

STORAGE NAME: h1141a.ft

DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FINANCE & TAXATION
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1141

RELATING TO: Jupiter Inlet District

SPONSOR(S): Representative Merchant

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (2) REAL PROPERTY AND PROBATE YEAS 8 NAYS 0
- (3) FINANCE & TAXATION YEAS 12 NAYS 0
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

This local bill relates to the Jupiter Inlet District, Palm Beach County, Florida.

Chapter 97-255, L.O.F., as modified by Chapter 98-320, L.O.F., requires every special district to compile its charter into one document and present that to the Legislature so that its special acts may be codified into a single act for reenactment by the Legislature.

This local bill codifies existing provisions relating to the Jupiter Inlet District, and clarifies that the district is an independent special taxing district. This bill also makes substantive changes to the charter, including: changing surety bond requirements of commissioners; modifying internal management; requiring annual auditing to conform with Florida Statutes; removing a quorum requirement, although requiring an affirmative vote of 3 of the 5 Commissioners to pass any measure; removing the provision requiring War Department approval for certain changes to inlets or waterways; and changing referendum notice on general obligation bonds.

The Economic Impact Statement provided by the District certifies that this bill has no fiscal impact on the District. The Economic Impact Statement is attached.

The Committee on Community Affairs adopted one amendment, which is traveling with the bill, regarding the authority of the District to borrow monies on an unsecured basis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government Yes No N/A
- 2. Lower Taxes Yes No N/A
- 3. Individual Freedom Yes No N/A
- 4. Personal Responsibility Yes No N/A
- 5. Family Empowerment Yes No N/A

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

B. PRESENT SITUATION:

The charter for the Jupiter Inlet District, initially created in 1921, has been amended 18 times. Some of those amendments are inconsistent with others. Chapter 97-255, Laws of Florida (L.O.F.), as modified by Chapter 98-320, L.O.F., instruct the Legislature to resolve inconsistencies in special district charters through enactment of a single comprehensive charter.

Chapter 97-255, L.O.F., which amends various sections in Chapter 189, F.S., relating to special districts, provides for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first.

Chapter 98-320, L.O.F., further amends Chapter 189, F.S., regarding codification of special district charters, by extending the deadline for codification of a special district charter to December 1, 2004. More particularly, s. 189.429, F.S., provides:

189.429 Codification. -- Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification.¹ Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2).

¹ On October 3, 1997, a memorandum issued by the Chair of the Committee on Community Affairs established the following schedule:

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

Section 189.404(3), F.S., requires that certain information be in any charter of a special district. Section 189.404(5), F.S., requires that the charter of a special district include a statement as to whether the special district is dependent or independent.

C. EFFECT OF PROPOSED CHANGES:

This bill compiles and codifies the charter of the Jupiter Inlet District to provide a uniform, comprehensive document relating to the Jupiter Inlet District, in compliance with Chapters 97-255, and 98-320, L.O.F., and Chapter 189, F.S. This bill repeals Chapters 8910, 10727, 13674, 16057, 22787, 22868, 24154, 71-818, 74-567, 75-474, 78-580, 79-531, 79-532, 79-533, 80-573, 81-458, 83-492, 85-482, and 87-522, L.O.F., which are the special acts creating and amending the charter of the District.

This bill further makes the following substantive changes to the Jupiter Inlet District charter: deletes obsolete language; changes the requirement that a commissioner post bond within 60 days after elected, to before taking office; removes the time restriction for appointment of a chair, treasurer, and secretary; requires annual auditing to conform with Florida Statutes; removes language specifying a quorum; removes language requiring Water Department approval for certain changes to inlets or waterways; removes details relating to referendum notice on general obligation bonds; and requires general conformity with law.

In compliance with s. 189.404(5), F.S., this bill provides that the Jupiter Inlet District is an independent special district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Provides for the codification of all Jupiter Inlet District special acts; clarifies that legislative intent is to produce one comprehensive act.

Section 2 -- Codifies, amends, and repeals all earlier special acts relating to the District.

Section 3 -- Ratifies district formation and provides as follows:

Section 1: Ratifies creation of the Jupiter Inlet District (District).

Section 2: Classifies the District as an independent special district; specifies that the District is also a public corporation; provides the specific boundaries of the district.

Section 3: Provides that the District was organized to maintain the Loxahatchee River and Jupiter Inlet; grants power to act as a corporation, including ability to contract; grants power to levy ad valorem taxes, to issue bonds, to exercise the power of eminent domain, and to otherwise carry out the purposes of the acts creating the District; provides that the charter may only be amended by the Legislature; provides that the governing body of the district shall be a board of 5 commissioners, elected from residents of the district for 4 year staggered terms; provides that commissioners are to be paid \$120 per month, and must be reimbursed per diem and other expenses at the same rate as state employees; provides the administrative duties of the board of commissioners; provides for financial reporting, financial disclosure, meeting notice, and public records requirements; provides that the District may issue bonds in the same manner as counties, except that issuance of a general obligation bond

requires an affirmative vote by referendum of electors in the district; requires the District to levy sufficient ad valorem taxes to satisfy interest and sinking fund payments on general obligation bonds; provides that election of commissioners is non-partisan; caps the millage rate at 3 mills.

