

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 921w/CS Florida Keys Aqueduct Authority
SPONSOR(S): Sorensen
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>17 Y, 0 N w/CS</u>	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Natural Resources</u>	<u>18 Y, 0 N</u>	<u>Lotspeich</u>	<u>Lotspeich</u>
3) <u>Finance and Tax</u>	<u>22 Y, 0 N</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill codifies all prior special acts relating to the Florida Keys Aqueduct Authority, an independent water control district located in Monroe County, into a single act as required by ch. 189, F.S. The bill does not appear to contain any substantive changes.

No fiscal impacts are anticipated 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:

Effect of HB 921

This bill codifies chapters 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 87-454, 98-519, 2003-304, and 2003-327, L.O.F., relating to the Florida Keys Aqueduct Authority into a single act. This bill does not appear to contain any substantive changes.

In compliance with s. 189.404(5), F.S., this bill provides that the district is an independent special district. Additionally, although this bill does not create a new special district, the district's charter does conform to the minimum requirements of s. 189.404(3), F.S.

Florida Keys Aqueduct Authority

The Florida Keys Aqueduct Authority (FKAA) is an independent special district within Monroe County that has the primary purpose and functions to obtain, supply and distribute an adequate water supply for the Florida Keys and to collect, treat and dispose of wastewater in the Florida Keys.

The FKAA includes all of Monroe County within its district boundary and may additionally serve customers residing within 1 mile of its pipeline from its well field at Florida City in Miami-Dade County to the territorial boundary of the Authority.

THE FKAA is governed by a five member board of directors, appointed by the Governor, each director representing one of five districts conterminous with the districts of the Board of County Commissioners of Monroe County.

The FKAA has the authority to establish and collect rates, fees, rentals and other charges, and to provide for reasonable penalties for any such rates, fees, rentals or other charges which are delinquent. The FKAA also has the authority to issue bonds.

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.

Since the enactment of sections 189.429 and 191.015, F.S., 155 special districts have codified their charters.

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. Provides for codification of prior acts pursuant to s. 189.429, F.S., and preservation of powers and authorities.

Section 2. Provides for codification, reenactment, amendment and repeal of chps. 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 98-519, 2002-337, 2003-304, and 2003-327, L.O.F.

Section 3. Provides for a codified charter for the Florida Keys Aqueduct Authority.

Section 1. Provides for creation of the Florida Keys Aqueduct Authority (FKAA) as an independent special district and defines boundaries.

Section 2. Provides for exclusive jurisdiction over setting of rates, fees, and charges, and the connection and disconnection from, the water and sewer systems of the Authority and that such jurisdiction supersedes ch. 367, F.S. to that extent; provides the FKAA is not subject to ch. 120, F.S.

Section 3. Provides definitions.

Section 4. Provides for a board of directors, organization, terms of office, quorum. Provides for a five member board appointed by the Governor to represent one each of the five districts consistent with the five districts of the Monroe County Board of County Commissioners.

Section 5. Provides for record keeping of the FKAA.

Section 6. Provides for compensation of the board at the rate of \$337 per meeting, not to exceed three meetings per month; provides for reasonable expense reimbursement consistent with ch. 112, F.S.; provides for annual adjustment of compensation based upon the index included in s. 287.017(2), F.S.

Section 7. Requires each board member to execute a \$10,000 bond to secure faithful performance of powers and duties; requires an annual certified audit of the FKAA with notice and public inspection; provides board with authority to select depository and deposit funds of the FKAA; and provides for employment of a fiscal agent for bookkeeping and associated functions; provides for the publication of the annual budget.

Section 8. Provides the powers and duties of the FKAA board of directors.

Section 9. Provides for the powers of the FKAA.

Section 10. Provides for rulemaking authority upon reasonable advance notice to the public and an opportunity for persons to be heard.

Section 11. Provides for the exercise of FKAA powers within municipalities whose boundaries lie wholly or partially within the FKAA boundary.

Section 12. Provides the FKAA with authority to furnish facilities and services within its boundary.

Section 13. Provides for the maintenance of projects across rights-of-way; provides for just compensation for any consequential taking of, or damage to, private property.

