

STORAGE NAME: h0927.ca

DATE: March 1, 2000

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

BILL #: HB 927

RELATING TO: Captiva Erosion Prevention District

SPONSOR(S): Representative C. Green

TIED BILL(S):

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Captiva Erosion Prevention District in Lee County into a single act and repeals all prior special acts relating to the District's charter.

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 Captiva Erosion Prevention District was created by special act, chapter 71-730, Laws of Florida. The District was recreated and reestablished pursuant to section 161.32, Florida Statutes, by chapter 81-413. The District's charter was amended again in 1988 by chapter 88-449, Laws of Florida.

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exists on October 1, 1997, in the codifying legislation and that all prior Legislative acts relating to the district be repealed.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 LANGUAGE

Also, subsection 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.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies chapters 71-730, 76-403, 81-413, and 88-449, Laws of Florida, relating to the Captiva Erosion Prevention District (District) into a single act.

The bill is primarily a restatement of existing charter language.

The bill adds the fact that the District is an independent special district to the legislative findings.

The bill provides that the power of the District to contract for services must be done in accordance with the competitive bidding process requirements for beach and shore preservation authorities created under chapter, 161, Florida Statutes. The current charter provides that the contract for services must be done in accordance with the competitive bidding requirements of general law.

The bill provides that the District, pursuant to section 161.36, Florida Statutes, may enter upon private property for purposes of making surveys, soundings, drillings, and examinations, and such entry shall not be deemed a trespass.

The bill provides that the terms of members whose current terms expire in November 2000 shall serve until November 2001. Members whose current terms expire in November 2001 shall serve until November 2002. Provides that subsequent elections of District board members under this act shall be on the first Tuesday next succeeding the first Monday in November of even-number years. This is a change from odd-numbered years in the current charter.

The bill provides that candidates seeking election to the District board shall qualify *between noon of the 50th day and noon of the 46th day prior to the election.* This is a change from the 63rd day and the 49th day. The bill also allows candidates to qualify by paying a filing fee of \$25. Currently a candidate can only qualify by obtaining the signatures of at least 3 percent of the qualified electors residing within the District.

The bill provides that if a vacancy occurs on the board due to the resignation, death, or removal of a board member, *the remaining members may appoint a qualified person to fill out the remainder of the unexpired term.* Currently, the governor fills any vacancies that occur on the District board.

The bill provides that the Lee County Supervisor of Elections may conduct any referendum or election, if authorized by resolution of the board.

In performing the economic analysis of a reasonably final plan of improvement, the bill provides that the board may follow "such other method as may be deemed suitable for the purposes of this act" rather than being required to allocate benefits to their proper recipients by categories or zones of comparable benefit and place areas of equal benefit in the same zone.

Provides that the District board shall have the power to levy and assess ad valorem taxes rather than have to request that the Board of County Commissioners of Lee County levy and assess ad valorem taxes on behalf of the District.

Changes the total cumulative indebtedness the District may not exceed from \$15,000,000 to \$27,500,000.

Provides that the name of the owner of record of each lot or parcel may be given on the preliminary assessment roll at the discretion of the District rather than the engineer.

The bill details the bonding power of the District.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification of all special acts relating to the Captiva Erosion Prevention District pursuant to chapter 97-255, Laws of Florida. States the intent of the Legislature to have a comprehensive special act charter and the intent to preserve all powers granted by this and previous acts.

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

Section 3: Provides for the recreation and reenactment of the charter of the District:

Section 1: Declares the District to be a valid and existing beach and shore preservation district recreated and reestablished under the provisions of section 161.32, Florida Statutes, and shall exercise all powers and duties of a beach and shore preservation authority and independent special district.

Section 2: Provides definitions.

Section 3: Provides boundaries for the District.

Section 4: Provides for the powers of the District.

Section 5: Provides for the election of the District board.

Section 6: Provides that the District shall develop and adopt a comprehensive beach and shore preservation program for the area within its jurisdiction.

- Section 7: Provides that the District, upon adoption of a reasonably final plan of improvement for beach and shore preservation, shall conduct an economic analysis of the proposed program. Provides that a new economic analysis shall be conducted from time to time to better determine and allocate actual or expected benefits.
- Section 8: Provides that the District board shall have the power to levy and assess an ad valorem tax not exceeding 10 mills on all taxable property in the District.
- Section 9: Provides that the District board is authorized to issue bonds if approved by the voters of the District in a referendum.
- Section 10: Provides that the District may levy special assessments upon benefitted property and sets forth the process for such assessment.
- Section 11: Provides that the District may issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidence of indebtedness to finance all or a part of any authorized proposed improvement.
- Section 12: Provides that the District may issue bonds to refund any or all of the then outstanding bond indebtedness of the District.
- Section 13: Provides that the District Board may contract with the County or any county contiguous to the county or municipality or district in such county to aid, assist, supervise, or direct an erosion prevention program, although the funds of the District shall not be used in connection with the performance of such services.

Section 4: Provides for the repeal of all prior special acts.

Section 5: Provides for the validity of remaining portions of the act should any part of the act be held invalid or unenforceable.

Section 6: Provides that the provisions of this act shall control in the event of a conflict with the provisions of any other act.

Section 7: Provides that the act shall take effect upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 11, 1999

WHERE? News-Press

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B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith