

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1159 w/CS Tallahassee-Leon County Civic Center
SPONSOR(S): Ausley
TIED BILLS: **IDEN./SIM. BILLS:** SB 2352

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>20 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Tallahassee-Leon County Civic Center Authority (Authority) is an independent special district that was created by chapter 72-605, Laws of Florida, and which has been amended by subsequent special acts.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill deletes outdated language and organizes previously authorized powers of the Authority. The bill also makes minor, stylistic changes to some of the language of the charter.

The bill contains provisions of this bill which do not simply codify existing law, but amend the charter of the Authority, including:

- changing the board of the authority to be 13 members: 7 appointed by Florida State University, 2 appointed by Florida Agricultural & Mechanical University, 2 appointed by the Mayor of the City of Tallahassee, and 2 appointed by the Chair of the Leon County Board of County Commissioners;
- allowing the provision of food and beverage, parking, and other concessions “through contract or in-house service;”
- assuring the City of Tallahassee and Leon County of the option to locate a community performing arts center at the Tallahassee-Leon County Civic Center complex and requiring consultation by the Authority regarding any location at the complex and providing for a final decision regarding the location of the performing arts center no later than June 30, 2005;
- allowing subsequent facilities to be designated for other individuals; and
- changing the special beverage license to require its issuance to the Authority and to allow for off-premises consumption for events sponsored through the Authority.¹

¹ Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

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:

The Tallahassee-Leon County Civic Center Authority (Authority) is an independent special district that was created by chapter 72-605, Laws of Florida, and which has been amended by subsequent special acts.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill deletes outdated language and organizes previously authorized powers of the Authority. The bill also makes minor, stylistic changes to some of the language of the charter.

Changes to the Charter

There are, however, provisions of this bill which do not simply codify existing law, but amend the charter of the Authority:

- provides revised intent language related to the Authority;
- changes the board of the authority to be 13 members: 7 appointed by Florida State University, 2 appointed by Florida Agricultural & Mechanical University, 2 appointed by the Mayor of the City of Tallahassee, and 2 appointed by the Chair of the Leon County Board of County Commissioners;
- provides four year terms that are initially staggered;
- permits the Authority to elect one of its members as vice-chair and one member as secretary-treasurer in addition to currently electing one member as chair, but requires the chair to be elected from one of the appointments from Florida State University;
- deletes provisions related to the Tallahassee-Leon County Planning Department in making the comprehensive, long-range master plan;
- allows the provision of food and beverage, parking, and other concessions “through contract or in-house service;”
- eliminates the power of the Authority to have and exercise the right and sovereign power of eminent domain and to do all acts or things necessary or proper to carry out the powers expressly granted;
- permits the Authority to provide use of the facility for graduation ceremonies;

- provides for the Authority to continue to be service to the community, community users, including, but not limited to, the university community, civic associations, and other not-for-profit groups within the service district;
- assures the City of Tallahassee and Leon County of the option to locate a community performing arts center at the Tallahassee-Leon County Civic Center complex and requires consultation by the Authority regarding any location at the complex;
- provides for a final decision regarding the location of the performing arts center no later than June 30, 2005;
- requires governance by the community if a community performing arts center is located at the Tallahassee-Leon County Civic Center;
- declares the Authority a local public agency, politic and corporate primarily acting as an instrumentality or agency of the state, pursuant to section 768.28(2), Florida Statutes, for purposes of sovereign immunity;
- allows subsequent facilities located within, on site or as part the greater complex to be designated for other individuals who are deemed by the authority to have made substantial contribution to the further development of the facility; and
- changes the special beverage license to require its issuance to the Authority and to allow for off-premises consumption for events sponsored through the Authority.

Charter of Authority

In recreating and reenacting the charter for the Authority, the bill provides:

Section 1:² Sets forth the purpose of the Authority: planning, developing, operating, and maintaining a comprehensive complex of civic, governmental, educational, recreational, convention, and entertainment facilities for the use and enjoyment of the citizens of Leon County and the state; provides a legislative finding that its purposes are essential public purposes.

Section 2:³ Changes the number of members of the Authority from eleven (11) to thirteen (13) and reconstitutes the Authority to include: 7 appointed by Florida State University, 2 appointed by Florida Agricultural & Mechanical University, 2 appointed by the Mayor of the City of Tallahassee, and 2 appointed by the Chair of the Leon County Board of County Commissioners.

Permits the appropriate body to appoint a successor for the unexpired term upon the death or resignation of any member of the authority.

Prohibits any compensation for their duties except for actual expenses necessarily incurred in the performance of their duties.

