

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill allows the Authority to adopt and amend rules, regulations, and policies.

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 the 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., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

Gainesville-Alachua County Regional Airport Authority

The Gainesville-Alachua County Regional Airport Authority is a dependent special district located in Alachua County. The Authority was created under ch. 86-469, L.O.F., which has been amended by subsequent special acts. The Authority has nine appointed board members who serve 3-year terms. The Authority has jurisdiction over operation, maintenance, and improvements to the airport and its facilities. The Authority has authority to enter into contracts, lease the airport and its facilities, accept revenues from the operation of the airport, undertake capital projects, issue revenue bonds, and fix and collect fees and other charges for the use of the airport and its facilities. The Authority may also acquire land in the name of the City by eminent domain, appoint guards or police with full police powers and expend funds to advertise and promote the airport.

Changes to the Gainesville-Alachua County Regional Airport Authority Charter

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 exclusive charter of the Authority is recreated by this bill.

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

- Deletes specified provisions relating to the Authority board membership, status of District¹, terms of Authority members, certain powers and duties of the Authority, bond provisions, and a building restriction provision.
- Declares the Authority lands and other real and personal property, easements, and privileges acquired and used by the Authority have been acquired and used for public and governmental purposes and as a matter of public necessity.
- States the Authority is an independent special district.
- States the Authority has exclusive jurisdiction, control, supervision, and management over all airports in the County except any airport owned, controlled, and operated by a private person.
- Provides for subsequent appointments of members when their term limits expire or upon the effective date of this act, provides for a replacement if a member's term limit has expired.
- Requires reasonable public notice for emergency meetings.
- Clarifies restrictions on previous board member transactions on business dealings, representing of business entities, and submission of proposals for doing business with the Authority.
- States no member, as an individual, may represent the Authority without being directed through a formal action of the governing board to do so.
- Provides the airport has jurisdiction over the operation and maintenance of the property owned by the Authority. All development activity must be in accordance with the City of Gainesville's Comprehensive Plan and Land Development Regulations, with exceptions, and with the Airport Master Zoning Plan to be adopted by the city commission and updated from time to time by the city commission. The airport may adopt its own development standards relating only to heights and design of buildings, landscaping, parking, sidewalks, lighting, and signage (excluding billboards and off-premises signs). If the Authority formally adopts such development standards, they will apply in lieu of the comparable specific standards in the city's land development regulations.
- Provides for an alcoholic beverage license.
- Provides for a discrimination clause prohibiting:
 - 1) The Authority and its lessees, including successors in interest, shall not because of race, color, sex, religion, national origin, age, or disability of any individual refuse to hire, employ, bar, or discharge from employment such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions, or privileges of employment.
 - (2) No person on the grounds of race, color, sex, religion, national origin, age, or disability shall be excluded from the participation in, denied the benefits of, or otherwise subjected to discrimination in the use of leased premises of the Authority.
 - (3) In furnishing services or materials, or in the construction of any improvements, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination with respect thereto.
 - (4) This section does not supersede or preempt any state or local laws prohibiting discrimination. The Authority and its officers, employees, and agents shall be subject to federal, state, and local laws prohibiting discrimination to the extent provided by such laws.

Charter of the Authority

¹ See ch. 86-469, L.O.F. § 3; ch. 95-457, L.O.F. § 1. The Authority is listed as an independent district on the 2006 Special District Information Database, <http://www.floridaspecialdistricts.org/OfficialList/report.asp>.

This bill recreates and reenacts the Authority's charter as follows:

- Section 1. Provides for a short title.
- Section 2. Provides definitions for "Airport", "Airport facilities", "Authority", "Board of county commissioners", "Bond", "City", "City Commission", "County", "Person", "Revenue bonds", and "Refunding bonds."²
- Section 3. Recreates the Gainesville-Alachua County Regional Airport Authority.³
- Section 4. Provides for the Authority's governing board; provides the authority will consist of nine members who are residents within the city or the county; provides one member appointed by the Governor may reside in a county contiguous to Alachua County; provides members will not receive compensation for their services; provides no member will serve on the Authority's board and hold any publicly elected office in the state at the same time; provides for subsequent appointments of the board members; provides for replacement of board members; provides no member will serve more than two successive terms; provides for 3 year terms; provides for vacancies; and provides for removal of members.⁴
- Section 5: Provides for the organization of the Authority membership; provides for 1 year terms of the officers; provides for meetings; provides for notice of a meeting; provides for emergency meetings; and provides for a quorum.⁵
- Section 6. Provides for restrictions⁶ as follows:
(1) No person who has transacted business with the authority shall be eligible for appointment to the authority until 3 years after the last transaction. No person who has served on the authority shall be eligible to transact business with the authority until 3 years after the person's last date of service. Said transactions include transactions either for oneself or as an employee of, agent for, or consultant to any other person or legal entity. However, nothing in this paragraph shall be construed as prohibiting an appointed member from purchasing supplies or services from any fixed-base operators or tenants at the airport or Airport Industrial Park, or for renting individual aircraft hangars or tie-downs offered to the general public and owned by the authority, provided that the price and terms of the transaction are available to all members of the public.
(2) No member, officer, agent, or employee of the authority, either for himself or herself or as agent for anyone else, or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, franchise, contract, or other transaction entered into by the authority or the city. The provisions of this subsection shall be cumulative to any general laws of the state that may from time to time be applicable to members, officers, agents, or employees of the authority and that require the disclosure of, or prohibit, conflicts of interest.
(3) No member, as an individual, may represent the authority, speak for the authority, or speak on behalf of the authority without being directed through a formal action of the authority to do so.
- Section 7. Provides for the powers of the Board of Directors⁷, including the power to:

² See generally ch. 86-469, L.O.F. § 2, ch. 89-433, L.O.F. § 1, ch. 95-457, L.O.F. § 1.

³ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁴ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁵ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁶ See generally ch. 86-469, L.O.F. § 3, ch. 95-457, L.O.F. § 1.

⁷ See generally ch. 86-469, L.O.F. § 4, ch. 89-433, L.O.F. § 2, ch. 95-457, L.O.F. § 1.

- 1) The Authority shall have jurisdiction over the operation and maintenance of all airport and airport facilities in the city or county, except any airport owned and operated by a private person.
- 2) The Authority has the power to and may:
 - (a) Approve, file with the chief executive officer (CEO), and pay any surety bond required of any member or of any employee of the authority.
 - (b) Advertise for sealed bids when required by law; however, the authority may reject all bids and readvertise or select a single item from any bid as further provided in this act.
 - (c) Adopt before October 1 an annual budget that has been prepared by the CEO and which must include an estimate of all revenues and anticipated expenditures for the following fiscal year.
 - (d) Require in all bond documents that moneys derived from such bonds be paid to or upon order of the authority.
 - (e) Have the authority's finances audited in the same manner as other independent special districts are audited.
 - (f) Rely on the provisions of this act in exercising its powers.
 - (g) Appoint or employ and constitute its own airport guards or police officers, or to contract with the city, county, or agency of the state to provide law enforcement services and protection through its duly sworn officers, and all such officers shall have full power of arrest to prevent or abate the commission of an offense against the ordinances of the city or county, the laws of this state, or the laws of the United States, when any such offense or threatened offense occurs upon airport property on any land owned by the authority.
 - (h) Construct and maintain terminal buildings, causeways, roadways, bridges for approach to or connecting with the airport, on airport property.
 - (i) Require the secretary-treasurer and other officers or employees of the authority to execute an adequate surety bond, conditioned upon the faithful performance of the duties of the office or employment and in a penal sum fixed by the authority.
 - (j) Establish positions, duties, and a pay plan, and employ, pay, provide benefits for, promote, discipline, and terminate personnel and a CEO, in accordance with general law, who shall be responsible for the day-to-day administration, management, and operation of the airport in accordance with policy established by the authority and perform other duties as may be authorized by the authority.
 - (k) By policy or resolution, authorize the CEO to perform any of the powers of the authority in whole or in part and with whatever other limitations it may find appropriate, provided that said authorization does not result in an invalid exercise of delegated legislative authority as defined in general law.
 - (l) Employ or contract with technical and professional experts necessary to assist the authority in carrying out or exercising any powers granted by this act.
 - (m) Reimburse for all travel expenses incurred while on business for the authority, upon requisition, any member, its attorneys, the CEO, and any employee of the authority traveling under the direction of the CEO or the CEO's designee in accordance with section 112.061, Florida Statutes.
 - (n) Create, appoint, and prescribe the duties of any committee.
 - (o) Sue and be sued.
 - (p) Adopt, use, and alter a corporate seal.
 - (q) Publish advertisements.
 - (r) Waive advertisement when the authority determines an emergency exists and supplies and materials must be immediately acquired by the authority.

