

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 755 Canaveral Port District, Brevard County

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Sirois and Brackett

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N, As CS	Mwakyanjala	Darden
2) Ways & Means Committee	23 Y, 0 N	Rexford	Aldridge
3) State Affairs Committee	17 Y, 0 N	Mwakyanjala	Williamson

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

Foreign-Trade Zones (FTZs) are secure free-trade zones subject to oversight by United States Customs and Border Protection. A 2008 revision of the FTZ law created a new variety of FTZs 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. The ASF also expands the range of available FTZ sites to include locations within 60 miles of the port of entry.

The Canaveral Port District (Port) is an independent special district located in Brevard County. The Port is currently the busiest cruise port in the world and conducts cruise and cargo services, leases an inland warehouse and logistics center, and is home to U.S. Army, Navy, and Air Force facilities. Eighty percent of the Port's revenues is generated from cruise business. The Port does not currently levy ad valorem taxes.

The bill amends the Port's charter to revise provisions concerning:

- Noticing and recordkeeping guidelines.
- Boundaries of FTZs.
- Powers of the governing body of the Port.
- The maximum amount of principle on revenue certificates and revenue bonds that the Port may levy taxes to pay for in a single year.
- Competitive solicitation procedures.

The bill adds provisions to the Port's charter concerning support for the commercial space launch industry.

The Economic Impact Statement filed with the bill states that the bill is not expected to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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 A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁴

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁵

A district is classified as “independent” if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁶

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.⁷

Foreign-Trade Zones

Foreign-Trade Zones (FTZs) are secure trade zones.⁸ FTZs are subject to United States Customs and Border Protection supervision. The authority to establish FTZs was created by Congress in the Foreign-Trade Zones Act of 1934 (FTZ Act).⁹ The FTZ Act is administered through two sets of regulations,¹⁰ which were revised in 2008¹¹ to create a new variety of FTZs known as an alternative site framework (ASF). Port entities operating under the revised ASF provisions have a number of operating

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 ss. 189.012(6), F.S.

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Jan. 12, 2024).

⁴ The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). See also, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

⁵ S. 189.012(2), F.S.

⁶ S. 189.012(3), F.S.

⁷ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

⁸ 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 Jan. 12, 2024).

⁹ 19 U.S.C. 81a-81u.

¹⁰ The FTZ Regulations (15 CFR Part 400) and CBP Regulations (19 CFR Part 146).

¹¹ International Trade Commission, *15 CFR Part 400- FTZ Regulations*, <http://enforcement.trade.gov/ftzpage/grantee/regs.html> (last visited Jan. 24, 2024).

advantages in terms of increased flexibility and predictability.¹² 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 also expands the range of available FTZ sites to include locations within 60 miles of the port of entry.

Public Seaports in Florida

There are 16 public seaports in Florida that collectively generate nearly 900,000 direct and indirect jobs and contribute \$117.6 billion in economic value to the state through cargo cruise activities. Florida’s public seaports account for approximately 13 percent of Florida’s gross domestic product while contributing \$4.2 billion in state and local taxes.¹³

Canaveral Port District

The Canaveral Port District (Port) is an independent special district located in Brevard County. The Port was created by special act in 1953¹⁴ and was subsequently recodified in 2014.¹⁵ Currently the world’s busiest cruise port,¹⁶ the Port conducts cruise and cargo services, leases an inland warehouse and logistics center, and is home to U.S. Army, Navy, and Air Force facilities. Eighty percent of the Port’s revenues is generated from cruise business.¹⁷ For Fiscal Year 2024, the Port has projected operating revenues of \$187,148,710 and operating expenses of \$122,581,830.¹⁸

The Port has the ability to levy ad valorem taxes at a rate not exceeding 3 mills for operating expenses and debt service.¹⁹ The Port does not currently levy ad valorem taxes and has not since 1986.²⁰ The Port can also levy taxes necessary to pay for the principal and interest on revenue bonds and certificates not exceeding the aggregate sum of \$7.5 million.²¹

The Port is operated by the Canaveral Port Authority (Authority).²² The Authority consists of five Port Commissioners, elected from single-member districts in which they reside.²³ When the Authority is required to give public notice, the notice must be published in the following methods:

- Once a week for two consecutive weeks in a newspaper of general circulation published in Brevard County.
- On the Authority’s website.
- In a manner no less than may be required by law.²⁴

¹² U.S. Customs and Border Protection, *Foreign-Trade Zones Manual* (2011), 41-42, <https://www.cbp.gov/sites/default/files/documents/FTZmanual2011.pdf> (last visited Jan. 24, 2024).

