

STORAGE NAME: h4545z.ca
DATE: May 6, 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 4545
RELATING TO: Panama City-Bay County Airport & Industrial District
SPONSOR(S): Representative Clemons
COMPANION BILL(S): SB 2688 (s)

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

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

House Bill 4545 was passed by the House Committee on Community Affairs on April 21, 1998, with 1 amendment. The bill passed the House on April 24, 1998, by a vote of 120 YEAS and 0 NAYS, and was ordered engrossed. The engrossed bill was received by the Senate on April 29, 1998 and was referred to the Senate Committee on Rules and Calendar. It was withdrawn from the Senate Committee on Rules and Calendar on May 1, 1998, and placed on the Senate Local Calendar. The Senate passed 1ST ENG/H 4545 on May 1, 1998, by a vote of 40 YEAS and 0 NAYS. The bill became chapter 98-527, Laws of Florida.

II. SUMMARY:

This bill codifies all prior special acts relating to the Panama City-Bay County Airport and Industrial District into one special act.

The bill declares that the district is an independent special district.

The bill increases the district's powers including powers relating to the issuance of bonds.

The bill grants the authority to establish an independent airport police department which has full police powers.

The bill changes the name of the District's governing body from authority to Board of Directors.

The bill makes other substantive changes.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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. A schedule for submitting the codifying charter is attached and is based on the number of special acts a district currently enjoys. The attached proposed schedule of submittals is based on an extended deadline of 2004, which must be accomplished legislatively. The Committee will have a bill to address this issue during the 1998 Legislative Session. Keep in mind, if they choose to do so, a district may submit its codification earlier than the proposed schedule indicates.

Also, 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 Panama City-Bay County Airport and Industrial District (District) into one special act.

The bill declares that the district is an independent special district. The District is currently listed in the 1997 Official Index of Special Districts as an independent special district.

The bill changes the name of the District's governing body from authority to Board of Directors.

The bill increases the district's powers including powers relating to the issuance of bonds by:

- Allowing the district to receive grants for or in aid of operation of the airport and aviation facilities from the Federal government;
- Granting the authority to make rules and regulations governing the operation of the airport and aviation facilities;
- Providing for how and with which funds and revenues the district can pledge and secure payment of its obligations;
- Allowing the district to enter into interlocal agreements with other public agencies and use amounts received from such agreements to pay and secure bonds;
- Authorizing the entering into and performing of obligations under bond insurance agreements;
- Allowing for the refinancing, retiring or defeasement of any outstanding obligation;
- Allowing the district to borrow money, accept grants, and comply with terms of contracts with the state and federal government;
- Allowing for the employment of technical experts;
- Granting to the district all relating powers under part II, chapter 159, Florida Statutes, which is the Florida Industrial Development Financing Act; and
- Allowing the district to enter into deeds of trust and other agreements

The bill grants the district the authority to establish an independent airport police department which has full police powers.

The bill makes the following other substantive changes:

- Defines aviation facility;

- Removes language from the current charter which requires the budget to be approved by both the city and county commission;
- Makes section 287.057, Florida Statutes, applicable to the district's bidding requirements which increases the minimum requirement for bids from \$1,000 to \$15,000;
- Removes the claim provision from the charter which provides that every claim must be filed within 6 months from the time the claim arises or the claim is barred and provides filing requirements; and
- Prohibits board members from accepting employment from any vendor of the district and provides that violation constitutes malfeasance of office.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapters 67-1099 and 69-834, 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?

Yes. The bill grants the authority to make rules and regulations governing the operation of the airport and aviation facilities.

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

The district will now be in control of and liable for its own police force.

(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, and repeals prior special acts relating to the Panama City-Bay County Airport & Industrial District.

Section 2: Recreates and reenacts the district to read:

Section 1 -- Creates an independent special airport district in Bay County to be named the Panama City-Bay County Airport & Industrial District; and provides boundaries.

Section 2 -- Provides definitions.

Section 3 -- Provides for the district's governing board; provides for appointment of Board members; provides for terms; provides quorum; requires three member approval before spending or borrowing of authority funds; provides for reimbursement of members expenses; provides reimbursement requirements; authorizes the employment of an airport manager; provides salary; provides for hiring other employees; authorizes the establishment of an independent airport police department with full police powers; and grants the power to contract with other airport authorities in carrying out common projects and purposes.

Section 4 -- Provides purposes of authority; and provides that the exercise of authorized powers serves a public purpose.

