

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1285 Tallahassee-Leon County Civic Center Authority, Leon County

**SPONSOR(S):** Williams

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	16 Y, 1 N	Nelson	Rojas
2) Education Committee	14 Y, 0 N	Brink	Mizereck

### SUMMARY ANALYSIS

HB 1285 repeals the special act that provides the charter for the Tallahassee-Leon County Civic Center Authority, and abolishes this independent special district.

The bill also designates the Tallahassee-Leon County Civic Center at Florida State University (FSU) as the "Donald L. Tucker Civic Center," and directs FSU to erect suitable markers reflecting the name of the civic center.

Additionally, this bill directs the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation to issue a special license or special licenses to qualified applicants consisting of FSU or its designee for use within the 20-acre civic center complex. Any such license may only permit the sale of alcoholic beverages for on-premises consumption, or off-premises consumption for events sponsored through the civic center.

Finally, the bill transfers all Authority assets and liabilities to FSU.

The act has an effective date of upon becoming a law.

**House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S.**

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1285c.EDC

DATE: 4/16/2013

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### The Tallahassee-Leon County Civic Center Authority

The Tallahassee-Leon County Civic Center Authority is an independent special district that was created by ch. 72-605, L.O.F. This local public agency was established for the purpose of planning, developing, operating and maintaining a complex of civic, governmental, educational, recreational, convention, and entertainment facilities for the use and enjoyment of the citizens of Leon County.<sup>1</sup>

The Authority currently consists of a 13-member board composed of seven members appointed by the President of FSU (one of these appointments to be elected chair), two members appointed by the President of Florida Agricultural and Mechanical University (FAMU), two members appointed by the Mayor of the City of Tallahassee, and two members appointed by the Chair of the Leon County Board of County Commissioners. All members are appointed to staggered four-year terms.

The Authority is authorized to:

- purchase, acquire, develop, construct, equip, maintain, and operate any auditorium, stadium, coliseum, or similar facility, and associated motor vehicle parking;
- acquire real and personal property by grant, purchase, lease, gift, devise, or condemnation, and to sell, lease, rent, transfer, or otherwise dispose of any property;
- borrow money and issue negotiable bonds, and, in general, to provide for the security of the bonds;
- fix and collect rates, rentals, fees and charges for the use of Authority facilities;
- provide through contract or in-house service for the operation of food and beverage, parking, and other concessions;
- make and enter into contracts and agreements and to employ consultants, engineers, superintendents, managers, construction and financial experts and attorneys, and other employees and agents;
- cooperate with and contract with the United States government or the state, or any agency or instrumentality thereof, or with any municipality, district, private corporation, copartnership, association, or individual;
- accept gifts of money or property, real or personal; and
- provide use of its facility for graduation ceremonies for FAMU, Tallahassee Community College, FSU, and the public high schools in Leon County.

##### The Civic Center

In 1976, the Authority, City of Tallahassee, Leon County and the State Board of Regents (the former governing body for the State University System) entered into an agreement to build and fund the civic center.<sup>2</sup> The cost was approximately \$33,000,000, with the following funding sources:

- \$12,176,500 Board of Regents (cash);
- 5,950,000 City of Tallahassee (land, cash and in-kind);
- 5,950,000 Leon County (cash);
- 3,190,000 Economic Development Administration (grant); and
- 6,000,000 State of Florida (general revenue funds).<sup>3</sup>

Construction of the facility was substantially completed in August 1981.

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<sup>1</sup> The boundaries of the Tallahassee-Leon County Civic Center Authority are coexistent with those of Leon County.

<sup>2</sup> Presently, the civic center facility is named the "Donald L. Tucker Civic Center."

<sup>3</sup> "A Brief Financial History of Civic Center," on file with the Local & Federal Affairs Committee.

In 1998, the Authority and the Seminole Boosters (the fundraising arm of the FSU Athletics Program) issued bonds for a substantial renovation of the civic center. That debt was paid with a combination of funds from the civic center, general revenue appropriations from the Legislature, and funds from FSU.<sup>4</sup>

In 2003, the city and county entered into an amended agreement with the Authority in which both agreed to pay 50 percent of any annual operating deficit of the civic center up to \$125,000 each for a 40-year period.<sup>5</sup>

In 2004, the Authority's various special acts were codified into a single, comprehensive charter by HB 1159 (ch. 2004-435, L.O.F.). This bill also restructured the Authority's board to provide majority voting rights to FSU, and specified the intent of providing local authority and management services to the university,<sup>6</sup> while preserving selected authority of the special district.

