

STORAGE NAME: h1791.ca

DATE: April 2, 2000

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

BILL #: HB 1791

RELATING TO: Sarasota-Manatee Airport Authority

SPONSOR(S): Representative Bitner

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) GOVERNMENTAL RULES & REGULATIONS (PRC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill provides for the transition of the membership of the Sarasota-Manatee Airport Authority (authority) from an eight member elected governing board to a six member appointed governing board.

This bill removes the authority from review under the Florida Administrative Procedures Act. The bill creates an exception to the general law requirement that multi-county special districts with appointed members are subject to the Administrative Procedures Act. Under the bill the authority is not considered an agency subject to the act.

House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill." However, since this bill provides for more than just an exception from general law, it appears as though House Rule 44(b) is not violated.

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 checked="" type="checkbox"/> | N/A <input 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:

3. This bill does not support individual freedom due to its change in the membership of the Sarasota-Manatee Airport Authority (authority). Rather than being an eight member elected governing board where the residents determine membership to the governing board, this bill provides that the Governor appoints a six member governing board. Residents no longer have a choice in the authority's governing board.

B. PRESENT SITUATION:

Sarasota-Manatee Airport Authority

The airport's creation dates back to 1939 when government and business leaders in Sarasota and Manatee Counties agreed to construct an airport together. A 620-acre site was selected on the Sarasota-Manatee County line through a federal WPA-CCA grant. In 1941, resolutions were passed creating the Sarasota-Manatee Joint Airport Authority made up of one representative each from Sarasota County, Manatee County, the City of Sarasota, and the City of Bradenton. A resolution also established the name of new facility as the Sarasota Bradenton Airport. Aviation facilities were completed by 1942 at a cost of nearly one million dollars. The authority leased the land to the Army Air Corps later in 1942 as a fighter pilot training base during WWII. During the war, the federal government spent several million dollars in improvements and added another 250 acres to airport land. By late 1947, transfer of land and facilities back to the authority was completed.

Airport facilities began deteriorating rapidly during the post-war years and the Sarasota-Manatee Joint Airport Authority recognized that it could not properly operate the airfield under existing laws. In 1955, the Legislature passed chapter 31263, Laws of Florida, 1955, which created the Sarasota-Manatee Airport Authority. The purpose of the authority was for the purpose of acquiring, constructing, financing, operating and maintaining airport facilities. The authority had a four member governing board that consisted of one representative each from Sarasota County, Manatee County, the City of Sarasota, and the City of Bradenton. The two representatives from the counties were the chairman of their respective county boards of commissioners and the two representatives from the cities were each cities' mayor.

Although commercial airline service began as early as 1940, it was not until 1965 that jet service was first provided. General aviation services began in the 1950s.

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In 1991, a number of special acts governing the Authority were consolidated in chapter 91-358, Laws of Florida, as the "Sarasota-Manatee Airport Authority Act."

Under this act, the authority is created for the purpose of acquiring, constructing, improving, financing, operating, and maintaining airport facilities. The authority is an independent district for purposes of chapter 189, F.S., and is authorized to issue bonds, and collect fees and other charges for the use of airport services and facilities.

Under the act, the governing board of the authority consists of eight members elected in nonpartisan elections. Four of the authority members are residents of Manatee County, and 4 are residents of Sarasota County. The members are elected for 4 year terms in nonpartisan elections that occur at the first and second primary elections that are staggered so that half of the seats are up for election every 2 years.

The supervisors of election in Manatee and Sarasota Counties prepare separate nonpartisan ballots for the election of authority members. In order to be elected on the separate nonpartisan ballot at the first primary election, a candidate must receive a majority of all votes cast for the office. If no candidate receives a majority, the names of the two candidates with the highest number of votes is placed on the ballot for the general election, and the candidate receiving the highest number of votes is declared elected.

Members of the authority must remain a resident of the county from which they are elected or vacate their membership on the authority. Vacancies in authority membership are to be made as provided by general law.

The membership of the authority selects one of its members as chairman and also selects a secretary from its membership. A majority of members of the authority constitutes a quorum, and an affirmative vote of the majority of a quorum is necessary to take action. Authority members are paid an annual salary of \$1 per year and are entitled to mileage, travel and per diem expenses.

