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DATE: May 17, 2001

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-307, Laws of Florida

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

BILL #: HB 853, 1st ENG
RELATING TO: Pinellas County/Tourist Development Council
SPONSOR(S): Representative Carassas
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 6 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill revises the composition of the Pinellas County Tourist Development Council to include two additional members. One must be an elected municipal official from one of ten specified cities and the other is a representative from the tourist industry.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

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:

Counties are authorized to levy five separate taxes on transient rental transactions. Depending on the particular tax, the levy may be authorized by vote of the governing body or by referendum. Tax rates vary by county depending on a county's eligibility to levy particular taxes; however, the absolute maximum tax rate is 6 percent.

Current law, section 125.0104(3)(c), Florida Statutes, provides for a local option tourist development tax at a rate of 1 or 2 percent. As of September 2000, all of the 47 counties levying the tax are at the 2 percent rate. In addition to any 1 or 2 percent tourist development tax, section 125.0104(3)(d), Florida Statutes, provides for an additional 1 percent tourist development tax by the extraordinary vote of the governing board of the county or by referendum approval by the registered electors within the county or subcounty special district. Only counties that have levied the 1 or 2 percent for three years are eligible. Of the 38 counties eligible to levy the tax, 25 were levying the additional tax as of September 2000.

Section 125.0104(4)(e), Florida Statutes, requires that the governing board of each county that levies and imposes a tourist development tax, to establish, by ordinance, an advisory council to be known as the "... (name of county) ... Tourist Development Council." The council is a nine-member board, which is appointed by the governing board of the county. The chair of the governing board of the county or any other member of the governing board as designated by the chair, shall serve on the council. Two members of the council are elected municipal officials, with at least one of them being from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council are persons involved in the tourist industry who have demonstrated an interest in tourist development. Not less than three, nor more than four, are owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. The governing board of the county has the option of designating the chair of the council or allowing the council to elect a chair. The chair is appointed or elected annually and may be reelected or reappointed.

Members of the council serve for staggered terms of 4 years. The council must meet at least once each quarter. The council makes recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council continuously reviews expenditures of revenues from the tourist development trust fund and receives, at least quarterly, expenditure reports from the county governing board or its designee.

Expenditures that the council believes are unauthorized must be reported to the county governing board and the Department of Revenue. The governing board and the department, upon reviewing the findings of the council, must take appropriate administrative or judicial action to ensure compliance with this section.

C. EFFECT OF PROPOSED CHANGES:

This bill revises the composition of the Pinellas County Tourist Development Council (council), by increasing the council from nine members to eleven members. The number of elected municipal officials is increased to three, with the additional member being an elected municipal official selected from one of the following ten cities: Bellair Beach, Bellair Shore, Indian Rocks Beach, Indian Shores, Maderia Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. In addition, the number of tourist industry representatives is increased to seven members.

This bill also provides that this revision does not interrupt the current term of any council member who is a member as of October 1, 2001. *In addition, it provides that with the exception of adding two new members, section 125.0104(4)(e), Florida Statutes, applies to the council.*

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section revises the composition of the Pinellas County Tourist Development Council (council), by increasing the council from nine members to eleven members. The number of elected municipal officials is increased to three, with the additional member being an elected municipal official selected from one of the following ten cities: Bellair Beach, Bellair Shore, Indian Rocks Beach, Indian Shores, Maderia Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. In addition, the number of tourist industry representatives is increased to a total of seven members.

This section also provides that this revision does not interrupt the current term of any council member who is a member as of October 1, 2001. In addition, it provides that with the exception of adding two additional members, section 125.0104(4)(e), Florida Statutes, applies to the council.

Section 2: This act s effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN?

February 2, 2001

WHERE?

Tampa Bay Review; Clearwater, Pinellas 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:

This bill raised some concerns that the provisions violated Article III, Section 11, and Article VII, Section 9(a), of the Florida Constitution. Article III, Section 11, of the Constitution, provides the general prohibitions on special laws, including a prohibition on special laws relating to the assessment or collection of taxes for state or county purposes. This bill does not appear to affect the assessment or collection of taxes.

Article VII, Section 9(a), of the Florida Constitution, provides that local governments may be authorized by general law to levy ad valorem and other taxes for local purposes. The courts have held that this prohibits a special act that authorizes the levy of a new tax or a new use of an existing tax. This bill does not appear to impose a new tax or permit a new use.

In response to a letter by Representative Sorensen, the Chairman of Local Government & Veterans Affairs, on the applicability of these constitutional provisions, the House General Counsel replied in a March 23, 2001 letter that the membership of a local tourist development council may be altered by a special act and that the bill does not violate the above mentioned constitutional provisions. A copy of this letter is available at the office of the House Local Government & Veterans Affairs Committee.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its March 20, 2001 meeting, adopted the following two amendments by Representative Carassas:

Amendment #1 -- A technical amendment corrects a scrivener's error in the title.

Amendment #2 -- A clarifying amendment that provides that the revised council composition begins October 1, 2001.

The House of Representatives, on April 27, 2001, adopted a floor amendment by Representative Trovillion, which increased the total council membership from nine members to eleven members.

VI. SIGNATURES:

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COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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