

STORAGE NAME: h1787a.ca

DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1787

RELATING TO: St. Augustine Port/Waterway/Beach

SPONSOR(S): Representative Wiles

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the St. Augustine Port, Waterway, and Beach District in St. Johns County into a single act and repeals all prior special acts relating to the Port Authority's charter.

The bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language.

No fiscal impacts are anticipated for either fiscal year 2000-01 and 2001-02 according to the Economic Impact Statement.

See Part VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section, for the effect of the amendment, adopted by the Committee on Community Affairs, traveling with the bill. The amendment conforms the bill to existing charter language.

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 St. Augustine Port, Waterway, and Beach District (District) is an independent special district created by the Legislature in 1937, chapter 18879, Laws of Florida. The District operates under the direction of a Board of Commissioners elected by registered voters within the District. The main purpose of the District is to improve and maintain the waterways within the District if no other authority has jurisdiction over it. It is designed to foster commercial use of the port, harbor, and waterways.

Port Authorities

Port authorities, or port districts, are units of special purpose government created pursuant to the provisions of any general or special law and which are authorized to own or operate any port facilities. A port authority can also refer to any district or board of county commissioners acting as a port authority pursuant to the provisions of any general or special law. In general, port authorities are given a broad range of powers in the operation of the port and are governed primarily by chapter 315, Florida Statutes.

Codification

Codification is the process of bringing up-to-date a special act. Special acts are not codified and, after the Legislature passes the initial enabling act, special acts continuously amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments or changes made to the act since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to go to one special act to determine the current charter of a district, instead of two, ten, twenty, or sometimes more special acts.

Codification of special districts' charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes. 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 SUBMITTAL 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

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 36 special districts have codified their charters. Following is a list of special districts which have codified pursuant to sections 189.429 and 191.015, Florida Statutes, and the corresponding Laws of Florida:

Alachua County Library District	Ch. 98-502
Anastasia Mosquito Control District	Ch. 99-449
Baker County Hospital District	Ch. 99-431
Carrollwood Recreation District	Ch. 98-475, as amended by Ch. 99-418
Cedar Key Water & Sewer District	Ch. 98-473
Central Broward Water Control District	Ch. 98-501
Charlotte County Airport Authority	Ch. 98-508
Citrus County Hospital Board	Ch. 99-442
Citrus County Mosquito Control District	Ch. 99-432

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County Line Drainage District	Ch. 99-417
East Charlotte Drainage District	Ch. 99-439
Flagler Estates Road & Water District	Ch. 98-529
Florosa Fire Control District	Ch. 99-479
Hillsboro Inlet District	Ch. 99-433
Immokalee Water & Sewer District	Ch. 98-495
Joshua Water Control District	Ch. 99-460
Lake Apopka Natural Gas District	Ch. 99-454
Lake Worth Drainage District	Ch. 98-525, as amended by Ch. 99-422
Lee County Bonita Springs Fire Control District	Ch. 98-464
Lee County Hyacinth Control District	Ch. 98-462
Lee County Mosquito Control District	Ch. 98-461
Loxahatchee Groves Water Control District	Ch. 99-425
North Bay Fire Control District	Ch. 98-470
North Naples Fire District	Ch. 99-450
Ocean City-Wright District	Ch. 99-478
Old Plantation Water Control District	Ch. 99-435
Orange County Library District	Ch. 99-486
Panama City-Bay Co. Airport	Ch. 98-527
Ranger Drainage District	Ch. 99-453
South Broward Drainage District	Ch. 98-524
Tindall Hammock Irrigation District	Ch. 98-523
Twelve Oaks Special District	Ch. 99-452
West Coast Inland Navigation District	Ch. 98-526

In 1998, the Environmental Protection Commission in Hillsborough County unsuccessfully attempted to codify its charter. The District is scheduled to codify in 2002. In 1999, there were two unsuccessful codifications. Mid-Bay Bridge Authority's codification bill passed the Legislature, but was vetoed by the Governor. The Authority was scheduled to codify its

charter in 1999. The South Walton Fire District's codification bill died on the House calendar on April 30, 1999.

According to the Schedule of Submissions of Special District Charters and information relating to charters previously codified, there are 94 special districts that should have been codified during the 1999 session but which were not. There are 56 special districts that are scheduled for codification during the 2000 Legislative Session.

C. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to the St. Augustine Port, Waterway, and Beach District (District) into a single act and repeals all prior special acts relating to the District's charter.

The bill is primarily a restatement of existing charter language. The bill removes obsolete language. The bill inserts applicable chapter language where original language was preempted by general law chapters.

The bill does not modify the boundaries of the District. The powers of the District appear to be consistent with existing powers.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this is the codification required pursuant to chapters 98-320, Laws of Florida; states legislative intent and preserves authority granted to the District by its legislative enactments and this act; states further legislative intent to preserve the authority to annually assess and levy a tax against the taxable property in the District; declares the District to be an independent special district.

