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DATE: April 16, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 1897

RELATING TO: Ft. Walton Beach Area Bridge Authority (Okaloosa County)

SPONSOR(S): Representative(s) Melvin & others

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (CSG)
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill changes the name of the Ft. Walton Beach Area Bridge Authority in Okaloosa County to the Emerald Coast Bridge Authority. This bill makes revisions to the Emerald Coast Bridge Authority's governing board and budget process. This bill increases the powers of the Emerald Coast Bridge Authority to allow it to contract for any and all services and duties provided in its 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:

Special Districts/Independent v. Dependent

Pursuant to section 189.403(3), Florida Statutes, an independent special district is a special district, which is not a dependent district. Dependent districts are special districts, which have at least one of the following characteristics as provided in section 189.404(2), Florida Statutes:

(i) The district's governing board is identical to that of the governing body of a single county or single municipality;

(ii) The members of the district's governing board are appointed by the governing body of a single county or single municipality;

(iii) District governing board members are subject to removal by the governing body of a single county or single municipality; or

(iv) The district's budget requires approval through an affirmative vote by the governing body of a single county or single municipality.

As of September 30, 1989, a dependent special district is created by the adoption of the district's charter by ordinance of a county or municipal governing body having jurisdiction over the area affected. Only the Legislature may create an independent special district.

Dissolution of Districts

Section 189.4044, Florida Statutes, provides the procedures to dissolve an inactive special district. The Department of Community Affairs (DCA) is charged with the duty of reviewing the status of special districts and determining whether the district is still active. A factor in the DCA's determination is whether the district meets one of the following criteria:

- no district action has been taken for 2 calendar years;
- there is no district governing board or a sufficient number of governing board members to constitute a quorum for more than 18 months;

- no reports, required by section 189.414, Florida Statutes, have been filed or attempted to be filed; or
- no fees assessed by the Special District Information Program have been paid for 2 fiscal years.

If the district satisfies one of the above criteria, then the DCA publishes a notice of its proposed declaration of inactive status once a week for 4 weeks in a newspaper of general circulation within the boundaries of the district. The notice must contain the name of the district, the laws in which it was organized and operated under, and the territory of such district. In addition, the notice must include a provision relating to any objections to (a) the proposed declaration or (b) any claims against district assets, and requiring that any objections or claims must be filed with the DCA within 60 days following the date of last publication. A second factor in its determination is whether 60 days from last publication there were any sustained objections filed with the DCA.

If a determination of inactive status is made, then the DCA notifies the Speaker of the House of Representatives and the President of the Senate of its determination and all special acts relating to the inactive district's creation and its charter. A special district declared inactive under section 189.404, Florida Statutes, is dissolved by a special act which repeals the inactive district's enabling laws.

The declaration of inactive status is sufficient notice as required by section 10, Article III of the Florida Constitution.

The assets and property of the inactive district are subject to legal process for payment of any district debts. Following the payment of all debts, any assets or property of the district escheats to the county or municipality in which the district is located. If there are no assets to pay the district indebtedness, then the local government where the district is situated may levy any tax on the property within the boundaries of the former district in order to pay such debts. The tax is assessed and collected by the county property appraiser and tax collector.

Fort Walton Beach Area Bridge Authority

The Fort Walton Beach Area Bridge Authority (Authority) is a dependent district in Okaloosa County created by chapter 90-412, Laws of Florida, pursuant to chapter 398, Florida Statutes, to construct, operate and maintain a bridge/s traversing Choctawhatchee Bay or Santa Rosa Sound. The Authority consists of seven members with the Governor appointing three members and the Board of County Commissioners of Okaloosa County appointing four members. No less than four members must be residents from a specified area. Terms of members are four years. A quorum for the Authority consists of four members, with action taken by a majority vote.

The Authority is authorized to enter into contracts; plan for and operate a bridge; charge and collect fees, tolls; borrow money; and enter into and make lease-purchase agreements with the Department of Transportation until any bonds secured by a pledge of rentals and refunds are fully paid as to both principal and interest.

The Authority is required to adopt an annual budget and submit it to the Board of County Commissioners of Okaloosa County for approval. A public hearing must be held prior to the submission of the budget. At the time it adopts its budget, the Authority must also adopt a resolution that determines the estimated amounts of expenditures, exclusive of bonds or other obligation, to be used for acquiring, constructing, operating, and maintaining the system or for any other Authority purpose. The Authority must submit a certified copy of the resolution when it

submits its budget. The Board of County Commissioners of Okaloosa County is required to examine, make revisions, and approve the budget prior to it becoming effective.

