



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Codification

Codification is the process of bringing a special act up-to-date. 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 inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows 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. 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. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect 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.

Since the enactment of ss. 189.429 and 191.015, F.S., 173 special districts have codified their charters.

##### Status Statement Language

Section 189.404(5), F.S., 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 to the department's determination or declaratory statement regarding the status of the district.

##### Orange County Civic Facilities Authority

The Orange County Civic Facilities Authority (Authority) is a dependent special district. The Authority was created by ch. 69-1382, L.O.F., which has been amended by subsequent special acts. The special acts have also been codified as ch. 10 of the Orange County Code of Ordinances.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

## Charter of District

- Section 1.<sup>1</sup> Creates and establishes the Authority; states purpose of Authority; provides facilities may be located anywhere in Orange County and must not be restricted in number; declares property serves a public purpose which is an urgent public necessity.
- Section 2.<sup>2</sup> Provides for an 11 member board serving 3 year terms; provides for the organization of the board; provides members may not receive any compensation for their services except for actual expenses incurred in the performance of their duties; provides for the removal of a member; provides for vacancies; provides for a quorum; and provides members will be bonded.
- Section 3.<sup>3</sup> Provides definitions for “City”, “County”, “Authority”, “Governmental unit”, “Facilities”, and “Cost” or “costs.”
- Section 4.<sup>4</sup> Provides for the general powers of the Authority, including the power to:
- (1) sue in its own name;
  - (2) adopt by-laws;
  - (3) adopt and use an official seal;
  - (4) plan, develop, purchase, lease, or otherwise acquire, construct, reconstruct, improve, extend, enlarge, relocate, equip, repair, maintain, and operate facilities; (contracts for constructing, improving, extending, enlarging, relocating, repairing, and equipping of facilities for the Authority in the amount of \$5,000 or more must be awarded by the Authority to the bidder who, as determined by the Authority, is the best bidder for the project contemplated after consideration of all relevant factors including the purposes and provisions of this act and the competitiveness of all bids received; provides Authority must, at least 30 days prior to the award of a contract, publish once in a newspaper of general circulation in Orange County a notice requesting bids on the contract; provides the authority has the right and power to reject all bids and request new bids in the same manner as bids were first requested; provides the purchase, lease, or acquisition otherwise of site or sites specifically must not be included in the facilities without limiting anything elsewhere embraced in this act, the Authority must not be empowered or authorized to build or construct in its facilities any sleeping accommodations held out for rent to the public);
  - (5) make a comprehensive plan for the overall development of the facilities and develop detailed architectural and engineering plans for specific facilities, and obtain necessary feasibility and other reports and studies;
  - (6) acquire by lease, grant, purchase, gift, or devise from any source, including governmental units, without requirement of referendum, all property, real or personal, or any estate or interest, necessary, desirable, or convenient for the purpose of this act, and lease or rent all or any part and exercise all of its powers and authority; (provides governmental units may sell or lease the property to the Authority for nominal consideration without limiting the foregoing or the existing powers and authority of the County of Orange or the municipalities in Orange County, the county and municipalities in the county may, within their respective territorial jurisdictions and by the

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<sup>1</sup> See Code 1965, § 22A-1; ch. 71-803, L.O.F. § 1.

<sup>2</sup> See Code 1965, § 22A-2; ch. 71-803, L.O.F. § 2; ch. 72-625, L.O.F. §§ 1, 2.

<sup>3</sup> See Code 1965, § 22A-3; ch. 71-803, L.O.F. § 3; ch. 72-625, L.O.F. § 3.

<sup>4</sup> See Code 1965, § 22A-4; ch. 71-803, L.O.F. § 4; ch. 77-611, L.O.F. § 1.

methods provided by chps. 73 and 74, F.S., condemn real property and with the agreement of the Authority, transfer to the Authority, all to be done for the uses and purposes of this act; provides any title to real property so acquired by condemnation may be in fee simple, absolute and unqualified in any way or any lesser interest; provides nothing in this act shall be construed to allow condemnation of real property for purposes or uses other than provided);