Section 2: Codifies, reenacts, amends, and repeals special acts relating to the District's charter.

Section 3: Provides for the recreation of the District and the charter for the District with the following provisions:

Section 1: Provides that the District is ratified, confirmed, and approved.

Section 2: Provides the boundaries of the District.

Section 3: Provides the governing authority for the District; provides that the commission shall constitute a body politic and a body corporate, shall have perpetual existence, may adopt and use a common seal, may contract and be contracted with, and may sue and be sued.

Section 4: Provides the powers of the commission and the district.

Subsection (a) provides the power to acquire all property, real or personal or any estate or interest therein, within or without the District, with a resolution demonstrating the necessity for the purposes of the District; provides that the determination of necessity shall be deemed conclusive; provides the power to improve, maintain, sell, lease, convey, exchange, or otherwise dispose of the property as the commission shall fix and determine by resolution and that the determination shall be conclusive.

Subsection (b) provides power with respect to harbor improvements and facilities which the commission determines to be necessary; also provides power with respect to customary services.

Subsection (c) provides the power within the District to improve all navigable waters situated, to create and improve waterways, to regulate and control waters and waterways, to straighten, widen, deepen, and otherwise improve any and all waters and waterways subject to restrictions in state and federal law, to construct inlets and turning basins, and to dredge and deepen any natural or artificial waterway within the District, to apply for and obtain permission from the federal government to improve, regulate, and control all such waters and waterways within the District, to make and give the federal government its bond or bonds upon such terms and conditions as may be required; to enact, adopt and establish by resolution, rules and regulations for the exercise of jurisdiction and control over all of said waters and said port within the District.

Subsection (d) provides the power to fix absolutely, without the right of appeal, the rates of wharfage, dockage, warehousing, storage, and port and terminal charges as well as the power to fix and determine the rates, tolls, and other charges for the use of harbor improvements and harbor facilities located within the District; provides this power to the extent convenient under the Constitution and laws of Florida and the United States.

Subsection (e) provides the power to exercise such police powers as by resolution the commission shall determine to be necessary for the effective and complete control, regulation, and protection of the District and all harbor improvements and facilities, and the effective exercise of jurisdiction over said waters and said harbor improvements and facilities.

Subsection (f) provides the power to employ such legal and clerical aid and assistance and such engineers, agents, and employees as in their judgment may be necessary for the efficient administration of their duties and to fix their compensation.

Subsection (g) provides the power to designate and create such offices, departments, or divisions as the commission may determine necessary; the commission may provide the compensation, term of office, and duties of said employees, provided that the terms of office of all appointees and employees shall be at the pleasure of the commission and shall terminate automatically with the termination of the term of office of the members of the commission so employing or appointing them.

Subsection (h) provides the power to make rules and regulations consistent with the Constitution and laws of Florida and the United States for the promotion of conduct of navigation, commerce, and industry in the District; provides that such rules and regulations shall be reasonable and shall operate uniformly as to all similarly situated.

Subsection (i) provides the power to enter into any contract with the federal government which may be necessary in order to procure assistance, appropriations, and aid for the deepening, widening, and extending of channels and turning basins, the building of constructions slips, wharves, breakwaters, jetties, bulkheads, and any and all other harbor improvements and facilities.

Subsection (j) provides the power to exercise the right of eminent domain and to condemn, appropriate, and acquire any property and any interest therein which the

commission shall determine necessary by resolution; provides that this determination is conclusive absent fraud or abuse of discretion; provides that such condemnation proceedings shall be exercised in the manner provided for by general law and this act.

Paragraph 1 provides that in any case where the commission shall not have acquired title to any property which it is using or if the title is defective, the commission may proceed to acquire, cure, and perfect such title, and to acquire and condemn any outstanding right, title, lien, mortgage, judgment, or interest in and to said property pursuant to the provisions of general law.

Paragraph 2 provides that upon the filing of a petition in any condemnation proceeding, the commission shall have the right to take immediate possession of said lands, easements, or rights of way to the extent of the interest sought to be acquired whenever the commission shall by resolution determine that immediate possession is necessary; provides that this power shall be exercised in the manner provided for in general law.

Subsection (k) provides the power to execute and deliver all contracts, deeds, leases, franchises, assignments, releases, and all other instruments necessary to carry out the powers herein expressly and impliedly conferred; provides that all checks and vouchers for disbursement of funds of the commission shall be executed in the manner proscribed by resolution adopted by the commission.

Subsection (l) provides the power to advertise the Port of St. Augustine in such a manner as the commission deems advisable, to negotiate and contract with shipping companies, and such other institutions, associations, and companies as the commission may deem necessary for the purpose of advancing and promoting the Port.

