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DATE: January 25, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 1031

RELATING TO: Brevard Co./ Max Brewer Law Library

SPONSOR(S): Representative Ball

TIED BILL(S):

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) SMARTER GOVERNMENT COUNCIL
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill amends, reenacts, and repeals all special acts relating to the A. Max Brewer Memorial Library District (District), a dependant special district.

The bill changes the approving entity for purposes of obtaining loans.

The bill repeals term limits on the members of the A. Max Brewer Memorial Law Library Board of Trustees (Board), and provides that the members serve at the pleasure of the appointing authority.

Although the District's budget has not increased over the last fiscal year, the bill impacts the local government's budget to the extent that 35% of the District's budget is funded by local taxes. According to the Director of the Law Library (Director), the remaining 65% of the budget is funded through circuit and county court filing fees as provided by general law.

The bill has no impact on the state budget.

The Sponsor intends to offer an amendment to remove section 5 of section 4 from the bill. (See Section V. "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES").

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill codifies amends, reenacts, and repeals all special acts relating to the District. Although the District's budget has not increased over last fiscal year, this bill impacts the local government's budget to the extent that 35% of the District's budget is funded by local taxes.

B. PRESENT SITUATION:

The Brevard County Law Library was established by chapter 30599, Laws of Florida, 1955. Its purpose is to provide a central, and adequate law library to the County's judges, court officials, and citizens. In order for the library to meet the changing needs and demands of the community, chapter 30599, Laws of Florida, 1955 has been amended three times. The last amendment, chapter 74-431, Laws of Florida, renamed the facility the *A. Max Brewer Memorial Law Library* (District), and clarified its authority, and powers.

Currently, the Board of Trustees (Board) of the A. Max Brewer Library is composed of five members: a circuit judge and a county judge of Brevard County, both of whom are appointed by the Chief Judge of the Eighteenth Judicial Circuit, and three Brevard County practicing attorneys who are appointed by the President of the Brevard County Bar Association (Bar Association). Currently, new members of the Board are appointed for terms of two years, as vacancies are created. The Board is authorized to obtain loans from the Bar Association, or any other source approved by the Bar Association, or by a court of competent jurisdiction.

Current law states that:

Upon the creation of the A. Max Brewer Memorial Law Library, all donations to the same and all property in anywise acquired by donations, purchase, or otherwise shall be deemed to be held and used by said board of trustees as a charitable public trust for the benefit and use of the inhabitants of Brevard County, Florida, and shall be exempt from all taxation; provided however that property acquired by the library that is used by the lessee for a non-public purpose shall not be exempt from ad valorem taxation on the leasehold interest.

The District now desires to codify its special acts into one comprehensive charter. This change is necessary to clarify the District's powers, and repeal special acts that are in conflict with each other, and are obsolete.

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 authorized by the 1997 Legislature when it amended chapter 189, Florida Statutes, to provide for codification of all special district charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. Section 189.429, Florida Statutes (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 section 189.429, Florida Statutes, to: (1) extend the codification deadline to December 1, 2004; (2) allow 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) remove the prohibition of substantive amendments in a district's codification bill; and (4) remove 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. 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 section 189.429, Florida Statutes creating subsections (2) and (3). The subsections provide that reenactment of existing law pursuant to section 189.429: (1) shall not be construed to grant additional authority nor to supercede 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.

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 sections 189.429 and 191.015, Florida Statutes, 110 special districts have codified their charters. A list of those special districts that have codified pursuant to sections 189.429 and 191.015, Florida Statutes, is available at the office of the Committee on Local Government and Veterans Affairs, Florida House of Representatives.

Status Statement Language

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 to the department's determination or declaratory statement regarding the status of the district.

C. EFFECT OF PROPOSED CHANGES:

This bill amends, reenacts, and repeals all special acts relating to the District.

The bill repeals term limits on the members of the Board, and provides that the members serve at the pleasure of the appointing authority.

The bill provides that loans may be obtained from any source approved by the Chief Judge of the Judicial Circuit, rather than the manner currently provided by law.

The bill removes language requiring the Board to place all District funds into a "law library trust fund", and restates that all funds for the use of the District shall be expended only for the purpose of maintaining, and operating the District. According to the Director, the Board employs a checking, and a savings account to conduct District business.

