

STORAGE NAME: h1093.ca

DATE: April 11, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1093

RELATING TO: Okaloosa County/Mid-Bay Bridge

SPONSOR(S): Representative Melvin and others

TIED BILL(S): None

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

- (1) TRANSPORTATION (EDC) YEAS 11 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Mid-Bay Bridge Authority (Authority) in Okaloosa County into a single act.

The bill makes a substantive change to the Authority's charter provision relating to the lease-purchase agreement between the Authority and the Department of Transportation (DOT). The bill requires that the lease-purchase agreement provide for orderly repayment of any and all costs incurred by DOT in accordance with the terms of the agreement, rather than the expeditious repayment of any and all costs incurred by the DOT as provided in current law. The bill also makes no reference to pledged gas tax proceeds being used to repay DOT as provided in current law, but instead refers to "other sources available to the authority."

Please see "AMENDMENT OR COMMITTEE SUBSTITUTE CHANGES" for the effect of an amendment adopted by the Committee on Transportation which is traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Mid-Bay Bridge Authority (Authority) was created in 1986 by special act of the Legislature as a *dependent special district*. The Authority's purpose is planning, constructing, operating and maintaining the Mid-Bay Bridge across Choctawhatchee Bay in Okaloosa County. The Authority constructed the bridge as a toll facility in 1993. The Authority has bonded indebtedness of \$102 million for revenue bonds issued to finance and to refinance construction of, and improvements to, the bridge system.

The Authority's control extends to its "system," which includes the bridge together with all additions, improvements, connections, extensions, streets, roads, and transportation facilities appurtenant thereto. The Authority currently charges a \$2 toll each way over the bridge, except that commuters are only charged \$1 each way. These tolls generated approximately \$6.2 million in system revenues for fiscal year 1998-99. Under a lease-purchase agreement, DOT pays all operation and maintenance costs of the Mid-Bay Bridge. The Authority is obligated to repay these costs when it has sufficient revenues. As of the end of fiscal year 1998-99, the Authority owed DOT \$4.7 million.

Chapter 88-542, Laws of Florida, provides that the lease-purchase agreement between the Authority and DOT must provide for the expeditious repayment of any and all costs incurred by DOT resulting from the covenant to complete the project, and that repayment will be from excess tolls or pledged gas tax proceeds.

Under its charter, the Authority is required to submit its annual budget to the board of county commissioners before the first day of June of each year. Along with the annual budget, the Authority must also submit a certified copy of a resolution which determines and finds the estimated amounts to be expended. The board of county commissioners then examines the budget and the certified copy of the resolution, and may increase or reduce the total amount requested for the Authority's expenditures in an amount the board deems advisable. The board then approves the Authority's budget, either as submitted or as amended. If the Authority adopts any amendment to the budget which increases the total budget, the amendment must be approved by the board before it becomes effective.

Codification

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of all special districts' charters 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 and that all prior Legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, Florida Statutes, by (1) extending the deadline to codify to December 1, 2004; (2) allowing for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs; (3) removing the prohibition of substantive amendments in a district's codification bill; and (4) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

| | |
|---|--------------------------|
| Special Districts with 2 special acts (45 districts) | 1999 Legislative Session |
| Special Districts with 3 or 4 special acts (63 districts) | 2000 Legislative Session |
| Special Districts with 5, 6 or 7 special acts (53 districts) | 2001 Legislative Session |
| Special Districts with 8, 9, 10, 11 or 12 special acts (56 districts) | 2002 Legislative Session |
| Special Districts with 13 or more (54 districts) | 2003 Legislative Session |
| Special Fire Control Districts (47 districts) | 2004 Legislative Session |

Status Statement

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 determination or declaratory statement of the Department of Community Affairs regarding the status of the district.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Mid-Bay Bridge Authority in Okaloosa County into a single act.