Subsection (m) provides the power to pay out of any funds raised or obtained under or pursuant to this act, the expenses of holding, conducting, and canvassing, and declaring the result of any and all elections required or authorized to be called or held by the commission under this act and all matters incidental thereto, and the expense of the organization of the commission.

Subsection (n) provides the power to pay from the funds of the District all expenses incidental to its organization and all other reasonable and necessary expenses in carrying out and accomplishing the purpose of this act.

Subsection (o) provides the power to exercise any power or perform any act allowed to be performed by a port district as provided by chapter 315, Florida Statutes, including but not limited to borrowing money and issuing bonds.

Subsection (p) provides that all of the foregoing powers shall be construed as powers of the commission and the same shall not be deemed to limit, restrict, or be exclusive; provides that in addition to the enumerated powers, the commission shall have all other powers and can do any and all other things necessary to carry out the objects, purposes, and powers herein specifically conferred; limits the power to borrow money to the provisions of chapter 315, Florida Statutes.

Section 5: Provides for the election of commissioners.

Subsection (a) provides that the governing authority of the District shall be known and designated the St. Augustine Port, Waterway, and Beach Commission and shall be

composed of five members; provides that no person shall be appointed or elected unless he or she resides in the boundaries of the District; provides that members of the commission shall be designated and elected by groups numbered one to five.

Subsection (b) provides that the provisions of this act shall in no manner affect the present term of office of any of the five members of the commission; provides that terms of the commissioners shall be staggered with two persons to be elected to serve four years in the general election in 2000 and three persons elected in 2002; provides that each commissioner's term shall begin on the 10th day following the general election and shall continue until his or her successor is elected and qualified; provides that only registered voters residing in the District shall be permitted to vote for one candidate in each group with the candidate who receives the highest number of votes winning the election.

Subsection (c) provides that the County Commissioners of St. Johns County or the supervisor of elections shall ensure that the name of candidates for officer are printed on the ballot and voted upon based on the provided schedule; provides that each commissioner shall be required to execute a bond before assuming office; failure to provide such bond within 60 days after his or her appointment or election shall create a vacancy to be filled by appointment of the governor for the unexpired term; provides that appointment by the governor shall also apply in the case of resignation, death, removal from office, or any other reason which creates a vacancy on the commission.

- Section 6: Provides that the commissioners shall receive as compensation the sum of \$5 per day for each day's service provided that the total per diem compensation for any one year for any one commissioner not exceed \$300.
- Section 7: Provides that the commission shall meet, organize, and elect officers as soon as practicable after election or appointment; provides that a majority of the commission shall constitute a quorum; provides that the commission shall have the power to prescribe rules and regulations for the government and conduct of their meetings and business; provides that the commission shall meet at such times and places as prescribed by the commission; provides that all meetings of the commission shall be open to the public; provides that a record of all business transacted by the commission shall be preserved in substantial minute books and safely kept by the secretary.
- Section 8: Provides that the commission shall have the power to levy ad valorem taxes upon all taxable property situated within the District; provides that the Commission shall determine annually by resolution the total amount to be raised by taxation and the rate of taxation; provides that the commission shall not during any one year levy an ad valorem tax in excess of 3 mills; provides that no tax shall be levied until a resolution has been approved by the commission according to the procedures provided by general law; provides that the collection of ad valorem taxes shall be performed by the appropriate officer as prescribed by general law.
- Section 9: Provides that each commissioner, official, and employee of the District shall comply with the Code of Ethics for Public Officers and Employees as contained in chapter 112, Florida Statutes.
- Section 10: Provides that no money judgment or decree rendered against the Commission or District shall be a lien on the property of the District; provides that all

property owned by the District shall be exempt from sale under execution and that no writ of execution shall be issued or levied.

Section 11: Provides that all property owned and held by the District shall be exempt from all taxation levied and assessed pursuant to the Constitution and laws of the state.

Section 12: Provides that in the event a commissioner shall be found guilty of intentional and willful misfeasance, nonfeasance, or malfeasance in office, he or she shall be subject to removal by the governor in the manner provided by law for the removal of county officers.

Section 13: Provides that the books and records of the District shall at all reasonable hours be open to public inspection; provides that all moneys of the District shall be kept in depositories designated by resolution of the Commission and shall be kept pursuant to general law; provides that at least once a year, the books of account of the District shall be audited and such audit filed in the office of the District and be open to inspection; provides that the fiscal year of the District shall begin on October 1 of each year and end on September 30 of each year.

Section 14: Provides that the commission may, by resolution, invest and reinvest any funds in its control or possession in the same investments allowed for counties under general law.

Section 15: Provides for severability.

Section 16: Provides that this act shall be liberally construed.

Section 4: Repeals all prior special acts relating to the District.

Section 5: Provides that this act shall become effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 17, 2000

WHERE? The St. Augustine Record in St. Johns 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

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IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the Committee on Community Affairs on April 5, 2000. The amendment conforms the bill to existing charter language.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith