

## **FINAL BILL ANALYSIS**

**BILL #:** CS/HB 1489

**FINAL HOUSE FLOOR ACTION:**

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**SPONSOR:** Rep. Albritton

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** SB 2206

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### **SUMMARY ANALYSIS**

CS/HB 1489 was passed by the House on April 27, 2011, and subsequently passed the Senate on May 2, 2011. The bill was approved by the Governor on June 21, 2011, chapter 2011-265, Laws of Florida, and took effect on June 21, 2011. The bill amends the Sebring Airport Authority's charter to allow the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as the powers are exercised pursuant to contracts with other governmental entities.

The bill also adds commercial and industrial facilities to the entities that the Authority is authorized to acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate. In addition, it removes the phrase "other related facilities" from the Authority's authorization to contract with other governmental entities to operate airports, airfields and services.

The bill creates the power to establish, operate, and maintain foreign-trade zone (FTZ) status under the alternative site framework (ASF) in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties and the cities of Belle Glade, Pahokee, and South Bay. All of the impacted counties and the cities of Belle Glade and Pahokee have issued letters of support for their inclusion in the Authority's FTZ under the ASF, with the stipulation that the zone will be made available on a uniform basis to companies within the region, in a manner consistent with the legal requirement that each FTZ be operated as a public utility.

The bill also authorizes the Authority to purchase commodities or contractual services from the purchasing agreements of other special districts, municipalities, or counties as provided in s. 189.4221, F.S.

The bill does not appear to have a fiscal impact on state or local government. The Economic Impact Statement indicated the proposed changes could make the region more viable in terms of job creation and economic development.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **BACKGROUND**

##### Sebring Airport Authority

The Sebring Airport Authority (Authority) is a dependent special district located in Highlands County, Florida. The Authority was created by ch. 67-2070, L.O.F., which was amended by subsequent special acts. Chapter 67-2070, L.O.F., and the subsequent amending special acts were repealed in 2005, when the special acts regarding the charter of the Authority were codified.<sup>1</sup> The Authority is governed by a seven member board appointed by the City Council of Sebring. The Authority is authorized to fix and collect fees for the use of or for the services and facilities furnished by any airport facilities; however, it is not authorized to impose any ad valorem tax or non-ad valorem assessment.

The Authority's charter authorizes the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as they are exercised pursuant to contracts with other governmental entities for the operation and supervision of other airports, airfields, and related facilities.

The Authority has several general powers; however, these powers are regarded as supplemental and additional to powers conferred by other laws. The Authority is authorized to:

- Acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any airport and other industrial facilities (including tire and automobile testing and racing) which may be located on the property of the authority.
- Issue bonds to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement, or equipment. However, bonds issued by the Authority are not debt or pledge of the faith and credit of the state or any political subdivision. Bonds may be issued without obtaining consent of any state agency or political subdivision.
- Issue revenue certificates or refunding bonds.
- Fix and collect rates, fees, and other charges for the use of or for the services and facilities furnished by any airport facilities.
- Acquire in the name of the Authority by gift, purchase, or the exercise of the right of eminent domain, in accordance with the laws of the state which may be applicable to the exercise of such powers by counties or municipalities, any lands or rights in land, and to acquire such personal property as it deems necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, or operation of any airport facilities, and to hold and dispose of all real and personal property under its control.
- Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.
- Accept grants or money or materials or property of any kind for any airport or other facilities from any federal or state agency, political subdivision, or other public body or from any private agency or individual, upon such terms and conditions as may be imposed.

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<sup>1</sup> Chapter 2005-300, L.O.F.

- Contract with other governmental entities to operate airports, airfields, and other related facilities and services, including providing all personnel, tools, equipment, supervision, and other materials and services.
- Perform all acts and things necessary or convenient to carry out the powers granted by this act.

The Authority's charter requires the Authority to advertise for sealed bids for any contract for the construction, repair, or alteration of any facility, or the purchase of equipment, services, or supplies involving expenditures of more than \$10,000. The contract is to be awarded to the lowest responsible bidder; however, the Authority is allowed to reject all bids.

