

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1647 w/CS Jacksonville Airport Authority
SPONSOR(S): D. Davis
TIED BILLS: **IDEN./SIM. BILLS:**

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) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Jacksonville Airport Authority owns and manages the Jacksonville Airport System, which is comprised of Jacksonville International Airport, Craig Airport, Herlong Airport and Cecil Field.

The functions of the Jacksonville Airport Authority were part of the Jacksonville Port Authority from 1968, when the aviation assets of the City of Jacksonville were transferred to the Jacksonville Port Authority, until 2001, when separate port authority and airport authorities were created by chapter 2001-319, Laws of Florida. The separate authorities were created, however, with the same governing charter.

This bill creates a separate charter for the Jacksonville Airport Authority and codifies, or reenacts, the provisions of chapter 2001-319 and all subsequent special acts.

There are also a number of provisions of this bill which do not appear to simply codify existing law, but amend the charter of the Jacksonville Airport Authority.

The bill deletes unnecessary language related to the Jacksonville Port Authority and also makes minor, stylistic changes to some of the language of the charter.

The bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1647b.lgv.doc
DATE: April 2, 2004

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 Jacksonville Airport Authority (JAA) owns and manages the Jacksonville Airport System, which is comprised of Jacksonville International Airport, Craig Airport, Herlong Airport and Cecil Field.¹

The functions of the JAA were part of the Jacksonville Port Authority² from 1968, when the aviation assets of the City of Jacksonville were transferred to the Jacksonville Port Authority,³ until 2001, when separate port authority and airport authorities were created by chapter 2001-319, Laws of Florida. The separate authorities were created, however, with the same governing charter.

This bill creates a separate charter for the JAA which codifies, or reenacts, the provisions of chapter 2001-319 and all subsequent special acts.

The bill deletes unnecessary language related to the Jacksonville Port Authority and 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 appear to simply codify existing law, but amend the charter of the JAA:

- Members of the JAA currently serve until their respective successor is appointed. The bill modifies this language to provide that “members shall continue to serve on the authority *until their death, resignation, removal*, or until their respective successors are appointed and *confirmed*.”⁴
- In defining “projects,” the bill permits the promotion and development of “airborne and airport activities” rather than just “airborne commerce.”⁵ The bill also adds “intermodal” to the types of terminals permitted for passengers.⁶
- The bill changes the definition of “cost” as applied to certain projects to add “cost” to “any obligation or expense incurred by the authority prior to the issuance of revenue bonds.”⁷

¹ Jacksonville Airport Auth. *About JAA*, at <http://www.jaxairports.org/about/index.asp> (last visited Mar. 19, 2004).

² See ch. 63-1447, Laws of Fla, as amended.

³ Jacksonville Port Auth., *About JAXPORT, History*, at <http://www.jaxport.com/about/history.cfm> (last visited Mar. 19, 2004).

⁴ See HB 1647 § 1, § 1(2) of the charter (2004).

⁵ See HB 1647 § 1, § 2(6) of the charter (2004).

⁶ *Id.*

- The bill also includes language which provides that the costs for certain projects includes, “without limitation,” engineering studies, estimates, or other technical, financial, or legal services in connection with the acquisition and construction of any project.⁸
- The bill includes any “legal entity” and “person” in the list of those with whom the JAA may contract.⁹
- The bill permits the JAA to enter into arrangements with intermodal carriers in addition to steamship lines, railroads, and common carriers.¹⁰
- The bill transforms a provision which previously included only port authority-related powers to permit the JAA to “construct, establish, improve, maintain, and/or manage (*directly or indirectly through management agreements, consulting agreements or other similar arrangements*) airports and related facilities within or outside the county,” subject to the jurisdiction of and any prohibitions of the United States and the State of Florida.
- The bill adds “intermodal carriers” to those with whom the JAA can enter into arrangements with or solicit.¹¹
- A limiting cross reference in the charter is removed as it relates to making and executing certain lease agreements.¹²
- The bill changes the application of provisions related to disposing of any real property that was acquired from either the city or county to provide that such was received “other than by purchase or swap” rather than “under the provisions of the act.”¹³
- Uses “airport property or facilities” to categorize the demonstrative list for which the JAA can grant exclusive or non-exclusive franchises to operate,¹⁴
- The ability of the JAA to do all acts or things necessary or proper as “an Industrial Development Authority under part III, chapter 159, Florida Statutes” is removed.¹⁵ The bill makes a corresponding change in the declaration of purposes.¹⁶
- The bill removes a reference to the United States Code for defining officers for the administration of criminal justice, includes a new reference to “general law,” and removes a provision under which the JAA assumed all civil responsibility for the actions of such officers and which required a necessary bond.¹⁷
- The bill removes a qualification for the use of general obligation bonds or revenue bonds as it relates to the cost of removing, relocating, or reconstructing buildings, structures, or facilities.¹⁸

⁷ See HB 1647 § 1, § 2(8) of the charter (2004).

⁸ *Id.*

⁹ See HB 1647 § 1, §§ 3(1) and 3(14) of the charter (2004). See also § 1, § 8 where “legal entity” replaces “corporation” and “persons” replaces “individual.”

¹⁰ See HB 1647 § 1, § 3(7) of the charter (2004).

¹¹ See HB 1647 § 1, §§ 3(7) and 3(11) of the charter (2004).

¹² See HB 1647 § 1, § 3(8) of the charter (2004).

¹³ *Id.*

¹⁴ See HB 1647 § 1, § 3(16) of the charter (2004).

¹⁵ See HB 1647 § 1, § 3(20) of the charter (2004).

¹⁶ See HB 1647 § 1, § 14 of the charter (2004).

¹⁷ See HB 1647 § 1, § 3(21) of the charter (2004).

¹⁸ See HB 1647 § 1, § 4(1) of the charter (2004) (removing “which in the opinion of either such authority constitute obstructions or hazards to the safe or efficient operation of any such project).

- The bill eliminates the provision which declares all bonds issued under the provisions of the act to have “all the qualities of negotiable instruments under the negotiable instruments law of the state.”¹⁹
- The bill changes the timeframe for providing a copy of the advertisement for a bond sale to the Florida Division of Bond Finance and to at least three recognized bond dealers from not less than 10 days to “in the time established by applicable law.”²⁰
- The bill may make it permissive rather than mandatory that bonds and refunding bonds be sold at public sale.²¹
- The bill includes language which originally prohibited the budget of the port authority from being “reduced below \$800,000 for each year that the bonds to which the \$800,000 is pledged remains outstanding” and provides that the budget for the JAA “shall not be reduced below the amount required under the terms and provisions of any outstanding bonds.”²²
- The bill provides, subject to certain exemptions and requirements, for contracts with the lowest responsible bidder if the total cost, value, or amount of construction, reconstruction, repairs, or work of any nature, including the labor and materials, exceeds \$50,000 rather than the current threshold of \$12,000.²³
- The bill changes the “due advertisement” cost threshold for all supplies, equipment, machinery, and materials purchased by the JAA from “exceeding \$12,000” to “exceeding \$25,000.”²⁴
- In the declaration of purposes the bill qualifies the provision that “nothing in this act is intended to create an entity which is exempt from ad valorem taxation” to add “except as set forth by applicable law.”²⁵

Charter of Authority

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

Section 1: Subsection (1) repeals the current charter provisions for the JAA and provides for them to be recreated as provided in the bill; provides the geographic area as defined by the boundary lines of Duval County; requires the JAA to operate, manage, and control the publicly owned seaport and ancillary facilities; mandates a review of the separation of the two authorities in 2005.

Subsection (2) provides for the governing body of the JAA: seven members who serve terms of four years; four appointed by the Mayor of the City of Jacksonville subject to confirmation; three appointed by the Governor subject to confirmation; appointments at the pleasure of the officer making the appointment; provides for service and staggered terms.

¹⁹ See HB 1647 § 1, § 4(2) of the charter (2004).

²⁰ See HB 1647 § 1, § 4(3) of the charter (2004).

²¹ See HB 1647 § 1, § 4(4) of the charter (2004) (the bill currently contains the word “maybe,” but it appears this should be two words, “may be”).

²² See HB 1647 § 1, § 5 of the charter (2004).