Section 5 -- Grants powers and duties to the district's governing board; and provides for monthly open meetings.

Section 6 -- Authorizes issuance of district bonds; provides purposes of bonds; and provides procedures.

Section 7 -- Grants additional powers to the board specifically related to bonds and related issues; provides that district revenues may be used to pay bonds principal and interest; authorizes the use of other funds; grants all powers of a local agency pursuant to part II, chapter 159; and provides that district obligations are not obligations of the state or other subdivisions, except in a limited situation.

Section 8 -- Provides requirements for bonds and issuance of bonds; provides procedures; allows for temporary bonds; provides for payment of bonds; provides for a sinking fund; provides provisions which may be addressed in the resolution authorizing the bonds; provides that bonds are negotiable instruments; provides for liens; and provides that UCC filings are not necessary.

Section 9 -- Authorizes the issuance of revenue bonds; provides requirements of revenue bonds; provides procedures for issuance; and prohibits the authority from conveying or mortgaging any facility or part of a facility as security for the payment of revenue bonds.

Section 10 -- Authorizes the issuance of refunding bonds and refunding revenue bonds; provides purposes for the issuance; and provides that the maturities, remedies, rights, duties and other issues are governed by the act's provisions.

Section 11 -- Provides that district bonds constitute legal investments; and provides that district bonds also are securities eligible for deposit as security.

Section 12 -- Grants remedies to bond holders; and provides that bond holders can enforce and compel required duties.

Section 13 -- Provides that the district serves a public purpose; provides that exercise of powers by the district is a public purpose; and exempts the authority's facilities or any parts from having any taxes or assessments levied against the property.

Section 14 -- Provides procedures and requirements relating to the expenditure of district funds; provides that fidelity bonds may be required; and provides that the district pays the premiums on the fidelity bonds.

Section 15 -- Requires an annual audit; and requires that the audit be submitted to the authority, city commission, and county commission.

Section 16 -- Requires bids for improvements, construction, and purchase of goods and materials if the amount to be paid is above a specific amount; provides bid procedures; allows for bid rejection; prohibits the purchasing of goods in lots in order to avoid required bid process; provides for personal liability; and allows the bypass of this section in the case of an emergency.

Section 17 -- Prohibits any member or entity it has an interest in from selling goods or materials to the district; provides that the district is not obligated to pay if the situation arises; prohibits any member or entity it has an interest in from submitting a bid for any work; provides that violation of this provision is malfeasance of office; and allows for recovery.

Section 18 -- Prohibits members, officers or employees from acting as a consultant, employed by, or receiving compensation from, any vendor or other entity of the airport authority; prohibits conduct other than airport business within the facility or property; and provides that violation of this provision is malfeasance of office.

Section 19 -- Provides that the powers in this act are supplemental to existing powers; and repeals prior special acts of the district.

Section 3: Provides severability clause.

Section 4: Provides effective date of upon becoming a law.

IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 1998; February 4, 1998

WHERE? Panama City, Florida; The News Herald

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

V. COMMENTS:

The Federal Aviation Agency requires airports to have uniformed enforcement officers who have the power of arrest. The bill provides for the creation of a complying independent airport police department. Currently, the airport basically has an auxiliary police force providing the security at the airport. The chief of police is liable for the auxiliary police but has no control over the unit. The creation of the independent police force will give both control and liability over the unit to the airport district, and remove the chief of police's liability.

The bill currently does not provide for any district boundaries. The intent of the bill is not to change the current boundaries. It was an oversight that the boundaries were left out of the bill.

The bill is confusing in that "authority" is used synonymously with "district." The confusion is caused because the governing board of the district is also called "authority." At times, it appears as though the authority (the governing board) is issuing the authority's (the governing board) bonds.

An additional problem is that three bond provisions conflict with one another. Section 6 provides that bonds can not mature at times exceeding 30 years and shall bear rates at a maximum 6 percent. Section 7(1) provides that bonds can not mature at times exceeding 30 years. Section 8 provides that bonds can not mature at times exceeding 40 years and shall bear interest at fixed or variable rates. With the conflicting provisions, it is difficult to determine the maximum bond maturity date and the allowable interest rate(s) of the bonds.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs adopted a strike everything amendment on April 21, 1998. The amendment differentiates between the district and the governing board by changing the name of the governing board to Board of Directors. The amendment corrects conflicting language in the bill's bond provisions. The amendment also provides for the district's current boundaries but does not increase the district's boundaries.

VII. SIGNATURES:

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