- (s) Negotiate and enter into contracts, agreements, exclusive or limited agreements, and cooperation agreements of any kind necessary for the authority to fulfill the purposes of this act.
- (t) Include contract specifications maximizing the employment of persons whose protected group has been underutilized in the past.
- (u) Provide for the manual execution of any instrument on behalf of the authority by the signature of the chair or vice chair, and attested to by the secretary or the assistant secretary, or, if delegated by the members to do so, the CEO or any other authority personnel to whom authority has been delegated, or by the signer's facsimile signature in accordance with the Uniform Facsimile Signature of Public Officials Act.
- (v) Purchase and sell equipment, supplies, and services required for its purposes.
- (w) Consent to the sale, lease, transfer, disposition of, or granting a lesser interest in the airport. To let or lease the airport and the airport facilities or any portion thereof and to grant concessions upon such terms and conditions as it shall deem proper.
- (x) Dispose of tangible personal property in accordance with chapter 274, Florida Statutes.
- (y) Advertise, promote, and encourage the use and expansion of facilities under its jurisdiction.
- (z) The airport shall have jurisdiction over the operation and maintenance of the property owned by the authority. All development activity must be in accordance with the City of Gainesville's Comprehensive Plan and Land Development Regulations, except as set forth below in this paragraph, and with the Airport Master Zoning Plan to be adopted by the city commission and updated from time to time by the city commission. The airport may adopt its own development standards relating only to heights and design of buildings, landscaping, parking, sidewalks, lighting, and signage (excluding billboards and off-premises signs). If the authority formally adopts such development standards, they will apply in lieu of the comparable specific standards in the city's land development regulations.
- (aa) Acquire real property in fee simple or any lesser interest or easement by purchase, gift, devise, lease, or other means if the authority is able to agree with the owners of said property on the terms of such acquisition. To acquire real property in fee simple or any lesser interest or easement as it may deem necessary for the property managing and operation of the airport and airport facilities, by condemnation in the manner provided by the law under which municipalities are authorized to acquire property for public purposes, with full power to exercise the right of eminent domain for such purposes being hereby granted to said authority as specified in and including all the powers, rights, and privileges of chapters 73 and 74, Florida Statutes, or any succeeding legislation. For the purposes of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The authority may take possession of any such property to be acquired at any time after the filing of the petition describing the same in condemnation proceedings, as provided in chapters 73 and 74, Florida Statutes. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. To acquire or lease personal property in the name of the authority.
- (bb) Reimburse the owner of any structure for which the authority may require removal, relocation, or reconstruction located in, on, under, or across any private property, public street, highway, or other public or

private places for the estimated or actual expense of the removal, relocation, or reconstruction.

(cc) Supplement and coordinate in design and operation air navigation facilities with those established and operated by the federal and state governments.

(dd) Request the county or any municipality to convey to the authority the fee simple title to any airport or other property owned by the county or any municipality and needed for airport purposes.

(ee) Relinquish jurisdiction, control, supervision, and management over the airport or part of the airport which is under its jurisdiction but which is owned by a municipality, county, or other governmental agency, upon determining that any such airport or part of any such airport is no longer required for airport purposes, provided that the consent and approval of any municipality, county, or other governmental agency and any revenue bondholders are first obtained and necessary authorizations or approvals are received from federal agencies regulating airports.

(ff) Expend revenues for the cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, improving, equipping, and erecting airport facilities by appropriation of revenues or wholly or partly from the proceeds of bonds of the authority. The term "cost" includes awards in condemnation proceedings, rentals where an acquisition is by lease, and amounts paid to utility companies for relocation of their wires, poles, and other facilities.

(gg) Incur expenses as provided in its annual budget and any amended budget.

(hh) Assess against and collect from the owner or operator of each airplane using any airport facility a landing fee or service charge sufficient to cover the cost of the service furnished to airplanes using any such facility, which cost may include the liquidation of bonds or other indebtedness for construction and improvement.

