

STORAGE NAME: h0919.lgva.doc
DATE: March 28, 2001

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

BILL #: HB 919
RELATING TO: Escambia Co. Utilities Authority
SPONSOR(S): Representative Miller and others
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Escambia County Utilities Authority (“ECUA”) into a single act. This bill also restores words inadvertently omitted during the preparation of a prior special act relating to the ECUA.

No fiscal impacts are anticipated according to the Economic Impact Statement (EIS).

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:

N/A

B. PRESENT SITUATION:

The Escambia County Utility Authority (ECUA) was created as a local governmental body, corporate and politic, by chapter 81-376, Laws of Florida. The ECUA was created to have plenary authority with respect to water, sewer, natural gas, and other utilities as may be designed within, and adjacent to, the territorial limits of Escambia County. The ECUA is designated as an independent special district. The governing board of the ECUA consists of seven members elected by qualified electors voting in partisan elections.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (1997), also required that no changes be made to a district’s charter, as it existed on October 1, 1997. However, the 1998 Legislature amended section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow 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) remove the prohibition of substantive amendments in a district’s codification bill; and (4) remove 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. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district.

Schedule of Submittals of Special Districts’ Charters

Special Districts with less than 2 special acts

1999 Legislative Session

Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session
Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of sections 189.429 and 191.015, Florida Statutes, 89 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Status Statement Language

Section 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 to the department's determination or declaratory statement regarding the status of the district.

C. EFFECT OF PROPOSED CHANGES:

The bill codifies and repeals chapters 81-376, 82-390, 83-403, 83-404, 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, 91-403, 92-248, 93-365, 95-497, and 97-364, Laws of Florida, and section 3 of chapter 91-335, Laws of Florida, relating to the Escambia County Utilities Authority ("District") into a single act. This bill restores words inadvertently omitted during the preparation of chapter 97-364, Laws of Florida, providing the term of office of each member of the governing board of the District will commence on the second Tuesday following the general election in which such member is elected.

In compliance with section 189.404(5), Florida Statutes, this bill provides that the District is an independent special district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act is the codification required under section 189.429, Florida Statutes. States the Legislative intent for the act.

Section 2: Provides that this act amends, codifies, reenacts, and repeals the special acts relating to the District's charter.

Section 3: Provides for the re-creation and reenactment of the charter for the District and the following provisions.

Section 1: Provides the method for establishing the District; provides the status of the special district as an independent special district.

Section 2: Provides legislative findings and intent.

- Section 3: Provides the purposes of the District; provides the purposes for the District's charter.
- Section 4: Provides the membership and organization of the governing board of the District; removes obsolete language relating to the original seven-member appointed governing board of the District; provides procedures for conducting district elections and the qualifications of an elector of the District; restores words inadvertently omitted providing the term of office of each member of the governing board of the District will commence on the second Tuesday following the general election in which such member is elected; provides for compensation of governing board members; provides that the District may adopt bylaws; provides the procedures for conducting and noticing regular and emergency public meetings; defines "agency" as such term is used to describe the District; provides the code of ethics for the District employees and independent contractors.
- Section 5: Provides the powers, functions, and duties of the District regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements; provides powers of the District regarding sewage collection and disposal, water supply, and natural gas; authorizes the District to establish service districts and rate classifications; authorizes the District to exercise the power of eminent domain; provides that the District is granted all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the District was created; provides for discontinuance and the restoration of services when customer fails to pay charges; provides the District is an "affiliated utility" for purposes of interpreting Rule 25-30.320, Florida Administrative Code; provides for the sale and transfer of municipal and county natural gas system assets to the District.
- Section 6: Provides legislative findings; declares that the District is created to perform an essential governmental function; provides that the income and property of the District is nontaxable.
- Section 7: Provides for the sale and transfer of all assets and liabilities relating to water and sewer systems of the City of Pensacola and Escambia County to the District; provides the procedures and methods for transfer of municipal or county resource recovery systems and solid waste collection, distribution, or disposal systems to the District.
- Section 8: Authorizes imposition of a municipal franchise fee upon the District.
- Section 9: Provides the methods for collecting fees, rentals, and charges; provides minimum revenue requirements.
- Section 10: Authorizes the District to appoint, suspend, and remove employees and to provide compensation and benefits to employees; provides for the transfer of employees and the continuation of pension and retirement rights of transferred employees.

Section 11: Provides for the organization and membership of a personnel appeals board.

Section 12: Provides the process and procedure to appeal an action of the District.

Section 13: Provides that the District will employ and fix the compensation of an executive director; provides the qualifications and limitations of the executive director of the District.

Section 14: Provides the fiscal year for the District; provides for preparation of an annual District budget.

Section 15: Provides for the execution of District documents and the payment of District bills.

Section 16: Provides for an annual compliance and financial audit of the District.

Section 17: Authorizes periodic management efficiency audits.

Section 18: Provides for a citizens' advisory committee.

Section 19: Provides civil penalties for the violation of rules and regulations of the District pertaining to the disposal of waste and use of the District's systems, facilities, or services.

Section 20: Provides for liberal construction of the District's charter.

Section 21: Provides for the severability of any invalid provision.

Section 4: Repeals special acts relating to the District's charter.

Section 5: Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN?

September 27, 2000

WHERE?

News Journal, Pensacola, Escambia County, Florida

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:

This bill reenacts authority for the Escambia County Utilities Authority (ECUA) to provide natural gas service and requiring the City of Pensacola (City) to convey certain portions of its natural gas system to the ECUA. The ECUA sold its natural gas and natural gas franchise rights to the City in 1992. The City is concerned that reenactment of these provisions by the Legislature might be interpreted to conflict with the City's plenary authority over the distribution and sale of natural gas. On March 29, 2001, at the request of the City, the ECUA Board voted to request that the Escambia County Local Legislative Delegation delete any provisions concerning natural gas service from this bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has proposed a strike-everything amendment that provides as follows:

- Conform references to the District and the City Council of the City of Pensacola throughout the bill.
- Remove the requirement for an annual financial audit in the District's charter since general law already requires audits.
- Clarifies that this bill restores language to the District's charter that was inadvertently omitted in preparation of chapter 97-364, Laws of Florida.
- Removes all references to "natural gas" in the District's charter since powers related to natural gas utilities are no longer vested with the District.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Christopher J. Shipley

Joan Highsmith-Smith