²³ See HB 1647 § 1, § 10(1) of the charter (2004).

²⁴ See HB 1647 § 1, § 10(2) of the charter (2004).

²⁵ See HB 1647 § 1, § 14 of the charter (2004).

Subsection (3) permits the JAA to elect officers; requires four members for a quorum and four members for action to be taken; provides each member one vote and requires the vote to be entered; mandates regular meetings but permits special meetings; prohibits compensation of members but allows reasonable expenses to members and employees.

Subsection (4) authorizes the JAA to employ a managing director and other employees and professionals; permits the JAA to use the services of the City of Jacksonville, which it must use for its legal services unless otherwise authorized; requires payment for the use of the services of the city; allows the JAA to delegate to carry out the purposes of the charter.

Subsection (5) provides that section 286.012, Florida Statutes, and sections 112.311 to 112.3175, Florida Statutes apply to the members of the JAA.

Section 2: Defines “bonds,” county,” “city,” “City of Jacksonville,” “federal agency,” “project,” “cost” as applied to improvements, “cost” as applied to certain projects, and provides for singulars and plurals.

Section 3: Provides the powers of the JAA:

- to adopt, use, and alter at will a corporate seal; to sue and be sued, implead and be impleaded, complain, and defend in all courts; to exercise the power of eminent domain to acquire property for any authorized purposes; to accept grants, gifts, and donations; and to enter into contracts, leases, or other transactions;
- to adopt rules and regulations with reference to all projects and matters under the control of the authority;
- to construct, acquire, establish, improve, extend, enlarge, reconstruct, re-equip, maintain, repair, and operate any project as herein defined;
- construct, establish, improve, maintain, and/or manage (*directly or indirectly through management agreements, consulting agreements or other similar arrangements*) airports and related facilities within *or outside* the county, subject to the jurisdiction of and upon such terms and conditions as may be required by the United States and the State of Florida;
- to acquire for any project authorized by this act by grant, purchase, gift, devise, condemnation by eminent domain proceedings, exchange, or in any other manner, all property, real or personal, or any estate or interest therein;
- to issue revenue bonds, payable solely from revenues, to pay all or a part of the cost of acquisition, construction, extension, enlargement, improvement, or modernization of any project and to pledge the revenues to secure the payment of bonds;
- to enter into arrangements with steamship lines, railroads, any intermodal or common carrier, or any other commercial enterprise, related to the authority’s basic mission, if the authority shall deem it advantageous so to do;
- to make and enter into all contracts and agreements and to do and perform all acts and deeds necessary and incidental to the performance of the duties of the authority and the exercise of its powers;

- to make and execute leases or agreements for the use and occupation of the property and/or projects under the control of the authority
- to sell and dispose of such property and/or projects as shall no longer be needed for the uses and purposes of the JAA subject to certain restrictions
- to fix, regulate, and collect rates and charges for the services and facilities furnished by any project under the control of the JAA to the extent permitted by law
- to establish, limit, and control the use of any project to ensure the proper operation of the project;
- to impose sanctions to promote and enforce compliance with any rule or regulation which the authority may adopt in the regulation of airport and related facilities under its control;
- to fix the rates for airports and related facilities, warehousing, storage, and port and terminal charges for the use of the facilities owned or operated by the JAA;
- to solicit air carriers, shipping lines, intermodal or common carriers, and other businesses;
- to promote commerce and increase passenger traffic and freight tonnage through the seaport operated by the authority;
- to publicize, advertise, and promote the activities and projects of the JAA;
- to cooperate with other agencies, both public and private, in accomplishing the purposes of the act and to authorize expenditures for any all purposes subject to certain restrictions;
- to receive and accept from any federal or state agency grants for or in aid of the construction, improvement, or operation of any project and to receive and accept contributions from any source of money, property, labor, or other things of value;
- to make any and all applications required for the establishment of a free port, foreign trade zone, or area;
- to enter into any contract with a legal entity, person, the State of Florida, the federal government, or any agency of said governments, which may be necessary for development of any necessary project;
- to make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and estimates of cost and revenues as the authority may deem necessary and may prepare and adopt a comprehensive plan or plans, for the location, construction, improvement, and development of any project;
- to grant exclusive or non-exclusive franchises for the operation of airport property or facilities;
- to enter into contracts with utility companies or others for the supplying by said utility companies or others of water, electricity, or telephone service to or in connection with any project.

