

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1657 CS
Broward County

Downtown Development Authority of the City of Fort Lauderdale,

SPONSOR(S): Sobel

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>Dominguez</u>	<u>Hamby</u>
2) <u>Finance & Tax Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Ft. Lauderdale Downtown Development Authority (Authority) was created by the Legislature in 1965 to plan, construct and maintain public improvements and facilities within the central business district of the City of Fort Lauderdale.

This bill codifies all previous specials acts of the Authority. The bill reorganizes previously authorized powers of the district and makes minor, stylistic changes to some of the language of the charter.

The Authority has ad valorem taxation power.

The Economic Impact Statement indicates that there is no fiscal impact associated with this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

The Ft. Lauderdale Downtown Development Authority (Authority) was created by the Legislature in 1965¹ to plan, construct and maintain public improvements and facilities within the central business district of the City of Fort Lauderdale.

The charter of the Authority has been amended to, among other things, to create a Redevelopment Trust Fund and on several occasions to adjust the boundaries of the district.

The Authority has ad valorem taxation power and the authority to issue bonds.

Charter of the District

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

Section 1: Provides definitions for the terms used in the act.

Section 2: Provides the boundaries of the Authority.

Section 3: Provides the purpose for the establishment of Authority. Provides legislative findings and reasons for the need of a development authority, possible benefits to the public and the community, and reasons for empowering the governing board of the Authority.

Section 4: Creates the Authority.

Section 5: Creates the board of the Authority with the following provisions:

- The board shall be a seven member board;
- Board members are to be chosen by the City of Ft. Lauderdale City Commission;
- Board members are to serve 4 year terms;
- Appointments made to fill a vacancy during a term of office shall be for the unexpired term only.

Section 6: Provides qualifications for Authority board members.

Section 7: Provides the board with all the powers usually vested in the board of directors of a corporation for profit.

Section 8: Provides powers of the Board. These powers are:

- To employ engineers, contractors, consultants, attorneys, auditors, agents, employees, and representatives of the board;

¹ Ch. 65-1541, L.O.F.

- To adopt rules, resolutions, and orders;
- To maintain an office from which to do business;
- To execute contracts and other documents, adopt all proceedings, and perform all acts determined by the board to be necessary to carry out the purposes of this act;
- To establish and create departments, boards, or other agencies that may be necessary to carry out the purposes of this act;
- To appoint a director and other staff;
- To prepare analyses of economic changes taking places in the downtown area;
- To study and analyze the impact of metropolitan growth in the downtown area;
- To plan and propose within the downtown area improvements of all kinds;
- To implement any plan of development in the downtown area that may be determined to be necessary to carry out its functions;
- To make and enter into all contracts necessary or incidental to the exercise of the Authority's powers and the performance of its duties;
- To establish, operate, lease, license, grant, or convey in the downtown area such public facilities as shall in its opinion be feasible and desirable in the implementation of any plan;
- To develop long range plans to halt deterioration of downtown property values;
- To borrow money;
- To retain and fix general counsel to advise the board in the proper performance of its duties;
- To incur all or part of the expense of any public improvement made by the city, county, state, or federal government;
- To lend, grant, or contribute funds to the city, county, or federal government.

Section 9: Provides additional powers of the Authority. These are:

- To own and dispose of property;
- To lease facilities;
- To develop a revitalization plan;
- To own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve airport facilities of all kinds;
- To own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve parks, playgrounds, picnic grounds, camping facilities, golf courses, athletic fields, marinas, piers, wharves, docks, harbors, boating and fishing facilities, swimming pools, bathing beaches and other water recreational facilities;

- To own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve parking facilities;
- To undertake a program of advertising to the public promoting the business, facilities, and attractions within the downtown;
- To own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve transportation facilities and vehicles within the downtown area;
- To issue general obligation bonds, revenue bonds, assessment bonds, and other bonds allowed by the provisions of this act;
- To acquire, open, extend, construct, reconstruct, pave, operate, improve, and maintain roads, bridges, and lights;

Section 10: Provides official employees of the Authority whose employment and compensation is determined by the board. These are a director, secretary, and treasurer.

Section 11: Outlines duties of the director. Section 11 also outlines the various revenue sources for the Authority. These are:

- Money borrowed and to be repaid from other funds received under the authority of this act;
- Donations and contributions to the authority for the performance of its functions from any source, public or private;
- Revenues from the rental, operation, or sale of assets, facilities, and projects of the authority;
- Proceeds of special assessments and an ad valorem taxation of property in the downtown area.

Section 12: Authorizes the city commission to levy an ad valorem tax, not exceeding 1 mill, on all downtown real and personal property.

Section 13: Allows the city commission to assess against the funds of the Authority a reasonable pro rata share of such funds for the cost of handling and auditing the taxing process for the Authority.

Section 14: Declares that no board member or employee shall vote, or participate in a matter where they have a conflict of interest. This sections also provides consequences for those board members and employees who violate this provision.

Section 15: Provides a sunset date for the Authority of December 31, 2030. Provides for any assets held by the Authority at that time to be transferred to the city at that time.

Section 16: Authorizes the issuance of bonds. The aggregate amount of bonded indebtedness can not exceed 15% of the assessed valuation of the taxable property in the downtown area at the time of issuance.