### Foreign Trade Zones

In 1934, Congress authorized the foreign-trade zones (FTZ) program through the Foreign-Trade Zones Act.<sup>2</sup> FTZs are federally designated secured areas under the supervision of the United States Customs and Border Protection (Customs) that are considered to be outside the customs territory of the United States for the purpose of duty payment. Located in or near customs ports of entry, they are the U.S. version of what are internationally known as free trade zones.<sup>3</sup> The purpose of the zones is to attract and promote international trade and commerce. The FTZ Act is administered through two sets of regulations, the FTZ Regulations<sup>4</sup> and Customs Regulations.<sup>5</sup>

FTZs are designed to increase the use of American labor and increase capital investment in the United States by allowing activity to occur in the U.S. prior to the application of U.S. customs laws. The intent is to equalize the customs treatment of the activity with similar activities occurring offshore or overseas. While FTZs are legally outside the customs territory of the U.S., all other local, state and federal laws and regulations apply (including labor and immigration laws).<sup>6</sup>

Zones are sponsored by qualified public or public-type corporations, which may themselves operate the facilities or contract for their operations with public or private firms. The operations are conducted on a public utility basis, with published rates.

The zones provide sites where a broad range of commercial activities involving foreign and domestic merchandise, which otherwise might have occurred abroad for tariff or trade reasons, can take place. Within an FTZ, merchandise may be assembled, repackaged, tested, stored, destroyed, sampled, salvaged, mixed, relabeled, processed, manipulated, or manufactured (which requires special permission) without being subject to the United States customs laws governing the entry of goods or the payment of duties.<sup>7</sup>

The advantages of using FTZs include:<sup>8</sup>

- Customs duty and federal excise tax, if applicable, are paid when the merchandise is transferred from the zone for consumption.

<sup>2</sup> The FTZ Act is found in 19 USC 81a-81u.

<sup>3</sup> 71<sup>st</sup> Annual Report of the Foreign-Trade Zones Board to the Congress of the United State, available at <http://ia.ita.doc.gov/ftzpage/annualreport/ar-2009.pdf> (Last accessed 4/13/11).

<sup>4</sup> 15 CFR Part 400.

<sup>5</sup> 19 CFR Part 146.

<sup>6</sup> Information about the FTZ Program Fact Sheet, available at <http://ia.ita.doc.gov/ftzpage/letters/FTZInfo.pdf> (Last accessed 4/13/11)

<sup>7</sup> Information is from a National Association of Foreign-Trade Zones Board article, "What are FTZs?", available [http://www.naftz.org/index\\_categories.php/ftzs/4](http://www.naftz.org/index_categories.php/ftzs/4) (Last accessed 4/7/11).

<sup>8</sup> Information is from the U.S. Customs and Border Protection's Web site "About Foreign-Trade Zones & Contact Info," available at [http://www.Customs.gov/xp/cgov/trade/cargo\\_security/cargo\\_control/ftz/about\\_ftz.xml](http://www.Customs.gov/xp/cgov/trade/cargo_security/cargo_control/ftz/about_ftz.xml) (Last accessed 4/13/11).

- While in the zone, merchandise is not subject to U.S. duty or excise tax. Certain tangible personal property is generally exempt from state and local ad valorem taxes.
- Goods may be exported from the zone free of duty and excise tax.
- Customs security requirements provide protection against theft.
- Merchandise may remain in a zone indefinitely, whether or not subject to duty.
- The rate of duty and tax on the merchandise admitted to a zone may change as a result of operations conducted within the zone. Therefore, the zone user who plans to enter the merchandise for consumption to Customs territory may normally elect to pay either the duty rate applicable on the foreign material placed in the zone or the duty rate applicable on the finished article transferred from the zone whichever is to his advantage.
- Merchandise imported under bond may be admitted to a FTZ for the purpose of satisfying a legal requirement of exporting the merchandise. For instance, merchandise may be admitted into a zone to satisfy any exportation requirement of the Tariff Act of 1930, or an exportation requirement of any other Federal law (and many state laws) insofar as the agency charged with its enforcement deems it so.

Over the years, two types of FTZs have developed:

- **General-Purpose Zones:** A general-purpose zone is a designated area established for multiple activities by multiple users.
- **Subzones:** A special purpose subzone established for a limited purpose that cannot be accommodated within an existing general purpose zone. For example, subzone status may be granted to existing manufacturing facilities. Subzones must be sponsored by the grantee of an existing general purpose zone.

During Fiscal Year 2009, there were 168 fully active FTZ projects nationwide, with subzones operating in more than 144 of them.<sup>9</sup> In addition, there were 261 facilities using subzone status during the year. Approximately 330,000 people were employed at some 2,500 firms that operated under FTZ procedures during the year. The combined value of shipments into FTZs totaled \$430.6 billion, with approximately 82 percent of zone activity took place in subzones. Exports from facilities operating under FTZ procedures amounted to more than \$28 billion.<sup>10</sup>

### *Establishing a Foreign-Trade Zone*

The FTZ Act of 1934 created a FTZ Board to review and approve applications to establish, operate, and maintain foreign-trade zones. The Board may approve any zone or subzone which it deems necessary to serve adequately "the public interest".

The Board also regulates the administration of foreign-trade zones and the rates charged by zone "grantees".

Customs must approve activation of the zone before any merchandise is admitted under the FTZ Act.

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<sup>9</sup> Data in this paragraph is from the 71<sup>st</sup> Annual Report of the Foreign-Trade Zones Board to the Congress of the United State, available at <http://ia.ita.doc.gov/ftzpage/annualreport/ar-2009.pdf> (Last accessed 4/13/11).

<sup>10</sup> This does not include certain indirect exports involving FTZ merchandise that undergoes further processing in the U.S. at non-FTZ sites prior to export.

### *Alternative Site Framework for Foreign-Trade Zones*

In 2008, the FTZ Board adopted the Alternative Site Framework (ASF). The ASF is an option for the establishment or reorganization of general-purpose zones that allows grantees to restructure their general-purpose zone sites with a formal Reorganization Application so that there is one primary or “anchor” site, followed by a series of additional “magnet” sites.

Under the ASF, the FTZ Board could designate FTZ status to any publicly owned or private site within the approved Service Area of a general-purpose zone.

### *Foreign-Trade Zones in Florida*

There are currently 20 FTZs in Florida, with an additional 25 subzones in 9 of the zones.<sup>11</sup>

The FTZ Board authorized FTZ status to the Sebring Airport Authority on July 26, 1997. The Authority’s zone is designated as FTZ Number 215. According to a 2007 report by the National Association of Foreign-Trade Zones, the Authority’s FTZ serves one business and zone activity is concentrated in the sale of fuel to outbound aircraft.<sup>12</sup> The report indicates the zone was active in FY 2007, but the level of activity was minimal and less than \$1 million.

The Authority was advised in August 2010 that their application to reorganize under the ASF was limited by language in the Authority’s charter, specifically s. 3(2) of ch. 2005-300, L.O.F.<sup>13</sup>

### Rural Economic Development Initiative and the Rural Area of Critical Economic Concern Designation

The Rural Economic Development Initiative (REDI) was created by the Florida Legislature to encourage and align critical state agency participation and investment around important rural issues and opportunities.<sup>14</sup> Included in this broad initiative is the Rural Area of Critical Economic Concern (RACEC) designation.<sup>15</sup> Most of Florida’s rural counties have been categorized into one of three RACECs: the North Central, the Northwest, and the South Central. RACECs are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions. A RACEC designation establishes each region as a priority area in need of economic development. One of the benefits of the designation is that the Governor may waive requirements for the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, and other incentives.

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<sup>11</sup> A list of zones in Florida may be found at <http://ia.ita.doc.gov/ftzpage/letters/ftzlist-map.html> (Last accessed 4/13/11). The list is arranged in order of the granting of zone status.

