

**HOUSE OF REPRESENTATIVES ANALYSIS**

**BILL #:** HB 203 W/CS Lower Florida Keys Hospital District/Codification  
**SPONSOR(S):** Sorensen  
**TIED BILLS:** **IDEN./SIM. BILLS:**

---

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
(1) <u>Local Government &amp; Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Sheheane</u>	<u>Highsmith-Smith</u>
(2) <u>Judiciary</u>	<u>15 Y, 0 N</u>	<u>Jaroslav</u>	<u>Havlicak</u>
(3) <u>Finance and Tax</u>	<u>22 Y 0 N w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
(4) _____	_____	_____	_____
(5) _____	_____	_____	_____

---

**SUMMARY ANALYSIS**

This bill codifies all prior special acts relating to the Lower Florida Keys Hospital District ("District") into a single act. The District is currently authorized to levy ad valorem tax of up to 2 mills on taxable district property. This bill does not change that provision. The codification of these special acts does not alter the substantive effect of existing law pertaining to the District.

This bill does not have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

This bill codifies all prior special acts relating to the Lower Florida Keys Hospital District (“District”) in Monroe County into a single act and repeals all prior special acts relating to the District’s charter.

##### Background

The Lower Florida Keys Hospital District was created in 1967 by ch. 67-1724, L.O.F. Its charter has since been amended by 16 special acts. The District is an independent special district and is currently authorized to levy ad valorem tax of up to 2 mills on taxable property within its boundaries.

##### Codification of Special District Charters

After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its original enactment by the Legislature. Codification of special district charters is intended to allow readers to more easily find the complete and current charter of a district by consolidating it entirely in one place.

Codification of special district charters was first authorized by the 1997 Legislature, which amended ch. 189, F.S., to provide for the codification of all such charters either by December 1, 2001, or when any act relating to a special district was introduced, whichever occurred first. Section 189.429, F.S. (1997), also required that no changes be made to a district’s charter as it existed on October 1, 1997.

However, the 1998 Legislature amended s. 189.429, F.S., to: (1) extend the codification deadline to December 1, 2004; (2) allow for the adoption of a codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs; (3) remove the prohibition of substantive amendments in a district’s codification bill; and (4) remove the requirement that a codified charter be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline. Any act codifying the charter of a special district must provide for the repeal of all prior special acts relating to that district.

##### Schedule of Submittals of Special Districts’ Charters

Special Districts with less than 2 special acts	1999 Legislative Session
Special Districts with 3 - 4 special acts	2000 Legislative Session
Special Districts with 5 - 7 special acts	2001 Legislative Session

Special Districts with 8 - 12 special acts	2002 Legislative Session
Special Districts with more than 12 special acts	2003 Legislative Session
Special Fire Control Districts	2004 Legislative Session

Since the enactment of ss. 189.429 and 191.015, F.S., 122 special district charters have been codified. A list of those special districts that have codified pursuant to these sections is available from the Committee on Local Government and Veterans' Affairs.

Status Statement

Section 189.404(5), F.S., provides that after October 1, 1997, the charter of any newly created special district must contain and, as practical, the charter of a preexisting special district must 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 to the department's determination or declaratory statement regarding the status of the district.

C. SECTION DIRECTORY:

**Section 1:** States that this bill constitutes the codification of all special acts relating to the District.

**Section 2:** Provides that all previous laws pertaining to the District are codified, reenacted, amended and repealed.

**Section 3:** Restates and reenacts the district charter, providing the following:

Section 1: Creates and names the District and establishes its boundaries.

Section 2: Establishes the governing body (board) for the District and provides the guidelines and organization for the board. The board consists of nine commissioners, of whom no more than one may be a member of the medical profession. The commissioners are appointed by the Governor and serve four-year terms.

Section 3: (1) Establishes that the board has all the powers of a body corporate.

(2) Authorizes the board to form a Florida not-for-profit corporation of which the District is the sole member.

(3) Establishes requirements for transactions by the not-for-profit corporation.

Section 4: Specifies guidelines for meetings of the board.