Section 14. Provides authority to the FKAA to establish, revise and collect fees, rentals and charges and to provide reasonable penalties against users for delinquencies in payment; provides parameters for the calculation of such fees and charges; provides for special rates and charges for persons who are 60 years of age or older, or who are disabled American veterans, and provides for the submission of an affidavit to that effect from such persons; provides that rates and charges shall be sufficient to produce revenue to provide for certain costs of the FKAA; and provides for public hearings prior to the establishment or increase in rates and charges.

Section 15. Provides for the recovery of delinquent charges and for service charges in accordance with s. 832.07(1)(a), F.S.

Section 16. Provides for the discontinuance of service following delinquencies, and for enforcement by other lawful methods.

Section 17. Provides remedies for bond holders.

Section 18. Provides for receivership in the case of FKAA default in the payment of principal or interest on any issued bonds.

Section 19. Provides the FKAA authority to enter agreements for the furnishing of facilities or services of the type provided for in the act.

Section 20. Provides the board of directors with exclusive jurisdiction and control over the FKAA projects; provides that it is not necessary for the FKAA to obtain any certificate of convenience or necessity, franchise, license, permit or authorization from any state bureau, board, commission or other instrumentality for the construction, reconstruction, acquisition, extension, repair, improvement, maintenance of operation with respect to facilities and services of the FKAA.

Section 21. Provides authority to issue revenue bonds.

Section 22. Provides authority to issue refunding bonds.

Section 23. Provides for the validity and binding nature of pledges of revenue and provides lien of such pledges.

Section 24. Provides authority for the issuance of bond anticipation notes.

Section 25. Provides authority for short term borrowing for terms not exceeding three years.

Section 26. Provides for the security of bonds with trust agreements.

Section 27. Provides authority for the sale of bonds.

Section 28. Provides the board with authority to authorize the issuance of bonds.

Section 29. Provides the board with authority to issue interim certificates or receipts prior to the issuance of definitive bonds; and provides the authority to issue replacement bonds.

Section 30. Provides for the negotiability of issued bonds.

Section 31. Provides that bonds issued by the FKAA shall constitute legal investments for savings banks and other fiduciaries.

Section 32. Provides for bond validity.

Section 33. Provides for the pledge by the State to bondholders and to the Federal Government to not limit or alter the rights of the FKAA so as to impair the rights or remedies of bondholders.

Section 34. Provides authority to the FKA to enter into contracts, apply for grants and receive contributions.

Section 35. Provides for certain tax exemption for the FKAA in the performance of essential public functions.

Section 36. Provides authority to the FKAA over the acquisition, construction, reconstruction, extension, repair, improvement, maintenance, and operation of its projects.

Section 37. Provides rights and remedies in law and equity to the board of directors and any aggrieved person.

Section 38. Provides authority to the board of directors to invest the funds of the FKAA in certain types of investment.

Section 39. Provides the board of directors the authority to establish or reestablish the FKAA fiscal year.

Section 40. Provides for severability.

Section 41. Provides for liberal construction.

Section 42. Provides a finding of sufficiency for the notice required by Art. III, s. 10, State Constitution.

Section 43. Ratifies all actions of the Authority prior to effectiveness of the act.

Section 4. Repeals 31 prior acts.

Section 5. Provides for rulemaking authority and ratifies rules adopted prior the effectiveness of this act as a valid exercise of delegated legislative authority.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

October 9, 2003.

WHERE?

Key West Citizen, a daily newspaper published in Key West, Monroe 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:

The bill does provide rulemaking authority in s. 10 of the charter which is contained in s. 3 of the bill. The FCAA rulemaking authority is not subject to ch. 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The bill as filed contained language purporting to repeal special acts which have previously been repealed as outlined below. These previously repealed acts were deleted from the present bill by amendment adopted at the Committee on Local Government & Veterans' Affairs March 3, 2004 meeting.

- Chapter 70-810, L.O.F., repealed chs. 18530 (1937), 21230 (1941), 21328 (1941), 23277 (1945), 26039 (1949), 27757 (1951), 29297 (1953), 31010 (1955), 31011 (1955), 31012 (1955), 57-1589, 59-1581, 63-1644, and 63-1648, L.O.F.
- Chapter 31012 (1955), L.O.F., repealed ch. 29310 (1953), L.O.F.
- Chapter 76-441, L.O.F., repealed chs. 70-810, 71-778, 75-442, and 75-449, L.O.F.

Other Comments

None.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs at the March 3, 2004 meeting adopted one amendment. The amendment deletes references to special acts which have previously been repealed.