

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1427 Hillsborough County Aviation Authority
SPONSOR(S): Local Administration & Veterans Affairs Subcommittee; McClure
TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1427 passed the House on March 2, 2022, and subsequently passed the Senate on March 10, 2022.

The Hillsborough County Aviation Authority (Authority) is an independent special district created in 1945 by special act. The charter was most recently codified in 2012 and amended in 2014. The Authority has exclusive jurisdiction, control, supervision, and management over all airports in Hillsborough County and each municipality in the county, except those owned by private parties. The Authority's airports include Tampa International Airport and three general aviation airports: Peter O. Knight Airport, Plant City Airport, and Tampa Executive Airport.

The bill codifies, reenacts, amends, and repeals the special acts relating to the Authority. The bill also makes the following revisions to the charter of the Authority:

- Revises the definitions of the terms "airport," "airports and other aviation facilities," "airport purposes," "bond," and "person."
- Changes internal references.
- Provides that a majority of members physically present constitutes a quorum for meetings of the board.
- Requires that elections for certain positions of board governance are held whenever an existing member is re-appointed to the board by the Governor.
- Includes specific authority to construct and maintain runways and taxiways and to employ or contract with lobbyists.
- Provides authority for the electronic execution of instruments, to lease equipment, supplies, and services, and to issue airport zoning permits upon payment of a reasonable permit fee set at the discretion of the Airport Zoning Director.
- Grants authority to make surveys and examinations pertaining to height zoning regulations, to pay for advertising, collect transportation facility charges, apply for and hold trademarks and/or service marks, and apply to establish, operate, and maintain foreign and domestic trade zones.
- Grants authority to solicit and do all things to promote commerce, including advertising and receiving sponsorships.
- Expands its authority to self-insure and make other arrangements to manage risk.
- Clarifies the entities authorized to cooperate with the Authority.
- Allows for the seal of the Authority on a bond to be a facsimile.
- Adds three new exceptions to the competitive bidding requirements.

According to the Economic Impact Statement, the bill will have a negligible impact on revenue and costs.

The bill was approved by the Governor on June 24, 2022, ch. 2022-252, L.O.F., and will become effective on October 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² The charter of a special district created by special act may be altered or amended by subsequent special acts.³ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.⁴ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵ A “dependent special district” is a special district subject to significant control by the governing body of a single county or municipality.⁶ An “independent special district” is any district that is not a dependent special district.⁷

Formation and Charter of an Independent Special District

With the exception of community development districts,⁸ the charter for an independent special district must include the minimum elements required by ch. 189, F.S.⁹ Any special laws or general laws of local application relating to any special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;¹⁰
- Exempt district elections from the requirements of s. 189.04, F.S.;¹¹
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;¹²

¹ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

² See ss. 189.02(1), 189.031(3), and 190.005(1), F.S.; see generally s. 189.012(6), F.S.

³ Local Administration & Veterans Affairs Subcommittee, *Local Bill Policies and Procedures Manual 2020 – 2022*, p. 23, <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&Committeed=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf> (last accessed Jan. 29, 2022).

⁴ *Halifax Hospital Medical Center, supra* 547.

⁵ Local Administration & Veterans Affairs Subcommittee, *The Local Gov’t Formation Manual 2020 – 2022*, pp. 60-61, <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&Committeed=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last accessed Jan. 29, 2022).

⁶ S. 189.012(2), F.S. Types of such control include the county or municipality governing body acting as the district governing body, having the authority to appoint or remove at will district board members, or having final approval authority over the district’s budget.

⁷ S. 189.012(3), F.S.

⁸ S. 189.0311, F.S.; see s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent community development districts).

⁹ S. 189.031(1), F.S. Section 189.031(3), F.S., sets forth the minimum charter requirements for an independent special district.

¹⁰ S. 189.031(2)(a), F.S.

¹¹ S. 189.031(2)(b), F.S.

¹² S. 189.031(2)(c), F.S.

