

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1071 City of Clearwater, Pinellas County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Ahern  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N, As CS	Darden	Miller
2) Natural Resources & Public Lands Subcommittee	11 Y, 0 N	Gregory	Shugar
3) Government Accountability Committee	18 Y, 0 N	Darden	Williamson

### SUMMARY ANALYSIS

In 1925, the state conveyed sovereign submerged lands to Pinellas County for the purpose of building the Memorial Causeway. The special act conveying the property provided that the land was to be used exclusively for public purposes and would revert to the state if used for any other purpose. The act provided that the land to the north of the centerline of the causeway be used for public parks and recreation, but prohibited carnivals and shows on the land. The act also provided that Pinellas County by resolution could transfer the land to the City of Clearwater.

The bill removes the prohibition on the conveyed land being used to host carnivals and shows.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Clearwater Harbor—Memorial Causeway Submerged Lands

In 1925, the state conveyed sovereign submerged lands<sup>1</sup> to Pinellas County (County) to be surrendered to the City of Clearwater (City) for the purpose of building the Memorial Causeway.<sup>2</sup> The conveyed lands could be transferred to the City by resolution adopted by the County. The act provided that the property was to be used exclusively for public purposes and that it would revert to the state if it was ever used for any other purpose. The act also provided that:

The city of Clearwater or the County of Pinellas shall have the right to fill said land lying north of said line to be used for public parks and places of recreation only, the same to be maintained by the said city or county, or both. Provided that no carnivals or shows of any character shall be placed or allowed upon the land lying north of said line; and provided further that should said property ever cease to be used for public parks and places of recreation only, same shall revert to the State.<sup>3</sup>

The City adopted an ordinance in 1985 declaring a portion of the submerged lands as surplus and sold the property to the Clearwater Marine Science Center, subject to a referendum.<sup>4</sup> A 1986 special act releasing a portion of the property granted by the 1925 act from the right of reverter retained by the state in order to permit the development and maintenance of the non-profit marine science center to go forward.<sup>5</sup> The act conditioned the conveyance of the property from the City to the Clearwater Marine Science Center on the condition that the property was to be used for the center's facility.<sup>6</sup> The City retains a right of reverter in the property.

##### Chapter 2007-312, Laws of Florida

Chapter 2007-312, Laws of Fla., ratified any use of the property described in the 1925 special act and authorized by the City on or before the effective date of the act, whether or not the use was for a public purpose. The act also declared that any use of the property described in ch. 86-345, Laws of Fla., was consistent with the grant made in the earlier act for the purpose of developing and maintaining a marine science center. This provision pertained to uses undertaken on or before the effective date of ch. 2007-312, Laws of Fla. This ratification preserved the property to the ownership of the Clearwater Marine Science Center.

Additionally, ch. 2007-312, Laws of Fla., provided that the City may authorize private uses of the submerged property<sup>7</sup> for which it had received an application no later than December 31, 2006, if such uses were consistent with the laws and rules governing the management of state sovereignty

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<sup>1</sup> "Sovereignty submerged lands" include, but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. Rule 18-21.003(61), F.A.C.

<sup>2</sup> Chapter 11050, Laws of Fla. (1925). These lands include 500 feet to the north and 700 feet to the south of a centerline, east to west, following the course of the former Memorial Causeway.

<sup>3</sup> Chapter 11050, s. 1, Laws of Fla. (1925).

<sup>4</sup> City of Clearwater Ordinance 4028-85.

<sup>5</sup> Chapter 86-345, ss. 1, 2, Laws of Fla.

<sup>6</sup> Chapter 86-345, s. 3, Laws of Fla.

<sup>7</sup> As described in Chapter 11050, Laws of Fla. (1925).

submerged lands by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The act provided that a dock or mooring facility for a multi-family dwelling or a dock for a single-family dwelling that is consistent with such laws and rules does not violate the act. The alteration of any existing public land use designation of this property must first be approved by the voters of the City in a “site-specific” referendum. The City was required to use any revenue generated by authorizing private use of the subject submerged land to fund water-related activities for the benefit of the public.

Finally, ch. 2007-312, Laws of Fla., provided for reversion of the submerged lands granted under the 1925 special act to the state if the BOT finds that any use, which is authorized by the City and not ratified by the act, is inconsistent with the laws and rules governing the BOT's management of such lands. This language governs future actions by the City with regard to the submerged land.

The act did not modify or supersede any provision of the City's charter concerning the requirement of a referendum for use of waterfront property that is owned by the City.<sup>8</sup>

#### Chapter 2010-250, Laws of Florida

In 2010, the legislature authorized the City to use the filled upland portion of the property described in the original 1925 act for recreational purposes and commercial working waterfronts as defined in s. 342.07, F.S., with the intent of providing greater access for the public to the navigable waters of the state, and providing access to water-dependent commercial activities.<sup>9</sup> The 2010 act provided that the submerged portions of the property granted to the City under the original 1925 act would continue to be used as provided for in that act, as well as ch. 2007-312, Laws of Fla., and that the City could use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The 2010 act also provided that any filled portion of the lands granted by the original 1925 act, which then existed as uplands to the west of the east abutment of the west bridge, be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The 2010 act released these lands from the right of reverter to the extent that the use and development of the property are consistent with the above-mentioned programs and regulations.

Similar to the 2007 act, a separate section of the 2010 act expressly stated the law did not modify or supersede any provision of the City Charter concerning the requirement of a referendum for the use of waterfront property that is owned by the City.<sup>10</sup>

#### Effect of Proposed Changes

The bill removes the prohibition in the original 1925 act against the conveyed land being used for carnivals and shows. This change would enable the City to relocate its concert band shell to the area.<sup>11</sup>

#### B. SECTION DIRECTORY:

Section 1: Amends ch. 11050, Laws of Fla. (1925), removing a restriction concerning carnivals and shows.

Section 2: Provides that the bill takes effect upon becoming a law.

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<sup>8</sup> Chapter 2007-312, s. 4, Laws of Fla.

<sup>9</sup> Chapter 2010-250, Laws of Fla.

<sup>10</sup> Chapter 2010-250, s. 4, Laws of Fla.

<sup>11</sup> Tracey McManus, *Clearwater voters easily pass referendum allowing waterfront redevelopment*, Tampa Bay Times, Nov. 6, 2017, available at [http://www.tampabay.com/news/politics/Clearwater-voters-easily-pass-referendum-allowing-waterfront-redevelopment\\_162391093](http://www.tampabay.com/news/politics/Clearwater-voters-easily-pass-referendum-allowing-waterfront-redevelopment_162391093) (last visited Jan. 18, 2018).

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 20, 2017

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pinellas 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:

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 24, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised the bill to retain the reverter clause of the 1925 act that would return the land to the state if it ever ceases to be used for public parks and recreation.

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