

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS: This bill does not implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Main Street Pier

The historic pier at Daytona Beach has been an attraction providing entertainment and recreation for the area since the 1920s. The pier extends 1,050 feet over the Atlantic Ocean. The tract of land where the pier begins extends 102 feet north and south along the waterfront. This area is approximately 15,300 square feet of dry sand and is rarely covered in water.

The City has established the Main Street Redevelopment Area to enhance the City of Daytona Beach's entertainment, sports, and convention-related venues. An integral element of the City's redevelopment plan is the continuation and expansion of non-water dependent activities at the Main Street Pier.

2001 Legislation and Lease

In a 2001 special act,¹ the Legislature required the State of Florida, through the Board of Trustees of the Internal Improvement Trust Fund, to lease state-owned submerged lands to the City of Daytona Beach (City) if the City acquired ownership of an existing pier on state-owned submerged lands and related upland property for the purpose of redeveloping its downtown. Subsequent to the City's acquisition of the pier, the lease became effective. Pursuant to the 2001 legislation, the lease has a term of 35-years with an annual lease payment of \$5,000 (increasing by an additional \$5,000 at each successive 5-year interval).

The lease requirements imposed by ch. 2001-316, L.O.F., include:

- Any amendments, modifications, assignments, or transfers of the lease without further legislative action are prohibited.
- The City may make no claim of title or interest to the land by reason of occupancy or use, all title and interest is vested in the State, and the City may not claim that the land may be purchased, sold or resold.
- The City assumes all responsibility for liabilities and improvements, including drainage, special assessments or taxes during the term of the lease.
- The City is prohibited from knowingly permitting any nuisance or illegal activity in the leased area.
- Entry of gambling ships, or similar vessels, which engage in "cruises to nowhere" is prohibited.
- The City is required to maintain the pier and any other structures in good repair and is prohibited from constructing a dock or pier on the leased property that might be destructive to wildlife.
- All garbage, debris and sewage must be disposed of properly at an appropriate upland site.
- The mooring of any "liveaboard vessel" is prohibited.
- The City is required, at its own cost, to remove any structures and equipment from the leased property at the end of the lease term. Unpaid costs will constitute a lien on the city's adjacent upland property. If the City does not remove the structures at the end of the lease, then the structures are forfeited to the state, and the state may sell them.
- The City must obtain any required federal, state, and local permits prior to any authorized construction.

¹ ch. 2001-386, L.O.F.

The term "assignment" is defined as "the act of transferring an interest in property or some right (such as contract benefits) to another."² The term "sublease" is defined as "the lease to another of all or a portion of premises by a tenant who has leased the premises from the owner. A sublease may be prohibited by the original lease, or require written permission from the owner. In any event, the original tenant (lessee) is still responsible for paying the rent to the owner (landlord/lessor) through the term of the original lease and sublease."³

Effect of Proposed Changes

This bill amends ch. 2001-216, L.O.F., to provide that nothing in the act precludes the City from subleasing the state-owned submerged lands and that, if sublet, all provisions and restrictions within or required by the existing lease remain in full force and effect.

C. SECTION DIRECTORY:

- Section 1. Amends ch. 2001-316, L.O.F., to provide for sublease of submerged lands.
Section 2. Provides that the bill is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 15, 2004

WHERE? The News-Journal, Daytona Beach, Volusia 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: Rule-making is not addressed in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The Florida Department of Environmental Protection does not oppose this bill.
- Legal Counsel for the City of Daytona Beach provided the following explanation of the bill:
 - On May 25, 2001 Governor Bush signed HB 891 into law, which became Laws of Florida, Chapter 2001-316. This local bill granted to the City of Daytona Beach a 35-year lease of the submerged lands underlying the historic pier. The lease was contingent upon the city acquiring ownership of the pier structure itself and the property immediately

² <http://dictionary.law.com/default2.asp?typed=assign&type=1>

³ <http://dictionary.law.com/default2.asp?typed=sublease&type=1>

upland of the pier. The purchase of the pier and lease of the submerged lands was the engine driving a major, multifaceted public-private partnership to restore this historic part of the City.

- Subsequent to passage of HB 891, the City acquired ownership of the pier. It also acquired major portions of the uplands immediately adjacent to the pier (with the help of a Florida Communities Trust grant). The City has entered partnerships with private developers for various facets of the redevelopment project and much progress has been accomplished toward the attainment of the City's goals. One aspect of the City's success has been the City's sublease of the submerged lands to its private partner (while the City remains fully responsible for all provisions under the lease).
- HB 969, introduced for the 2005 legislative session, is a glitch or clarifying bill. The original 2001 bill contains many provisions to ensure that the state-owned submerged lands are used for the purposes set forth in the bill - i.e. restoration and preservation of the historic pier....One important provision in the original bill states that the City's lease of the submerged lands cannot be "assigned, or otherwise transferred without further legislative action". The purpose of HB 969 is to state clearly that the City's sublease of the submerged lands to its private partner does not run counter to that provision. This clarification was recommended by title lawyers examining the issue.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.