Section 4: Authorizes the District to borrow money, and sets the interest rate, borrowing cap, and terms; provides for surety bonds by commissioners; provides for offices for commissioners; requires the affirmative vote of three commissioners to pass any measure; requires appointment of a district engineer; authorizes the District to alter bodies of water in order to “facilitate the maintenance of the inlet or waterway between the mouth of the Loxahatchee River and the Atlantic Ocean or that may be found necessary to maintain a sufficient depth of water in the Loxahatchee River; authorizes the District to construct and maintain canals, ditches, revetments, jetties, and other works; authorizes the District to construct any bridge or roadway; authorizes the acquisition of property, including by eminent domain, necessary for use by the District; authorizes the District to construct and maintain docks, wharves, buildings and other improvements, and to charge for their use; authorizes the District to use, hold, occupy, control, develop, lease, or sell property of the District; authorizes the District to perform any other act or thing necessary to carry out the purposes of the District; grants the power of eminent domain, whether the property is in or out of the district; provides that bonds issued by the District may be security for deposits of the state, or deposits of any county, municipality, or of any other public funds; provides that property owned by the District is exempt from ad valorem taxation; and provides that bonds issued by the District are exempt from state or local taxation.

Section 5: Requires the Florida Department of Environmental Protection (DEP) to provide the District with a copy of any permit application for any activity that would occur in the district. Requires DEP to “consider and take into account” the “facts, opinions, comments, recommendations, or suggestions as the board [of commissioners of the Jupiter Inlet District] may furnish”. Further requires the District to reimburse DEP for copying costs.

Section 6: Provides: “It is intended that the provisions of this act be liberally construed to accomplish the purposes of this act.”

Section 4 -- Repeals all previous acts 10 days after the effective date of this bill.

Section 5 -- Provides severability clause.

Section 6 -- Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

STORAGE NAME: h1141a.ft

DATE: April 5, 2000

PAGE 5

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 24, 1999

WHERE? The Palm Beach Post

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:

none

B. RULE-MAKING AUTHORITY:

none

C. OTHER COMMENTS:

Comments by the Committee on Real Property and Probate:

There is no Senate companion to this bill.

The Florida Department of Environmental Protection (DEP) objects to two provisions in this bill:

- Section 4(d) of the Charter provides that the Jupiter Inlet District has the power to perform certain maintenance tasks in the waterway. "This existing bill's language seems to allow for the construction of jetties and maintenance of the inlet through dredging of the inlet, by the Jupiter Inlet District without the benefit of a permit. DEP recommends that language subjecting these activities to the appropriate permitting chapters be included."²
- Section 5(b) of the Charter requires DEP to provide the District with a copy of any permit application submitted to DEP regarding an activity that would occur in the district. "DEP is opposed to this portion of the existing bill. LOF 79-532 only applies when processing applications for proposed projects in the waters of the state (JCP, ERP and Dredge and Fill) and NOT coastal construction control line applications.

² From explanation of proposed amendment, undated but received March 17, 2000. This section of the bill is merely codifying existing charter language, which does not appear to allow construction without the benefit of a permit. Unless DEP's recommended language is a clarification of existing law, adding these provisions would be beyond the scope of the notice and thus would give rise to a concern that the provisions of the bill exceed the published notice. See Art. III, s. 10, Fla.Const., and s. 11.02, F.S.

Because there are other avenues available for noticing, the Office does not see the need to have this imposed upon it in the form of a statutory requirement.”³

The District has not determined its position on these two amendments.⁴

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the Committee on Community Affairs on March 14, 2000. The amendment removes the restriction that the District may borrow no more than \$7,500 at no more than 7 percent interest. The amendment further provides that the District may borrow monies at any rate up to the maximum rate permitted by law,⁵ and provides that the principal outstanding balance of all notes of the District may not exceed the previous year’s ad valorem tax receipts.⁶ The amendment conforms this section of the charter to a change made in 1983 in Chapter 83-492, L.O.F. The amendment is traveling with the bill.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON REAL PROPERTY AND PROBATE:

Prepared by:

Nathan L. Bond, J.D.

Staff Director:

J. Marleen Ahearn, Ph.D, J.D.

AS FURTHER REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

Kama D.S. Monroe

Staff Director:

Alan Johansen

³ From explanation of proposed amendment, undated but received March 17, 2000. The notice requirements in this bill are the same as those passed in 1979 in Chapter 79-532, L.O.F., and thus are already in current law. Unless this is a clarification of existing law, deleting these provisions would be beyond the scope of the notice and thus would give rise to a concern that the provisions of the bill exceed the published notice. See Art. III, s. 10, Fla.Const., and s. 11.02, F.S.

⁴ Telephone conference with Michael J. Grella, Executive Director of the Jupiter Inlet District, March 24, 2000.

⁵ Chapter 687, F.S., on Interest and Usury, provides that the maximum rate of interest on a loan is 18 percent.

⁶ Currently, the District receives approximately \$700,000 per year in ad valorem tax receipts. House Committee on Community Affairs, 2000 Economic Impact Statement for HB 1141, prepared by William R.H. Broome, Esquire, Attorney for the Jupiter Inlet District, December 8, 1999.