

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 737 Port of Palm Beach District, Palm Beach County
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Hager
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Miller	Miller
2) Government Accountability Committee	23 Y, 0 N	Miller	Williamson

SUMMARY ANALYSIS

The Port of Palm Beach District (Port) is an independent special district located in Palm Beach County. According to its audited financial statement for fiscal year 2015, the Port derives most of its revenues from rents, royalties, and service charges. In 2015, the total revenues of the Port exceeded \$16 million.

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five elected members. The Port has not assessed ad valorem taxes in approximately 40 years.

The bill codifies the charter of the Port into a single document by codifying, amending, reenacting, and repealing the several special acts currently comprising the charter. The bill also updates and expands definitions, clarifies the Port's authority to construct related projects and facilities, revises certain provisions pertaining to insurance provided to commissioners and employees, and updates provisions pertaining to issuing bond debt.

One of the functions of the Board is to oversee Foreign-Trade Zone operations associated with the Port. In 2008, the federal government created new regulations expanding the locations and modification flexibility of Foreign-Trade Zone site locations. In 2012, the Port approved a resolution to apply for the new Foreign-Trade Zone status created by the regulations in order to expand its site locations into the neighboring Martin and St. Lucie Counties. This application could not be granted because the Port's current charter did not permit the flexibility for expansion needed under the new regulations. Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County. The bill amends the Port's special act to allow the Port to apply for Foreign-Trade Zone site locations outside of Palm Beach County.

The economic impact statement (EIS) for the bill anticipates no increase in revenues or expenses directly to the Port but potential indirect advantages to freight logistics businesses associated with the Port being able to take advantage of the flexibility for expansion of the foreign trade zone under the recent federal regulations. The EIS also refers to a 3 percent maximum annual increase in commissioner compensation, but this appears mistaken as the proposed charter text does not discuss or authorize compensation increases.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The Port of Palm Beach District (Port) is an independent special district located in Palm Beach County. The Port was created by special act in 1915¹ and subsequently amended.² The Port is the fourth busiest container port in Florida, the 18th busiest in the continental U.S., and is a major shipper of Florida goods such as bulk sugar and produce.³

There are 15 deep water seaports⁴ in Florida which collectively generate more than 900,000 direct and indirect jobs and contribute over \$117.6 billion in economic value to the state, accounting for approximately 13 percent of Florida's Gross Domestic Product and \$4.2 billion in state and local taxes.⁵ The most recent financial statement shows that the Port derives most of its revenues from rents, royalties, and service charges. In 2015, the Port had revenues of \$16,016,072 against expenses of \$14,593,844.⁶ The Port has not assessed ad valorem taxes in over 40 years.⁷

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five members elected by at large vote to serve four year terms.⁸ Each Board member originally was compensated at a rate of \$2,400/year and the rate has been adjusted periodically by the Legislature. The most recent increase, in 1999, set the compensation level for Board members to \$9,500/year, with no provision for increases or cost of living adjustments.⁹ The Board members receive the same retirement and insurance benefits as Port employees, including: health, dental, vision, life insurance, short term disability, and are part of the Florida Retirement System.¹⁰ Of Florida's 15 deep water seaports, three have elected commissioners: the Port of Palm Beach, Port Canaveral, and Port of Fernandina.¹¹

The Board governs the operation, maintenance, and management of projects of the Port. These powers and duties include: entering into contracts on behalf of the Port; acquisition of harbor and Port property; construction and repair of Port facilities; establishing trade zones; creating and managing the Port budget; setting rates, tolls, and charges for Port services and use; raising ad valorem taxes as needed; personnel selection and supervision; and providing insurance, pension, and retirement benefits to employees.¹²

¹ Ch. 7081, Laws of Fla. (1915).

² Chs. 74-570, 75-468, 81-459, 87-523, 90-462, 95-467, and 99-457, Laws of Fla..

³ Port of Palm Beach, *General Information*, <http://www.portofpalmbeach.com/121/General-Information> (last visited 3/17/2017).

⁴ See s. 311.09(1), F.S.

⁵ Florida Ports Council, *The Florida System of Seaports*, <http://flaports.org/about/the-florida-system-of-seaports/> (last visited 3/16/2017).

⁶ Port of Palm Beach District Comprehensive Annual Financial Report for Fiscal Year Ending September 30, 2015, p. 10, at <http://portofpalmbeach.com/ArchiveCenter/ViewFile/Item/355> (last accessed 3/16/2017).

⁷ Port of Palm Beach, *General Information*, <http://www.portofpalmbeach.com/121/General-Information> (last visited 3/16/2017).

⁸ Ch. 74-570, Laws of Fla. (1974).

⁹ Ch. 99-457, Laws of Fla. (1999).

¹⁰ PORT OF PALM BEACH, *Human Resources*, <http://www.portofpalmbeach.com/238/Human-Resources> (last visited 3/17/2017).

¹¹ Florida Department of Economic Opportunity, *Official List of Special Districts Online*, at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited 3/17/2017).

¹² Ch. 74-570, Laws of Fla. (1974).

