

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1007 City of Clearwater, Pinellas County

SPONSOR(S): Latvala

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N	Monroe	Miller
2) Agriculture & Natural Resources Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The State conveyed submerged lands in 1925 via Chapter 11050, Laws of Fla., to Pinellas County to be surrendered to the City of Clearwater for the purpose of building the Memorial Causeway, which runs from downtown Clearwater to Clearwater Beach. 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. This bill addresses the use and development of a specific portion of these lands, the permitted use of which was modified by Chapters 2007-312, and 2010-250, Laws of Fla.

The specified portion of land is:

- the filled portion uplands to the east of Clearwater Harbor, and
- the submerged portion where the city's downtown boat slips now exist.

The bill states that the specified lands may be used and developed for the purposes of:

- waterfront economic development,
- activating the downtown waterfront, and
- enhancing the use of Coachman Park and other city facilities.

This use must be consistent with:

- the Department of Economic Opportunity's goals and objectives,
- the Downtown Redevelopment Plan,
- the Clearwater Community Code and other applicable law.

In addition, the bill specifically:

- removes the prohibition that carnivals and shows not be allowed upon the land,
- removes the limitation that the lands be used only for public parks and places of recreation and never cease to be used for public purposes, and
- releases the specified lands from the right of reversion to the state as long as the use and development is consistent with this section.

This takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Clearwater Harbor—Memorial Causeway Submerged Lands

The State conveyed submerged lands in 1925 via Chapter 11050, Laws of Fla., to Pinellas County to be surrendered to the City of Clearwater for the purpose of building the Memorial Causeway.¹ 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 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, the same to be maintained by the said city or county, or both. Provided that no carnivals or shows of any character shall be placed or allowed upon the land lying north of said line; and 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.²

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 ch. 86-345, Laws of Fla., 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.³ The act declared that the use of the property as a marine science center was 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, Laws of Fla., ratified any use of the property described in the 1925 special act⁴ 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 ch. 86-345, Laws of Fla., 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

¹ 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.

² Ch. 11050, s. 1, Sec. 1, (1925).

³ 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 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.

⁴ Chapter 11050, Laws of Fla. (1925).

effective date of ch. 2007-312, Laws of Fla. This ratification preserved the property to the ownership of the Clearwater Marine Science Center.

Additionally, ch. 2007-312, Laws of Fla., provided that the City of Clearwater may authorize private uses of the submerged property⁵ 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 the 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, ch. 2007-312, Laws of Fla., 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.

Chapter 2010-250, Laws of Florida

In 2012 the legislature authorized the City of Clearwater to use the filled upland portion of the property described in ch. 11050, Laws of Fla. (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 legislation provided that the submerged portions of the property granted to the City of Clearwater under ch. 11050, Laws of Fla. (1925), would continue to be used as provided for in that act, as well as ch. 2007-312, Laws of Fla., and that the city could use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The legislation also provided that any filled portion of the lands granted under ch. 11050, Laws of Fla. (1925), which then existed 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 legislation released 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.

Chapter 2010-250, s. 4, Laws of Fla., expressly provided that this law did 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.

Proposed Changes

The bill addresses the use and development of a specific portion of the lands which were granted by the state to the City of Clearwater in 1925, the permitted use of which was modified by chs. 2007-312, and 2010-250, Laws of Fla.. The specified portion of land is:

- the filled portion uplands to the east of Clearwater Harbor, and
- the submerged portion where the city's downtown boat slips now exist.

The bill states that the specified lands may be used and developed for the purposes of:

⁵ As described in Chapter 11050, Laws of Fla. (1925).

- waterfront economic development,
- activating the downtown waterfront, and
- enhancing the use of Coachman Park and other city facilities.

This use must be consistent with:

- the Department of Economic Opportunity's goals and objectives,
- the Downtown Redevelopment Plan,
- the Clearwater Community Code and other applicable law.

In addition, the bill specifically:

- removes the prohibition that carnivals and shows not be allowed upon the land,
- removes the limitation that the lands be used only for public parks and places of recreation and never cease to be used for public purposes, and
- releases the specified lands from the right of reversion to the state as long as the use and development is consistent with this section.

B. SECTION DIRECTORY:

Section 1 –

The section addresses the use and development of a specific portion of the filled portion uplands to the east of Clearwater Harbor, and the submerged portion where the city's downtown boat slips now exist. It states that the specified lands may be used and developed for the purposes of waterfront economic development, activating the downtown waterfront, and enhancing the use of Coachman Park and other city facilities. The section states that this use must be consistent with the Department of Economic Opportunity's goals and objectives, the Downtown Redevelopment Plan, the Clearwater Community Code, and other applicable law.

In addition, this section removes the prohibition that carnivals and shows not be allowed upon the land, removes the limitation that the lands be used only for public parks and places of recreation and never cease to be used for public purposes, and releases the specified lands from the right of reversion to the state as long as the use and development is consistent with this section.

Section 2 –

Explicitly provides that submerged lands, other than the land upon which the downtown boat docks exist, shall continue to be used as provided in chs. 11050, 1925, 2007-312, and 2010-250, Laws of Fla.

Section 3 –

States that this act does not modify or supersede any portions of the City's charter concerning:

- referendum requirements or restrictions on the sale, donation, lease, or other transfer of the lands,
- restrictions on vacating for private benefit the right of way or easement at the water's edge, and
- the restriction on certain public property that must be maintained as open space and for public utilities or city facilities only.

Section 4 –

Provides that this bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 13, 2015

WHERE? Business Observer

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:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES