

STORAGE NAME: h1493.ca

DATE: March 24, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1493

RELATING TO: Mid-Bay Bridge Authority, Okaloosa County

SPONSOR(S): Representative Melvin and others

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) TRANSPORTATION (EDC)
 - (3) FINANCE & TAXATION (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

The bill codifies all prior special acts relating to the Mid-Bay Bridge Authority (Authority) in Okaloosa County into a single act.

The bill converts the Authority from being a *dependent* special district to an *independent* special district.

The bill provides and expands the purpose of the district to include planning for, constructing, operating, coordinating, and maintaining one or more bridges or spans traversing Choctawhatchee Bay, and the roads, roadways, traffic exchanges, intersections, methods of ingress and egress thereon, expansions, avenues of access and all other transportation facilities of any nature in Okaloosa County, relating to the Mid-Bay Bridge and the means to efficiently and safely traverse and travel around Choctawhatchee Bay.

The bill removes the requirement that the Authority prepare its annual budget as the board of county commissioners prescribe and that the Authority submit the Authority's budget to the board of county commissioners by June 1 of each year.

The bill removes the requirement that the board approve the Authority's budget.

The bill removes the requirement that any budget amendment adopted by the Authority that increases the total budget must first be approved by the board before it becomes effective.

The bill requires that the any lease-purchase agreement between the Authority and the Department of Transportation (DOT) provide for orderly repayment of any and all costs incurred by the DOT in accordance with the terms of the agreement.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Mid-Bay Bridge Authority

The Mid-Bay Bridge Authority (Authority) was created in 1986 by special act of the Legislature as a *dependent* district. The Authority's purpose is planning for, constructing, operating and maintaining a bridge transversing Choctawhatchee Bay. The Authority's control extends to its "system," which includes the bridge together with all additions, improvements, connections, extensions, streets, roads, and transportation facilities appurtenant thereto. The Authority currently charges a \$2 toll each way over the bridge, unless you are a commuter, and then it is only \$1 each way.

Under its charter, the Authority is required to submit its annual budget to the board of county commissioners before the first day of June of each year. Along with the annual budget, the Authority must also submit a certified copy of a resolution which determines and finds the estimated amounts to be expended. The board of county commissioners then examines the budget and the certified copy of the resolution, and may increase or reduce the total amount requested for the Authority's expenditures in an amount the board deems advisable. The board then approves the Authority's budget, either as submitted or as amended. If the Authority adopts any amendment to the budget which increases the total budget, the amendment must be approved by the board before it becomes effective.

Statutory Provisions for Converting Special Districts

Section 189.403, Florida Statutes, provides the criteria for designating a special district as either dependent or independent. In addition, the law provides requirements for creation, merger and dissolution of special districts. However, there are no statutory provisions for a district to convert its status.

It is unclear if the Mid-Bay Bridge Authority should be made to comply with the requirements of section 189.404(3), Florida Statutes, the minimum requirements for creating an independent special district.

Codification

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of all special districts' charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation and that all prior Legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, Florida Statutes, by (1) extending the deadline to codify to December 1, 2004; (2) allowing for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs; (3) removing the prohibition of substantive amendments in a district's codification bill; and (4) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

Special Districts with 2 special acts (45 districts)	1999 Legislative Session
Special Districts with 3 or 4 special acts (63 districts)	2000 Legislative Session
Special Districts with 5, 6 or 7 special acts (53 districts)	2001 Legislative Session
Special Districts with 8, 9,	2002 Legislative Session

10, 11 or 12 special acts (56 districts)

Special Districts with 13 or more (54 districts)

2003 Legislative Session

Special Fire Control Districts (47 districts)

2004 Legislative Session

Status Statement

Also, section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the determination or declaratory statement of the Department of Community Affairs regarding the status of the district.

Special Districts/Independent v. Dependent

Pursuant to section 189.403(3), Florida Statutes, an independent special district is a special district which is not a dependent district. Dependent districts are special districts which have at least one of the following characteristics as provided in section 189.404(2), Florida Statutes:

- (i) The district's governing board is identical to that of the governing body of a single county or single municipality;
- (ii) The members of the district's governing board are appointed by the governing body of a single county or single municipality;
- (iii) District governing board members are subject to removal by the governing body of a single county or single municipality;
- (iv) The district's budget requires approval through an affirmative vote by the governing body of a single county or single municipality.

As of September 30, 1989, a dependent special district is created by the adoption of the district's charter by ordinance of a county or municipal governing body having jurisdiction over the area affected. Only the Legislature may create an independent district.

The *1998-1999 Official List of Special Districts*, prepared by the Florida Department of Community Affairs, lists the Mid-Bay Bridge Authority as a *dependent* district. The classification as a dependent district arises from the Authority's budget requiring approval through an affirmative vote by the governing body of Okaloosa county, one of the characteristics of a dependent district found in section 189.404(2), Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Mid-Bay Bridge Authority in Okaloosa County into a single act.

