

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 801
SPONSOR(S): Davis
TIED BILLS:

Ponte Vedra Zoning District, St. Johns County

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|------------------|----------------|
| 1) <u>Local Government Council</u> | _____ | <u>Dominguez</u> | <u>Hamby</u> |
| 2) <u>Growth Management Committee</u> | _____ | _____ | _____ |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

The Ponte Vedra Zoning and Adjustment Board (Board) is a dependent special district of St. John’s County. The Ponte Vedra Zoning Board and the Ponte Vedra Adjustment Board were separate entities until ch. 95-527, L.O.F., merged the two boards.

This bill codifies, or reenacts, all prior special acts of the Board 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 organizes previously authorized powers of the Board.

The bill contains provisions which do not simply codify existing law, but amend the charter of the Board. These provisions are as follows:

- Changes the St. John’s County Commission’s (Commission) authority to regulate population density within the Board district by providing for the regulation of building density.
- Specifies that regulations made by the Board will be made in accordance with the St. John’s County Comprehensive Plan.
- Changes the 3/5 vote needed by the Commission to amend regulatory decisions made by the Board to a super majority.
- Includes the state prosecutor as an authority who may pursue appropriate action to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to building structures on land and water.
- Provides that the prior establishment of the Ponte Vedra Zoning and Adjustment Board and the abolishment of the Ponte Vedra Zoning Board and the Ponte Vedra Board of Adjustment by Resolution 95-135 of the St. Johns County Board of County Commissioners is hereby ratified and reaffirmed.

No fiscal impacts are anticipated in relation to this bill according to the Economic Impact Statement.

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.

Ponte Vedra Zoning and Adjustment Board

The Ponte Vedra Zoning and Adjustment Board (Board) is a dependent special district of St. John's County. The Ponte Vedra Zoning Board and the Ponte Vedra Adjustment Board were separate entities until ch. 95-527, L.O.F., merged the two boards.

Among the Board's powers, duties, and functions are the granting or denying of requests for variances or exceptions to applicable St. Johns County subdivision, zoning, and building resolutions, ordinances and Ponte Vedra Zoning District codes for single parcels of land within the Ponte Vedra Zoning District. The Board may also make recommendations to the Board of County Commissioners of St. Johns County (Commission) concerning variances and exceptions, the granting of which is reserved to the Commission.

Changes the Ponte Vedra Zoning and Adjustment Board

There are, however, provisions of this bill which do not simply codify existing law, but amend the charter of the Board:

- Changes the Commission's authority to regulate population density within the Board district by providing for the regulation of building density.
- Specifies that regulations made by the Board will be made in accordance with the St. John's County Comprehensive Plan.
- Changes the 3/5 vote needed by the Commission to amend regulatory decisions made by the Board to a super majority.
- Includes the state prosecutor as an authority who may pursue appropriate action to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to building structures on land and water.
- Provides that the prior establishment of the Ponte Vedra Zoning and Adjustment Board and the abolishment of the Ponte Vedra Zoning Board and the Ponte Vedra Board of Adjustment by Resolution 95-135 of the St. Johns County Board of County Commissioners is hereby ratified and reaffirmed.

Charter of District

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

- Section 1: Presents the general purpose, mission, and duties of the Board and outlines its association with the Commission. This section also highlights the Board's powers as a zoning and regulatory entity.
- Section 2: Declares that regulations created by the Board must be in accordance with the St. Johns County Comprehensive Plan. Further outlines the Board's various duties vis a vie the County's Comprehensive Plan.
- Section 3: Provides the boundaries for the district.
- Section 4: States that the Commission will provide for the manner in which the District's regulatory power will be determined, established, enforced, amended, supplemented, or changed. Also, requires that no regulation or restriction become effective until after presented at public hearing.
- Section 5: Provides rules and procedures for amending, supplementing, changing, modifying, or repealing regulations; requires a super majority of the Commission in order to amend regulatory provisions.
- Section 6: Ratifies and reaffirms the establishment of the Board and the abolishment of the Ponte Vedra Zoning Board and the Ponte Vedra Board of Adjustment.
- Section 7: Declares that the members of the Board will be appointed, reappointed, or removed by the Commission as necessary to maintain seven active members on the Board; requires that only qualified electors residing within the district be eligible for appointment.
- Section 8: Establishes terms of office and term limits for Board members; declares that members will serve at the pleasure of the Commission.
- Section 9: Declares that the Board may when necessary adopt rules of procedure by which it will carry out its duties.

- Section 10: Declares the Board shall not be a local planning agency or land development regulation commission, with the exception that the Board shall have authority to make recommendations to the Commission regarding consistency of developments with the County Comprehensive Plan.
- Section 11: Presents the powers, duties, and functions of the Board.
- Section 12: Declares that all quasi-judicial hearings of the Board are to be held in the county seat.
- Section 13: Provides the Board with necessary staff and funding from the County.
- Section 14: Provides for meetings of the Board and address the powers of the Board chair. Requires for meetings to be open to the public and the keeping of minutes.
- Section 15: Provides for appeals of Board decisions to be heard by the Commission in a de novo hearing.
- Section 16: Requires the concurring vote of a majority of the Board to take official action.
- Section 17: States the Legislature's sole authority to dissolve, merge, or terminate the Board through a special act.
- Section 18: Allows for the appropriate actions or proceedings, by local and state officials, or citizens, to remedy the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of building structures on land and water.
- Section 19: Provides severability.
- Section 20: Authorizes the Commission to appropriate and pay out of its general fund such amount that may be necessary to administer the provisions of the Board's charter.
- Section 21: Provides the County's power, through ch. 162, F.S., to enforce the provisions of the charter and other ordinances that may be created

C. SECTION DIRECTORY:

- Section 1: States legislative intent pursuant to s. 189.429(1), F.S. Provides for a single, comprehensive special act charter for the Ponte Vedra Zoning District.
- Section 2: Codifies, reenacts, amends, and repeals chapters 65-2171 and 95-527, L.O.F.
- Section 3: Recreates and reenacts the charter of the Board.
- Section 4: Repeals chapters 65-2171 and 95-527, L.O.F.
- Section 5: Provides for the bill to take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 6, 2004

WHERE? The St. Augustine Record, St. Augustine, St. Johns County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY:

Rule-Making

The charter grants rule-making authority to the Board in s. 9. However, formerly in s. 24 of the charter, the Board adopted rules of procedure to carry out duties under this act. In s. 9 of the bill the Board may adopt rules of procedures to carry out its duties under this act, county ordinances, and the laws and Constitutions of Florida and of the United States of America.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comment

Status Statement

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

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.