The Authority has been inactive for some time. In 1999, the Department of Community Affairs determined that the Authority is no longer functioning as a governmental body and should be dissolved pursuant to section 189.4044(1)(a), Florida Statutes. The Department of Community Affairs advertised its declaration of inactivity and provided that all creditors asserting claims against the Authority must file written statements asserting the basis of the claim within 60 days of the publication date. The Department of Community Affairs received timely written claims from the Department of Transportation and James E. Moore, a former attorney of the Authority. Currently, the Authority owes the Department of Transportation \$1,022,069. This debt resulted from the Authority receiving loans from the Toll Facility Revolving Trust Fund in accordance with section 338.251, Florida Statutes, from December 1991 to December 1992 in the amount of \$1,023,644. These funds were to further the development of a toll bridge in the Ft. Walton Beach Area. The Authority repaid \$1,574. The first major payment was due in December 1998. Loan payments are overdue at this time pursuant to the repayment schedule outlined in the loan agreement.

Although the dissolution procedures were followed by the Department of Community Affairs, the Okaloosa County Legislative Delegation has not, thus far, filed a bill to dissolve the Authority.

C. EFFECT OF PROPOSED CHANGES:

This bill changes the name of the Ft. Walton Beach Area Bridge Authority in Okaloosa County to the Emerald Coast Bridge Authority (Authority).

This bill makes revisions to the Authority's governing board by reducing the number of Authority members from seven to five. This bill also changes the way the Authority members are appointed, how many must live in the specified area, and the number needed for a quorum. With seven members, the Governor appointed three members and the Board of County Commissioners of Okaloosa County (County) appointed four members. The number of members needed for a quorum is reduced to three members to reflect the decrease in the number of Authority members. This bill provides that the Governor appoints all members to the Authority. The terms of the newly appointed members are also provided. Obsolete language regarding the County's appointments is deleted.

This bill increases the powers of the Emerald Coast Bridge Authority to allow it to contract for any and all services and duties provided in its charter.

This bill revises the Authority's budget process by changing the date that the Authority must prepare and submit a budget. It also requires the County to, in good faith, examine the Authority's budget and approve it.

The economic impact statement of this bill states that in fiscal year 2002-2003, this bill has a cost of \$250,000. This cost appears to be for contracts, which will provide for performance of services and duties of the Authority. According to the economic impact statement, the Authority is anticipating a loan from the Transportation Revolving Loan Trust Fund to pay the cost.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section changes the name of the Ft. Walton Beach Area Bridge Authority in Okaloosa County to the Emerald Coast Bridge Authority (Authority).

Section 2: This section revises the definition of Authority to reflect the name change.

Section 3: This section revises the Authority's governing board by reducing the number of Authority members from seven to five. This section also changes the way the Authority members are appointed and how many must be from the specified area. Under present law, the Governor appointed three members and the Board of County Commissioners of Okaloosa County (County) appointed four members. This section provides that the Governor appoints all members to the Authority and fills all vacancies. The terms of the newly appointed members are provided and allow for staggered terms. The number of members needed for a quorum is reduced to three to reflect the decrease in the number of Authority members. Obsolete language regarding the County's appointments is deleted. This section also corrects gender references.

Section 4: This section increases the powers of the Emerald Coast Bridge Authority to allow it to contract for any and all services and duties provided in its charter. This section also revises a reference to the Authority to reflect its new name.

Section 5: This section revises the Authority's budget process by changing the date that the Authority must prepare and submit a budget from December 1, 1990 to December 1, 2001. It also requires the County to, in good faith, examine the Authority's budget and approve it.

Section 6: This act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

March 5, 2001

WHERE?

Northwest Florida Daily News; Fort Walton Beach, Okaloosa County

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:

It is unclear whether this bill impacts the current terms of members of the Authority as this bill does not provide any member transition language and provides for the immediate appointment of new

members. It has been proffered that the Authority currently does not have any serving members. This has not been confirmed as of the time of publication of this analysis. However, if there are no members currently serving, then this bill does not impact any current member terms.

The Department of Transportation (Department) has been contacted regarding this bill. When dissolution of the Authority was being considered, the Department reviewed the situation to determine what entity was responsible for repayment of the outstanding loans. It was determined that the County was financially responsible for repayment of the loans if the Authority was dissolved. According to the Department, this was based on the direct legal relationship between the County and the Authority, as the County is responsible for the appointment of a majority of the members on the Authority and for the review and approval of the Authority's budget. The Department is concerned that the changes to the Authority resulting from this bill represent a major change. As a result, the County's financial obligations may be reduced. The Department expressed that it would like clarifying language which provides that in no way does this bill decrease the responsibility of the County for the Authority's debt and that the County will assume the obligations if a bridge is not built in a timely manner.

The Board of County Commissioners of Okaloosa County does not oppose this bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment is being offered by Representative Melvin, which addresses the Department's concerns.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Laura Jacobs, Esq.

Joan Highsmith-Smith