¹³ Florida Ports Council, *The Florida System of Seaports*, <https://flaports.org/about/the-florida-system-of-seaports/> (last visited Jan. 24, 2024).

¹⁴ Ch. 28922, Laws of Fla. (1953).

¹⁵ Ch. 2014-241, Laws of Fla., Ch. 2014-241, s. 3, Laws of Fla. contains the charter of the Port. (hereinafter Port Charter).

¹⁶ Florida Ports Council, *Port Canaveral Sees Record Year for Cargo and Cruise Operations*, <https://flaports.org/port-canaveral-sees-record-year-for-cargo-and-cruise-operations/> (last visited Jan. 24, 2024).

¹⁷ Port Canaveral, *About Us*, <https://www.portcanaveral.com/about> (last visited Jan. 24, 2024).

¹⁸ Canaveral Port Authority, *Proposed Operating Budget for the year ending September 30, 2024*, <https://www.portcanaveral.com/About/Financials/FY2024-BUDGET-SEPT-Commission-meeting.aspx> (last visited Jan. 24, 2024).

¹⁹Port Charter, Art. VIII, s. 8.

²⁰ Canaveral Port Authority, *Financial Report, September 30, 2022*, 14, https://flauditor.gov/pages/specialdistricts_efile%20rpts/2022%20canaveral%20port%20district.pdf (last visited Jan. 24, 2024).

²¹ Port Charter, Art. VIII, s. 1.

²² Port Charter, Art. III.

²³ Port Charter, Art. V, s. 1.

²⁴ Port Charter, Art. II, s. 2.

Powers of the Authority include the ability to:

- Apply to proper authorities of the U.S. government for the right to establish, operate, and maintain an FTZ within the limits of Brevard County and to establish, operate, and maintain such FTZ.²⁵
- Employ an attorney for a term of office prescribed by the Authority.²⁶
- Lease lands, personal properties, and facilities:
 - For up to 30 years by majority vote at a public meeting.²⁷
 - For 30 to 50 years by majority vote at a public meeting and publishing public notice of intent to enter into such a lease at least 30 days before the public meeting.²⁸
 - For more than 50 years by a supermajority vote at two public meetings and publishing public notice of intent to enter into such a lease at least 60 days before the first public meeting.²⁹
- Execute and deliver contracts necessary and convenient to carry out the powers expressed in the Port's charter.³⁰ Contracts for any construction, improvement, repair, or building that exceed \$100,000 must go through a competitive solicitation process including advertisement for the contract at least once a week for three consecutive weeks in a newspaper of general circulation in the Port and Brevard County and on the Authority's website.³¹ If the cost of a contract is reasonably expected to be greater than \$10,000, but less than \$100,000, the Chief Executive Officer (CEO) of the Port must:
 - Obtain at least three written bid offers to perform the contract from at least three independent persons or business entities responsible in the subject business under consideration.
 - Make a record of the offers.
 - After obtaining and recording such offers, award the contract to the most responsive, responsible bidder.³²

Effect of Proposed Changes

The bill amends the public notice provisions of the Port's charter to allow the Authority to provide public notice by publishing a notice to the Authority's website for two consecutive weeks in a manner no less than required by general law. The bill makes additional changes throughout the charter conforming with current public notice provisions contained in ch. 50, F.S.³³

The bill removes from the charter the requirement that the FTZ exist within the limits of Brevard County to allow the Authority the option to expand the FTZ, consistent with federal law and regulations regarding FTZs and ASFs.

The bill revises the votes required for the Port to enter into leases of a certain term as follows:

- A term of up to 30 years requires a majority vote at a public meeting.
- A term of more than 30 years requires a vote of 75 percent of all members of the Authority voting at two public meetings, with public notice of intent to enter the lease provided at least 60 days before the first meeting.

