

By Senator Posey

24-1141-03

See HB

1                                   A bill to be entitled  
2           An act relating to Indian River and Brevard  
3           Counties; codifying, amending, and reenacting  
4           special acts relating to the Sebastian Inlet  
5           Tax District; providing for a governing body;  
6           providing powers and duties; providing for  
7           construction and maintenance of an inlet  
8           between the Indian River and the Atlantic  
9           Ocean; authorizing the levy of taxes; providing  
10          severability; providing applicability;  
11          repealing chapters 7976 (1919), 8901 (1921),  
12          12259 (1927), 18138 (1937), 18139 (1937), 22891  
13          (1945), 63-910, 76-329, 78-470, 82-307, and  
14          88-535, Laws of Florida; providing an effective  
15          date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Pursuant to section 189.429, Florida  
20 Statutes, this act constitutes the codification of all special  
21 acts relating to the Sebastian Inlet Tax District, also known  
22 as the Sebastian Inlet District. It is the intent of the  
23 Legislature in enacting this law to provide a single,  
24 comprehensive special act charter for the district, including  
25 all current legislative authority granted to the district by  
26 its several legislative enactments and any additional  
27 authority granted by this act.

28           Section 2. Chapters 7976 (1919), 8901 (1921), 12259  
29 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910,  
30 76-329, 78-470, 82-307, and 88-535, Laws of Florida, are  
31 codified, reenacted, amended, and repealed as herein provided.

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

4           Section 1. A special taxing district is hereby created  
5 to be known as the Sebastian Inlet Tax District, to consist so  
6 much of Brevard and Indian River Counties, Florida as is  
7 described and embraced in the following boundaries, to-wit:

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9           All of the Third Commissioner's District of  
10 Brevard County and that part of the Fourth  
11 Commissioner's district of Brevard County,  
12 Florida, bounded on the north by the township  
13 line between Township Twenty-five (25), and  
14 Township Twenty-six (26) and all of that part  
15 of Indian River County, Florida, which  
16 comprised and made up the First Commissioner's  
17 District of Saint Lucie County, Florida, as  
18 located and established upon the passage of  
19 Chapter 7976, Laws of Florida, Special Acts of  
20 1919 aforesaid.

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22           Section 2. A governing body of said Sebastian Inlet  
23 Tax District, to be known and designated as the "Board of  
24 Commissioners of Sebastian Inlet Tax District," shall be  
25 composed of five members, who shall have been and shall be  
26 elected as provided by law. Said governing body shall have all  
27 the powers of a body corporate, including the power to sue and  
28 be sued as a corporation in said name in any court; to  
29 contract; to adopt and use a common seal and alter the same at  
30 pleasure; to purchase or otherwise acquire, own, hold, lease,  
31 sell, mortgage, and convey or otherwise dispose of such real

1 estate and personal property as said Board may deem proper to  
2 carry out the purposes of this act; to appoint during its  
3 pleasure a Chief Engineer, a Consulting Engineer, and such  
4 agents and employees as said Board may require or deem  
5 advisable; and to borrow money and to issue negotiable  
6 promissory notes or bonds therefor to enable it to carry out  
7 the provisions of this act.

8 Section 3. (a) Members of the Board shall be elected  
9 at the general election held in November of each even-numbered  
10 year. The terms of office of such Board members shall be for 4  
11 years and until their successors are duly elected and  
12 qualified. Each member shall be a qualified elector and  
13 resident within the District; however, three members, or a  
14 majority, of the Board shall reside in the county within the  
15 District' s boundaries with the larger population. Two members  
16 shall reside in the other county. All candidates for office  
17 shall stand for election in all precincts of the District.

18 1. The terms of the Board members shall be staggered,  
19 with three Board members standing for election in one general  
20 election for a 4-year term, and two Board members shall be  
21 elected 2 years later at the general election for a 4-year  
22 term.

23 2. Newly elected Board members shall take office at  
24 the next regularly scheduled meeting of the Board, or, if that  
25 meeting is not planned within 30 days after the election, then  
26 a special meeting shall be called for the purpose of seating  
27 the new members of the Board and providing them with an  
28 orientation.

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

3 1. Any candidate for membership on the Board shall  
4 qualify as provided by law. The ballots shall be in the form  
5 for general elections as provided by law.