Allows each member to serve until his or her successor shall be appointed.

² See ch. 72-605, Laws of Fla. § 1.

³ See *generally* ch. 79-502, Laws of Fla. § 1.

Makes a majority of the members of the authority constitute a quorum and provides that a vacancy in the authority shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the authority.

Expands the power of the Authority to elect one of its members as chair to include the power to elect one as vice chair, and one as secretary-treasurer.

Section 3:⁴ Defines words and terms: city; county; authority; Civic, governmental, educational, recreational, convention, and entertainment facilities; and cost.

Section 4:⁵ Authorizes and empowers the Authority:

- (1) to sue and be sued;
- (2) to contract;
- (3) to adopt bylaws for the regulation of its affairs and the conduct of its business;
- (4) to adopt an official seal;
- (5) to purchase, acquire, develop, construct, improve, relocate, equip, maintain, and operate any auditorium, stadium, coliseum, or other similar facility, including motor vehicle parking therefor, which may be used in conjunction with the facility;
- (6) to make a comprehensive, long-range master plan for the overall orderly development of a civic center complex, to develop detailed plans for specific facilities within the aforesaid master plan in close coordination with the Tallahassee-Leon County Planning Department, and to obtain necessary feasibility and other reports and studies by and through the Tallahassee-Leon County Planning Department;
- (7) to acquire by grant, purchase, lease, gift, devise, or condemnation all property, real or personal, or any estate, easement, franchise, or interest therein necessary, desirable, or convenient for the purposes of this act, which land shall be adjacent and contiguous to the civic center complex; to sell, lease, rent, transfer, or otherwise dispose of any property or any part thereof or interest therein; and to exercise all of its powers and authority with respect thereto;
- (8) to borrow money and issue negotiable bonds, and to provide for the rights of the holders thereof, and to secure the payment of said bonds by a pledge of all or any portion of the revenues and other moneys legally available therefor, and, in general, to provide for the security of the bonds and the rights and remedies of the holders thereof;
- (9) to fix and collect rates, rentals, fees, and charges for the use of any and all facilities owned by the authority, including, but not limited to, recreational, convention, entertainment, and parking facilities⁶ of the authority;
- (10) to contract for the operation of food and beverage, parking, and other concessions relating to the operation of the recreational, convention, and entertainment facilities of the authority;
- (11) to make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of the duties imposed and the execution of the powers granted under this act and to employ such consulting services, engineers, superintendents, managers, construction and financial experts and attorneys, and such employees and

⁴ See ch. 72-605, Laws of Fla. § 3.

⁵ See ch. 72-605, Laws of Fla. § 4.

⁶ "Parking facilities" is an addition to the permissible list of rates, rentals, fees, and charges that the Authority may fix or collect for the use of the facilities owned by the Authority.

- agents as may, in the judgment of the authority, be deemed necessary and fix their compensation;
- (12) to cooperate with and contract with the government of the United States or the state, or any agency or instrumentality of either thereof, or with any municipality, district, private corporation, copartnership, association, or individual in carrying out the powers granted in this act;
 - (13) to accept gifts of money or property, real or personal, from any individual or the federal, state, county, or municipal government;
 - (14) permits the Authority to provide use of the facility for graduation ceremonies;
 - (15) provides for the Authority to continue to be service to the community, community users, including, but not limited to, the university community, civic associations, and other not-for-profit groups within the service district; assures the City of Tallahassee and Leon County of the option to locate a community performing arts center at the Tallahassee-Leon County Civic Center complex and requires consultation by the Authority regarding any location at the complex; provides for a final decision regarding the location of the performing arts center no later than June 30, 2005; requires governance by the community if a community performing arts center is located at the Tallahassee-Leon County Civic Center; and
 - (16) declares the Authority a local public agency, politic and corporate primarily acting as an instrumentality or agency of the state, pursuant to section 768.28(2), Florida Statutes, for purposes of sovereign immunity;

Section 5:⁷

Permits the Authority to issue bonds; requires bonds to be authorized by resolution of the members of the Authority; provides for the dating, maturation, limit (40 years), and rate of interest of the bonds; allows payment solely from all revenues and income of the authority, including the receipts from lease rentals and appropriations from the United States, the state, or any political subdivision; entitles the Authority to such priorities of lien on the revenues and other available moneys; authorizes the bonds to be executed either by manual or facsimile signature by such officers as the authority determines; requires bonds to have the seal of the authority affixed or imprinted thereon; provides for the bonds to be sold at public or private sale and upon such terms and conditions as the Authority deems in the best public interest.

