

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1857 (PCB LGV 03-04) Panama City Port Authority
SPONSOR(S): Local Government & Veterans' Affairs
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>17 Y, 0 N</u>	<u>Highsmith-Smith</u>	<u>Highsmith-Smith</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill codifies all prior special acts relating to the Panama City Port Authority (Authority), a dependent special district, in Bay County into a single act and repeals all prior special acts relating to the Authority's charter. The bill makes other changes that do not appear to alter the effect of existing law pertaining to the Authority.

No fiscal impacts to the Authority or the City of Panama City's budget are anticipated for either fiscal year 2002-03 or 2003-04 according to the Economic Impact Statement.

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 constitutes the codification of all special acts relating to the Panama City Port Authority, a dependent district. The bill makes technical and clarifying changes to the charter that do not appear to alter the effect of existing law pertaining to the Authority.

The district was created by chapters 17643 (1935) which has been amended six times since its creation. The district is an agency of the City of Panama City, Florida. Prior to the rewrite of chapter 189, Florida Statutes, the Legislature, as well as local governments, could create both dependent and independent special districts. Currently, chapter 189, Florida Statutes, the Uniform Special District Accountability Act, authorizes local governments to create dependent districts and the Legislature reserves, for itself, the creation of independent special districts.

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.

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. Constitutes the codification of all special acts relating to the Panama City Port Authority, a dependent special district; provides Legislative intent; preserves all District authority.

Section 2. Codifies, reenacts, amends, and repeals all prior acts relating to the Authority.

Section 3. The charter for the Panama City Port Authority is re-created and reenacted to read:

Section 1. Creates the district as a body corporate; names the district the Panama City Port Authority; preserves current power of the Authority to sue and be sued; declares the Authority an agency of the City of Panama City (City); preserves the ability of the Authority to own and acquire property in Bay County or within 10 miles of the City, whichever is greater.

Section 2. Provides that membership of the be appointed by the Panama City Commissioners, consisting of five members; provides terms to be designated from one to five years and thereafter, all terms are for four years from the expiration of the previous term; provides vacancies for unexpired terms to be filled by the City Commissioners; provides all members of the Authority serve at the pleasure of the City Commission; prohibits members of the governing board of the Authority from being an officer or employee of the City, Bay County, or the state; provides Bay County residency a requisite for membership; prohibits more than two members who are primarily engaged in maritime industry from serving; provides definition of "maritime industry"; provides members are to select their own chairperson who shall serve for two years from the date of selection; prohibits compensation of members for services; and provides three members constitute a quorum.

Section 3. Permits Authority to hire executive director, attorney, secretary and other employees, permanent or temporary, as required; and excludes employees coverage under the City's Civil Service laws.

Section 4. Maintains language authorizing the Authority to own, acquire by several means, port terminal facilities, including associated marine structures and facilities, industrial parks, manufacturing plants and other structures or improvements deemed convenient or appropriate; and prohibits the exercise of eminent domain power by the Authority without prior approval of the City Commission.

Section 5. Maintains authority to enter into contracts with individuals, corporations and governmental agencies regarding all properties and structures owned, operated, or leased by the Authority necessary to manage the affairs of the Authority.

Section 6. Maintains ability of the Authority to borrow money, within its budget, give notes and evidences of indebtedness; when authorized by the City, the Authority may raise money by issuing and selling revenue bonds or certificates of indebtedness in amounts and at interest rates determined to be in the best interest of the Authority, payable solely from all or part of the income, rents and revenues of property or facilities owned by the Authority.

Section 7. Maintains language prohibiting the Authority from obligating the City, directly or indirectly; maintains language eliminating City liability or responsibility for debts, obligations or liabilities of the Authority, its officers or employees; and provides that all persons dealing with the Authority should be on notice of this provision.

Section 8. Maintains that Authority must submit, on or before August 1 each year, its proposed annual budget to the City Commission for the Commission's approval; must provide an audit of its affairs for the preceding year prepared by a certified public accountant in a form authorized by law; and limits expenditures of Authority funds to approved budget.

Section 9. Provides for severability.

Section 10. Provides for liberal construction of the act and that the act be construed as remedial.

Section 4. Repeals chapters 17643 (1935), 23466 (1945), chapter 57-1704, 69-1442, 79-545, 84-389, and 85-380, Laws of Florida.

Section 5. Provides effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 5, 2003

WHERE? Florida Freedom Newspapers, Inc., Panama City, Bay 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:

Although chapter 65-2072, Laws of Florida, relates to the Panama City Port Authority, that act amends the charter for the City of Panama City and is not subject to inclusion in the Authority's charter codification.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

Not Applicable.