The bill converts the Authority from being a *dependent* special district to an *independent* special district.

The bill provides and expands the purpose of the district as planning for, constructing, operating, and maintaining bridges or spans traversing Choctawhatchee Bay, and related roads and all other transportation facilities of any nature in Okaloosa County, relating to the Mid-Bay Bridge and the means to efficiently and safely traverse and travel around Choctawhatchee Bay. This bill expands the Authority's "system" from streets, roadways, facilities, "appurtenant thereto" to streets, roadways, and facilities within Okaloosa County.

This bill grants the Authority's governing board complete and final control over its budget, as the board of county commissioners no longer reviews or approves the Authority's budget. The bill removes the requirement that the Authority prepare its annual budget as the board of county commissioners prescribes. The bill removes the requirement that the chairman of the Authority submit the Authority's budget to the board of county commissioners by June 1 of each year. The bill

removes the requirement that the Authority submit a certified copy of the resolution determining and finding the estimated amounts to be expended to the board of county commissioners at the same time it submits its annual budget. The bill removes the requirement that the board of county commissioners examine the Authority's budget and resolution. The bill removes the board's authority to increase or reduce the total amount requested in an amount that the board deems available in its sole discretion. The bill removes the requirement that the board approve the Authority's budget. The bill removes the requirement that any budget amendment adopted by the Authority that increases the total budget must first be approved by the board before it becomes effective.

The bill requires that any lease-purchase agreement between the Authority and the Department of Transportation provide for orderly repayment of any and all costs incurred by DOT in accordance with the terms of the agreement, rather than the expeditious repayment of any and all costs incurred by the DOT.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 86-645, Laws of Florida; Chapter 88-542, Laws of Florida

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill removes the authority of the board of county commissioners to approve the Authority's budget and budget amendments. The bill potentially removes liability the county may have to the DOT for any Authority debts arising from the Authority's borrowing of money from the tolls facilities trust fund.

The bill expands the system that the Authority oversees, which may increase the Authority's obligations to maintain roadways, facilities, and other components of its system.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?
No.
- b. Does the bill require or authorize an increase in any fees?
No.
- c. Does the bill reduce total taxes, both rates and revenues?
No.
- d. Does the bill reduce total fees, both rates and revenues?
No.
- e. Does the bill authorize any fee or tax increase by any local government?
No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
N/A
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?
N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
N/A
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?
N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?
N/A
 - (2) Who makes the decisions?
N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Codifies, reenacts, amends, and repeals special acts relating to the Mid-Bay Bridge Authority.

Section 2: Recreates and reenacts the Mid-Bay Bridge Authority to read:

Section 1: Declares purpose of Authority; declares that the Authority is an independent special district; provides that the governmental body of the district is the Mid-Bay Bridge Authority.

Section 2: Provides definitions.

Section 3: Provides membership of Authority; provides that the Governor appoints the members of the Authority; provides that the terms of office for members is 3 years, with their term expiring on June 30; provides for officers of Authority; Provides that officers serve for 1 year and that they can not hold the same office consecutively for more than two terms; provides that a quorum consists of three members, and action is taken by majority vote; provides for member removal by the Governor; provides grounds for member removal; provides that failure to attend three consecutive regular meetings is neglect of duty; provides that the Governor fills vacancies; requires the appointment to be made within 30 days; prohibits any person from being appointed who has transacted business with the Authority within the past 3 years; prohibits former Authority members from transacting business with the Authority until 3 years after their last day of office; defines "transaction"; prohibits Authority members or other specified persons from benefiting or participating in Authority transactions; requires disclosures of conflict of interests; provides that any member who becomes a constitutional officer shall cease to be a

member; provides that the Governor shall appoint a person to serve the remaining term; provides that if the former member resigns from his constitutional office, the person is not restored to his former position as member of the authority; provides that the District Engineer of the Florida DOT is an *ex officio* member of the authority with no voting privileges.

