

589-170AX-22

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Wiles offered the following:

Substitute Amendment for Amendment (784647)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. The lessor, the Board of Trustees of the Internal Improvement Trust Fund, is hereby directed to lease the following described property to the lessee, the City of Daytona Beach, Florida:

A parcel of sovereign submerged land in Volusia County, Florida, more particularly described as:

A portion of submerged land in the Atlantic Ocean adjacent to Block 2, Plan of Seabreeze Subdivision as recorded in Deed Book "O" Page 301, Public Records of Volusia County, Florida, and being more particularly described as follows. As a point of reference, commence at

1 the northeast corner of Block 5, said plan of
2 Seabreeze Subdivision, thence north 67 degrees
3 53 minutes 33 seconds east along the southerly
4 original right of way line of Main Street and
5 along its extension thereof, 488.65 feet more
6 or less, to the mean high water line of the
7 Atlantic Ocean Beach and to the point of
8 beginning. Thence continue north 67 degrees 53
9 minutes 33 seconds east 1000.00 feet, thence
10 south 22 degrees 06 minutes 27 seconds east
11 242.30 feet, thence south 67 degrees 53 minutes
12 33 seconds west, 979.07 feet, more or less to
13 the aforementioned high water line, thence
14 north 27 degrees 02 minutes 40 seconds west
15 along the said mean high water line
16 approximately 243.21 feet to the point of
17 beginning.

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19 Section 2. The term of this lease runs for a
20 period of 35 years commencing on the date the City of
21 Daytona Beach acquires ownership of the pier and
22 associated upland parcel. Such acquisition must occur
23 no later than 5 years after the effective date of this
24 act. The lessee shall pay an initial annual lease fee
25 of \$5,000 to the Board of Trustees of the Internal
26 Improvement Trust Fund. The annual lease fee shall
27 increase by \$5,000 at each successive 5-year interval
28 during the lease term and shall be remitted to the
29 Department of Environmental Protection as the agent
30 for the lessor. The lease fee for any renewals of this
31 lease, beyond the initial lease period, shall be

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1 determined pursuant to the terms of Chapter 18-21,
2 F.A.C., in effect at the time of such renewal.
3 Section 3. The submerged lands described in
4 this act are leased for the purpose of furthering the
5 city's downtown redevelopment initiative, including
6 the city's acquisition of the historic pier situated
7 upon the leased lands and such uses may include
8 nonwater-dependent activities. If the city is unable
9 to acquire the historic pier or, once having purchased
10 the pier, relinquishes ownership, this lease is void.
11 Section 4. This lease is specifically
12 contingent upon the City of Daytona Beach acquiring
13 ownership of the pier, and this lease shall not take
14 effect unless and until such acquisition is secured.
15 Section 5. The lessee shall make no claim of
16 title or interest to the lands described in section 1
17 by reason of the occupancy or use thereof, and all
18 title and interest to the lands described in section 1
19 is vested in the lessor. The lessee may not make any
20 claim, including any advertisement, that said lands
21 may be purchased, sold, or resold.
22 Section 6. During the term of this lease, the
23 lessee shall maintain a fee simple title interest in
24 the riparian upland property and, if such interest is
25 terminated, the lease may be terminated at the option
26 of the lessor. Prior to sale or other transfer of the
27 lessee's fee simple title interest in the upland
28 property, the lessee shall inform any potential buyer
29 or transferee of the lessee's upland property interest
30 of the existence of this lease and all its terms and
31 conditions and shall complete and execute any

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1 documents required by the lessor to effect an
2 assignment of this lease, if authorized by further
3 legislative action. Failure to do so shall not
4 relieve the lessee from responsibility for full
5 compliance with the terms and conditions of this lease
6 which include, but are not limited to, payment of all
7 fees or penalty assessments incurred prior to the
8 effective date of this act.

9 Section 7. The lessee shall investigate all
10 claims of every nature arising out of this lease at
11 its expense and shall indemnify, defend and save, and
12 hold harmless the State of Florida from all claims,
13 actions, lawsuits, and demands arising out of this
14 lease or the operation and activities associated with
15 this lease.

16 Section 8. The lessee shall assume all
17 responsibility for liabilities that accrue to the
18 subject property or to the improvements thereon,
19 including any and all drainage or special assessments
20 or taxes of every kind and description which are now
21 or may be hereafter lawfully assessed and levied
22 against the subject property during the effective
23 period of this lease. The lessee shall purchase and
24 maintain an all-risk property insurance policy to
25 cover repair or replacement costs, subject to a
26 deductible, that may arise out of damage occurring to
27 the pier due to perils insured under such policy. The
28 lessee shall provide proof of this insurance in
29 writing and shall submit proof of insurance to the
30 Department of Environmental Protection along with each
31 annual lease payment.

