

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 relating to the West Palm Beach Downtown Development Authority.

The bill preserves provisions indicating that the Authority will analyze the economic conditions and changes occurring in the Downtown area in order to formulate long-range plans for improving the attractiveness and public accessibility of Downtown facilities. Based on that analysis, the Authority will recommend actions necessary for implementing the Downtown plans; participate in the implementation and execution of the Downtown development plans.

The bill preserves the Authority’s ad valorem taxing authority of up to 2 mills.

The bill preserves provisions providing that Authority board members serve without compensation.

Several non substantive changes include:

- Changing a reference from the “City tax assessor” to “property appraiser;”
- The process for setting millage is updated to comply with existing law;
- The provision for payment by the tax collector is changed to the Downtown Development Authority to comply with s. 197.383, F.S.;
- References to the City fiscal Officers is changed to reference DDA fiscal officers; references to the Uniform Commercial Code are revised to cite appropriate statutory sections;
- A new s. 14 is added to the DDA Charter to comply with the minimum requirements of s. 189.404(3), F.S.

Background

The West Palm Beach Downtown Development Authority (DDA) was created as an independent special district by ch. 67-2170, L.O.F. This special act has been amended by the following special acts: chs. 77-664, 83-534, 84-540, 90-460, and 93-381, L.O.F.

Section 189.429 , F.S., requires codification of special district charters if there is more than one special act for the district. This bill has been prepared to comply with this statutory requirement.

According to the Executive Director¹, Palm Beach County Legislative Delegation, there is no change to the boundary of the DDA or to any of its functions or powers. There are no substantive amendments to the DDA Charter. As directed by the House Committee on Local Government and Veterans’ Affairs, the charter language was updated to eliminate incorrect references, mostly in the provisions for levying

¹ Edward M. Chase, memorandum to Rep. Harper, 2/18/03.

and collecting ad valorem taxes, to make the charter consistent with the requirements of state law and current practice.

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's determination or declaratory statement regarding the status of the district.

C. SECTION DIRECTORY:

Section 1. Provides for a codification of special acts relating to the West Palm Beach Downtown Development Authority pursuant to s. 189.429, F.S.

Section 2. Amends, codifies, reenacts, and repeals chs. 67-2170, 77-664, 83-534, 84-540, 90-460, and 93-381, L.O.F.

Section 3. Recreates and reenacts the charter for the West Palm Beach Downtown Development Authority.

Section 1. Preserves the short title.

Section 2. Preserves existing definitions.

Section 3. Preserves the existing district boundary.

Section 4. Preserves the provisions relating to the composition and membership of the Authority board.

Section 5. Preserves the establishment of bylaws, rules and internal governance.

Section 6. Preserves the functions of the Authority.

Section 7. Preserves the Authority's powers.

Section 8. Preserves the Authority the levy of ad valorem taxes; includes technical changes to reference the property appraiser instead of the City tax collector and the tax collector instead; changes the provision for the payment by the tax collector from the City to the DDA; updates the process for setting millage to comply with existing law.

Section 9. Preserves the Authority records and fiscal management.

Section 10. Preserves the tax exemption of the Authority property.

Section 11. Preserves the issuance of revenues certificates.

Section 12. Preserves the transfer upon cessation of the Authority.

Section 13. Preserves the cumulative effect of the provisions of the charter with those of existing law, particularly chs. 670 through 680, F.S., the Uniform Commercial Code, regarding the issuance of certificates and bonds; corrects statutory citations.

Section 14. Creates provisions to comply with the minimum requirements for special acts creating independent special districts in conformance with s. 189.404(3), F.S.

Section 15. Preserves liberal construction and severability.

Section 4. Provides duplication of language found in s. 13 of the charter to provide for the cumulative effect of the provisions of the act with those of existing law, particularly chs. 670 through 680, F.S., the Uniform Commercial Code, regarding the issuance of certificates and bonds; corrects statutory citations.

Section 5. Provides for liberal construction of the provisions of the act; provides supremacy language; provides for severability.

Section 6. Repeals chs. 67-2170, 77-664, 83-534, 84-540, 90-460, and 93-381, L.O.F.

Section 7. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 29, 2003.

WHERE?

The Palm Beach Post, a daily newspaper of general circulation in Palm Beach County.

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:

None.

B. RULE-MAKING AUTHORITY:

The District Authority has rulemaking authority pursuant to s. 5 of the charter.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There appears to be duplicative language in s. 13 of the charter, as contained in s. 3 of the bill, that is unnecessarily repeated in s. 4 of the bill.

Other Comments

Supremacy Clause

Many local bills contain language providing that in the event of a conflict of the provisions of the local bill with the provisions of any other general or local law, the provisions of the act being considered controls to the extent of the conflict(s). This is referred to as a "supremacy" clause. This language does not allow interested persons or Members of the Legislature knowledge of the specific laws containing potential conflicts. Unless those specific laws in conflict are identified, it is suggested that the "supremacy" clause be removed from the bill.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Local Affairs Subcommittee, at its meeting on April 2, 2003, recommended approval of one technical amendment to remove duplicative and supremacy language from the bill as filed.