Besides deleting several obsolete provisions, the only major differences between current law and the bill's provisions relate to the lease-purchase agreement between the Authority and the Department of Transportation. The bill requires that the lease-purchase agreement provide for orderly repayment of any and all costs incurred by DOT in accordance with the terms of the agreement, rather than the expeditious repayment of any and all costs incurred

by the DOT. The bill also makes no mention of pledged gas tax proceeds being used to repay DOT, but instead refers to "other sources available to the authority." The bill does not specify what sources are included in these "other sources" of funding.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Statement of Codification Intent.

Section 2: Codifies, reenacts, amends, and repeals special acts relating to the Mid-Bay Bridge Authority.

Section 3: Recreates and reenacts the Mid-Bay Bridge Authority:

Section 1: Purposes of Authority.

Section 2: Provides definitions.

Section 3: Provides for membership of the Authority.

Section 4: Grants powers necessary for the Authority to accomplish its purposes.

Section 5: Provides that members of the Authority do not receive salary or other compensation; provides reimbursements for reasonable costs and expenses incurred in performing duties.

Section 6: Provides budget procedures.

Section 7: Provides for reasonable notice of all meetings.

Section 8: Authorizes the Authority to issue revenue or refunding bonds.

Section 9: Provides that the State or Federal Government will not alter the Authority's rights regarding bonds or contracts with bondholders.

Section 10: Provides that powers granted by the act are supplemental to any other powers conferred by other laws, unless inconsistent.

Section 11: Directs DOT to cooperate with the Authority.

Section 12: Requires the Authority's financial records to be audited by an independent CPA at least once a fiscal year.

Section 13: Authorizes the Authority to enter into a lease-purchase agreement with the DOT.

Section 14: Declares that any bonds or other obligations are legal investments.

Section 4: Repeals all prior special acts relating to the Authority's charter.

Section 5: Provides for construction of the act's provisions.

Section 6: Provides severability clause.

Section 7: Provides for effect of act regarding conflicting laws.

Section 8: Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 11, 1999

WHERE? Northwest Florida Daily News, Fort Walton Beach, Okaloosa 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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

HB 1493 was filed in the House on March 4, 1999. The bill codified all prior special acts relating to the Mid-Bay Bridge Authority (Authority) in Okaloosa County into a single act. In addition, one of the things the bill did was to convert the Authority from being a *dependent* special district to an *independent* special district.

HB 1493 died on the House Calendar on April 30, 1999. In addition, its companion bill, SB 2706, was vetoed by the Governor on May 26, 1999. On April 21, 1999, SB 2706 was passed by the Senate after the adoption of one amendment by a vote of 39 YEAS and 0 NAYS. This amendment conformed the Senate bill to HB 1493 as amended. On April 29, 1999, the House passed the bill by a vote of 111 YEAS and 0 NAYS. The bill passed the Legislature but was vetoed by the Governor due to the bill not providing for the independent special district minimum charter provisions required under section 189.404, Florida Statutes.

The reasoning behind the conversion to an independent special district was that the Authority was acting as a "de facto" independent special district, even though it was created as a dependent district. The classification as a dependent district arises from the Authority's budget requiring approval through an affirmative vote by the governing body of Okaloosa County, one of the characteristics of a dependent district provided in section 189.404(2), Florida Statutes. Although Okaloosa County is required to approve the Authority's budget, this approval is never granted. For example, at the Okaloosa County Board of Commissioner's June 1, 1999 meeting, Jim Vest of the Mid-Bay Bridge Authority presented the Authority's amended budget for the Authority for FY 1998--1999 and the

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proposed budget for FY 1999-2000. The budgets were accepted by the Commission. However, the budgets were not approved by them. To this date, the Authority's budget has not been approved by the District.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Transportation considered this bill on April 3, 2000, and adopted one amendment which added a line of text from prior special acts that was omitted from the bill. The bill was reported favorably with the amendment traveling.

VI. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Phillip B. Miller

Staff Director:

John R. Johnston

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Laura L. Jacobs, Esq.

Staff Director:

Joan Highsmith-Smith