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1 Section 9. The lessee is prohibited from
2 mooring vessels or charging general admission fees for
3 public access to any pier built or operated on the
4 leased premises. The lessee shall not knowingly
5 permit or suffer any nuisances or illegal operations
6 of any kind on the leased premises. During the term
7 of this lease and during any renewals, extensions,
8 modifications, or assignments thereof, the lessee
9 shall prohibit the operation or entry onto the leased
10 premises of gambling cruise ships, or vessels that are
11 used principally for the purpose of gambling, when
12 these vessels are engaged in "cruises to nowhere." The
13 term "cruises to nowhere" means the activity of ships
14 that leave and return to the State of Florida without
15 an intervening stop within another state or foreign
16 country or waters within the jurisdiction of another
17 state or foreign country, and any watercraft used to
18 carry passengers to and from such gambling cruise
19 ships.

20 Section 10. The lessee shall maintain the
21 leased premises in good condition and keep the
22 structures and equipment located thereon in a good
23 state of repair in the interests of public health,
24 safety, and welfare. No structure shall be built or
25 operated in any manner that would cause harm to
26 wildlife. All garbage, debris, and sewage shall be
27 disposed of in an appropriate upland facility. The
28 leased premises shall be subject to inspection by the
29 Department of Environmental Protection at any
30 reasonable time.

31 Section 11. The lessee shall prohibit the

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1 mooring of any "liveaboard" vessel within the leased
2 premises. "Liveaboard" is defined as a vessel moored
3 or docked at the facility and inhabited by a person or
4 persons for any 5 consecutive days or a total of 10
5 days within a 30-day period. In the event liveaboards
6 are authorized by further legislative action, in no
7 event shall such liveaboard status exceed 6 months
8 within any 12-month period, nor shall any such vessel
9 constitute a legal or primary residence.

10 Section 12. The lessee, at its cost, shall
11 remove any structures and equipment from the leased
12 premises at the end of the lease term. Any costs
13 incurred by the lessor in removal of any structures
14 and equipment constructed or maintained on the leased
15 premises shall be paid by the lessee and any unpaid
16 costs and expenses shall constitute a lien upon the
17 interest of the lessee in its riparian upland property
18 enforceable in summary proceedings as provided by law.
19 If the lessee does not remove said structures and
20 equipment occupying and erected upon the leased
21 premises after expiration or cancellation of this
22 lease, such structures and equipment shall be deemed
23 forfeited to the lessor, and the lessor may authorize
24 removal and may sell such forfeited structures and
25 equipment after 10 days' written notice by certified
26 mail addressed to the lessee at the address on record
27 as provided to the lessor by the lessee. However,
28 such remedy shall be in addition to all other remedies
29 available to the lessor under applicable laws, rules,
30 and regulations, including the right to compel removal
31 of all structures and the right to impose

1 administrative fines.

2 Section 13. In the event that any part of any
3 structure authorized under this act is determined by a
4 final adjudication issued by a court of competent
5 jurisdiction to encroach on or interfere with adjacent
6 riparian rights, the lessee agrees to either obtain
7 written consent for the offending structure from the
8 affected riparian owner or to remove the interference
9 or encroachment within 60 days from the date of the
10 adjudication. Failure to comply with this section
11 shall constitute a material breach of this lease
12 agreement and shall be grounds for immediate
13 termination of this lease agreement.

14 Section 14. Prior to commencement of
15 construction or the activities authorized in this act,
16 the lessee shall obtain all necessary federal, state,
17 and local permits. Nothing in this act shall serve as
18 regulatory authorization for the proposed project or
19 shall be construed as authorization to issue permits
20 for the proposed project if the proposed project does
21 not meet federal, state, or local permitting
22 standards.

23 Section 15. On or in conjunction with the use
24 of the leased premises, the lessee shall at all times
25 comply with all federal, state, and local laws and all
26 administrative rules promulgated thereunder which are
27 not inconsistent with this act.

28 Section 16. The lease shall not be amended,
29 modified, assigned, or otherwise transferred without
30 further legislative action.

31 Section 17. The lease authorized by this act

1 represents the entire and only agreement between the
 2 parties. If any provision of this act or its
 3 application to any person or circumstance is held
 4 invalid, the invalidity shall not affect other
 5 provisions or applications of the act that can be
 6 given effect without the invalid provision or
 7 application.

8 Section 18. This lease shall not take effect
 9 until the lessee, the City of Daytona Beach, submits
 10 acceptance of the terms of this lease in writing to
 11 the Department of Environmental Protection, as staff
 12 to the Board of Trustees of the Internal Improvement
 13 Trust Fund.

14 Section 19. This act shall take effect upon
 15 becoming a law.

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