6 2. The election officials of each voting district or  
7 precinct within the Sebastian Inlet Tax District shall conduct  
8 the election of the members of the Board of Commissioners of  
9 the District at the time of conducting such general election.  
10 Each voter who is qualified to vote in each such general  
11 election in the respective election districts or precincts  
12 situated within the boundaries of the Sebastian Inlet Tax  
13 District and who resides within the boundaries of such  
14 District shall be entitled to cast a ballot for the election  
15 of members of the Board of Commissioners of said Sebastian  
16 Inlet Tax District.

17 3. Upon the closing of the polls in each election  
18 district or precinct, the officials conducting such elections  
19 shall tally the votes cast for members of the Board of  
20 Commissioners of the Sebastian Inlet Tax District. The vote  
21 shall be canvassed in the manner provided by general law.

22 (c) Before he or she assumes office, each Board member  
23 shall be required to give to the Sebastian Inlet Tax District  
24 a good and sufficient surety bond in the sum of \$2,000  
25 conditioned for the faithful performance of the duties of his  
26 or her office and said bond to be approved by and filed with  
27 the Clerk of the Circuit Court of Brevard County. Said bond  
28 shall be recorded in the minutes of said Board of  
29 Commissioners of said Sebastian Inlet Tax District. The  
30 failure of any person so elected as a member of the Board of  
31 Commissioners of the Sebastian Inlet Tax District to give such

1 bond within 30 days after his or her election as such shall  
2 create a vacancy as to such Board member. In such event or in  
3 the event of any vacancy on said Board of Commissioners of the  
4 Sebastian Inlet Tax District, whether by resignation, death,  
5 removal from the District, or otherwise, within 30 days after  
6 the existence of such vacancy, the Governor of the State of  
7 Florida shall appoint a Board member as provided by law to  
8 fill such vacancy, who shall serve for the remainder of such  
9 expired term and who shall give bond as hereinbefore provided.

10 (d) All meetings shall be open to the public. The  
11 Board shall conduct all meetings in accordance with chapter  
12 286, Florida Statutes. In addition, notice of the meetings  
13 shall be sent to the news media at least 7 days in advance,  
14 stating the time, date, location, and purpose of the meeting.  
15 A majority of the members may convene in special session when  
16 called by a majority of the members or the chair. Actions  
17 taken at special meetings shall have the same force and effect  
18 as if taken at a regular meeting. Two days' written notice of  
19 the time and purpose of a special meeting shall be given to  
20 all members and the news media. The minutes of the meeting  
21 shall set forth the facts regarding the procedure in calling  
22 the meeting and the reason therefor and shall be signed either  
23 by the chair or by a majority of the members. Upon due public  
24 notice, regular or special meetings of the Board shall be held  
25 at any appropriate public place in the District which is  
26 readily accessible to the general public; however, at least 50  
27 percent of the number of meetings of the Board held each year  
28 shall be held in Indian River County.

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

1           (f) All purchasing and bidding shall be in accordance  
2 with the procedures used by the Brevard County Board of  
3 Commissioners.

4           Section 4. As soon as practicable after this act  
5 becomes a law, the Board holding over or after they have been  
6 duly elected or appointed and have qualified, they shall meet  
7 and organized by the election, from among their number, of a  
8 chair, a vice-chair, a secretary/treasurer. Three members of  
9 the Board shall constitute a quorum. The affirmative vote of  
10 two members shall be necessary to transact business. The chair  
11 and all members of the said Board present shall vote at  
12 meetings of the Board as provided by law.

13           Section 5. The members of the Board shall each receive  
14 the sum of \$3,600 per year commencing October 1, 2003. The  
15 salary shall be paid in monthly installments as compensation  
16 for serving on the Board, but Board members shall not be  
17 reimbursed for any travel expenses inside the boundaries of  
18 the District. The members of the Board shall be reimbursed  
19 for per diem and travel expenses outside the boundaries of the  
20 District in accordance with the law.