- Section 4: Grants all powers necessary for the Authority to accomplish the purposes of its charter, including, but not limited to, the authority to: enter into contracts; sue or be sued; employ necessary personnel; appoint an executive director; prescribe duties of personnel and director; adopt an annual budget; amend budget during fiscal year; adopt rules regarding regulation, conduct, and operation of the Authority; enforce such rules; adopt or alter an official seal; maintain an office within county; plan for and study feasibility of a bridge over the Choctawhatchee Bay; construct, operate, maintain, repair, and acquire the Authority's system; coordinate and encourage public and private development in connection with the system; fix, charge, and collect fees, tolls, rents and charges for use of the Authority's system; accept grants and donations and expend such funds for public purposes in its area of operation; buy, sell, lease, any real or personal property; exercise eminent domain power; borrow money and issue notes; employ technical experts, consultants, or other staff; appoint an advisory committee; issue revenue or refunding bonds; pay operating and debt service of the Authority; enter into lease-purchase agreements with the Florida DOT; do all other acts necessary to carry out Authority purposes.
- Section 5: Provides that members of the Authority do not receive salary or other compensation; provides reimbursements for reasonable costs and expenses incurred in performing duties; prohibits the rate for travel expenses from exceeding the rate for state employees.
- Section 6: Provides budget procedures; provides that budget must be prepared by May 31; Provides that the Authority's fiscal year is concurrent with Okaloosa County's fiscal year; authorizes the creation of a "renewal and replacement fund" and provides creation procedures; provides use requirements of such fund; Provides for the adoption of procedures used to establish costs.
- Section 7: Requires the Authority to give reasonable notice of all meetings; requires at a minimum three days notice; requires notice to be published in a newspaper in general circulation in Okaloosa County; requires specific items to be included in notice; Allows exception to notice requirement for those emergency meetings called due to an immediate danger.
- Section 8: Authorizes the Authority to issue revenue or refunding bonds; provides purpose for issuance of bonds; provides descriptions of issuance options for bonds; provides for bonds bearing interest; requires issuance of bonds by resolution of the Authority; Provides optionable bond holder contract provisions, such as the creation of reserves or sinking funds, limitation on use of bond proceeds, and the pledging of bond proceeds; authorizes the Authority to employ fiscal agents or the State Board of Administration (SBA); allows the SBA to take over the management, control, and administration of the bonds upon request of the Authority; authorizes the Authority to enter into indentures or deeds of trust; provides optional provisions to be contained within any debenture agreements; declares Authority bonds to be negotiable instruments which have all the qualities and incidents of negotiable bonds; provides that the Authority determines the terms and manner of sale and distribution; authorizes the Authority to establish and administer sinking funds for the payment, purchase or redemption of any outstanding bonds.
- Section 9: Provides that the State or Federal Government will not alter the Authority's rights regarding bonds or contracts with bondholders; provides that the State will not be alter or limit rights of Authority in any agreement with the Federal Government.
- Section 10: Provides that powers granted by the act are supplemental to any other powers conferred by other laws, unless inconsistent.
- Section 11: Dictates that the DOT cooperate with the Authority.

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- Section 12: Requires the Authority's financial records to be audited by an independent CPA at least once a fiscal year.
- Section 13: Authorizes the Authority to enter into a lease-purchase agreement with the DOT; provides that Authority lease to the Department; provides lease terms; authorizes the DOT, as lessee, to pay tolls, fees, and other generated revenues; provides that the DOT may covenant and agree to pay all or partial-amounts of maintenance and operation costs; provides for repayment of any Department costs.
- Section 14: Declares that any bonds or other obligations are legal investments; declares that they also constitute securities eligible for deposit and security.
- Section 3:** Repeals all prior special acts relating to the district's charter.
- Section 4:** Provides for liberal construction of the act's provisions, especially where a strict construction would result in the defeat of an Authority accomplishment.
- Section 5:** Provides severability clause.
- Section 6:** Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

- A. NOTICE PUBLISHED? Yes No
IF YES, WHEN? January 27, 1999
WHERE? Daily News; Okaloosa County
- 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

IV. COMMENTS:

The Committee on Community Affairs was unable to obtain a letter from the Okaloosa Board of County Commissioners regarding the Authority's change in status from a dependent special district to an independent district. The Board's opinion on the change is important due to the Board's current control over the Authority's budget. Although the Board is unwilling to put it in writing, it appears as though the Board does not oppose the Authority's change to an independent district. At a public hearing on this issue attended by the Okaloosa Legislative Delegation, there were several representatives from the Board and the County. The representatives were asked directly if they opposed the Authority converting to an independent district, and they said no.

Although the DOT was contacted regarding this bill, no response was given prior to publication of this analysis.

It is not often that a dependent district converts to an independent district. Due to this, there is some question on whether the Authority is required to have the independent special district minimum charter provisions required under section 189.404, Florida Statutes. The statute reads that when an independent district is *created*, its charter must contain specific provisions. It is unclear whether the statute is applicable when a dependent district converts to an independent district.

This bill does not contain the Authority's boundaries, although it does provide that the Authority's "system" expands the Authority's "system" from streets, roadways, facilities, "appurtenant thereto" to within Okaloosa County. Attached is a map which shows the location of the Mid-Bay Bridge in Okaloosa County.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to an amendment which inserts into the District's charter a provision providing for the District's boundaries being the same as the boundaries of Okaloosa County.

VI. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

Staff Director:

Laura L. Jacobs

Joan Highsmith-Smith