- to pledge by resolution or contract the revenues arising from the operation of any project or projects owned and operated by the JAA, or under its control,
- to do all other acts and things necessary or proper in the exercise of the powers herein granted.
- to do all acts or things necessary or proper to be and serve as a local governmental body; and
- to appoint officers for the administration of criminal justice as set forth by general law.

- Section 4: Authorizes general obligation bonds or revenue bonds for the purpose of paying for projects; sets forth the requirements for such bonds; provides for notice of the sale of bonds; makes provision and requirements for public and private sale; creates requirements for bidders; prohibits issuance unless approved; provides for approval by election; permits the JAA to borrow money and issue notes; allows the JAA to issue refunding bonds and provides the purposes for such.
- Section 5: Establishes the fiscal year; requires the JAA to prepare and submit its budget to the council of the City of Jacksonville on or before July 1 for the ensuing fiscal year; allows the council to increase or decrease the appropriation requested; prohibits certain appropriations from reduced below the amount required under the terms and provisions of any outstanding bonds.
- Section 6: Provides that all bonds issued by the City of Jacksonville or the former Jacksonville Port Authority related to properties transferred to the authority and bonds issued under authority of chapter 63-1447, Laws of Florida, remain the liability, responsibility, and obligation of the issuer and the rights of the holders of existing outstanding bonds shall be unimpaired.
- Section 7: Preserves all employment rights and employee benefits authorized under section 11, chapter 63-1447, Laws of Florida, as amended; makes the JAA a county agency and requires employees the JAA to participate in the Florida Retirement System; protects employees of the former Jacksonville Port Authority; and provides for the JAA to perform all functions with regard to its own employees; recites provisions related to the merger of the Jacksonville Airport Authority firefighters with the Fire and Rescue Department of the City of Jacksonville.
- Section 8: Grants express authority to make and enter into contracts, leases, conveyances, or other agreements for purposes of the act.
- Section 9: Requires the JAA to issue quarterly and annually financial reports of its operations and to annually audit its operations and affairs by an independent certified public accountant; allows the records of the JAA to be audited at any time by the Council Auditor of the City of Jacksonville; provides for and requires members and others so designed to give a good and sufficient surety bond in the sum of \$50,000,
- Section 10: Provides, subject to certain exemptions and requirements, for contracts with the lowest responsible bidder if the total cost, value, or amount of construction, reconstruction, repairs, or work of any nature, including the labor and materials, exceeds \$50,000; requires "due advertisement" for all supplies, equipment, machinery, and materials exceeding \$25,000 in cost purchased by the JAA; permits the JAA to enter into and carry out contracts or establish or comply with

certain rules and regulations concerning labor and materials and other related matters in connection with any project.

- Section 11: Requires all instruments in writing necessary to be signed by the JAA shall be executed by its chair and secretary; permits designation of such when required; prohibits expenditure of funds of the JAA except by approved and signed voucher; provides authority for the vice chair and assistant secretary to act; requires the JAA to provide for the examination of all payrolls, bills, and other claims and demands against the authority to determine before payment.
- Section 12: Transfers right, title, interest, contracts, leases, accounts receivable, accounts payable, cash on hand, operating expenses, and conveyances from the former Jacksonville Port Authority.
- Section 13: Makes the provisions of chapter 315, Florida Statutes, relating to port facilities financing, applicable to the JAA.
- Section 14: Declares the JAA and its purposes to be for a county and public purpose; asserts that the JAA is a political subdivision of the State of Florida, local governmental body within the meaning of Article VII, Section 10(c)(2) of the State Constitution; provides that nothing in the act is intended to create an entity which is exempt from ad valorem taxation except as otherwise set forth by applicable law.

C. SECTION DIRECTORY:

- Section 1: Creates a separate charter for the Jacksonville Airport Authority.
- Section 2: Provides for liberal construction, explains the listing of powers, sets forth the intent as it relates to the power of the JAA
- Section 3: Makes provisions of the act severable and explains the intent related to the powers of the JAA.
- Section 4: Provides that chapters 2001-319, 2002-349, and 2003-341, Laws of Florida, are repealed when the bill takes effect.
- Section 5: Provides that this bill will take effect upon becoming a law.

