



CHAMBER ACTION

The Committee on Judiciary recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to Indian River and Brevard Counties; codifying, amending, and reenacting special acts relating to the Sebastian Inlet Tax District, an independent special district; providing for a governing body; providing powers and duties; providing for construction and maintenance of an inlet between the Indian River and the Atlantic Ocean; authorizing the levy of taxes; providing severability; repealing chapters 7976 (1919), 8901 (1921), 12259 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-329, 78-470, 82-307, and 88-535, Laws of Florida; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Sebastian Inlet Tax District, also known as the Sebastian Inlet District. It is the intent of the Legislature in



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29 enacting this law to provide a single, comprehensive special act
 30 charter for the district, including all current legislative
 31 authority granted to the district by its several legislative
 32 enactments and any additional authority granted by this act.

33 Section 2. Chapters 7976 (1919), 8901 (1921), 12259
 34 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-
 35 329, 78-470, 82-307, and 88-535, Laws of Florida, are codified,
 36 reenacted, amended, and repealed as herein provided.

37 Section 3. The Sebastian Inlet Tax District is reenacted,
 38 and the charter for the district is re-created and reenacted to
 39 read:

40 Section 1. A special taxing district is hereby created to
 41 be known as the Sebastian Inlet Tax District, an independent
 42 special district, to consist so much of Brevard and Indian River
 43 Counties, Florida as is described and embraced in the following
 44 boundaries, to-wit:

45
 46 All of the Third Commissioner's District of Brevard
 47 County and that part of the Fourth Commissioner's
 48 District of Brevard County, Florida, bounded on the north
 49 by the township line between Township Twenty-five(25) ,
 50 and Township Twenty-six (26) and all of that part of
 51 Indian River County, Florida, which comprised and made up
 52 the First Commissioner's District of Saint Lucie County,
 53 Florida, as located and established upon the passage of
 54 Chapter 7976, Laws of Florida, Special Acts of 1919
 55 aforsaid.
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57 Section 2. A governing body of said Sebastian Inlet Tax
58 District, to be known and designated as the "Board of
59 Commissioners of Sebastian Inlet Tax District," shall be
60 composed of five members, who shall have been and shall be
61 elected as provided by law. Said governing body shall have all
62 the powers of a body corporate, including the power to sue and
63 be sued as a corporation in said name in any court; to contract;
64 to adopt and use a common seal and alter the same at pleasure;
65 to purchase or otherwise acquire, own, hold, lease, sell,
66 mortgage, and convey or otherwise dispose of such real estate
67 and personal property as said Board may deem proper to carry out
68 the purposes of this act; to appoint during its pleasure a Chief
69 Engineer, a Consulting Engineer, and such agents and employees
70 as said Board may require or deem advisable; and to borrow money
71 and to issue negotiable promissory notes or bonds therefor to
72 enable it to carry out the provisions of this act.

73 Section 3. (a) Members of the Board shall be elected at
74 the general election held in November of each even-numbered
75 year. The terms of office of such Board members shall be for 4
76 years and until their successors are duly elected and qualified.
77 Each member shall be a qualified elector and resident within the
78 District; however, three members, or a majority, of the Board
79 shall reside in the county within the District's boundaries with
80 the larger population. Two members shall reside in the other
81 county. All candidates for office shall stand for election in
82 all precincts of the District.

83 1. The terms of the Board members shall be staggered, with
84 three Board members standing for election in one general



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85 election for a 4-year term, and two Board members shall be
86 elected 2 years later at the general election for a 4-year term.

87 2. Newly elected Board members shall take office at the
88 next regularly scheduled meeting of the Board, or, if that
89 meeting is not planned within 30 days after the election, then a
90 special meeting shall be called for the purpose of seating the
91 new members of the Board and providing them with an orientation.

92 (b) Board members shall be elected on a nonpartisan basis
93 by a majority of the qualified electors of the District voting
94 at the election to be held in both Indian River and Brevard
95 Counties as follows:

96 1. Any candidate for membership on the Board shall qualify
97 as provided by law. The ballots shall be in the form for
98 general elections as provided by law.

