

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1047

City of Clearwater, Pinellas County

**SPONSOR(S):** Frishe

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2180

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	12 Y, 0 N	Rojas	Hoagland
2)	Agriculture & Natural Resources Policy Committee		Kaiser	Reese
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

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**SUMMARY ANALYSIS**

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts, with the intent of providing greater access for the public to the navigable waters of the state, as well as providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property continue to be used as stipulated in current law, and that the city uses any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands, currently existing as uplands to the west of the east abutment of the west bridge, be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

Changes to the filled land that currently exist as the City of Clearwater Beach Marina must be approved at a referendum if the changes meet any of the following triggers:

- Any lease or license for a new purpose or for a period longer than 30 years;
- Any sale or transfer, other than utility easements, or
- Any alterations from existing public land use map designation.

According to the Economic Impact Statement, the bill has no fiscal impact. The effective date of this legislation is upon becoming law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Clearwater Harbor—Memorial Causeway Submerged Lands

The State conveyed submerged lands in 1925 via Chapter 11050, L.O.F., to Pinellas County to be surrendered to the City of Clearwater, for the purpose of building the Memorial Causeway.<sup>1</sup> The act provided that the property was to be used exclusively for public purposes by the city, and that it would revert to the State if it was ever used for any other purpose. The act also provided that *“the owners (present and future) of the land abutting said land on the north, the City of Clearwater or the County of Pinellas shall have the right to fill said land lying north of said line to be used for public parks and places of recreation only...provided further that should said property ever cease to be used for public parks and places of recreation only, same shall revert to the State.”*

Submerged lands to the north of the Memorial Causeway Submerged Lands (which were not included in the special act grant) were later filled, resulting in the “Island Estates” subdivision. Consequently, the Island Estates’ most southerly boundary extended along the northerly boundary of the Memorial Causeway Submerged Lands. In 1958, a Deed of Dedication was granted by the Clearwater City Commission and recorded in the public record to “dedicate, grant and convey unto the Public in general,” a portion of the Memorial Causeway Submerged Lands, subject to express provisions in the dedication, and conditions and provisions of law (presumably including the 1925 Special Act). The dedication stated that the land was to be used as a “waterway for boating and boat traffic,” “docks, boat slips or piers” by “lessees, tenants, permittees or assigns.” As a result of this dedication, docks were built within the Memorial Causeway Submerged Lands area for use by Island Estates’ upland owners in 1965.

Pursuant to Chapter 86-345, L.O.F, the Legislature released a portion of the property granted by the 1925 special act from the right of reverter retained by the State in order to permit the development and maintenance of a nonprofit marine science center as approved by the city commission and electors of the City of Clearwater.<sup>2</sup> The act declared that the use of the property as a marine science center was

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<sup>1</sup> This land included 500 feet to the north and 700 feet to the south of a centerline, east to west, following the course of the former Memorial Causeway.

<sup>2</sup> The Clearwater City Commission adopted Ordinance 4028-85, finding that the development and maintenance of the property as a marine science center was in the interest of public health, safety and welfare of the citizens of Clearwater, and authorized the

for a proper public purpose, and conditioned the act upon the city conveying the property to the Clearwater Marine Science Center subject to the restriction that the center devote the property solely to the expansion of its facility, or that such property would automatically revert to the city.

#### Chapter 2007-312, Laws of Florida

Chapter 2007-312, L.O.F., ratified any use of the property described in the 1925 special act<sup>3</sup> and authorized by the City of Clearwater on or before the effective date of the act, whether or not the use was for a public purpose. The act also declared that any use of the property described in Chapter 86-345, L.O.F., is consistent with the grant made in the earlier act for the purpose of developing and maintaining a marine science center. This provision pertains to uses undertaken on or before the effective date of Chapter 2007-312, L.O.F. This ratification preserved the property to the ownership of the Clearwater Marine Science Center.

Additionally, Chapter 2007-312, L.O.F., provided that the City of Clearwater may authorize private uses of the submerged property<sup>4</sup> for which it had received an application no later than December 31, 2006, if such uses were consistent with the laws and rules governing the management of state sovereignty submerged lands by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The act provided that a dock or mooring facility for a multi-family dwelling or a dock for a single-family dwelling which is consistent with such laws and rules does not violate this act. The alteration of any existing public land use designation of this property must first be approved by the voters of the City of Clearwater in a "site-specific" referendum. The City of Clearwater is required to use any revenue generated by authorizing private use of the subject submerged land to fund water-related activities for the benefit of the public.

Finally, Chapter 2007-312, L.O.F., provided for reversion of the submerged lands granted under the 1925 special act to the State if the BOT finds that any use, which is authorized by the City of Clearwater and not ratified by the act, is inconsistent with the laws and rules governing the BOT's management of such lands. This language governs future actions by the city with regard to the submerged land.

The act did not modify or supersede any provision of the City of Clearwater's charter concerning the requirement of a referendum for use of waterfront property that is owned by the city. The city's charter contains numerous provisions relating to the use of real property in ARTICLE II. LEGISLATIVE POWER, Section 2.01. Council; composition; powers.<sup>5</sup> Section 2.01(d)(5) provides, in relevant part, that:

no municipal or other public real property constituting the Memorial Causeway or lands immediately contiguous thereto, more particularly described as: That portion of Memorial Causeway (S.R. 60) a 1200-foot-wide right-of-way, lying between the east abutment of the west bridge and the east line of Clearwater Harbor, and the submerged portions of Board of Trustees of the Internal Improvement Trust Fund Deed Numbers 17,500 and 17,502, shall be developed or maintained other than as open space and public utilities together with associated appurtenances, except upon a finding by the council at a duly advertised public hearing that such development is necessary in the interest of the public health, safety and welfare of the citizens of the city and approval of such finding at referendum, conducted subsequent to the public hearing.

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conveyance of the property to the Clearwater Marine Science Center subject to a right of reverter. The electors of the city approved the action by a special referendum election called for that purpose on October 1, 1985.

<sup>3</sup> Chapter 11050, L.O.F., 1925

<sup>4</sup> As described in Chapter 11050, L.O.F., 1925

<sup>5</sup> <http://www.municode.com/resources/gateway.asp?pid=10148&sid=9>.

## Working Waterfronts

CS/CS/SB 542<sup>6</sup> created the Stan Mayfield Working Waterfronts Program within the Florida Communities Trust (FCT) program. Working Waterfronts are defined as parcels of lands directly used for the commercial harvest of saltwater products and the marketing of seafood and aquaculture. The FCT, working with the Department of Agriculture and Consumer Services (DACCS), developed rules to administer the program and developed a process that evaluates, scores and ranks working waterfront acquisitions.

### **Effect of the Bill**

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property described in Chapter 11050, L.O.F., 1925, for recreational purposes and commercial working waterfronts as defined in s. 342.07, F.S., with the intent of providing greater access for the public to the navigable waters of the state, and providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property granted to the City of Clearwater under Chapter 11050, L.O.F., 1925, continue to be used as provided for in that act, as well as Chapter 2007-312, L.O.F., and that the city use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands granted under Chapter 11050, L.O.F., 1925, currently existing as uplands to the west of the east abutment of the west bridge, be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

This bill expressly provides that this law does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater. Therefore, any lease or license of the filled land that currently exists as the City of Clearwater Beach Marina for a new purpose or for a period longer than 30 years, or any sale or transfer, other than utility easements, must be approved at a referendum. Additionally, if the portion of filled lands comprising the City of Clearwater Beach Marina is altered from existing public land use map designation, the change must first be approved at a referendum.

### **B. SECTION DIRECTORY:**

- Section 1. Authorizes the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts.
- Section 2. Provides that the submerged portions of the property continue to be used as provided for and that the city use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.
- Section 3. Provides that specified filled portions of the lands be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. Releases lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.
- Section 4. Provides that it does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater.

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<sup>6</sup> Chapter 2008-229, L.O.F.

Section 5. Specifies events that will trigger referendum requirement.

Section 6. Provides that this act take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

January 15, 2010

WHERE?

Gulf Coast Business Review

Clearwater, Pinellas 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

According to the Economic Impact Statement, the bill will have no fiscal impact.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

## IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES