

STORAGE NAME: h0997.lgva.doc
DATE: February 6, 2002

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

BILL #: HB 997
RELATING TO: Bayshore Gardens Park District
SPONSOR(S): Representative Bennett
TIED BILL(S): None

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

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

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill codifies all prior special acts relating to the Bayshore Gardens Park & Recreation District in Manatee County into a single act and repeals all prior special acts relating to the District's charter.

This bill removes obsolete language which was preempted by applicable general law chapters and inserts applicable chapter language. The bill also makes other changes that do not appear to alter the effect of existing law pertaining to the District. The District's authority to levy and collect a "recreation tax" (special assessment) is not altered.

The bill does not change the District's boundaries.

The bill declares the District an independent special district.

No fiscal impacts are anticipated for either fiscal year 2002-03 or 2003-04 according to the Economic Impact Statement.

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:

The Bayshore Gardens Park and Recreation District (District) was created in 1979, by chapter 79-509, Laws of Florida, to provide a park and recreation district.

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. Additionally, the 2001 Legislature amended section 189.429, Florida Statutes creating subsections (2) and (3). The subsections provide that reenactment of existing law pursuant to section 189.429: (1) shall not be construed to grant additional authority nor to supercede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

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, 110 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.

Chapter 418, Florida Statutes

This chapter provides that the governing body of a municipality or county adopting the provisions of this chapter at an election and, until revoked at an election by a majority of the qualified voters who are freeholders, may annually levy and collect a tax of not less than the minimum nor more than the maximum amount set out in the petition for the election, the tax may be designated as the "playground and recreation tax" (special assessment) and be levied and collected in the manner as a general tax of a municipality or county. There is no statutory prohibition against creating recreation districts by legislative special act.

The governing body of a recreation district, if created, by ordinance, must be either:

- (a) A five-member or larger board of supervisors elected from among the residents of the district, or
- (b) The governing body of the municipality or county that created the district.

If the governing body is the governing body of the municipality or county that created the district, that body may appoint a district advisory board to advise it on all matters relating to the district. Members of the advisory board serve without compensation.

The charter of a recreation district may grant to the recreation district the following powers and all further or additional powers as the governing body of the municipality or county establishing the district may deem necessary or useful in order to exercise the powers for which provision is hereinafter made. The powers which may be granted by such charter include the following:

- (1) To sue and be sued and to have a corporate seal.

(2) To contract and be contracted with.

(3) To acquire, purchase, construct, improve, and equip recreational facilities of all types, including real and personal property, within the boundaries of the district; such acquisition may be by purchase, lease, gift, or exercise of the power of eminent domain. If the governing body of the municipality or county that created the recreation district for exclusive use by a condominium established under chapter 718 or a cooperative established under chapter 719 makes the finding described in s. 418.24(4), the governing body of the district may make the recreational facilities available exclusively for district residents and property owners, and may restrict any access to recreational facilities by nonresidents by rules adopted by the governing body of the district. Prior to any vote of the electors in the district adopting or amending a charter pursuant to s. 418.20, the governing body shall decide whether the criteria in s. 418.24(4) apply and whether the recreation district shall be available exclusively for the district residents. The recreation district may construct and maintain security buildings and other structures needed to regulate access to, and provide security for, the recreational facilities.

(4) To issue bonds, secured by ad valorem taxes or by pledge of both such taxes and other revenues of the district, if approved at a referendum held in such district, and to levy and collect ad valorem taxes, without limitation or with such limitation as may be imposed by charter, on all real property subject to city taxation within such district in order to pay the principal of and interest on such bonds as the same respectively fall due or to accumulate a sinking fund for the payment of principal and interest. The referendum required by this section may be held on the same day as any other referendum related to the district; provided that such bonds shall bear interest at a rate pursuant to s. 215.84 and be sold at public sale. In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the district is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; provided that no such bonds shall be sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof or the terms contained in the notice of public sale if no bids were received at such public sale.

(5) To operate and maintain recreational facilities or to enter into arrangements with others for such operation and maintenance pursuant to contract, lease, or otherwise.

(6) To establish, charge, and collect fees for admission to or use of recreational facilities and to apply such fees to the operation, maintenance, improvement, enlargement, or acquisition of recreational facilities or to the payment of bonds or revenue bonds of the district.

(7) To issue revenue bonds payable solely from the revenues to be derived from recreational facilities owned or operated by such district if approved at a referendum held in such district; provided that such bonds shall bear interest at a rate pursuant to s. 215.84 and be sold at public sale. In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the district is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; provided that no such bonds shall be so sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof or the terms contained in the notice of public sale if no bids were received at such public sale.

(8) To adopt and enforce rules for the use of the recreational facilities owned or operated by the district.

(9) To employ all personnel deemed necessary for the operation and maintenance of the facilities of the district.

The charter of any recreation district may contain such limitations and restrictions on any of the powers named in section 418.22, F.S., as the governing body of the municipality or county may from time to time determine, but no such restriction shall result in impairing the ability of a district to carry out any contract made by such district prior to the adoption of such restriction.

The assessment records for the municipality or county in which a recreation district is located are the official assessment records for any recreation district created. The official charged with keeping the assessment records, at the request of the governing body of any recreation district, provide an assessment roll for any district showing the assessed valuation of taxable property in the district. Unless otherwise provided by the charter of a recreation district, the official who collects taxes in the municipality or county is the tax collector of the district. Taxes of any such district shall be payable at the same time as, and secured by a lien on taxable property the same as, municipal or county taxes. Enforcement of any such tax lien are in the same manner and by the same officials as enforcement of liens for municipal or county taxes.

C. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to the Bayshore Gardens Park & Recreation District in Manatee County into a single act and repeals all prior special acts relating to the District's charter.

The bill provides for the minimum charter requirements of the District, in accordance with chapters 112, 170, 189, 286, and 418, F.S. The bill provides for district's geographic boundary limitations and provides for the District's powers.

The District's authority to levy and collect a "playground and recreation tax" (special assessment) is not altered.

The bill does not change the District's boundaries.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides that this act is the District's charter codification pursuant to chapter 97-255, Laws of Florida; provides Legislative intent; preserves all District authority.

Section 2. Codifies, reenacts, amends, and repeals chapters 79-509 and 97-357, Laws of Florida.

Section 3. Re-creates and reenacts the Bayshore Gardens Park and Recreation District charter and re-creates the District as follows:

Section 1. States the District is an independent recreation district and a political subdivision of the State pursuant to chapter 418, F.S.; and states the boundaries of the District.

Section 2. Provides for the minimum charter requirements of the District, in accordance with chapters 170, 189, 197, 418 and 418, F.S.; provides for the powers, functions, and duties of the district; provides for a nine member board of trustees, elected on a popular vote basis by the residents of the district; provides for terms of office; provides for elections; provides no compensation for the trustees; provides for reimbursement of travel and per diem for the trustees; provides for the administrative duties of the board of trustees; provides for meetings; provides for requirements for financial disclosure, meeting notices, and reporting; states district has no authority to issue bonds; provides for the right, power, and authority for the district to levy a recreation district tax; provides for the district's planning requirements; provides for the district's geographic boundary

limitations; provides the district is an independent special district; provides for district's powers; provides for the abolishment of the district.

Section 3. Provides for the use of District facilities.

Section 4. Provides for indemnification.

Section 4. Provides for liberal construction of act.

Section 5. Provides for the severability of any unconstitutional or invalid provisions.

Section 6. Repeals chapters 79-509 and 97-357, Laws of Florida.

Section 7. Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 10, 2001

WHERE? Bradenton Herald in Bradenton, Manatee, 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:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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