Section 5: Provides for keeping of minutes and records.

Section 6: Authorizes the board to establish, construct, lease, operate and maintain hospitals and other health care facilities in the district.

Section 7: (1) Provides guidelines for the bid process for purchases of \$5,000 or more by the District.

(2) Delegates authority to the board to grant, deny, revoke or suspend staff privileges for medical facilities in the District.

Section 8: Authorizes the board to establish a training school for nurses and other health care professionals in the District, and to establish, operate and maintain other services related to the operation of hospitals or other health care related facilities.

Section 9: Authorizes the board to establish, maintain or participate in medical research, education and development programs and projects.

Section 10: Describes provisions under which the board can borrow money, and provides that the board with exclusive control of all the District's expenditures and revenues.

Section 11: Authorizes the board to issue bonds for the purpose of raising funds for the operation of the District.

Section 12: (1) States that the board shall, by resolution, determine the amount of revenue that will need to be raised by taxation for an interest and sinking fund to pay the interest on bonds. This is to be done prior to the issuance of bonds.

(2) Authorizes and requires the board to provide annually for the levy and collection of tax upon all taxable property in the district.

Section 13: States that all bonds issued by the board must be approved by a majority of the electors voting in an election; provides that the board is responsible for calling and holding the election; and provides requirements for notice of election.

Section 14: Establishes additional guidelines for the bond election.

Section 15: States that the procedure outlined in ch. 100, F.S., governs the bond election as far as practicable and where not inconsistent with the other provisions of the charter.

Section 16: Establishes bond denominations and an interest and principal payment schedule for bonds; states that the forms of bonds are to be fixed by resolution of the board.

Section 17: Provides that bonds issued by the board may be either registered or coupon bonds; establishes conditions for registration and transfer of bonds.

Section 18: States that before any bonds of the district are issued, the board must investigate and determine the legality of the proceedings; provides a form recital for the board stating that there is constitutional and statutory authority for incurring debts and issuing bonds.

Section 19: Authorizes the board to include more than one improvement or hospital purpose in any bond issue.

Section 20: Provides guidelines with respect to advertisement of bond issuance, notice of bond sales, and bid procedures.

Section 21: States that no resolution or proceeding in respect to the issuance of bonds is necessary except as required by this act, and further provides that any bonds issued have all the qualities of negotiable paper.

Section 22: Grants the board power to provide for the issuance of refunding bonds to refund principal and interest of existing bond indebtedness. The board has the authority, by resolution, to issue such bonds by a majority vote of the board. No election need be held to authorize the issuance of refunding bonds.

Section 23: Provides guidelines for the issuance of refunding bonds.

Section 24: States the conditions for establishing the validity of refunding bonds.

Section 25: Establishes conditions for sale or exchange of refunding bonds.

- (1) Refunding bonds may be sold or exchanged in installments at different times.
- (2) Refunding bonds can be exchanged privately for payment of outstanding notes.
- (3) Refunding bonds may not be sold at less than 95% of par.

Section 26: States that all bonds or refunding bonds issued pursuant to the charter shall be legal investments for state, county, municipal and all other public funds.

Section 27: Provides that no District funds are to be drawn or issued except for purposes authorized by the charter.

Section 28: Establishes a special account for hospital administrators, and guidelines with respect to this account.

Section 29: Authorizes the board to levy ad valorem taxes, not to exceed two mills, upon taxable property within the District.

Section 30: Establishes conditions for assessment and collection of taxes levied by the board, and provides for the role of the County Commission, tax assessor and tax collector in the assessment and collection of taxes.

Section 31: Authorizes the board to pay, from District funds, all expenses related to the organization of the board, formation of the district and other reasonable and necessary expenses approved and certified by the board.

Section 32: (1) Establishes that the board has the authority to enter into contracts with other governmental entities as well as with private groups for the purposes of construction and improvements to medical facilities in the district. Also states that the board may enter into contracts to receive grants or loans from federal, state or other public bodies.

(2) Authorizes the board to lease or sell real or personal property owned by the District, and establishes terms for these transactions.

