

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1113 Sarasota County Public Hospital
SPONSOR(S): Clarke
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	_____	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill codifies all special acts related to the Sarasota County Public Hospital District (District) into a single act.

The bill amends existing charter provisions to sell or exchange real estate or any interest in real estate, however this power is implied in current special acts and does not appear to be a new authority.

The bill also makes others changes that do not appear to alter the effect of existing law pertaining to the District.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill. (See section I.B. "EFFECT OF PROPOSED CHANGES:".)

The Economic Impact Statement indicates no economic impacts on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

This bill codifies all special acts related to the Sarasota County Public Hospital District (District) into a single act.

The Sarasota County Public Hospital District (District) was established in 1949 by chapter 26468, Laws of Florida, 1949, as an independent special district. The purpose of the District is to develop and regulate hospitals within Sarasota County. The District is currently authorized to levy ad valorem taxes not to exceed 2 mills. The governing board of the District consists of nine elected members who are elected in partisan elections by the qualified voters of the District and who serve four year terms. In addition, the District is broken into three districts, the southern, northern, and central districts. There are two members elected from each of the districts and three of the members are elected at-large. Candidates for the nine seats are not numerically grouped for a specific seat on election ballots.

The bill amends existing charter provisions to sell or exchange real estate or any interest in real estate, however this power is implied in chapter 63-1896, L.O.F., and does not appear to be a new authority.

The ratification and reenactment language found in section 4 of the bill, is necessary because of a special act that was inadvertently repealed by ch. 69-1583, L.O.F., this special act conveys certain bonding authority to the hospital and should stay in the repeal section. Therefore, the ‘new’ language on lines 545 – 595 is reinstating that authority. The 1969 special act cited a (1) when it should have been an (l) and the bonding authority language was actually moved to another section but has always been in their charter.

This bill is an exception from general law, section 189.429, F.S., regarding codification. This bill repeals the enabling act in section 2 of the bill, and in section 4 of the bill, repeals the enabling act except for certain sections.

The bill also makes others changes that do not appear to alter the effect of existing law pertaining to the 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 initially authorized by the 1997 Legislature and is codified in section 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows 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. 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 to 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.

Since the enactment of sections 189.429 and 191.015, F.S., 122 special districts have codified their charters.

Status Statement Language

Section 189.404(5), F.S., 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 of Community Affairs' determination or declaratory statement regarding the status of the district.

C. SECTION DIRECTORY:

Section 1. Provides that this act is the codification required under section 189.429, Florida Statutes; states the Legislative intent for the act; preserves all district authority, including the authority conferred by referenda of Sarasota County electors.

Section 2. Amends, codifies, reenacts, and repeals special acts relating to the District's charter.

Section 3. This section recreates and reenacts the Sarasota County Public Hospital District charter and re-creates the District as follows:

Section 1. States the District is an independent special district; provides territory; states the District is governed by the Sarasota County Public Hospital Board (Hospital Board), as a body corporate. Provides for the governing board of the District consisting of nine elected members who are elected in partisan elections by the qualified voters of the District and who shall serve four year terms; states the District is broken into three districts, the southern, northern, and central districts; provides for elections; provides for vacancies; provides for attendance of Board meetings.

Section 2. Provides for compensation of Board members.

Section 3. Provides for meeting places of the Board; provides for the organization of the Board.

Section 4. Provides for the adoption of a common seal.

Section 5. Provides for the appointment and duties of the secretary.

Section 6. Provides for the adoption of bylaws, rules, and regulations for the guidance and governance of any hospital that may be established by the Board.

Section 7. Provides for the deposition of all moneys and receipts.

Section 8. Provides for a quorum regarding the Hospital Boards' authority, functions and duties.

Section 9. Provides eminent domain authority.

Section 10. Provides for the use of the hospital for the inhabitants of the territory and for persons residing outside of the District.

Section 11. States physicians, nurses, attendants, and persons within the Hospital are subject to the rules and regulations prescribed by the Board.

Section 12. Provides for the organization of the staff of the Hospital; provides authority to give, grant, or revoke staff membership and privileges.

Section 13. States the millage of the District shall not exceed a maximum of 2 mills per year.

Section 14. Directs the County Property Appraiser of Sarasota County to report the assessed valuation on all taxable property within the District, and levy a tax against the taxable property within the district to be used for the operation, maintenance, repair, and alteration of hospital or hospitals established as authorized by this act. The maximum tax authorized by this section is not to exceed two (2) mills per year.

Section 15. Provides for payment of persons presented to the Hospital for treatment that may be subject to charity.

Section 16. Provides for the donation of money, personal property, or real estate.

Section 17. Provides for the participation in a nonprofit hospital service plan, as provided by this hospital or hospitals established as authorized by this act.

Section 18. Provides that any hospital created under this act are used for public purposes.

Section 19. Provides the County Commissioners of Sarasota County call for a referendum once the act is passed so that the voters may approve the bill.

Section 20. Provides definition of the term "mill" as used in this act.

Section 21. Provides the Hospital Board may destroy any of its records provided that the records are photographed or microfilmed.