- Exempt a district from certain requirements relating to¹³ issuing bonds if no referendum is required,¹⁴ requiring special district reports on public facilities,¹⁵ notice and reports of special district public meetings,¹⁶ or required reports, budgets, and audits;¹⁷ or
- Create a district for which a statement documenting specific required matters is not submitted to the Legislature.¹⁸

These prohibitions were passed by a three-fifths majority in the House and Senate when ch. 189, F.S., originally was adopted.¹⁹ They may be amended or repealed only “by like vote.”²⁰

Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.²¹

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.²²

Codification

Codification is the process of consolidating multiple special acts comprising a special district’s charter in one act. After a special district is created, subsequent special acts may amend the district’s charter. Codification of the multiple acts making up a special district’s charter allows readers to more easily determine the boundaries and authority of a district.

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.²³ Reenactment of existing law should not be construed either as granting additional authority nor superseding current authority of the district; modifying or amending any covenants, contracts, or other obligations with respect to bonded indebtedness; or affecting 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.²⁴ However, such reenactment maintains exceptions to law contained in the charter.

¹³ S.189.031(2)(d), F.S.

¹⁴ S. 189.051, F.S.

¹⁵ S. 189.08, F.S.

¹⁶ S. 189.015, F.S.

¹⁷ S. 189.016, F.S.

¹⁸ S. 189.031(2)(e), F.S. (providing that each required statement filed with the Legislature must include the purpose of the proposed district, the authority of the district, an explanation of why the district is the best alternative, and a resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the district is consistent with approved local planning and the local government does not object to creation of the district).

¹⁹ Ch. 89-169, s. 67, Laws of Fla.

²⁰ Art. III, s. 11(a)(21), Fla. Const. (“SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: ... (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.”).

²¹ S. 189.031(3), F.S. (setting forth the minimum charter requirements).

²² Art. VII, s. 9(a), Fla. Const.

²³ S. 189.019, F.S.

²⁴ S. 189.019(3), F.S.

Hillsborough County Aviation Authority

The Hillsborough County Aviation Authority (Authority) is an independent special district created in 1945 by special act.²⁵ The charter was recently codified in 2012²⁶ and amended in 2014.²⁷ The Authority has exclusive jurisdiction, control, supervision, and management over all airports in Hillsborough County and each municipality in the county, except those owned by private parties.²⁸ The Authority's airports include Tampa International Airport and three general aviation airports: Peter O. Knight Airport, Plant City Airport, and Tampa Executive Airport.²⁹

The Authority is governed by a five-member board composed of the Mayor of the City of Tampa, sitting ex officio, one member of the Board of County Commissioners of Hillsborough County (BOCC), selected by the BOCC and sitting ex officio, and three members appointed by the Governor for four-year terms. To be eligible for gubernatorial appointment, a person must be a resident and citizen of the county and may not be employed by or be an elected official of the county or one of its municipalities.³⁰ No member receives compensation for services on the Authority board, but may receive reimbursement for travel expenses.³¹

Various fees and charges, including, but not limited to, landing fees and service charges collected from owners and operators of airplanes using Authority facilities,³² customer facility charges, and transportation facility charges,³³ finance Authority facilities and operations. The Authority may issue bonds³⁴ and when necessary, by resolution, request the BOCC to levy ad valorem taxes, not to exceed 1.5 mills per annum, to benefit the Authority.³⁵

The Hillsborough County legislative delegation is required to review the special act(s) of the Authority prior to July 1, 2022, and every 10 years thereafter, to determine whether there is a need for codification. If it is determined that there is such a need, the delegation may require the Authority to prepare applicable legislation.³⁶

Effect of Proposed Changes

The bill codifies, reenacts, amends, and repeals the special acts comprising the charter of the Authority³⁷ and makes the following revisions to the charter:

- Includes easements in the definition of "airport."
- Includes restaurants, rental car centers, office complexes, general commercial facilities, gas/service stations, and solar energy facilities in the definition of "airports and other aviation facilities and facilities related thereto and any portion thereof."
- Includes "aviation" and "aeronautical" in the definition for "airport purposes."
- Defines "bond" to include bonds, notes, certificates, and other financial obligations issued by the Authority for financing and refinancing purposes and, except where otherwise required by the

²⁵ Ch. 45-23339, Laws of Fla.