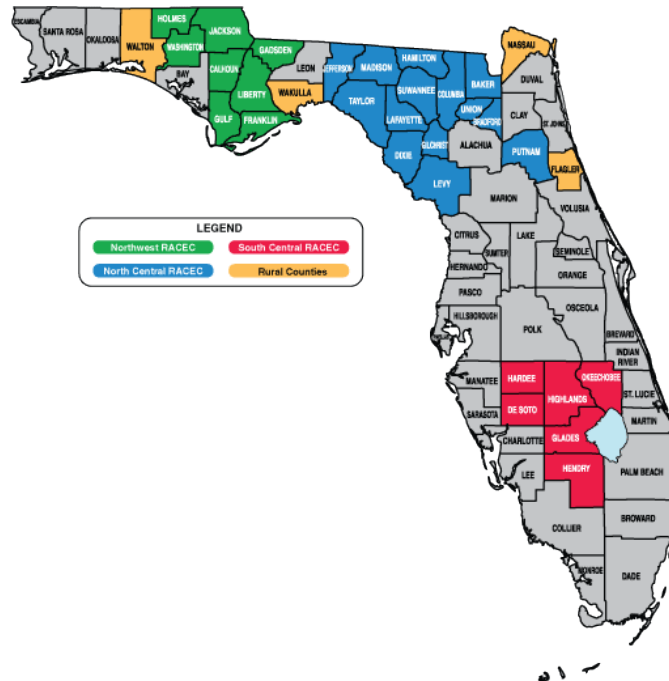
<sup>12</sup> National Association of Foreign-Trade Zones, [The Impact of Foreign-Trade Zones on the 50 states and Puerto Rico](http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBwQFjAB&url=http%3A%2F%2Fwww.naftz.org%2Fdocs%2Fnews%2F2009%2520State-by-State%2520FY%25202007%2520(Final%2520Copy).pdf&ei=sNmlTbuIL8W50QHOoPjzCA&usg=AFQjCNEmJo7HXF-2Nk1zxRLpGVS6RrH36Q), available at [http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBwQFjAB&url=http%3A%2F%2Fwww.naftz.org%2Fdocs%2Fnews%2F2009%2520State-by-State%2520FY%25202007%2520\(Final%2520Copy\).pdf&ei=sNmlTbuIL8W50QHOoPjzCA&usg=AFQjCNEmJo7HXF-2Nk1zxRLpGVS6RrH36Q](http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBwQFjAB&url=http%3A%2F%2Fwww.naftz.org%2Fdocs%2Fnews%2F2009%2520State-by-State%2520FY%25202007%2520(Final%2520Copy).pdf&ei=sNmlTbuIL8W50QHOoPjzCA&usg=AFQjCNEmJo7HXF-2Nk1zxRLpGVS6RrH36Q) (Last accessed 4/13/11).

<sup>13</sup> A copy of this letter is on file with the Economic Affairs Committee.

<sup>14</sup> Section 288.0656, F.S.

<sup>15</sup> Section 288.0656(7), F.S.

The map below shows the three RACECs in Florida:



Map from Enterprise Florida, Inc.

Governor Jeb Bush established the South Central RACEC on January 26, 2001, through Executive Order 01-26. The South Central RACEC includes the counties of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee, and the cities of Pahokee, Belle Glade, and South Bay (all of which are in Palm Beach County), as well as the area around Immokalee included within the Round II Federal Rural Enterprise Community located in northeast Collier County. The South Central RACEC was redesignated by Executive Order 06-34, and included all of the areas in the initial RACEC, with the addition of the area within the Immokalee Urban Designated Area located in northeast Collier County. The South Central RACEC recently expired. It has been recommended by REDI to redesignate the area as a RACEC and its application is under review by the Office of Tourism, Trade, and Economic Development.

#### *Rural Economic Development Catalyst Project*

The Rural Economic Development Catalyst Project (catalyst project) is designed to further goals set forth in REDI by gathering economic intelligence and perspectives for Florida's three RACECs.<sup>16</sup> The catalyst project is intended to identify, improve and market regional physical sites to facilitate the location of significant job creation opportunities within the RACECs.

The South Central RACEC chose a site located at the Sebring Regional Airport as the first priority site for the catalyst project. It was chosen as it was the closest to being "shovel ready" among all of the reviewed potential catalyst project sites, lacking only minor incremental improvements.<sup>17</sup>

<sup>16</sup>Enterprise Florida, Inc., information on the Rural Economic Development Catalyst Project, available at <http://www.eflorida.com/FloridasFuture.aspx?id=2108> (Last accessed 4/13/11).