99 2. The election officials of each voting district or
100 precinct within the Sebastian Inlet Tax District shall conduct
101 the election of the members of the Board of Commissioners of the
102 District at the time of conducting such general election. Each
103 voter who is qualified to vote in each such general election in
104 the respective election districts or precincts situated within
105 the boundaries of the Sebastian Inlet Tax District and who
106 resides within the boundaries of such District shall be entitled
107 to cast a ballot for the election of members of the Board of
108 Commissioners of said Sebastian Inlet Tax District.

109 3. Upon the closing of the polls in each election district
110 or precinct, the officials conducting such elections shall tally
111 the votes cast for members of the Board of Commissioners of the



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112 Sebastian Inlet Tax District. The vote shall be canvassed in the
113 manner provided by general law.

114 (c) Before he or she assumes office, each Board member
115 shall be required to give to the Sebastian Inlet Tax District a
116 good and sufficient surety bond in the sum of \$2,000 conditioned
117 for the faithful performance of the duties of his or her office
118 and said bond to be approved by and filed with the Clerk of the
119 Circuit Court of Brevard County. Said bond shall be recorded in
120 the minutes of said Board of Commissioners of said Sebastian
121 Inlet Tax District. The failure of any person so elected as a
122 member of the Board of Commissioners of the Sebastian Inlet Tax
123 District to give such bond within 30 days after his or her
124 election as such shall create a vacancy as to such Board member.
125 In such event or in the event of any vacancy on said Board of
126 Commissioners of the Sebastian Inlet Tax District, whether by
127 resignation, death, removal from the District, or otherwise,
128 within 30 days after the existence of such vacancy, the Governor
129 of the State of Florida shall appoint a Board member as provided
130 by law to fill such vacancy, who shall serve for the remainder
131 of such expired term and who shall give bond as hereinbefore
132 provided.

133 (d) All meetings shall be open to the public. The Board
134 shall conduct all meetings in accordance with chapter 286,
135 Florida Statutes. In addition, notice of the meetings shall be
136 sent to the news media at least 7 days in advance, stating the
137 time, date, location, and purpose of the meeting. A majority of
138 the members may convene in special session when called by a
139 majority of the members or the chair. Actions taken at special



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140 meetings shall have the same force and effect as if taken at a
141 regular meeting. Two days' written notice of the time and
142 purpose of a special meeting shall be given to all members and
143 the news media. The minutes of the meeting shall set forth the
144 facts regarding the procedure in calling the meeting and the
145 reason therefor and shall be signed either by the chair or by a
146 majority of the members. Upon due public notice, regular or
147 special meetings of the Board shall be held at any appropriate
148 public place in the District which is readily accessible to the
149 general public; however, at least 50 percent of the number of
150 meetings of the Board held each year shall be held in Indian
151 River County.

152 (e) All bookkeeping and accounting of the District shall
153 meet the requirements imposed by law for special districts.

154 (f) All purchasing and bidding shall be in accordance with
155 the procedures used by the Brevard County Board of
156 Commissioners.

157 Section 4. As soon as practicable after this act becomes a
158 law, the Board holding over or after they have been duly elected
159 or appointed and have qualified, they shall meet and organized
160 by the election, from among their number, of a chair, a vice-
161 chair, a secretary/treasurer. Three members of the Board shall
162 constitute a quorum. The affirmative vote of two members shall
163 be necessary to transact business. The chair and all members of
164 the said Board present shall vote at meetings of the Board as
165 provided by law.

166 Section 5. The members of the Board shall each receive the
167 sum of \$3,600 per year commencing October 1, 2003. The salary



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168 shall be paid in monthly installments as compensation for
169 serving on the Board, but Board members shall not be reimbursed
170 for any travel expenses inside the boundaries of the District.
171 The members of the Board shall be reimbursed for per diem and
172 travel expenses outside the boundaries of the District in
173 accordance with the law.

174 The members of the Board shall set their own compensation
175 for each fiscal year commencing October 1, 2004, provided the
176 Board shall not increase its members' compensation for any
177 fiscal year by a percentage greater than the percentage the
178 Consumer Price Index for Urban Wage Earners and Clerical Workers
179 (CPI-W) increased from the date of the commencement of the
180 fiscal year when the Board members last received an increase in
181 their compensation. In the event the U.S. Department of Labor no
182 longer publishes the Consumer Price Index, the Board must use a
183 similar published standard to set any increase in its
184 compensation.

185 Section 6. It shall be the duty of said Board of
186 Commissioners of Sebastian Inlet Tax District to construct,
187 improve, widen or deepen, and maintain the inlet between the
188 Indian River and the Atlantic Ocean. With character, manner of
189 construction of said inlet shall be determined by said Board of
190 Commissioners with the approval and recommendation of the Chief
191 Engineer, and said Board is further authorized to do all acts
192 and things proper, necessary, or convenient for the aforesaid
193 purposes. The opening and maintenance of such inlet or waterway
194 connecting the waters of the Atlantic Ocean with the waters of
195 the Indian River within the Sebastian Inlet Tax District are



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196 hereby found and declared to be for public purposes and to be
197 necessary for the use of shipping and for transportation and for
198 the extension of commerce of the State of Florida and of said
199 District, and also to be necessary for the maintenance of the
200 health of the inhabitants of the territory embraced in the said
201 District and for the convenience, comfort, and welfare of the
202 said District and the inhabitants thereof. The District is
203 authorized to conduct such programs and projects as it finds
204 necessary or convenient for beach renourishment, erosion
205 control, environmental protection, navigation, boating,
206 recreation, and public safety for the operation and maintenance
207 of the inlet and the waters of the Atlantic Ocean and Indian
208 River Lagoon adjacent thereto.

209 Section 7. The Board shall elect a Chief Engineer. The
210 depth, width, character, and manner of improvement and
211 construction of said inlet or waterway shall be determined by
212 said Board upon the approval and recommendation of the Chief
213 Engineer of the Board. The Board, in setting the depth of the
214 inlet, shall consider the impact on navigation from the
215 Intracoastal Waterway to the Atlantic Ocean.

216 Section 8. The said Board shall have the power and
217 authority to hold, control, and acquire by gift or purchase, for
218 the use of the District, any real or personal property and to
219 condemn any lands or easements needed for the purposes of the
220 District. Said Board is authorized to exercise the right of
221 eminent domain and institute and maintain condemnation
222 proceedings as prescribed by the laws of Florida.



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223 Section 9. The Board of Commissioners of Sebastian Inlet
224 Tax District is hereby authorized and empowered to levy upon all
225 of the real and personal taxable property in said District a
226 special tax not exceeding 1 1/2 mills on the dollar for the year
227 1977, and for each and every year thereafter, to be used solely
228 for the purpose authorized and prescribed by this act. Said levy
229 shall be made each year, not later than September 30 of each
230 year by resolution of the Board, or a majority thereof, duly
231 entered at large upon its minutes. Certified copies of such
232 resolution executed in the name of the Board by its chair and
233 secretary and under its corporate seal shall be made and
234 delivered to the Board of County Commissioners of Indian River
235 County, to the Board of County Commissioners of Brevard County,
236 and to the Chief Financial Officer of the State of Florida not
237 later than September 30 of each and every year thereafter. It
238 shall be the duty of the Board of County Commissioners of Indian
239 River County and the Board of County Commissioners of Brevard
240 County to order the assessment and collection of taxes levied by
241 the Board of Commissioners of the District within the respective
242 counties in the manner provided by law for regular property
243 taxes in the county. Proceeds of such taxes shall be paid within
244 the time and in the manner prescribed by law to the treasurer of
245 the Board. All such taxes shall be held by the treasurer for
246 the credit of the Board and paid out by him or her as provided
247 herein.

248 Section 10. Said Board is hereby authorized and empowered,
249 in order to provide for the work prescribed by this act and to
250 pay the expenses incident to all such work or any other expense



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251 necessary in carrying out the general purposes of this act, to
252 borrow money, temporarily, from time to time for a period of
253 time not exceeding 2 years at any one time, and to issue its
254 promissory notes therefor upon such terms and at such rates of
255 interest as said Board may deem advisable. Any note so made and
256 issued may be paid out of the proceeds of the bonds authorized
257 to be issued by this act or out of any other revenues or funds
258 of said Board, and said notes shall be a charge upon all of the
259 revenue and property of said Board. In case of an injury by
260 storm or otherwise to any of the works of this District, thereby
261 causing an emergency which must be met at once in order to
262 protect or reconstruct such works, said Board is authorized to
263 borrow money under the terms prescribed above in order to meet
264 such emergency.