(a) The board may determine the manner in which any real or personal property with a fair market value of less than \$2,500 may be leased or sold.

(b) Any real or personal property that exceeds \$2,500 in fair market value may be leased or donated to a public or private health service organization for provision of medical services that the board cannot provide on its own.

(c) Sets procedure for sale or lease of real or personal property of a fair value of more than \$2,500 by the board if the property is considered to be surplus.

(d) Authorizes the board to accept or reject bids upon surplus property.

(e) Empowers the board to convey surplus property to any governmental body located partially or entirely within the boundaries of the district for a nominal consideration.

(f) Except as expressly authorized, forbids any real or personal property of a fair market value in excess of \$2,500 from being leased for a term more than a year and a day.

Section 33: States that the board must publish a detailed annual statement of all monies received and dispersed by the District. This statement must be published at least once a year and appear in a newspaper published in the District.

Section 34: Establishes that medical facilities established under charter are for the use and benefit of the District's residents; sets conditions for non-residents of the district to use health care facilities; authorizes the board to accept welfare funds or monies from governmental agencies for welfare and hospital purposes; authorizes the board to deny treatment to any person that has a communicable or contagious disease that may be a detriment to the best interests of the health care facility; and sets guidelines for treatment of indigent residents and prisoners.

Section 35: Empowers the board to set rules, regulations and bylaws governing the operation of any medical facility in the District; provides that there will be no liability on the part of any medical facility, medical staff or the board for any action taken in good faith and without malice.

Section 36: Instructs the board to secure liability insurance covering vehicles, premises and medical malpractice; and waives immunity of the District against liability damages to the extent of liability insurance carried.

Section 37: Empowers the board to destroy original records provided that the records are photographed or microfilmed before destruction.

Section 38: Provides for severability if any section of the charter is held invalid.

Section 39: Specifies that this act shall take effect only upon a vote of the majority of the registered electors in that District.

**Section 4:** Provides for severability if any section of this bill is held invalid.

**Section 5:** Specifies that, in the event of a conflict between the provisions of the codified charter and the provisions of any other act, the provisions of the charter control to the extent of the conflict.

**Section 6:** States that the codified charter is to be construed as a remedial act and thus liberally construed to promote the purpose for which it is intended.

**Section 7:** Repeals chs. 67-1724, 69-1322, 72-617, 73-555, 73-558, 75-450, 77-600, 77-601, 77-602, 77-603, 78-565, 79-511, 82-414, 87-459, 89-551, and 94-415, L.O.F. These are the prior special acts relating to the District (its original charter and subsequent amendments).

**Section 8:** Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 30, 2002

WHERE? *Key West Citizen*, Key West, 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:

This bill provides no new rulemaking authority in addition to that already possessed by the District.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In general, if two laws of equal force irreconcilably conflict, the later in time governs.<sup>1</sup> However in the original draft of this bill, Section 39 of the charter and Section 5 of the bill provided that, in any conflict with other law, the terms of the District's charter control. These provisions might have needlessly required the Legislature to amend the charter at a future date if it wished to subject the District to a change in general law. Otherwise, it might have left general law as expressed in the Florida Statutes subject to an exception for the District "buried" in the Laws of Florida.

This problem was solved by the committee substitute by Finance and Tax by eliminating these provisions.

## IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

On March 26, 2003, the Committee on Finance and Taxation adopted one amendment to the bill. This amendment strikes Section 39 of the codified charter and Section 5 of the bill as filed.

These sections provided that in any conflict with any other law, the terms of the district charter shall control. These provisions would have required the Legislature to specifically amend this charter whenever it wanted to subject the district to a change in the general law. This would have resulted in the general law, as expressed in the Florida Statutes, being subject to an exception for this district "buried" in the Laws of Florida.

This amendment removes the language containing this provision.

---

<sup>1</sup> See *Askew v. Schuster*, 331 So.2d 297 (Fla. 1976); *Sharer v. Hotel Corp. of America*, 144 So.2d 813 (Fla. 1962).