

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Codification

Codification is the process of compiling, updating and systematically arranging the special acts that comprise a special district's charter. After a district is created by special act of the Legislature, original charter provisions may be amended by subsequent special acts. Because special act amendments are not automatically incorporated into one special act charter, it is necessary to locate all special acts amending a district's original charter in order to ascertain its current status. This process can be difficult and time-consuming. Codification of special district charters permits readers to easily locate and identify the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature in ss. 189.429¹ and 191.015², F.S., both of which were amended in 1998. These laws provide for codification of all special district charters by December 1, 2004.³ Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district. The 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law: (1) shall not be construed to grant additional authority nor supersede 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 ss. 189.429 and 191.015, F.S., 173 special districts have codified their charters.

The Merritt Island Public Library District

The Merritt Island Public Library District was created as an independent special district by ch. 65-1289, L.O.F.⁴ The district is administered by a 15-member board of residents who are appointed by the Governor. The board is empowered to plan, construct, equip and operate a library and associated facilities.

Each year, the board meets to prepare a budget which is funded by an ad valorem tax not to exceed one-half mil on the real and tangible person property within the library district. The budget is required to be accepted by the Brevard County Board of Commissioners and/or the Brevard County Tax Assessor.

This bill codifies all prior special acts of the district into a single act, as required by s. 189.429, F.S. The bill deletes obsolete provisions, makes minor, stylistic changes to language in the district charter, and adds a severability clause. In recreating and reenacting the charter for the district, the bill:

¹ Chapter 189, F.S., is known as the "Uniform Special District Accountability Act."

² Chapter 191, F.S., is known as the "Independent Special Fire Control District Act."

³ The 1998 amendment allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the House Committee on Community Affairs.

⁴ Chapter 65-1289 has been amended by the following subsequent special acts: chs. 65-1289, 72-477, 76-330, 82-263 and 94-449, L.O.F.

Section 1: Provides for the boundaries of the district.

Section 2: Provides for a 15-member uncompensated board of district residents to be appointed by the Governor, who serve three-year terms unless removed for cause.

Section 3: Provides for the election of a chair, first vice chair, second vice chair, recording secretary, corresponding secretary and treasurer of the board.

Section 4: Provides that the board meet each year to prepare a budget. Additionally, provides for a noticed public hearing to give district residents an opportunity to review the proposed budget. Authorizes the budget to be funded by an ad valorem tax not exceeding one-half mil on the real and tangible personal property within the district.

Section 5: Provides for the acceptance of the district budget by the Brevard County Board of County Commissioners and/or the Brevard County Tax Assessor, and for a millage assessment on the real and tangible personal property within the district.

Section 6: Provides for powers and duties of the district board: that it shall adopt a seal; may sue and be sued; acquire real and personal property which it may improve, maintain, sell or lease; and plan, construct, repair, purchase, sell, equip, and operate a library and any associated facilities.

Section 7: Provides that warrants for the payment of labor, equipment, property or other expenses of the board be payable by the treasurer of the board on accounts and vouchers in the manner approved by the board.

Section 8: (1) Provides that Brevard County tax collector report any tax collections to the secretary of the board on or before the 10th of each month, and remit such taxes to the board treasurer. Provides that the tax collector be relieved from all other liability as to the amount of taxes paid to the treasurer; (2) Provides that the taxes be assessed and collected in the same manner and form as county taxes, and authorizes a reasonable charge by the tax assessor and the tax collector for their services.

Section 9: Requires that the district chair and treasurer each provide the Governor a bond of \$10,000 for the faithful performance of their duties, with the premium for the bonds to be paid by the district. Provides that the board designate depositories for board funds, and establish by resolution the method and authority under which such funds may be withdrawn. Provides for at least two signatures on board checks, and that one of the signatures must be that of the board treasurer or chair.

Section 10: Provides that the treasurer provide a semi-annual report before April 11 of each year, and an annual report before October 11. Provides that these reports are to be written documents which detail the amount and source of money received, and itemize expenditures.

Section 11: Provides for the liberal construction of act.

Section 12: Adds new language which provides for severability of any void provisions.

Section 13: Requires that the board keep accurate minutes of its meetings and proceedings, and that the minutes be available for public inspection at reasonable times. Provides that board meetings be open to the public and held within the district.

Section 14: Provides that ss. 200.071, 200.091 and 200.141, F.S., are not applicable to the district.

C. SECTION DIRECTORY:

Section 1: Provides that the act constitutes the codification of all special acts relating to the district.

Section 2: Codifies, amends, reenacts and repeals special acts relating to the district's charter.

Section 3: Re-creates and reenacts the district charter as follows:

Section 1: Provides for the boundaries of the district.

Section 2: Provides for the appointment of the district's board.

Section 3: Provides for the election of board officers.

Section 4: Provides for board meetings, preparation of district budget, and funding of the budget by an ad valorem tax.

Section 5: Provides for acceptance of district budget by board of county commissioners or county tax assessor, and a millage assessment on the real and tangible personal property within the district.

Section 6: Provides for powers and duties of the district board.

Section 7: Provides for the payment of expenses of district board.

Section 8: (1) Provides for the remittance of taxes by the tax collector to the treasurer of the district board; (2) Provides for the assessment and collection of district taxes.

Section 9: Provides for bonding of district board chair and treasurer. Provides for designation of depositories for board funds, and the method and authority for withdrawal of such funds.

Section 10: Provides for reports of board treasurer.

Section 11: Provides for liberal construction of act.

Section 12: Provides for severability of void provisions.

Section 13: Provides for district board minutes, and open meetings of the board.

Section 14: Provides that certain provisions of general law are not applicable to district.

Section 4: Repeals previous special acts.

Section 5: Provides for an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 30, 2004

WHERE? *The Reporter*, a weekly newspaper published in Brevard 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

The Economic Impact Statement indicates that the bill will not have a fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its meeting on March 23, 2005, the Local Government Counsel adopted a strike-all amendment which addressed the following technical issues in the charter:

- Section 3: changed the word “qualifications” to “qualification.”
- Section 4: changed the term “with” to “within.”
- Section 6: added the words “to acquire” after the word “powers.”
- Section 10: changed the term “finds” to “funds.”
- Section 15: deleted new language regarding the ability of Brevard County to levy ad valorem taxes.