Foreign-Trade Zones

Foreign-Trade Zones (FTZs) are the United States' version of secure free-trade zones.¹³ FTZs are subject to U.S. Customs and Border Protection (CBP) supervision but are largely overseen by a designated local board. The authority to establish FTZs was created by Congress in the Foreign-Trade Zones Act of 1934.¹⁴ The Foreign-Trade Zones Act is administered through two sets of regulations,¹⁵ which were revised in 2008¹⁶ to create a new variety of FTZ known as an Alternative Site Framework (ASF). Port entities operating under the revised ASF provisions have a number of operating advantages in terms of increased flexibility and predictability.¹⁷ The ASF allows FTZ sites administered by port authorities to utilize the "minor boundary modification process" in order to extend FTZ benefits to areas outside of existing zones through a shorter streamlined application process. The ASF framework also expands the range of available FTZ sites to include locations within 60 miles of the port of entry.

Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County.¹⁸ In 2012, the Port approved a resolution to apply for ASF status in order to expand its FTZ site locations into the neighboring Martin and St. Lucie counties.¹⁹ The Port was unsuccessful in seeking ASF status because the Port's charter limits its ability to sponsor future sites outside of Palm Beach County and does not allow expansion outside the immediate port district without approval from the affected county or municipal governments.

EFFECT OF THE BILL

The bill codifies, amends, reenacts, and repeals the various Laws of Florida that comprise the charter of the district.²⁰ In addition to codifying the present charter and governing requirements for the Port, the bill makes the following revisions to the powers of the Board:

- Updates and expands definitions;
- Adds Board authority to act for the development and regulation of projects and facilities;
- Adds Board authority to construct and maintain wharfs and piers;
- Removes the Board's authorization to obtain a group travel insurance plan for the District's employees, agents, and officers;
- Removes a provision ratifying and approving all previously adopted insurance plans;
- Removes a requirement that Board commissioners participating in any insurance plan pay for their own pro rata premium;
- Changes allowable rates of interest on bonds, revenue bonds, and outstanding obligations to comply with s. 215.84, F.S.;
- Removes requirement that an advertisement for bids be published in a financial newspaper in New York City, New York;
- Removes provisions relating to the sale or exchange of refunding bonds; and
- Removes obsolete language.

¹³ U.S. Customs and Border Protection, *About Foreign-Trade Zones and Contact Info*, <http://www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about> (last visited 3/17/2017).

¹⁴ Foreign-Trade Zones Act of 1934, 19 U.S.C. 81a-81u.

¹⁵ The FTZ Regulations (15 CFR Part 400) and CBP Regulations (19 CFR Part 146).

¹⁶ 15 CFR Part 400- FTZ Regulations *available at* <http://enforcement.trade.gov/ftzpage/grantee/regs.html> (last visited 3/17/2017).

¹⁷ U.S. Customs and Border Protection, *Foreign-Trade Zones Manual* (2011), 41-42, at <https://www.cbp.gov/sites/default/files/documents/FTZmanual2011.pdf> (last visited 3/17/2017).

¹⁸ Ch. 74-570, s. 3, art. III, Laws of Fla. (1974).

¹⁹ Palm Beach County Board of County Commissioners, *Executive Brief, Agenda for Meeting of April 16, 2013*, at <http://www.pbcgov.com/pubInf/Agenda/20130416/5a1.pdf> (last visited 3/17/2017).

²⁰ Chs. 74-570, 75-468, 81-459, 87-523, 90-462, 95-467 and 99-457 Laws of Fla.

The bill also authorizes the Port to apply for FTZ site locations outside of Palm Beach County, within 60 miles of the port of entry pursuant to the new ASF regulations implemented in 2008. The bill removes language requiring approval from local governments before establishing FTZ site locations outside of the district, but notes all such FTZs remain subject to local codes, ordinances, and laws.

The bill does not affect the present compensation of the commissioners and does not provide for annual increases.

The economic impact statement (EIS) for the bill anticipates no increase in revenues or expenses directly to the Port but potential indirect advantages to freight logistics businesses associated with the Port being able to take advantage of the flexibility for expansion of the foreign trade zone under the recent federal regulations. The EIS also refers to a 3 percent maximum annual increase in commissioner compensation, but this appears mistaken as the proposed charter text does not discuss or authorize compensation increases.

B. SECTION DIRECTORY:

- Section 1: States legislative intent to codify the various special acts of the Port into a single, comprehensive charter, preserving all present district authority.
- Section 2: Amends, codifies, reenacts, and repeals chapters 74-570, 75-468, 81-459, 87-523, 90-462, 95-467, and 99-457, Laws of Fla., as provided in the bill.
- Section 3: Recreates and reenacts the charter for the Port of Palm Beach, as well as amending the section of the Port charter pertaining to Foreign Trade Zones, authorizing sites to be located outside of Palm Beach County but remaining subject to all local ordinances and laws. The bill updates the Port's authority to provide retirement and insurance benefits by authorizing the provision of such benefits to Port Commissioners on the same basis as the employees.
- Section 4: Repeals chs. 74-570, 75-468, 81,-459, 87-523, 90-462, 95-467, and 99-457, Laws of Fla.
- Section 5: Provides that the act takes effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? Oct. 30, 2015

WHERE? The *Palm Beach Post*, a daily newspaper published in Palm Beach 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:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted one technical amendment and reported the bill favorably as a committee substitute. The amendment removed language purporting to grant the district proprietary and regulatory powers equivalent to counties or other subdivisions of the state. The language was unnecessary because subdivisions of the state are created by the Florida Constitution, not general law, and the statutory powers of an independent special district provide sufficient authority for full operation of the district.