21  
22 The members of the Board shall set their own compensation for  
23 each fiscal year commencing October 1, 2004, provided the  
24 Board shall not increase its members' compensation for any  
25 fiscal year by a percentage greater than the percentage the  
26 Consumer Price Index for Urban Wage Earners and Clerical  
27 Workers (CPI-W) increased from the date of the commencement of  
28 the fiscal year when the Board members last received an  
29 increase in their compensation. In the event the U.S.  
30 Department of Labor no longer publishes the Consumer Price  
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1 Index, the Board must use a similar published standard to set  
2 any increase in its compensation.

3 Section 6. It shall be the duty of said Board of  
4 Commissioners of Sebastian Inlet Tax District to construct,  
5 improve, widen or deepen, and maintain the inlet between the  
6 Indian River and the Atlantic Ocean. With character, manner of  
7 construction of said inlet shall be determined by said Board  
8 of Commissioners with the approval and recommendation of the  
9 Chief Engineer, and said Board is further authorized to do all  
10 acts and things proper, necessary, or convenient for the  
11 aforsaid purposes. The opening and maintenance of such inlet  
12 or waterway connecting the waters of the Atlantic Ocean with  
13 the waters of the Indian River within the Sebastian Inlet Tax  
14 District are hereby found and declared to be for public  
15 purposes and to be necessary for the use of shipping and for  
16 transportation and for the extension of commerce of the State  
17 of Florida and of said District, and also to be necessary for  
18 the maintenance of the health of the inhabitants of the  
19 territory embraced in the said District and for the  
20 convenience, comfort, and welfare of the said District and the  
21 inhabitants thereof. The District is authorized to conduct  
22 such programs and projects as it finds necessary or convenient  
23 for beach renourishment, erosion control, environmental  
24 protection, navigation, boating, recreation, and public safety  
25 for the operation and maintenance of the inlet and the waters  
26 of the Atlantic Ocean and Indian River Lagoon adjacent  
27 thereto.

28 Section 7. The Board shall elect a Chief Engineer. The  
29 depth, width, character, and manner of improvement and  
30 construction of said inlet or waterway shall be determined by  
31 said Board upon the approval and recommendation of the Chief

1 Engineer of the Board. The Board, in setting the depth of the  
2 inlet, shall consider the impact on navigation from the  
3 Intracoastal Waterway to the Atlantic Ocean.

4 Section 8. The said Board shall have the power and  
5 authority to hold, control, and acquire by gift or purchase,  
6 for the use of the District, any real or personal property and  
7 to condemn any lands or easements needed for the purposes of  
8 the District. Said Board is authorized to exercise the right  
9 of eminent domain and institute and maintain condemnation  
10 proceedings as prescribed by the laws of Florida.

11 Section 9. The Board of Commissioners of Sebastian  
12 Inlet Tax District is hereby authorized and empowered to levy  
13 upon all of the real and personal taxable property in said  
14 District a special tax not exceeding 1 1/2 mills on the dollar  
15 for the year 1977, and for each and every year thereafter, to  
16 be used solely for the purpose authorized and prescribed by  
17 this act. Said levy shall be made each year, not later than  
18 September 30 of each year by resolution of the Board, or a  
19 majority thereof, duly entered at large upon its minutes.  
20 Certified copies of such resolution executed in the name of  
21 the Board by its chair and secretary and under its corporate  
22 seal shall be made and delivered to the Board of County  
23 Commissioners of Indian River County, to the Board of County  
24 Commissioners of Brevard County, and to the Chief Financial  
25 Officer of the State of Florida not later than September 30 of  
26 each and every year thereafter. It shall be the duty of the  
27 Board of County Commissioners of Indian River County and the  
28 Board of County Commissioners of Brevard County to order the  
29 assessment and collection of taxes levied by the Board of  
30 Commissioners of the District within the respective counties  
31 in the manner provided by law for regular property taxes in



1 the county. Proceeds of such taxes shall be paid within the  
2 time and in the manner prescribed by law to the treasurer of  
3 the Board. All such taxes shall be held by the treasurer for  
4 the credit of the Board and paid out by him or her as provided  
5 herein.

