

**STORAGE NAME:** h0945.lgva.doc

**DATE:** April 10, 2001

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

**BILL #:** HB 945

**RELATING TO:** Palm Beach Co./Solid Waste Authority

**SPONSOR(S):** Representative Machek

**TIED BILL(S):** None

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

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

The bill codifies all prior special acts relating to the Solid Waste Authority of Palm Beach County, a dependent special district, into a single act and then repeals said prior acts.

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 Solid Waste Authority of Palm Beach County (Authority) is a dependent special district created by chapter 75-473, Laws of Florida. The District provides a coordinated resource recovery and waste management program to the residents of Palm Beach County. In 1991, the Legislature enacted chapter 91-334, Laws of Florida, replacing the Authority's Board of Directors with the Palm Beach County Commission.

**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 chapters 75-473, 77-626, 79-536, 79-539, 79-542, 84-501, 84-502, 86-433, 88-544, 91-334, 93-345, and 94-462, Laws of Florida relating to the Solid Waste Authority of Palm Beach County into a single act and then repeals said chapters.

In compliance with section 189.404(5), Florida Statutes, this bill provides that the Authority is a dependent 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 Authority's charter.

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

Section 1: Reenacts a short title of the Authority's charter.

Section 2: Reenacts the declaration of legislative intent for creation of the Authority; reenacts the purposes of the Authority.

Section 3: Reenacts the creation of the Authority; provides the status of the Authority as a dependent special district; reenacts provisions regarding the number and organization of the governing board of the District and the number of members of the governing board of the District that constitutes a quorum.

Section 4: Reenacts provisions that this act applies to both the incorporated and unincorporated areas of Palm Beach County.

- Section 5: Provides definitions as used in the Authority's charter of "act", "authority", "cost of acquisition and/or construction", "clerk", "county", "department", "derivative agreements", "director", "disposal", "fiscal year", "general obligation bonds", "hazardous waste", "municipality", "person" or "persons", "processing", "property appraiser", "recycling", "resource recovery", "revenue bonds", "solid waste", "solid waste system" or "resource recovery and solid waste management facilities" or "project", "tax collector", "transport", and "waste management".
- Section 6: Reenacts the purposes and powers of the Authority; reenacts provisions regarding the method for adopting, rescinding, modifying, or amending rules, guidelines, and orders; removes the requirement that said rules, guidelines, and orders must be adopted, rescinded, modified, or amended in accordance with chapter 120, Florida Statutes; reenacts provisions regarding the publication of notice and hearing before rules become effective; reenacts provisions regarding the adoption of a resource recovery and waste management program for Palm Beach County; reenacts provisions regarding the powers, functions, and duties of the Authority to hire an executive director; reenacts provisions empowering the Authority to require surety bonds for any of the officers and employees of the Authority; reenacts various provisions regarding the powers, functions, and duties of the Authority; reenacts provisions regarding the power, procedures, and requirements for the Authority to issue various types of bonds; reenacts provisions regarding the methods for financing the Authority and collecting non-ad valorem assessments, fees, and charges; reenacts provisions regarding issuance of notes and other evidences of Authority indebtedness; provides the powers and purpose of the Authority to enter into interest rate swap agreements; provides that this Act will constitute the minimum charter requirements pursuant to section 189.404(3), Florida Statutes; reenacts provisions regarding the power of the Authority to seek injunctive relief to prevent the violation of this act; reenacts provisions regarding the sale and disposal by the Authority of byproducts; reenacts provisions regarding the powers, functions, and duties of the Authority to assessment, levy, and collection of ad valorem tax; reenacts provisions regarding the method and procedure for collecting fees, rates, charges, interest, and penalties; reenacts provisions regarding the transfer, sale, or assignment of Authority property; reenacts provisions regarding resource recovery and/or disposal plans or programs; reenacts provisions regarding the Authority performing governmental functions; reenacts provisions establishing a mandatory collection system for the county; reenacts provisions regarding the powers of the Authority to grant franchises and contracts, issue permits, or otherwise provide for the collection of solid waste; and reenacts provisions regarding the sale and issuance of bonds; reenacts provisions authorizing an extra compensation program notwithstanding the prohibition against extra compensation set forth in section 215.425, Florida Statutes.
- Section 7: Reenacts provisions regarding the powers, functions, duties, and methods for collecting non-ad valorem assessments; provides definitions as used in the Authority's charter of "addendum to annual disposal special assessments roll" or "addendum", "annual disposal special assessments", "annual disposal special assessment roll", "collection",