Section 22. Provides the Hospital Board is authorized to enter into leases or franchise agreements relating to parking facilities; provides for public hearings, provides publication of notice regarding rates or fees; provides for the repayment of loans; provides exemption.

Section 23. Provides for a special beverage license; authorizing sale of alcoholic beverages; provides for the purchase of alcoholic beverages; authorizing the sale of the alcoholic beverages.

Section 24. Provides for liens of operators of hospitals upon causes of action, suits, claims, counter-claims and demands accruing to patients, and their legal representatives, and upon judgments, settlements and settlement agreements, patients, for all reasonable charges for hospital care, treatment and maintenance necessitated by such illness or injuries; provides for amounts due under hospitalization, public liability and other indemnity policies, provides for method of perfecting and enforcing such liens, recovery of costs, attorney's fees and expenses, requiring claims for liens to be recorded and fees for recording; provides method of satisfaction of such liens; provides no release or

satisfaction shall be valid as against lien unless lienholder joins therein or executes release; provides acceptance of release or satisfaction of any cause of action, suit, claim, counterclaim, demand or judgment and any settlement In absence of release or satisfaction of lien shall prima facie constitute impairment of such lien, and giving lienholder right of action at law for damages on account of such impairment; provides for recovery from one accepting release or satisfaction or making settlement. Exempts from provisions of this act matters within purview of workmen's compensation act of this state; provides time limitation upon duration of liens.

Section 25. Provides the Hospital Board shall not take any action that would result in the termination of direct control and administration unless such action is approved by the electors of Sarasota County at a referendum called for such purpose; provides definition of "operations of the hospital", as it relates to this act.

Section 26. Provides the Hospital Board is authorized to exercise all the powers granted in this act, enabling legislation, as amended, and such manner as it may determine to be consistent with the purposes of such enabling legislation in order to secure and promote quality medical services to the public.

Section 4. Chapter 26468 (1949), L.O.F., is repealed except that, in order not to abrogate the ad valorem taxing power which vested in the Sarasota County Public Hospital Board under such act and referendum, the provisions of section 14 and 15 of such act, which granted taxing authority to the Hospital Board, are not repealed and are preserved. Chapters 27888 (1951), 31262 (1955), 57-1838, 59-1839, 61-2807, 61-2855m 61-2868, 63-1893, 63-1895, 63-1896, 63-1914, 65-2226, 65-2227, 65-2232, 67-2047, 69-1583, 69-1593, 71-907, 83-525, 84-530, 85-501, 86-373, 87-526, 88-534, 90-411, 90-422, 95-507, and 2000-400, L.O.F., are repealed. Chapter 69-1583, L.O.F., is reenacted, except for requirement of referendum to approve the act, and all actions heretofore taken by the District and the Hospital Board pursuant to the authority and powers conferred by chapter 69-1583, L.O.F., are ratified and confirmed.

Section 5. Provides for the severability of any unconstitutional provisions or if any provision of this act is declared inapplicable in any case, the declaration shall not affect other provisions of this act.

Section 6. This section declares that this act shall be construed as a remedial act and shall be liberally construed to promote the purpose for which it is intended.

Section 7. An effective date of upon becoming a law is provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2003

WHERE? Sarasota Herald Tribune, Sarasota, Sarasota 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

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not Applicable.

B. RULE-MAKING AUTHORITY: Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

In section 4 of the bill, the District's Attorney, Mr. W.T. Harrison, Esq., with Williams, Parker, Harrison, Dietz & Getzen, requested the following language remain "Chapter 26468 (1949), Laws of Florida, which was approved by Sarasota County electors in referendum held on January 10, 1950, is hereby repealed except that, in order not to abrogate the ad valorem taxing power which vested in the Sarasota County Public Hospital Board under such act and referendum, the provisions of section 14 and 15 of such act, which granted taxing authority to the Hospital Board, are not repealed and are preserved".

The Attorney for the District, stated that the sections should remain as they are based on Art. VIII, section 6(b) of the State Constitution, court cases and an AG opinion.¹ In effect, section 2 of the bill repeals the enabling act and section 4 of the bill repeals the enabling act except for certain sections.

Section 189.429, F.S., states in part, "any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2). (2) The reenactment of existing law under this section shall not be construed as a grant of additional authority nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this section shall continue to apply. (3) The reenactment of existing law under this section shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law under this section shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district." The statute anticipates those certain sections be reinstated in the codification bill, pursuant to section 189.429, F.S.

Other comments:

HB 1035 (2002), relating to Ft. Myers Beach Public Library District, Lee County, was vetoed. This local bill was similarly technically deficient in meeting the intent of s. 189.429, F.S.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The bill sponsor has agreed to offer four amendments. The first amendment removes obsolete language. The second amendment removes obsolete language. The third amendment is technical. The fourth amendment is technical.

¹ *Board of County Commissioners v. Florida Department of Community Affairs*, 598 So.2d 182 (1st DCA Fla. 1992). *Hillsborough County v. Tampa Port Authority*, 563 So.2d 1108 (2nd DCA Fla. 1990). *Bailey v. Ponce de Leon Port Authority*, 398 So.2d 812 (Fla. 1981). Attorney General Opinion 79-20.