

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 731 Parkland Estates Subdivision/Tampa
SPONSOR(S): Culp
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill amends an existing special act to authorize the City of Tampa to apply and enforce its Zoning Code in a private residential area which was previously not subject to that code by virtue of an existing special act.

According to the Economic Impact Statement, there do not appear to be any impacts to state or local budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | N/A <input 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:

1. The bill proposes the involvement of the City of Tampa in zoning matters in an area not previously included in the city’s zoning processes.
2. The bill proposes that individuals participate in the City of Tampa zoning process in an area that had not previously been effected by that process.

B. EFFECT OF PROPOSED CHANGES:

This bill amends an existing special act to authorize the City of Tampa to apply and enforce its Zoning Code in a private residential area which was previously not subject to that code by virtue of an existing special act.

The bill amends the preamble to, and ss. 1 and 2 of, ch. 29129 (1953), L.O.F., a current special act. This act relates to zoning restrictions in a private residential area known as Parkland Estates Subdivision, located in the City of Tampa, Hillsborough County. Additionally, the preamble is amended to include a legislative finding that the provisions of ch. 29126 (1953), L.O.F., are insufficient for enforcement purposes and that a collaborative effort is necessary between the city and the subdivision residents.

The bill provides for side setbacks and the permitting of encroachments of side setbacks in accordance with the City of Tampa’s Zoning Code, exclusive of side setback variances for the main dwelling or structure.

The bill repeals specific sections of the existing special act, creates a new section and renumbers one section. The new sections provide a number of benefits and authorities. Residential structures in existence prior to December 31, 2002, and certain other structures are afforded a grandfathered status. The City of Tampa is authorized to initiate area rezoning, and to apply and enforce the provisions of this act and the City’s Zoning Code. Additionally, the Parkland Estates Civic Club, Inc., is afforded concurrent enforcement authority with the City of Tampa.

Background

Chapter 29129 (1953), L.O.F., governing zoning in Parkland Estates is the last such surviving enactment within the City of Tampa which placed zoning in the hands of the Legislature instead of the City of Tampa. Six other similar special acts have been repealed. The existing special act is written in the format of a resolution and is archaic with many undefined terms.¹

¹ Staff Analysis, Office of the Hillsborough County Legislative Delegation, 1/30/03.

Similar legislation was sought in the 2001 Session, but was withdrawn from consideration after several neighbors came forward to say that they had not received notice of the bill.²

C. SECTION DIRECTORY:

Section 1. Amends the preamble and ss. 1 and 2, of an existing special act, ch. 29129 (1953), L.O.F. The act authorizes the City of Tampa to apply and enforce its Zoning Code in a private residential area previous not subject to those provisions.

Section 2. Repeals present ss. 3, 4, 5, and 6, ch. 29126 (1953), L.O.F.; adds new ss. 4, 5, 6 and 7; renumbers present s. 7.

Section 3. Provides for specific lots to be used for church purposes; provides for the permitting and approval of church buildings and other improvements.

Section 4. Provides for severability.

Section 5. Provides for specific repeal of s. 9, ch. 29126 (1953), L.O.F.

Section 6. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 4, 2003.

WHERE?

The Tampa Tribune, a daily newspaper of general circulation in Hillsborough 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

² *Id.*

There do not appear to be any technical drafting issues.

Other Comments

According to an analysis prepared by staff of the Office of the Hillsborough County Legislative Delegation³ the bill modernizes the language of a 1953 special act which provided that zoning in Parkland Estates would be controlled by the Legislature. It mandates the City of Tampa to rezone the subdivision consistent with the bill and city zoning provisions.

According to the analysis from the Legislative Delegation, in addition to the municipal home rule issue, another possible concern is a potential cause of action which may arise from the Bert J. Harris, Jr., Private Property Rights Protection Act (Bert J. Harris Act). According to the provisions of the Bert J. Harris Act, any "property owner" may file an action against a governmental entity (after meeting specific filing requirements) claiming "inordinate burden." The concern raised in the analysis is for potential liability to ultimately be borne by the state as the "zoning" body for this subdivision.

Finally, the delegation analysis notes a concern regarding ss. 3 and 4 of the bill and the burden created for homeowners to document building configurations which were in effect in 1953.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.

³ Staff Analysis, Office of the Hillsborough County Legislative Delegation, 1/30/03.