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 Intention to Apply for Local Legislation was published in the Financial News and Daily Record on November 7, 2003.

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 the bill.

B. RULE-MAKING AUTHORITY:

The bill reenacts the authority of the JAA to adopt rules and regulations with reference to all projects and matters under the control of the authority.²⁶ All such rules and regulations must be just and reasonable and consistent with public interest.²⁷ The application of rules and regulations is expressly subject to review by certiorari in any court of proper and competent jurisdiction.²⁸ All rules and regulations shall be a matter of public record, except as otherwise provided by applicable law, and copies thereof shall be dispensed at cost to all applicants therefor.²⁹

The bill reenacts the authority of the JAA to establish rules and regulations concerning labor and materials and other related matters in connection with any project as the authority may deem desirable or as may be requested by the federal or state government assisting in the financing of its projects, seaport facilities, and facilities.³⁰

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

- The bill codifies existing language in the charter related to the initial terms of members of the JAA from chapter 2001-319, Laws of Florida.³¹ It is not clear that this language is still necessary.
- At line 371³² and line 596-597³³, it appears the reference to “such authority” and “each such authority,” respectively, should be “the authority.”
- At line 479³⁴, it appears that the word “maybe” should be the words “may be.”
- At line 627³⁵, to be consistent with the current charter, the line should read: “be eligible to participate in the Florida Retirement System.”
- It is not clear why section 13, at lines 803-806, which makes the port facilities financing provisions of chapter 315, Florida Statutes, applicable to the JAA, are included in the charter.

Other Comments – Proponents of the Bill

Proponents have provided the following comments in support of the bill:

- The bill will create a separate charter for each of the operating entities. The difficulty in having two growing, successful entities operate from one charter has become unmanageable. With their own charters, each entity will be able to more successfully manage their futures.³⁶

²⁶ See HB 1647 § 3(2) (2004).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ See HB 1647 § 10(4) (2004).

³¹ See HB 1647 § 1(2) (2004).

³² See HB 1647 § 3(16) (2004).

³³ See HB 1647 § 7 (2004).

³⁴ See HB 1647 § 1, § 4(4) (2004).

³⁵ See HB 1647 § 1, § 7(1) (2004).

- The newly created charter will allow the JAA to (1) enjoy the same modernized purchasing requirements as the Port Authority and (2) enable the administration to consult on specific projects outside of Duval County – similar to the Port Authority.³⁷

As it relates to the appropriation language changes, proponents have explained the need for this change:

The \$800,000 was a commitment that the City of Jacksonville had to the original Jacksonville Port Authority. Once the Airport Authority was split off from the original Jacksonville Port Authority, it became a truly independent district. Now, the Authority must create its own revenue streams, and cannot bond the \$800,000 revenue stream that had previously been supplied by the City of Jacksonville.³⁸

As it relates to the contracting threshold changes, proponents also justified this change:

The thresholds change to become concurrent with the Jacksonville Port Authority, which changed the old thresholds in the 2003 legislature. The older thresholds of \$12,500 had been around for 25 or so years, and were overly constrictive.³⁹

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On March 31, 2004, the Committee on Local Government & Veterans' Affairs adopted an amendment by Representative D. Davis, at lines 455-457, which removed a continuing provision that provided that "the issuance of bonds shall not be subject to any limitations or conditions contained in any other law."⁴⁰ The bill, as amended, was reported favorably with committee substitute.

³⁶ See *J-Bill 2 and J-Bill 3*, provided by Edward W. Blakely, Jr., lobbyist for the Jacksonville Seaport Authority on Mar. 15, 2004 (on file with the H.R. Comm. on Local Gov't & Veterans' Affairs).

³⁷ *Id.*

³⁸ See e-mail from Edward W. Blakely, Jr. (Mar. 23, 2004, 08:26 EST) (on file with the Comm. on Local Gov't and Veterans' Affairs).

³⁹ *Id.*

⁴⁰ See HB 1647 § 4(2) (2004).