6 Section 10. Said Board is hereby authorized and  
7 empowered, in order to provide for the work prescribed by this  
8 act and to pay the expenses incident to all such work or any  
9 other expense necessary in carrying out the general purposes  
10 of this act, to borrow money, temporarily, from time to time  
11 for a period of time not exceeding 2 years at any one time,  
12 and to issue its promissory notes therefor upon such terms and  
13 at such rates of interest as said Board may deem advisable.  
14 Any note so made and issued may be paid out of the proceeds of  
15 the bonds authorized to be issued by this act or out of any  
16 other revenues or funds of said Board, and said notes shall be  
17 a charge upon all of the revenue and property of said Board.  
18 In case of an injury by storm or otherwise to any of the works  
19 of this District, thereby causing an emergency which must be  
20 met at once in order to protect or reconstruct such works,  
21 said Board is authorized to borrow money under the terms  
22 prescribed above in order to meet such emergency.

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

29 Section 12. It shall be the duty of the Board of  
30 Commissioners of Sebastian Inlet Tax District to use every  
31 reasonable means to maintain, protect, and preserve any and

1 all of the works constructed by said Board, and for such  
2 purposes the said Board is authorized to use funds derived  
3 from taxes assessed and collected for Sebastian Inlet Tax  
4 District.

5 Section 13. Whoever shall willfully damage any ditch,  
6 canal, levee, inlet, waterway, jetty, or other work  
7 established or constructed under this act or who shall fill in  
8 or obstruct the flow of water in any inlet, canal, or  
9 waterway, or remove any earth, stone, or other material from  
10 the banks of any canal, inlet, waterway, revetment, or ditch  
11 without having first obtained permission in writing from said  
12 Board to remove such material, shall be deemed guilty of a  
13 misdemeanor, and upon conviction thereof, shall be fined not  
14 exceeding \$1,000 or imprisoned in the county jail not longer  
15 than 6 months, or both such fine and imprisonment, in the  
16 discretion of the Court.

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

22 Section 15. The Chief Engineer, any Consulting  
23 Engineer, and any agent or employee of the Board of  
24 Commissioners or District may be removed at any time by the  
25 Board.

26 Section 16. All work performed and materials furnished  
27 for the construction of said inlet and for the maintenance of  
28 said inlet shall be let by contract in accordance with the  
29 general laws of the State of Florida governing acquisition of  
30 professional engineering services, the purchase of  
31 commodities, and the construction and maintenance of public

1 works. The Board shall have the right to reject any and all  
2 bids. Each contractor shall be required to give a surety bond  
3 in form and amount to be approved by the Board, with a  
4 responsible surety company thereon as surety. The Board,  
5 however, as a public authority, is authorized to exempt any  
6 person entering into a contract with the District for the  
7 construction of any buildings or public works, or for the  
8 repair of any buildings or public works, from the requirements  
9 for payment, performance, and surety bonds in the manner and  
10 the amounts which are authorized by law for other public  
11 authorities to exempt their contractors from bond  
12 requirements.

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

17 (a) The Board shall obtain at least three telephone  
18 bid offers to perform such work or furnish such property from  
19 at least three independent persons or business entities  
20 responsible in the subject business endeavor under  
21 consideration; and

22 (b) The Board shall make a record of the  
23 offers. After obtaining and recording such offers, the Board,  
24 with at least three of five members concurring, shall award  
25 the contract to the lowest responsible bidder of those  
26 solicited. The Board shall then notify all local news media  
27 which commonly cover the area within the District of the type  
28 and nature of the emergency and what actions the Board has  
29 taken to rectify the emergency.

30 Section 17. The Board is authorized to vacate any  
31 easement or transfer fee simple interest in any real property

1 which it holds to any unit of local, state, or federal  
2 government. Prior to such vacation or transfer, the Board  
3 shall conduct a public hearing and determine if it is in the  
4 public interest to authorize the vacation or transfer. At such  
5 hearing, the Board shall consider what effect, if any, the  
6 vacation or transfer shall have on public access to the inlet  
7 for fishing and recreation purposes and what action best  
8 serves the public health, safety, and welfare.

9           Section 4. Except as otherwise provided in this act,  
10 in the event of a conflict of any provision of this act with  
11 provisions of any other act, the provisions of this act shall  
12 control to the extent of the conflict.

13           Section 5. Chapters 7976 (1919), 8901 (1921), 12259  
14 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910,  
15 76-329, 78-470, 82-307, and 88-535, Laws of Florida, are  
16 repealed.

17           Section 6. This act shall take effect upon becoming a  
18 law.

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