Section 5 of section 4 of the bill purports to alter the District's tax status by removing language which provides that, "property acquired by the Library that is used by the lessee for a non-public purpose shall not be exempt from ad valorem taxation on the leasehold interest". The amended section states that all donations and property acquired by the District are deemed to be held by the Board as a charitable public trust for the benefit, and use of the inhabitants of Brevard County, and shall be exempt from all taxation. **See Section IV. C: Other Comments for explanation.**

An amendment has been proposed to remove section 5 from the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Intent

States that, pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the A. Max Brewer Memorial Law Library District.

Section 2: Codification

Codifies, amends, reenacts, and repeals chapter 30599, Laws of Florida 1955, and chapters 57-1155, 61-1916, and 74-431, Laws of Florida.

Section 3: Short Title

States that this act may be cited as the "A. Max Brewer Memorial Law Library Act".

Section 4: Recreates and reenacts the District charter to read:

Section 1: Establishment

States that the District is established as a dependent special district for the purposes of providing a law library system in Brevard County.

Section 2: Governing Board

Restates that the Board is composed of five members: a circuit judge assigned to Brevard County and a county judge of Brevard County, both of whom are appointed by the Chief Judge of the Judicial Circuit, and three practicing attorneys of Brevard County who are appointed by the President of the Bar Association; repeals term limits on members of the Board; inserts language providing that all members of the Board serve at the pleasure of the appointing authority; restates the Board's authority and powers.

The bill amends current law to state that the Board may obtain loans from any source approved by the Chief Judge of the Judicial Circuit. The Bar Association will no longer be authorized to approve loans for the Board.

Section 3: Space

Restates that the Board of County Commissioners of Brevard County must allocate adequate space in the county and branch courthouses, for the exclusive use of the District.

Section 4: Funds

Removes language requiring the Board to place all District funds into a "law library trust fund"; restates that all funds for the use of the District be expended only for the purpose of maintaining and operating the District.

Section 5: Charitable Public Trust

Restates that all donations to the District and all property acquired by donation, purchase, or otherwise are deemed to be held by the Board as a charitable public trust for the benefit and use of the inhabitants of Brevard County, and are exempt from all taxation; removes current language stating that, "property acquired by the Library that is used by the lessee for a non-public purpose shall not be exempt from ad valorem taxation on the leasehold interest".

Section 5: Chapter 30599, Laws of Florida, 1955, and chapters 57-1155, 61-1916, and 74-431, Laws of Florida, are repealed.

Section 6: Provides severability.

Section 7: Provides that this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

B. LOCAL BILL CERTIFICATION FILED? Yes, attached No

C. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

Although the District's budget has not increased over last fiscal year, this bill has a financial impact on the local government to the extent that 35% of its budget is funded by local taxes. According to the Director, the District's estimated budget for fiscal year 2002 – 2003 is \$328,328.00, and this estimate is the same for 2003 – 2004. According to the Director, circuit and county court filing fees cover approximately 65% of the District's budget. The remaining 35% of the budget is paid by local taxes. This bill has no fiscal impact on state government.

Section 5 of this bill states that all donations to the District, and all property acquired by donation, purchase, or otherwise, are deemed to be held by the Board as a charitable public trust for the benefit and use of the inhabitants of Brevard County, and shall be exempt from all taxation. However, despite this language, the applicable U.S. and Florida Tax Codes have, and will continue to, govern the District's tax status.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Director has stated that the District desires to remove section 5 of section 4 (Provision) from the bill. The Director stated that the Provision was modeled after a similar clause (Clause) found in the charter of an existing law library district (Existing District). However, the Clause in the Existing District's charter is an error that was not discovered until after the bill was passed.

As explained in *Section IV. C: Other Comments*, despite the language of the Clause, and the Provision, the applicable U.S. and Florida Tax Codes have, and will continue to, govern the tax status of these special districts. Thus, by amending the bill to remove the Provision, the District's charter will be less confusing, and in accord with general law.

The next time that the Existing District comes through the Legislature with a special act, staff will suggest that the Clause be amended out of its charter.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Alex Abdo

Joan Highsmith-Smith