²⁶ Ch. 2012-234, Laws of Fla.

²⁷ Ch. 2014-250, Laws of Fla.

²⁸ Ch. 2012-234, s. 4(2) of s. 3, Laws. of Fla.

²⁹ OpenGov Procurement, *Tampa International Airport Landscape Maintenance Services*,

<https://secure.procurenow.com/portal/tampaairport/projects/13934#:~:text=The%20Authority%20owns%20and%20operates%20Tampa%20International%20Airport,origination-destination%20airport%20serving%20the%20greater%20Tampa%20Bay%20area.> (last visited Jan. 29, 2022).

³⁰ Ch. 2012-234, s. 5(1) of s. 3, Laws of Fla.

³¹ Ch. 2012-234, s. 6(2)(h) of s. 3, Laws of Fla.

³² Ch. 2012-234, s. 6(2)(gg) of s. 3, Laws of Fla.

³³ Ch. 2012-234, s. 6(2)(ii) of s. 3, Laws of Fla.

³⁴ Ch. 2012-234, s. 9(1) of s. 3, Laws of Fla.

³⁵ Ch. 2012-234, ss. 6(2)(jj) and 13 of s. 3, Laws of Fla.

³⁶ Ch. 2012-234, s. 18 of s. 3, Laws of Fla.

³⁷ Chs. 2012-234 and 2014-250, Laws of Fla.

context, notes and other instruments executed to evidence obligations of the Authority for the repayment of borrowed funds.

- Defines “person” to include individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- Clarifies that the term “ordinance” may be used interchangeably with “regulation” and “rule.”
- Changes all references to Tampa International Airport from “TIA” to “TPA.”
- Provides that a majority of members physically present constitutes a quorum for meetings of the board.
- Clarifies that elections for Chairperson, Vice Chairperson, Secretary, Treasurer, and Assistant Secretary/Assistant Treasurer of the board are held whenever an existing member is re-appointed to the board by the Governor.
- Includes specific authority to construct and maintain runways and taxiways.
- Includes the authority to employ or contract with lobbyists.
- Allows for the electronic execution of instruments.
- Includes authority to lease equipment, supplies, and services required for Authority purposes.
- Includes authority to issue airport zoning permits upon payment of a reasonable permit fee set at the discretion of the Airport Zoning Director.
- Grants authority to make surveys and examinations to investigate compliance with federal, state, or local height zoning regulations.
- Grants authority to expend revenues for advertising.
- Allows for the collection of transportation facility charges.
- Grants authority to apply for and hold trademarks and/or service marks.
- Grants authority to apply to the proper authorities of the United States for the right to establish, operate, and maintain foreign and domestic trade zones within the limits of the airport and establish, operate, and maintain such foreign and domestic trade zones.
- Grants authority to solicit air carriers, shipping lines, intermodal or common carriers, and other businesses and do all things necessary or advisable, including, but not limited to, establishing an air service incentive program, to promote commerce and increase passenger traffic and freight tonnage through the airports operated by the Authority.
- Grants authority to publicize, advertise, promote and make known to the users, potential users, and the general public the advantages, facilities, resources, products, attractions, and attributes of the activities and projects which the Authority may perform, including, but not limited to, participating in community organizations supporting trade, travel and/or economic development.
- Grants authority to receive sponsorship and provide sponsorships.
- Grants authority to self-insure, enter into risk management programs, or purchase liability insurance for whatever coverage the Authority may choose or any combination thereof.
- Clarifies that the authorization to aid and cooperate with the Authority also applies to water control districts, road and bridge districts, school districts, county, cities, state, or any other political subdivision.
- Allows for the seal of the Authority on a bond to be a facsimile.
- Adds three new exceptions to the competitive bidding requirements.

According to the Economic Impact Statement, the bill will have negligible impact on revenue and costs.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 13, 2021.

WHERE? The *Tampa Bay Times*, a daily newspaper publishing in Hillsborough County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?