Administrative Procedure Act

Section 120.52, F.S., defines "agency" for purposes of the Administrative Procedures Act. The definition specifically excludes:

...any legal entity or agency created in whole or in part pursuant to chapter 361, part II, F.S., an expressway authority pursuant to chapter 348, F.S., any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), F.S., unless any party to such agreement is otherwise an agency as defined in this subsection, or any multicounty special district with a majority of its governing board comprised of elected persons; however, this definition shall not include a regional water supply authority.

However, multi-county special districts with a majority of its governing board comprised of nonelected persons are identified by s. 120.52(1)(b)6., F.S., as entities subject to the Administrative Procedures Act. Agencies subject to the act must follow certain rulemaking procedures, take actions following these rules, and are subject to administrative hearings where an affected person challenges agency action.

C. EFFECT OF PROPOSED CHANGES:

This bill provides for the transition of the membership of the Sarasota-Manatee Airport Authority from an eight member elected governing board to a six member appointed governing board.

Beginning November 21, 2000, the governing board will consist of six members, three of whom are residents of Manatee County and three of whom are residents of Sarasota County. Prior to November 21, 2000, current authority members will continue in their existing seats as elected. The four members of the board elected in 1998 serve in newly designated seats until their terms expire in 2002, at which time the seats will be filled by appointment of the Governor.

The bill provides for the appointment of authority members to be made by the Governor either 30 days prior to the date of expiration of the term of a sitting member of the authority or, within 30 days of the creation of any vacancy resulting from death, resignation, change of residence or removal. While an appointed member is eligible for reappointment, a member may not serve more than 8 consecutive years. Appointed members of the authority, other than those appointed to serve an unexpired term, assume office on the third Tuesday of November in the year of appointment.

A person who is serving as a member of the authority on the effective date of the act, cannot be appointed a member of the authority. Members appointed to the authority must be knowledgeable in one or more of the following fields, including but not limited to: public affairs, law, economics, accounting, engineering, finance, natural-resource conservation, energy or another related field related to the functions of the authority. A person who is transacting business with the authority at the time of an anticipated appointment by the Governor, is not eligible for appointment to the authority.

Any member of the authority may be suspended or removed from office for misfeasance, malfeasance, or nonfeasance in office.

The bill repeals existing language of subsection (2) of section 3 of chapter 91-358, Laws of Florida.

This bill creates an exception to the general law requirement that multi-county special districts with appointed members are subject to the Administrative Procedures Act. Under the bill, the authority is not considered an agency subject to the act.

House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill." However, since this bill provides for more than just an exemption from general law, it appears as though House Rule 44(b) is not violated.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends subsection (2) of section (3) of chapter 91-358, Laws of Florida, as amended; provides that current board members shall continue in office until November 21, 2000; provides that the governing board decreases to a six member board on November 21, 2000; requires that three members of the governing board are residents of each county; provides for seat designation; provides transition schedule; requires the Governor to appoint a member at least 30 days prior to the expiration of a term or within 30 days after the creation of a vacancy; allows for reappointment; provides term limits; provides for four year terms with an exception; provides that members assume office on the third Tuesday of November in the year of appointment; provides member qualifications; prohibits a current governing board member from being appointed to the board; prohibits dual public office holding; prohibits the appointment of a person who transacts or who is reasonably expected to transact business with the authority; allows for the removal from office by the Governor for good cause and other specified reasons; and repeals existing language of subsection (2) of section 3 of chapter 91-358, Laws of Florida.

Section 2: Amends section (17) of chapter 91-358, Laws of Florida; Declares that the authority is not an agency subject to chapter 120, F.S.

Section 3: Provides severability clause.

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

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2000

WHERE? The Bradenton Herald & The Sarasota Herald-Tribune

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

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B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Better Government Association of Sarasota County, Inc., opposes the conversion of the authority to an appointed board, especially a conversion that does not require voter approval at referendum.

The Supervisors of Elections for both Manatee and Sarasota Counties will experience a cost savings associated with the cost of conducting authority elections, which will no longer be conducted.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There are two amendments being offered by Representative Bitner. Amendment #1 removes the prohibition that current authority members may not be appointed as a member of the authority. The second amendment is a technical amendment that repeals provisions relating to the Supervisor of Elections and nonpartisan ballots. These provisions are rendered unnecessary under the bill, as there will no longer be elections for the authority's governing board.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Laura L. Jacobs

Joan Highsmith-Smith