

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

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 s. 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 s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to 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.

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's determination or declaratory statement regarding the status of the district.

Performing Arts Center Authority

The Performing Arts Center Authority (Authority) is an independent special district located in Broward County. The Authority was created by ch. 84-396, L.O.F., which has been amended by subsequent special acts.

The Authority was created for the purpose of planning, promoting, developing, constructing, acquiring, owning, reconstructing, extending, enlarging, repairing, remodeling, improving, relocating, equipping, maintaining and operating facilities for holding any type of cultural, tourism or promotional event, civic, recreational or similar event or activity. The Authority only collects fees.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. 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 Performing Arts Center Authority

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

- adding definitions:
 - “County” means the County of Broward;
 - “DDA” means the Downtown Development Authority of the City of Fort Lauderdale;
 - “Facilities” means facilities or sites for holding any type of cultural, tourism, or promotional event, or civic, recreational, or similar event or activity, and includes property, auditoriums, theaters, music halls, buildings, structures, utilities, parks, parking areas, roadways, and all other facilities and properties reasonably necessary or desirable to carry out the purposes of this act; and
 - “Governmental unit” means the County of Broward, or a municipality or special district, improvement or otherwise, that is within the boundaries of Broward County, or an agency or instrumentality of such county, municipality, or special district. The term shall apply only to the portions of any governmental unit that are within the boundaries of Broward County.

Charter of Authority

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

- Section 1:¹ Provides for the creation and purpose of the Authority.
- Section 2:² Provides for 13 board members serving 4-year terms; provides for organization of the board members.
- Section 3:³ Provides definitions.
- Section 4:⁴ Provides for the powers of the Authority, including the power to:
 - (1) adopt by-laws;
 - (2) adopt and use an official seal;
 - (3) sue and be sued;
 - (4) plan, develop, purchase, lease, or otherwise acquire, demolish, construct, reconstruct, improve, extend, enlarge, relocate, equip, repair, maintain, operate, and manage facilities;
 - (5) make a comprehensive land use plan;

¹ See ch. 84-396, L.O.F. § 1.

² See ch. 84-396, L.O.F. § 2; ch. 92-268, L.O.F. § 1; ch. 93-371, L.O.F. § 1.

³ See ch. 84-396, L.O.F. § 3.

⁴ See ch. 84-396, L.O.F. § 4.

- (6) acquire, purchase, hold, lease, mortgage, and convey such real and personal property as the board deems proper or expedient to carry out the purposes of this act;
- (7) lease, rent, or contract for the operation or management of any part of any of the facilities of the Authority;
- (8) fix and collect rates, rentals, fees, charges, or ticket surcharges for the use of any facilities of the Authority;
- (9) contract for the operation of concessions on or in any of the facilities of the authority or, at its discretion, operate such concessions as it deems desirable;
- (10) advertise and promote within or without the state any of the facilities and activities of the Authority;
- (11) employ an executive director, other necessary staff employees, and other agents and fix their compensation; and
- (12) cooperate with and contract with the government of the U.S. or the state or any agency, instrumentality, or political subdivision of either, or with any municipality, district, corporation, partnership, association, person, or individual in providing for or relating to the Authority in carrying out the provisions and purposes of this act.

Section 5:⁵ Provides for bid procedures.

Section 6:⁶ Provides for the fiscal powers of the Authority.

Section 7:⁷ Provides provisions governing Authority to issue revenue bonds.

Section 8:⁸ Provides for additional funds for use by the Authority for maintenance of facilities and payment of employees' salaries, operating expenses, planning expenses, or other necessary expenditures.

Section 9:⁹ Provides the Authority may solicit, encourage, promote, and accept any public or private subscriptions and donations of moneys, other property, and assets for use in furthering the purposes of this act.

Section 10:¹⁰ Authorizes the Department of Business and Professional Regulation to issue to qualified applicants consisting of the Performing Arts Center Authority or its designee a special license or special licenses for use within the confines of the Performing Arts Center complex; provides any such license issued pursuant to this act shall permit the licensee to sell alcoholic beverages only for consumption on the premises of the facilities.

C. SECTION DIRECTORY:

Section 1. Provides that the bill constitutes the codification of all special acts relating to the Authority; provides legislative intent.

Section 2. Codifies, reenacts, amends and repeals chapters 84-396, 85-389, 92-268, and 93-371, L.O.F.

⁵ See ch. 84-396, L.O.F. § 5.

⁶ See ch. 84-396, L.O.F. § 6.

⁷ See ch. 84-396, L.O.F. § 7; ch. 85-389, L.O.F. § 1.

⁸ See ch. 84-396, L.O.F. § 8.

⁹ See ch. 84-396, L.O.F. § 9.

¹⁰ See ch. 84-396, L.O.F. § 10.

Section 3. Recreates and reenacts the charter of the Authority.

Section 4. Repeals chapters 84-396, 85-389, 92-268, and 93-371, L.O.F.

Section 5. Provides for severability.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 3, 2004

WHERE? *Sun-Sentinel*, Fort Lauderdale, Broward County; Boca Raton, Palm Beach County; Miami, Miami Dade County, Florida

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 grants rule-making authority to the Authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Status Statement

The bill does not provide that the district is an independent special district pursuant to s. 189.404(5), F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.