In 2010, Tallahassee Hotel Associates, Ltd. filed suit against the Authority alleging fraud and breach of contract regarding an agreement to construct a hotel on Authority property.<sup>7</sup> That suit was settled with the city and county each paying \$250,000, and \$1,150,000 in FSU Foundation funds.<sup>8</sup>

The FSU Board of Trustees approved the purchase of the civic center on June 8, 2012,<sup>9</sup> and the Authority board voted unanimously to transfer the civic center to the university on June 13, 2012.<sup>10</sup> Following settlement of the law suit, and with the approval of the city and county commissions, the Authority entered into an agreement for the transfer of the civic center facility (including its land and associated personal property) to FSU on July 25, 2012. Consideration for the transfer included:

- satisfaction of a Sun Trust Bond Loan (\$4,474,058.16);
- assumption of a Sun Trust line of credit (\$1,240,307.48); and
- payment of the settlement contribution (\$1,150,000) for a total price of \$6,864,365.64.<sup>11</sup>

In 2012, the Leon County Property Appraiser assessed the civic center as having a market value of \$97,930,930.<sup>12</sup>

FSU then leased the facility back to the Authority for one year or until such time as a local bill could be enacted abolishing the special district, whichever occurred first. This lease agreement, also executed on July 25, 2012, requires no payments from the Authority to FSU, and may be extended for a successive option period of one year.<sup>13</sup>

FSU has agreed to the appointment of a Civic Center Advisory Board for the purpose of advising FSU with respect to the continued use and availability of the civic center to individuals and community groups outside of FSU. The Advisory Board will meet at the call of the chair, at least three times per

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<sup>4</sup> *Ibid.*

<sup>5</sup> This obligation was terminated when the civic center was transferred to FSU in 2012.

<sup>6</sup> It is not clear what these local authority and management services entailed. According to the notes to the "Financial Statements and Supplemental Financial Information for The Years Ended September 30, 2012 and 2011": FSU was not financially accountable for the Authority; did not participate in the designation of management of the Authority; did not have the ability to significantly influence operations and was not involved in any daily activities of the Authority; did not approve or disapprove the Authority's budget, and did not participate in preparing or reviewing the budget; did not exercise any control over collecting revenues, or disbursing of authority funds; and did not participate in establishing fees and charges, or in contract negotiations. *See*, [http://www.myflorida.com/audgen/pages/specialdistricts\\_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm](http://www.myflorida.com/audgen/pages/specialdistricts_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm).

<sup>7</sup> *Tallahassee Hotel Associates, Ltd. v. Tallahassee-Leon County Civic Center Authority*, Second Judicial Circuit for Leon County, Florida, Case No. 2010-CA-004369.

<sup>8</sup> *See, supra*, note 3.

<sup>9</sup> June 15, 2012, memorandum from Andy Haggard, Board Chairman, to Eric J. Barron, FSU President.

<sup>10</sup> June 13, 2012, minutes of the Tallahassee-Leon County Civic Center Authority.

<sup>11</sup> FSU also paid \$67,123.00 in closing costs.

<sup>12</sup> April 2, 2013, e-mail from Carolyn Egan, FSU General Counsel.

<sup>13</sup> "Lease Agreement Between Florida State University Board of Trustees and Tallahassee-Leon County Civic Authority Regarding the Donald L. Tucker Civic Center and Surrounding Land," dated July 25, 2012.

year, and will consist of three members appointed by the city, three members appointed by the county, one member appointed by FAMU and eight members appointed by FSU. All appointments are to be made within 30 days of the effective date of a special act dissolving the Authority.<sup>14</sup>

### **Dissolution of an Independent Special District**

Chapter 189, F.S., the “Uniform Special District Accountability Act of 1989,” provides general provisions for the definition, creation and operation of special districts. That chapter also contains several provisions relating to the dissolution of these districts.

Section 189.4042, F.S., describes general merger and dissolution procedures. Section 189.4042 (3), F.S., provides for the dissolution of an active independent special district, in relevant part:

*Voluntary dissolution.*—If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

*Other dissolutions.*—In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the active independent special district must be approved by a majority of the resident electors of the district....

Section 189.4042(3)(d), F.S., provides that s. 189.4045, F.S., governs the financial allocations of the assets and indebtedness of a dissolved independent special district. This statute provides that:

[u]nless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

### **Effect of Proposed Changes**

HB 1285 repeals ch. 2004-435, L.O.F., the special act that provides the charter for the Tallahassee-Leon County Civic Center Authority, and abolishes this independent special district. The Authority’s board voted to dissolve the special district on April 9, 2012.<sup>15</sup>

The bill provides that the Tallahassee-Leon County Civic Center at FSU is designated as the "Donald L. Tucker Civic Center," and will be referred to as such in all publications, advertisements, notices, and other such documents “in recognition of the untiring and unselfish efforts of Donald L. Tucker in his years of service as a representative of the district encompassing Tallahassee and Leon County and in recognition and appreciation of the invaluable service he has provided to his constituency and to the state by his efforts in bringing about the construction of the civic center complex.” The bill also directs FSU to erect suitable markers, which includes a marker over the main entrance of the civic center, reflecting the name of the civic center. These provisions are similar to language relating to the Authority in ch. 2004-435, L.O.F., the act being repealed by this bill.

Additionally, the bill directs the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special license or special licenses to qualified applicants consisting of FSU or its designee for use within the confines of the 20-acre civic center

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<sup>14</sup> Third Amendment to Agreement Between the City of Tallahassee, Leon County, Florida, Tallahassee-Leon County Civic Center Authority, the Florida State University and Florida Board of Governors, dated June 28, 2012.