- Allows the term of the bond to exceed beyond the life of the Authority if the city agrees to service and pay the bonds after the expiration of the Authority.
- Allows the city to continue to levy and collect the special tax associated with this act and use the revenue generated by it to retire the Authority's bonds.

- Allows excess revenue remaining after the retirement of the bonds to be transferred to the city.

Section 17: Grants the board the power of eminent domain over real property. The provision excludes property belonging to the state or any political subdivision of the state.

Section 18: Provides provisions for calling and organizing referenda.

- Declares the Authority's activities and functions to be essentially public works; denies the Authority police power;
- Declares that the duly registered owner of each freehold within the downtown shall represent one share and the owner of each share shall be entitled to one vote for each \$10,000 or fraction thereof of the nonexempt assessed valuation of the freehold within the downtown;
- Makes the Authority director the registration officer during times of election;
- Authorizes the board to pay compensation to the Broward County Supervisor of Elections and the Broward County Property Appraiser for services rendered to the Authority;

Section 19: Grants the Authority the power to construct and reconstruct assessable improvements and to levy special assessments upon properties that are to benefit from such improvements; provides provisions and requirements associated with improvements and construction; provides the powers and duties of the director; requires plans for said improvements; requires notice of proposed plans; provides means of protesting proposed improvement plans.

Section 20: Declares that it will be a primary goal of the Authority to promote and encourage private enterprise in the downtown area.

Section 21: Authorizes the Authority to cooperate with the city, or with Broward County, in the formulation of a workable program for community improvements, utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight and promote redevelopment and private enterprise.

Section 22: Prohibits the Authority from approving a renewal project for a renewal area unless the board has, by resolution, determined such area to be a slum or blighted area or a combination thereof; provides provisions for the creation of renewal plan.

Section 23: Provides the powers of the Authority. There powers are:

- To undertake and carry out renewal projects within its area of operation;
- To provide for the furnishing or repair of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a renewal project;
- To enter into any building or property in any renewal area in order to make inspections, surveys, appraisals, soundings, or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- To acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise any real property;
- To hold, improve, clear, or prepare for redevelopment any such property;

- To borrow money and to apply for and accept advances loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, city, or other public body for the purposes of this act;
- To make or have made all surveys and plans necessary to the carrying out of the purposes of this act;

- Section 24: Provides the Authority with the power to sell, lease, or transfer real property in the renewal area for residential, recreational, commercial, industrial, or other uses or for public use, or to retain such property in accordance with the renewal plan; allows the disposal of real property in a renewal area to private persons only under reasonable competitive bidding procedures.
- Section 25: Provides procedures for the issuance of bonds.
- Section 26: Declares bonds to be legal investments; provides provisions for these investments.
- Section 27: Provides an exemption from execution for all property of the authority, including funds, owned or held by it for the purposes of this act.
- Section 28: Presents the powers of other public bodies in cooperation with the Authority.
- Section 29: Declares any instrument executed by the Authority and purporting to convey any right, title, or interest in any property under this act shall be conclusively presumed to have been executed in compliance with the provisions of this act.
- Section 30: Provides a maximum millage of 10 mills.
- Section 31: Provides severability.
- Section 32: Provides for the liberal construction of this act.
- Section 33: Declares that this act will be known as the “Fort Lauderdale Downtown Development Authority Law”.
- Section 34: Provides for the establishment of the Redevelopment Trust Fund of the Downtown Development Authority (Trust Fund); provides provisions used to manage the fund.

Background

Codification

Codification is the process of compiling, updating, and systematically arranging the special acts that comprise a special district’s charter. After a special district’s charter is created by special act of the Legislature, the original charter provisions may be amended by subsequent special acts. However, special act amendments are not automatically incorporated into one special act charter. Therefore, in order to ascertain the current status of a special district’s charter, it is necessary to locate all special acts amending a district’s original charter. This can often be a difficult and time-consuming process for persons interested in determining the current status of a district’s charter. Codification of special district charters is important because it 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. 189.429 and 191.015 , F.S., both of which were amended in 1998. The laws provide for codification of all special district charters by December 1, 2004. 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.

To date, 173 special districts have codified their charters.

C. SECTION DIRECTORY:

- Section 1: Provide the legislative intent to codify the District charter pursuant to s. 189.429, F.S.
- Section 2: Codifies, reenacts, amends, and repeals chapters 65-1541, 67-1385, 69-1056, 75-371, 80-501, 85-393, 87-507, 89-431, 92-247, 93-392, and 95-531, L.O.F.
- Section 3: Reenacts and repeals the charter of the District.
- Section 4: Provides severability.
- Section 5: Repeals chapters 65-1541, 67-1385, 69-1056, 75-371, 80-501, 85-393, 87-507, 89-431, 92-247, 93-392, and 95-531, L.O.F.
- Section 6: Provides for this act to take effect 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, 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 22, 2005, the Committee on Finance and Tax adopted one amendment to this bill which removed language concerning the district's exemption from ad valorem taxation. The removed language was no longer accurate given changes in both case law and the Florida Statutes. This will not change the taxability of district property since the property will continue to benefit from the exemptions available to all special districts.