- (7) borrow money and issue revenue bonds and provide for the rights of the holders thereof;
- (8) issue revenue bonds of the authority;
- (9) issue revenue refunding bonds of the authority;
- (10) lease, rent, or contract for the operation of any part of any of the facilities of the Authority;
- (11) fix and collect rates, rentals, fees, and charges for the use of any and all of the facilities of the Authority;
- (12) contract for the operation of concessions on or in any of the facilities of the Authority; operate concessions as it deems desirable;
- (13) advertise and promote within or without the state any of the facilities and activities of the Authority -- without limiting the foregoing, funds available under section 5(5)(b) must not be used to advertise or promote private enterprise;
- (14) make and enter into all contracts and agreements necessary or incidental to the performance of the duties imposed by and the execution of the powers granted under this act and employ consulting services, engineers, superintendents, managers, construction and financial experts and attorneys, and employees and agents, that in the judgment of the Authority, are deemed necessary, and fix their compensation;
- (15) cooperate with and contract with the government of the U.S. or the state or any agency, instrumentality, or political subdivision, municipality, district, private corporation, co-partnership, association, person, or individual in providing for or relating to the Authority and facilities as may be necessary, desirable, or convenient in carrying out the provisions and purposes of this act;
- (16) do all acts or things necessary, desirable, or convenient to carry out the powers expressly granted in this act.
- (17) Provides that the powers enumerated in subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), and (16) of this section may not be exercised when the cost involved in the exercise exceeds an aggregate amount of \$25,000 without the prior written consent of the Board of County Commissioners of Orange County.
- (18) Provides for the fiscal year; provides for the Authority's budget; provides for a report of its operations for each project under its control during the preceding fiscal year; provides for an audit of its books and accounts for each of its fiscal years by an independent certified public accountant.<sup>5</sup>

Section 5.<sup>6</sup> Provides for the issuance of bonds; provides for the financing and payment for the Authority and facilities.

<sup>5</sup> Note: s. 2 of L.O.F., ch. 77-611, § 1 of which is codified herein as subsections 22A-4(17), (18), provides the following: "Section 1 of this act shall not apply to the exercise of the powers, duties, and responsibilities of the authority which are otherwise subject to the provisions of contractual agreements with governmental units executed prior to the effective date of this act as long as those contractual agreements remain in effect."

<sup>6</sup> See Code 1965, § 22A-5; ch. 71-803, L.O.F. § 5; ch. 72-625, L.O.F. § 4; ch. 73-569, L.O.F. § 1; ch. 78-575, L.O.F. § 1.

- Section 6.<sup>7</sup> Authorizes the issuance and renewal of any negotiable notes for any corporate purpose of the Authority.
- Section 7.<sup>8</sup> Provides for the issuance of refunding bonds.
- Section 8.<sup>9</sup> Provides for remedies to the bondholders.
- Section 9.<sup>10</sup> Provides for other revenues by the Authority for maintenance of the facilities and for the payment of employees' salaries, operating and planning expenses, and other necessary expenditures. Such expenditures are declared to be for valid, necessary public purposes.
- Section 10.<sup>11</sup> Provides for public or private subscriptions and donations of moneys and other property and assets for use in furthering the provisions and purposes of this act.
- Section 11.<sup>12</sup> Provides for severability of the provisions of the act.
- Section 12.<sup>13</sup> Provides for liberal construction.

C. SECTION DIRECTORY:

- Section 1. Provides that the bill constitutes the codification of all special acts relating to the Authority; provides legislative intent.
- Section 2. Codifies, reenacts, amends and repeals chs. 71-803, 72-625, 73-569, 77-611, and 78-757, L.O.F.
- Section 3. Recreates and reenacts the charter of the Authority.
- Section 4. Repeals chps. 71-803, 72-625, 73-569, 77-611, and 78-757, L.O.F.
- Section 5. Provides effective date of upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 24 and 25, 2004

WHERE? *Orlando Sentinel*, Orlando, Orange County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

<sup>7</sup> See Code 1965, § 22A-6; ch. 71-803, L.O.F. § 6.

<sup>8</sup> See Code 1965, § 22A-7; ch. 71-803, L.O.F. § 7.

<sup>9</sup> See Code 1965, § 22A-8; ch. 71-803, L.O.F. § 8.

<sup>10</sup> See Code 1965, § 22A-9; ch. 71-803, L.O.F. § 9.

<sup>11</sup> See Code 1965, § 22A-10; ch. 71-803, L.O.F. § 10.

<sup>12</sup> See Ch. 71-803, L.O.F. § 12.

<sup>13</sup> See Code 1965, § 22A-12; ch. 71-803, L.O.F. § 13.

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 grants rule-making authority to the Authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

There appears to be an erroneous chapter law number. The bill states ch. 78-757, L.O.F., relates to the Authority, which is incorrect, it should be ch. 78-575, L.O.F. The incorrectly stated chapter law number is also in the notice relating to the Authority.

*Status Statement*

The bill does not provide that the district is a dependent special district pursuant to section 189.404(5), F.S.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.