“governmental agencies”, “improved real property”, “owner”, and “rate resolution”; reenacts provisions regarding the purpose of this section of the Authority’s charter; reenacts provisions regarding the determination of annual disposal special assessments, public hearings, and the method of collecting annual disposal special assessments; reenacts provisions regarding the scope of annual disposal special assessments, discounts for early payment, and delinquency; reenacts provisions that annual disposal special assessments constitute a lien on certain improved real property; reenacts provisions regarding the payment of annual disposal special assessments and discharge of recorded liens; reenacts provisions regarding the enforcement of delinquent annual disposal special assessments; reenacts provisions regarding the calculation of annual disposal special assessments; reenacts provisions regarding annual disposal special assessments to governmental agencies; reenacts provisions regarding the applicability of annual disposal special assessments to tax-exempt improved real property;

Section 8: Reenacts provisions regarding the collection of annual disposal special assessments by the county tax collector; reenacts the purpose of this section; reenacts the method of determining and collecting annual disposal special assessments; reenacts powers, functions, and duties of the Authority regarding budget preparation and approval; provides the Authority will conduct a public hearing regarding budget adoption on or before July 30 or such other date as may be specified in chapter 197, Florida Statutes; reenacts provisions regarding budget adoption and adoption of rate resolutions; reenacts provisions regarding the scope of annual disposal special assessments; reenacts provisions regarding the enforcement and collection of annual disposal special assessments; reenacts provisions that annual disposal special assessments constitute a lien on certain improved real property; removes provisions that state section 197.363(2), Florida Statutes, dealing with the issuance of tax certificates and tax deeds do not apply to special assessments imposed under this act; reenacts provisions regarding the payment of annual disposal special assessments; reenacts provisions regarding the enforcement of delinquent annual disposal special assessments; reenacts provisions regarding certification of the Authority tax roll to property appraiser and tax collector; provides the property appraiser will include the annual disposal special assessments on the tax notice issued pursuant to section 197.3635, Florida Statutes, or successor laws; reenacts provisions regarding annual disposal special assessments to governmental agencies; reenacts provisions regarding the applicability of annual disposal special assessments to tax-exempt improved real property; reenacts provisions regarding powers, functions, and duties of the Authority to provide additional proceedings to collect annual disposal special assessments.

Section 9: Reenacts provisions regarding the powers, procedures, and duties of the Authority to granting exclusive franchises subject to certain limitations.

Section 10: Reenacts exemptions from taxation for Authority property, moneys, and other assets.

Section 11: Reenacts provisions making it unlawful to violate this act; reenacts provisions regarding operating permits; reenacts provisions regarding the

penalty for the violation of any provision of this act or rules adopted pursuant thereto.

Section 12: Reenacts provisions regarding the powers, duties, and functions of the Palm Beach County Health Department and the Palm Beach County Health Director regarding determining compliance with this act, correcting violations, and public hearings; corrects a scrivener's error of a Palm Beach County Environmental Control ordinance number.

Section 13: Reenacts provision regarding the power, duty, and procedure for the Authority to seek injunctive relief and enforce the provisions of this act, or rules or orders pursuant thereto.

Section 14: Reenacts provisions regarding the power of aggrieved persons to seek appropriate judicial review.

**Section 4:** Provides for severability.

**Section 5:** Provides liberal construction.

**Section 6:** Provides that this act is not to be construed as limiting any existing powers of the Authority; provides this act is supplemental and alternative authority to any other provisions of law.

**Section 7:** Repeals special acts relating to the District's charter.

**Section 8:** Provides an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN?

February 5, 2001

WHERE?

*The Palm Beach Post*, West Palm Beach, Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

N/A

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:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has proposed a strike-everything amendment that:

- Alphabetizes the definitions section of the Authority's charter.
- Removes the requirement that the Authority execute a resolution before issuing bonds.
- Provides that the maximum amount of interest paid on the bonded indebtedness of the Authority will be as provided in section 215.84, Florida Statutes, rather than the 9 percent maximum amount of interest currently provided in the Authority's charter.
- Removes a provision stating that this act constitutes the minimum charter requirements of section 189.404(3), Florida Statutes.
- Removes duplicative sections of the Authority charter.
- Corrects various scrivener's errors.
- Conforms various references throughout the bill.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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Christopher J. Shipley

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Joan Highsmith-Smith