<sup>17</sup>South Central RACEC Catalyst Project Progress Report. May 2007. Enterprise Florida, Inc.

According to Florida's Heartland Rural Economic Development Initiative, Inc., the 100-acre catalyst site at Sebring Regional Airport continues to be in process with the necessary infrastructure installations, with a future completion goal of December 2011, when the site will be "shovel ready," or ready to build.<sup>18</sup>

### Contracts

Section 189.4221, F.S., allows special districts to purchase commodities and contractual services, other than services the acquisition of which is governed by s. 287.055, F.S., from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the purchasing agreement of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district

### EFFECT OF THE BILL

The bill amends ch. 2005-300, L.O.F, which reestablished and codified the charter of the Authority.

The bill amends the Authority's charter to allow the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as the powers are exercised pursuant to contracts with other governmental entities.

The bill also adds commercial and industrial facilities to the entities that the Authority is authorized to acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate. In addition, it removes the phrase "other related facilities" from the Authority's authorization to contract with other governmental entities to operate airports, airfields and services.

The bill creates the power to establish, operate, and maintain FTZ status under the ASF in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties and the cities of Belle Glade, Pahokee, and South Bay. All of the impacted counties and the cities of Belle Glade and Pahokee have issued letters of support for their inclusion in the Authority's FTZ under the ASF, with the stipulation that the zone be made available on a uniform basis to companies within the region, in a manner consistent with the legal requirement that each FTZ be operated as a public utility. In addition, Florida's Heartland Rural Economic Development Initiative, Inc., has issued a letter of support.<sup>19</sup>

The bill also amends s. 8, ch. 2005-300, L.O.F., to authorize the Authority to purchase commodities or contractual services from the purchasing agreements of other special districts, municipalities, or counties as provided in s. 189.4221, F.S.

The bill takes effect upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

**A. NOTICE PUBLISHED?** Yes  No

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<sup>18</sup>Information about the catalyst project from the Florida's Heartland Rural Economic Development Initiative, Inc., Web site, available at <http://www.flahartland.com/programs/business-development/rural-economic-development-catalyst-project> (Last accessed 4/13/11).

<sup>19</sup> A copy of these letters is on file with the Economic Affairs Committee.

**IF YES, WHEN?** February 26, 2011.

**WHERE?** *Highlands Today*, a daily paper of general circulation published in Sebring, Highlands County, Florida and distributed in Highlands County, Florida.

**IF YES, WHEN?** March 2, 2011.

**WHERE?** *The News-Sun*, a tri-weekly paper of general circulation published in Sebring, Highlands County, Florida and distributed in Highlands County, Florida.

**IF YES, WHEN?** March 10, 2011.

**WHERE?** *Clewiston News*, a weekly paper of general circulation published in Clewiston, Hendry County, Florida and distributed in Hendry County, Florida.

**IF YES, WHEN?** March 10, 2011.

**WHERE?** *Glades County Democrat*, a weekly paper of general circulation published in Moore Haven, Glades County, Florida and distributed in Glades County, Florida.

**IF YES, WHEN?** March 3, 2011.

**WHERE?** *The Herald-Advocate*, a weekly paper of general circulation published in Wauchula, Hardee County, Florida and distributed in Hardee County, Florida.

**IF YES, WHEN?** February 27, 2011.

**WHERE?** *The Palm Beach Post*, a daily and Sunday paper of general circulation published in West Palm Beach, Palm Beach County, Florida and distributed in Palm Beach County, Florida.

**IF YES, WHEN?** March 2, 2011.

**WHERE?** *Okeechobee News*, a three times a week paper of general circulation published in Okeechobee, Okeechobee County, Florida and distributed in Okeechobee County, Florida.

**IF YES, WHEN?** March 3, 2011.

**WHERE?** *Sun Coast Media Group*, a paper of general circulation published in Charlotte Harbor, Charlotte County, Florida and distributed in Charlotte, Sarasota, and DeSoto Counties Florida.

**B. REFERENDUM(S) REQUIRED?** Yes  No

**IF YES, WHEN?**

**C. LOCAL BILL CERTIFICATION FILED?** Yes  No

**D. ECONOMIC IMPACT STATEMENT FILED?** Yes  No