(ii) Accept federal, state, and any other public or private moneys, grants, contributions, or loans for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airport facilities, or any other lawful purpose.

(jj) Fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the services of the authority at reasonable and uniform rates.

(kk) Apply for, hold, and periodically transfer alcoholic beverage licenses as provided by this act.

(ll) Adopt and amend rules, regulations, and policies reasonably necessary for the implementation of this act.

(mm) By resolution, fix and enforce civil penalties for the violation of a rule, regulation, or policy adopted in accordance with this act relating to the operation of general aviation, air passenger service, or ground transportation service.

(nn) Amend the budget after its adoption.

(oo) Receive, deposit, secure, and pay out moneys as provided by this act.

(pp) Designate a depository or depositories which are qualified as a public depository pursuant to section 280.04, Florida Statutes, and thereafter establish and open an account or accounts into which revenues collected are to be deposited and from which expenditures may be made.

(qq) Establish and deposit into and expend moneys from a surplus fund by using funds that may remain unexpended at the end of the fiscal year and may be set aside in a separate fund to be known as the Capital Improvement Fund and accumulated and expended from year to year solely for the purpose of building and constructing permanent

improvements, replacements, alterations, buildings, and other structures, including runways, taxi strips, and aprons.

(rr) By resolution, borrow money and issue bonds in the manner and within the limitation, except as otherwise provided in this act, prescribed by general law for the issuance and authorization of bonds; however, any bonds issued by the authority shall have a maturity date not exceeding 40 years from the date of issuance, shall be self-liquidating or otherwise payable from revenues of the authority, shall be payable semiannually, and shall not be a lien against the general taxing powers of the county or any municipality.

(ss) Enter into any agreements with any bank or trust company as security for its bonds, and assign and pledge any or all of its revenues. Such agreements may contain provisions customary in such instruments or as authorized by the authority.

(tt) Secure the payment of bonds or any part thereof by pledging all or any part of its revenues and provide for the security of said bonds, without pledging any real property rights to the airport or airport facilities, and the rights and remedies of the bondholders.

(uu) Pending the preparation of definitive bonds, issue certificates or temporary bonds to the purchaser of bonds.

(vv) Transact the business of the authority and exercise all powers necessarily incidental to the exercise of the general and special powers granted in this act and under any other law.

(ww) Do all acts and things necessary or convenient for the promotion of its business and the general welfare of the authority.

Section 8. Provides for the budget; provides for the fiscal year; provides for a public hearing; provides for budget amendments; provides all anticipated revenues to be derived from the operation of the airport and airport facilities will be in the budget, provides any amount of money, anticipated or actual, including funds in the Authority's budget for the preceding fiscal year remain unencumbered and unexpended from the revenue derived from the budget for the preceding fiscal year, may, by resolution of the Authority, be set aside in a separate fund, and accumulated in the fund from year to year for the purpose of purchasing real and tangible personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips, and aprons; provides the funds may be disbursed from time to time, upon proper resolution of the Authority, solely for the payment of the cost of purchasing real and tangible personal property, and building and constructing permanent improvements, replacements, alterations, buildings, and other structures, including, but not limited to, runways, taxi strips, and aprons; provides the Authority will adopt budget procedures to establish the direct and indirect costs of operating and maintaining the airport and airport facilities, as well as the direct income derived; provides the Authority's budget not include the maintenance and upkeep of navigational aids as performed and funded directly by the Federal Aviation Administration; and provides the city, the county, and the county's other political subdivisions may, by loan or grant, fund budget deficits of the Authority, and all may guarantee bonds issued by the Authority.⁸

Section 9. Provides for the relationship between the Authority and the City and County.⁹

Section 10. Provides for the title to the airport land.¹⁰

⁸ See generally ch. 86-469, L.O.F. § 5, ch. 95-457, L.O.F. § 1.

⁹ See ch. 86-469, L.O.F. § 7, ch. 95-457, L.O.F. § 1.

- Section 11. Authorizes issuance of bonds; provides purposes of bonds; and provides procedures.¹¹
- Section 12. Provides a covenant of the state provision between the Authority and the Federal Government.¹²
- Section 13. Provides for an alcoholic beverage license.
- Section 14. Provides for purchasing and the award of contracts.
- Section 15. Provides for the exemption of property from taxation; provides facilities owned or operated by the District under the provisions of this act constitute public property; provides when the facilities are used for governmental purposes, the board will not be required to pay any taxes or assessments on any facilities or parts.
- Section 16. Provides for a discrimination clause.
- Section 17. Provides for a litigation provision.¹³
- Section 18. Provides a severability clause.

C. SECTION DIRECTORY:

- Section 1: Provides that the reenactment of existing law in this bill may not be construed as a grant of additional authority; provides legislative intent.
- Section 2: Codifies, reenacts, amends and repeals chapters 86-469, 89-433, and 95-457, L.O.F.
- Section 3: Recreates and reenacts the charter of the Authority.
- Section 4: Repeals chapters 86-469, 89-433, and 95-457, L.O.F.
- Section 5: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2006.

WHERE? *The Gainesville Sun*, Gainesville, Alachua County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

¹⁰ See ch. 86-469, L.O.F. § 8, ch. 95-457, L.O.F. § 1.

¹¹ See generally ch. 86-469, L.O.F. § 9, ch. 95-457, L.O.F. § 1.

¹² See generally ch. 86-469, L.O.F. § 10, ch. 95-457, L.O.F. § 1.

¹³ See generally ch. 86-469, L.O.F. § 13, ch. 95-457, L.O.F. § 1.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

EXEMPTIONS FROM AD VALOREM TAXATION

Section 15 of section 3 of the bill provides:

Exemption of property from taxation. The exercise of the powers by the board conferred in this act constitutes the performance of government functions. Facilities owned or operated by the district under the provisions of this act constitute public property. When such facilities are used for governmental purposes, the board shall not be required to pay any taxes or assessments upon any such facilities or parts thereof.

Property owned by governmental entities is subject to ad valorem taxation unless immune or exempt, and such exemptions are strictly construed against party claiming them. Immunity from taxation precludes the power to tax, while an exemption from taxation presupposes the existence of the power to tax but the power is limited by a constitutional or statutory provision. *Orange State Oil Co. v. Amos*, 139 So.2d 707 (Fla. 1930). The Legislature is without authority to grant an exemption from taxes where the exemption does not have a constitutional basis. *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001).

Special districts are not immune from taxation. Therefore, property owned by special districts is taxable unless the Legislature enacts an exemption from taxation that is consistent with the Florida Constitution. Section 189.403(1), F.S., provides that special districts are treated as municipalities for purposes of s. 196.199(1), F.S., which exempts from ad valorem taxation property owned by a municipality and used for "governmental, municipal, or public purposes". Accordingly, property owned by a municipality or special district is entitled to exemption only if used for a governmental or public purpose.

If a private entity leases government owned property from an exempt governmental entity, such as a special district, the actual use of the property determines whether a valid exemption from ad valorem taxation continues to apply. If public property is leased to a private entity, but is not used for a "public purpose", the fee interest in the property is taxable. The "public purpose" standard applicable in tax exemption cases is the "governmental-governmental" standard under which property leased to private entities for "governmental-proprietary" activities is not tax exempt. *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001). Non-exempt "governmental-proprietary" use occurs when a nongovernmental lessee utilizes public property for proprietary and for-profit aims to promote the comfort, convenience, safety and happiness of citizens. Conversely, exempt "governmental-governmental" use occurs when a lease of public property concerns the administration of some phase of government. It should be noted that the leasehold interest in leased public property may be subject to the intangibles tax regardless of whether the leased property itself is subject to ad valorem taxation. See *Capitol City Country Club v. Tucker*, 448 So.2d 613 (Fla. 1993).

B. RULE-MAKING AUTHORITY:

This bill allows the Authority to adopt and amend rules, regulations, and policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exception to General Law

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local

bills. The provisions of House Rule 5.5(b) appear to apply to this bill because the bill grants an exemption to general law which exempts the airport authority from the procedure of obtaining beverage licenses.¹⁴

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted one strike-all amendment on April 5, 2006. The amendment removes the legislative findings and intent provision and the bonding provision, clarifies the alcoholic beverage licensing provision, and makes technical changes. The bill, as amended, was reported favorably with committee substitute.

¹⁴ See chapters 561 – 565, F.S.