<sup>15</sup> Section 2(3) of the Authority’s charter provides that a majority of the members constitutes a quorum. In this case, the seven members in attendance vote unanimously in favor of dissolution. Thus, the special act dissolving the Authority does not require approval by a majority of the electors of Leon County.

complex. Any such license may only permit the sale of alcoholic beverages for on-premises consumption, or off-premises consumption for events sponsored through the civic center.

Generally, an entity must obtain either a consumption-on premise (package) license for beer and wine or a quota license for liquor in order to sell alcoholic beverages. There are no restrictions on the number of package licenses issued, but quota licenses are limited based on county population. The Division may also issue special licenses to certain specified entities (which includes civic center authorities or a civic center owned by a political subdivision)<sup>16</sup> meeting very specific requirements. These licenses are not limited in number and are not included in the quota license limitations although they authorize the sale of liquor.<sup>17</sup>

The bill transfers all Authority assets and liabilities to FSU. Section 189.4045, F.S., provides that, unless otherwise provided by law, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government (i.e., either a city or county), which also assumes the indebtedness of the special district. Thus, the transfer of the Authority to a university varies from the general law standard, but is certainly contemplated by that statute through the passage of a special act.

Additionally, the bill specifies that the assets of the Authority are subject to legal process for payment of any of its debts and that, after payment of all debts, the remainder of the Authority's assets escheat to FSU. FSU has indicated that the Authority has no real or personal property at this point given that the sale of the civic center closed in July 2012, transferring ownership to FSU.

According to the "Financial Statements and Supplemental Financial Information for The Years Ended September 30, 2012 and 2011,"<sup>18</sup> an independent auditor's report, as of September 30, 2012, the Authority had total assets of \$24,645,127 and total liabilities of \$9,894,244. However, it appears that these figures fail to accurately reflect the Authority's financials, as the numbers do not vary significantly between 2011 and 2012, the year when the Authority divested itself of its property. All in all, it appears impracticable to predict what the assets and liabilities of the Authority will be at the time of its dissolution.

Finally, the bill's provisions do not require FSU to comply with the terms or conditions of any contract entered into by the Authority that has not been expressly assumed by the university. On July 25, 2012, FSU executed an assumption of leases and contracts disclosed at that time.<sup>19</sup> These contracts included numerous agreements for the lease of suites, and with various vendors. Currently, the university is conducting an inventory of any additional contractual obligations and intends to address these individually.<sup>20</sup> Nonetheless, the university has indicated that it intends to assume all Authority contracts. FSU also intends to absorb the 20-30 Authority employees, except for the executive director, who will soon retire.<sup>21</sup>

The act has an effective date of upon becoming a law.

## B. SECTION DIRECTORY:

Section 1: Repeals ch. 2004-435, L.O.F., relating to the Tallahassee-Leon County Civic Center Authority.

Section 2: (1) Designates the Tallahassee-Leon County Civic Center at FSU as the "Donald L. Tucker Civic Center," and (2) authorizes and directs FSU to erect suitable markers.

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<sup>16</sup> Section 1.01(8), F.S., provides that the term "political subdivision" includes counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

<sup>17</sup> Section 561.20, F.S.

<sup>18</sup> [http://www.myflorida.com/audgen/pages/specialdistricts\\_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm](http://www.myflorida.com/audgen/pages/specialdistricts_efile%20pages/tallahassee-leon%20county%20civic%20center%20authority.htm).

<sup>19</sup> April 1, 2013, e-mail from Carolyn Egan, General Counsel, Florida State University.

<sup>20</sup> *Ibid.*

<sup>21</sup> April 4, 2013, meeting with Carolyn Egan, General Counsel, Florida State University.

Section 3: Directs the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special alcoholic license to FSU or its designee.

Section 4: Abolishes the Tallahassee-Leon County Civic Center Authority; transfers its assets and liabilities to FSU; provides for express assumption of contracts.

Section 5: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 19, 2013<sup>22</sup>

WHERE? The *Tallahassee Democrat*, a daily newspaper of general circulation published in Leon County, 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### Drafting Issues

It is possible that several of the provisions in the bill relating to FSU could be characterized as a "general law of local application." See, *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050 (2003), which provides that a general law "...operates universally throughout the state, or uniformly upon subjects as they may exist throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality." See, also, page four of the Guidelines for Bill Drafting, House Bill Drafting Service (2011), which provides that a statute relating to regions of the state or to subjects or to persons or things as a class, based upon proper distinctions and differences that are peculiar or appropriate to the class, is a "general law of local application." Examples of potential bases for classifications would be: all coastal counties, all counties which permit sales of alcoholic beverages by the drink or all counties having an

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<sup>22</sup> A second notice was published on February 2, 2013.

elected school superintendent. Other examples would include acts which relate to a particular circuit court, a state university, or to the state capitol building.

### **Other Comments**

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.