Allows the Authority to enter into any deeds of trust, indentures, or other agreements. Sets forth the provisions which may be included:

- (1) the pledging of all or any part of the revenues or other moneys lawfully available therefore;
- (2) the application of funds and the safeguarding of funds on hand or on deposit;
- (3) the rights and remedies of the trustees and the holders of the bonds;
- (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same; and
- (5) any other or additional matters of like or different character that in any way may affect the security or protection of the bonds.

Declares the bonds to be negotiable instruments and with all the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

⁷ See ch. 72-605, Laws of Fla. § 5.

- Section 6:⁸ Provides that the boundaries of the Authority are coexistent with the boundaries of Leon County.
- Section 7:⁹ Authorizes the Tallahassee-Leon County Civic Center to be named the “Donald L. Tucker Civic Center” in recognition of “the untiring and unselfish efforts of Donald L. Tucker in his years of service as a representative of the district encompassing Tallahassee and Leon County and in recognition and appreciation of the invaluable service he has provided to his constituency and to the state by his efforts in bringing about the construction of this *complex*.”
- Section 8:¹⁰ Permits the Authority to erect suitable markers reflecting the name of the civic center and authorizes subsequent facilities located within, on site or the greater complex to be designated for other individuals who are deemed by the Authority to have made a substantial contribution to the further development of the facility.
- Section 9:¹¹ Requires the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special license or special licenses to qualified applicants consisting of the Tallahassee-Leon County Civic Center Authority, or its designee, for use within the confines of the 20-acre civic center complex located within the City of Tallahassee and known as the Donald L. Tucker Civic Center; provides that this license only permits the licensee to sell alcoholic beverages for on premises consumption, or off-premises consumption for events sponsored through the civic center.
- Section 10:¹² Makes the provisions of the bill severable; provides that remaining provisions are not affected or impaired if any of the provisions of this act or any of the powers granted by this act are held unconstitutional by any court of competent jurisdiction.

C. SECTION DIRECTORY:

- Section 1: Provides that the bill constitutes the codification of all special acts relating to the Tallahassee-Leon County Civic Center Authority; sets forth legislative intent to provide a single, comprehensive special act charter for the authority; states that any additional powers are granted for the “betterment of the citizens of the City of Tallahassee, Leon County, and the university community;” provides additional intent to preserve selected powers while providing local authority and management services to Florida State University.
- Section 2: Codifies, reenacts, amends, and repeals chapters 72-605, 77-480, 79-502, and 81-494, Laws of Florida.
- Section 3: Recreates and reenacts the charter of the Authority.
- Section 4: Repeals chapters 72 605, 77 480, 79 502, and 81 494, Laws of Florida, are repealed.
- Section 5: Provides that the bill takes effect upon becoming a law.

⁸ See ch. 72-605, Laws of Fla. § 6.

⁹ See ch. 77-480, Laws of Fla. § 1.

¹⁰ See ch. 77-480, Laws of Fla. § 2.

¹¹ See ch. 81-494, Laws of Fla. § 1.

¹² See ch. 72-605, Laws of Fla. § 7.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in the Tallahassee Democrat on January 15, 2004.

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:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

The Authority is not specifically provided rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments – Governance of the Community Performing Arts Center

The provision which requires “governance by the community if a community performing arts center is located at the Tallahassee-Leon County Civic Center” is potentially problematic as it is not clear how this provision will work with the duties and powers of the Authority.

Other Comments – Changes to Special License to Sell Alcoholic Beverages

Chapter 81-494, Laws of Florida, authorized the Department of Business and Professional Regulation to issue a special license or special licenses to the Authority to sell alcoholic beverages for on-premises consumption within the confines of the 20-acre civic center complex.

This bill makes two significant changes to this power. First, the bill *requires* the Department of Business and Professional Regulation to issue the license. Second, the bill provides that the license is not only for on-premises consumption, but for off-premises consumption for events sponsored through the civic center.

These changes may act to create a number of exemptions from general law.¹³ As such, House Rule 5.5(b) provides that this bill may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

¹³ See Fla. Stat § 561.18 (2003) (requiring investigation prior to issuing a license); Fla. Stat. § 561.19 (2003) (providing for approval or disapproval based on investigation); Fla. Stat. § 561.20(2)(h) (2003) (allowing civic center authorities to be issued a license for consumption on the premises); and Fla. Stat. § 562.06 (2003) (requiring license applications to describe the location where the beverage is to be sold and prohibiting its sale except on the premises covered by the license).

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On March 31, 2004, the Committee on Local Government & Veterans' Affairs adopted a strike-everything amendment by Representative Ausley. The bill, as amended, was then reported favorably with committee substitute.