership to seven; requires that two members be appointed beginning on July 1 following the referendum approving the expansion of the Authority's boundaries; requires at least four of the members be real estate owners within the downtown area of the development authority district; requires at least four affirmative votes on development authority matters; and increases the Authority's functions to include its participation in plans and programs to encourage economic development and promotion of the downtown as a prosperous downtown area.

Section 3-- Provides that the act takes effect only upon a majority vote approval in a referendum election occurring not sooner than 30 days and not later than three years after the effective date of this act; and provides that this act takes effect upon becoming a law.

IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 15, 1998

WHERE? The Palm Beach Post; West Palm Beach, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

V. COMMENTS:

Special District Status Statement

Section 189.404(5), F. S., 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.

An examination of this charter reveals that this statement is not contained in the district's charter. However, to amend the special act pursuant to s. 189.404(5), F.S., in this bill may jeopardize the published notice. Consequently, the sponsor of this bill and the Palm Beach County delegation represented that the delegation plans to amend the appropriate special act pursuant to s. 189.404(5), F. S., during the 1999 Legislative Session.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 31, 1998, the House Committee on Community Affairs passed HB 4127 with one technical amendment. The amendment corrects a scrivener's error and is traveling with the bill. On April 24, 1998, the House of Representatives adopted the technical amendment and passed HB 4127.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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