265 Section 11. All work done under the provisions of this
266 act, both in construction and maintenance, shall be carried on
267 under the supervision of a competent Chief Engineer to be
268 employed by said Board, and no money shall be paid out for any
269 such work to any contractor or subcontractor until such work has
270 been inspected and approved by the Board's Chief Engineer.

271 Section 12. It shall be the duty of the Board of
272 Commissioners of Sebastian Inlet Tax District to use every
273 reasonable means to maintain, protect, and preserve any and all
274 of the works constructed by said Board, and for such purposes
275 the said Board is authorized to use funds derived from taxes
276 assessed and collected for Sebastian Inlet Tax District.

277 Section 13. Whoever shall willfully damage any ditch,
278 canal, levee, inlet, waterway, jetty, or other work established



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279 or constructed under this act or who shall fill in or obstruct
280 the flow of water in any inlet, canal, or waterway, or remove
281 any earth, stone, or other material from the banks of any canal,
282 inlet, waterway, revetment, or ditch without having first
283 obtained permission in writing from said Board to remove such
284 material, shall be deemed guilty of a misdemeanor, and upon
285 conviction thereof, shall be fined not exceeding \$1,000 or
286 imprisoned in the county jail not longer than 6 months, or both
287 such fine and imprisonment, in the discretion of the Court.

288 Section 14. Any clause or section of this act which for
289 any reason may be declared invalid may be eliminated from this
290 act, and the remaining portion or portions shall be and remain
291 in full force and valid as if such invalid clause or section had
292 not been incorporated therein.

293 Section 15. The Chief Engineer, any Consulting Engineer,
294 and any agent or employee of the Board of Commissioners or
295 District may be removed at any time by the Board.

296 Section 16. All work performed and materials furnished for
297 the construction of said inlet and for the maintenance of said
298 inlet shall be let by contract in accordance with the general
299 laws of the State of Florida governing acquisition of
300 professional engineering services, the purchase of commodities,
301 and the construction and maintenance of public works. The Board
302 shall have the right to reject any and all bids. Each contractor
303 shall be required to give a surety bond in form and amount to be
304 approved by the Board, with a responsible surety company thereon
305 as surety. The Board, however, as a public authority, is
306 authorized to exempt any person entering into a contract with



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307 | the District for the construction of any buildings or public
308 | works, or for the repair of any buildings or public works, from
309 | the requirements for payment, performance, and surety bonds in
310 | the manner and the amounts which are authorized by law for other
311 | public authorities to exempt their contractors from bond
312 | requirements.

313 | In the event of an emergency, the Board of Commissioners of
314 | Sebastian Inlet Tax District is authorized to spend a sum not to
315 | exceed \$15,000, utilizing the following procedure:

316 | (a) The Board shall obtain at least three telephone bid
317 | offers to perform such work or furnish such property from at
318 | least three independent persons or business entities responsible
319 | in the subject business endeavor under consideration; and

320 | (b) The Board shall make a record of the offers. After
321 | obtaining and recording such offers, the Board, with at least
322 | three of five members concurring, shall award the contract to
323 | the lowest responsible bidder of those solicited. The Board
324 | shall then notify all local news media which commonly cover the
325 | area within the District of the type and nature of the emergency
326 | and what actions the Board has taken to rectify the emergency.

327 | Section 17. The Board is authorized to vacate any easement
328 | or transfer fee simple interest in any real property which it
329 | holds to any unit of local, state, or federal government. Prior
330 | to such vacation or transfer, the Board shall conduct a public
331 | hearing and determine if it is in the public interest to
332 | authorize the vacation or transfer. At such hearing, the Board
333 | shall consider what effect, if any, the vacation or transfer
334 | shall have on public access to the inlet for fishing and



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335 recreation purposes and what action best serves the public
336 health, safety, and welfare.

337 Section 4. Chapters 7976 (1919), 8901 (1921), 12259
338 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-
339 329, 78-470, 82-307, and 88-535, Laws of Florida, are repealed.

340 Section 5. This act shall take effect upon becoming a law.