

STORAGE NAME: h0451a.sgc.doc
DATE: January 31, 2002

**HOUSE OF REPRESENTATIVES
SMARTER GOVERNMENT COUNCIL
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 451
RELATING TO: Palm Beach Co./ Palm Beach Shores
SPONSOR(S): Representative Atwater
TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 7 NAYS 0
 - (2) CRIME PREVENTION, CORRECTION & SAFETY (CPCS) YEAS 5 NAYS 1
 - (3) SMARTER GOVERNMENT COUNCIL YEAS 9 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

This bill extends the police powers and jurisdiction of the Town of Palm Beach Shores 1,200 feet onto the tidal waters of the Atlantic Ocean along the Town's eastern boundary. This change allows the Town to enforce its codes and regulations, enforce marine based activities and authorize drug interdiction along the Town's Atlantic Ocean shoreline.

The Economic Impact Statement indicates that one additional Town employee (e.g., police officer) will be hired on a part-time basis to monitor the additional jurisdiction to ensure the safety of swimmers, boaters, and all others in the proximity of the area at an estimated cost of \$3,351 State share from the Local Law Enforcement Block Grant for the purchase of a police patrol watercraft; and \$3,351 of local Block Grant matching funds from the Town's General Fund.

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 checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

1. The bill increases the police powers and jurisdiction of the Town of Palm Beach Shores beyond its current corporate boundary.
2. This bill may decrease some individuals's freedom because it allows the Town of Palm Beach Shores to promulgate new restrictions on individuals' activities within a new area of the municipality.

B. PRESENT SITUATION:

Chapter 166, F.S., authorizes the exercise of police powers within the territorial limits of a municipality. The Florida Fish and Wildlife Conservation Commission (FWC) currently exercises police powers and certain regulatory authority in the tidal waters of the Atlantic Ocean adjacent to the Town of Palm Beach Shores. The Department of Environmental Protection (DEP) exercises regulatory authority over specific physical activities below the mean high water line of any tidal water of the state, pursuant to s. 161.041, Florida Statutes. Additionally, the United States Army Corp of Engineers exercises certain regulatory authority over navigational matters and civil works projects such as beach restoration. And, the Board of Trustees of the Internal Improvement Trust Fund hold title in trust to sovereign submerged lands in the state of Florida for the use and benefits of the people of the state pursuant to s. 7, Art. II, and s. 11, Art. X, of the State Constitution.

The Legislature has authorized the exercise of extraterritorial police powers and jurisdiction in four municipalities with the identical limitations provided in the present bill as follows:

- City of Key West, Monroe County; extending 600 feet into adjacent tidal waters; Chapter 78-540, Laws of Florida.
- City of Key Colony Beach, Monroe County; extending 600 feet into adjacent tidal waters; Chapter 85-464, Laws of Florida.
- Islamorada, Village of Islands, Monroe County; extending 1,200 feet into adjacent tidal waters; Chapter 2000-408, Laws of Florida.
- City of Marathon, Monroe County; extending 1,200 feet into adjacent tidal waters; Chapter 2001-292, Laws of Florida.

C. EFFECT OF PROPOSED CHANGES:

The proposed changes authorizes the Town of Palm Beach Shores to exercise extraterritorial police powers and jurisdiction out 1,200 feet into the Atlantic Ocean for the purpose of abating nuisances, enforcing sanitary laws and regulations, regulating zoning, and suppressing crime. The Town of

Palm Beach Shores may currently exercise its police powers and jurisdiction only within its territorial limits bordering the Atlantic Ocean, pursuant to Chapter 166, Florida Statutes. Therefore, this bill appears to provide an exemption from s. 166.021(4), F.S.

Bradley W. Biggs, Esquire, Corbett & White, Counsel to the Town of Palm Beach Shores, states that the Town of Palm Beach Shores desires the ability to enforce its codes and regulations out onto the tidal waters adjacent to its Atlantic Beach coastline; including the placement of buoys and/or other equipment to monitor personal watercraft. The FWC states that the bill as written will have no impact on the agency. According to Staff of the Office of Legislative and Governmental Affairs, the DEP stated that the agency has no objection to the exercise of police powers over this portion of sovereign submerged lands.

The Economic Impact Statement states that this bill will enable the Town of Palm Beach Shores to protect and monitor the shoreline along the Town's eastern border, one of its major tourist attractions. The extension of the Town's regulatory area will help to ensure that all water-related activities are conducted in a safe manner and will promote the interests of the Town, its residents and guests. The extension will also allow marine enforcement for related illegal drug interdiction at the shoreline.

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. Provides that the Town of Palm Beach Shores is authorized to exercise its police powers and jurisdiction 1,200 feet into the Atlantic Ocean seaward of its corporate limits. The bill limits the exercise of the town's extraterritorial police powers and jurisdiction to the abatement of nuisances, the enforcement of sanitary laws and regulations, the regulation of zoning, and the suppression of crime.

Section 2. Provides that the act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

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

IF YES, WHEN? October 10, 2001.

WHERE? The Palm Beach Post.

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:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Andrew S. Grayson, Esquire

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON CRIME PREVENTION, CORRECTION & SAFETY:

Prepared by:

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AS FURTHER REVISED BY THE SMARTER GOVERNMENT COUNCIL:

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