The bill increases the amount of revenue certificates and revenue bonds outstanding the Authority may have for tax purposes from \$7.5 million to \$20 million.

The bill revises competitive solicitation procedures by allowing the Authority to publish its notice for requests for contracts for any construction, improvement, repair, or building that exceeds \$100,000 on

²⁵ Port Charter, Art. IV, s. 3; the FTZ maintained by the Authority was reorganized as an ASF in 2012, Rates, Rules & Regulations Governing Foreign Trade Zone No. 136, Zone Schedule (portcanaveral.com) (last visited Jan. 24, 2024).

²⁶ Port Charter, Art. IV, s. 9.

²⁷ Port Charter, Art. IV, s. 16(b)1.

²⁸ Port Charter, Art. IV, s. 16(b)2.

²⁹ Port Charter, Art. IV, s. 16(b)3.

³⁰ *Id.*

³¹ Port Charter, Art. XVII, s. 1.

³² Port Charter, Art. XVII, s. 2.

³³ Chapter 50, F.S. prescribes the manner for publishing legal and official advertisements.

the Authority's website for at least 10 days, but not more than 90 days, before receiving bids. This revised notice process is authorized in ch. 50, F.S. For contracts reasonably expected to be between \$25,000 and \$100,000, the bill requires the CEO or his or her designee to request at least three written bids and to award the contract to the most responsive, responsible, and qualified bidder.

The bill expands the types of purchases that are not subject to competitive bidding requirements of the charter to include:

- Purchases made through a contract issued by a federal, state, or local government or a school board, or agency thereof, if such contract has been competitively bid;
- Purchases made pursuant to the Consultant's Competitive Negotiation Act;³⁴
- Purchases of equipment, supplies, materials, or services from a federal General Services Administration schedule or for a federal agency when required for Port operations;
- Purchases of equipment, supplies, materials, or services when competitive solicitation and award are excepted or exempted by general law;
- Purchases of required equipment, supplies, materials, or services that are highly specialized or proprietary, or when no other authorized vendor can supply the required equipment, supplies materials, or services;
- Emergency purchases necessary to mitigate a situation that threatens the safety of employees or passengers, the operation of the Port, or the loss of Port property;
- Purchases of certain mandatory, recurring, or day-to-day expenditures such as utilities, government fees, or purchases of equipment, supplies, materials, or services provided through interlocal governmental agreements;
- Purchases of government surplus material and equipment;
- Purchases of used equipment and material to be used for Port purposes, provided that two independent appraisals are obtained and considered;
- Purchases through the Port Authority's Owner-Direct Purchase Program when the construction contract or construction management contract has been awarded in accordance with Article XVII of the Charter; and
- Situations in which the Authority has taken over by transfer or assignment any contract authorized to be assigned to it under the Port's charter.

The bill creates a new section of the charter concerning the commercial space launch industry (industry) and defines the term to mean any company substantially engaged in the transport, operation, and recovery of space launch or landing services with active maritime operations at the Port. The bill requires the Authority to take reasonable measures to support the industry and to submit by February 1 of each year, beginning in 2025, an annual report to the chair of the Space Florida Board of Directors containing measures the Authority has taken to support the industry at the Port.

The bill requires the Authority to hold a public hearing at least once every two years to discuss the state of industry interests at the Port and to invite representatives from the industry with active maritime assets or operations at the Port and Space Florida at least 45 days before the hearing. The bill directs the Authority to provide public notice of the hearing at a regularly-scheduled hearing of the Authority and to provide written notice via mail to the chair of the Space Florida Board of Directors at least 45 days before the public hearing.

The bill also includes several provisions that modernize operations of the Port (e.g., authorizing the Authority to maintain electric meeting records in lieu of physical books) and removes obsolete provisions.

The Economic Impact Statement filed with the bill states that the bill is not expected to have a fiscal impact.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2014-241, Laws of Fla., relating to Canaveral Port District, Brevard County.

³⁴ S. 287.055, F.S.

Section 2: Provides for liberal construction of the act.

Section 3: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 3, 2023

WHERE? The *Florida Today*, a newspaper printed and published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed an intent statement related to the commercial space launch industry.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.