

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB601 Cape Canaveral Hospital District
SPONSOR(S): Allen
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	_____	<u>Sheheane</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	_____	_____	_____
3) <u>Judiciary</u>	_____	_____	_____
4) <u>Finance & Tax</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill codifies all prior special acts relating to the Cape Canaveral Hospital District in Brevard County, Florida. The bill states that it is the purpose of the District to provide health care service and facilities to those within the District's boundaries and surrounding communities regardless of ability to pay. The bill provides new language describing the Board's powers in the event that it no longer has responsibility for the operation and management of Cape Canaveral Hospital.

The District is currently authorized to levy up to 1 mill on taxable property for all expenses of the Hospital not including debt service on bonds. The District is also currently not to exceed levying a tax above 2.25 mills for all expenses including debt service on any such bonds. This bill does not appear to change those provisions.

According to the Economic Impact Statement, there does not appear to be an impact to local or state budgets.

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 Cape Canaveral Hospital District in Brevard County into a single act and repeals all prior special acts relating to the District's charter. The bill maintains the Board's authority to levy taxes up to 1 mill for all Hospital expenses other than debt bonds and up to 2.25 mills for expenses including debt service on any such bonds.

Background

The Cape Canaveral Hospital District was created in 1959 by chapter 59-1121, Laws of Florida, and has been subsequently amended by 6 special acts. The Cape Canaveral Hospital District is a special tax district and is currently authorized to levy taxes up to 1 mill for all Hospital expenses other than debt bonds and up to 2.25 mills for expenses including debt service on any such bonds.

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 section 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 section 189.429, Florida Statutes to 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.

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 of Community Affairs' determination or declaratory statement regarding the status of the district.

C. SECTION DIRECTORY:

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

Section 2: States that all previous laws pertaining to the district are codified, reenacted, amended, and repealed.

Section 3: Reenacts and recreates the district charter, providing the following:

Section 1: Provides that the District is an independent special tax district and explains that it is the District's intent to provide health care facilities and services to those individuals in need within the District's boundaries and surrounding communities. This section also describes and maintains the boundaries of the District

Section 2: Describes and explains references to the Hospital District, the Board, and provides new language regarding references to the Board of Trustees of Cape Canaveral Hospital, Inc.

Section 3: Provides language naming the governing authority of the District and describes said Board.

Section 4:

(A) Establishes the provision that the powers of the Board are subject to specific stipulations relating to operation and management of the Hospital.

(1) Maintains that the Board may acquire real property for the purposes of the District.

(2) This section maintains language stating that the District may operate and manage health facilities or health related services for the benefit of the District. The section also maintains current law requiring a majority vote by voters within the District in order to sell the health related facilities.

(3) States that the Board is authorized to adopt all necessary rules and regulations pertinent to the efficient operation of the Hospital.

(4) Maintains that the Board is authorized to establish a medical staff , establish qualifications for membership, and other ramifications regarding the privileges the Board may grant to the medical staff.

(5) Maintains that the Board may contract with individuals, partnerships, corporations, municipalities, political subdivisions, agencies, and districts of the State of Florida, the United States of America or any states thereof. Also provides new language that the Board may contract with limited liability companies as well.

(6) States that the Board is to determine the amount of money that is in addition to anticipated income to be paid by patients who are treated in the Hospital, which will be required during the ensuing fiscal year to pay all obligations to be incurred by the Hospital. This section also maintains that the Board may levy taxes up to 1 mill for expenses other than debt service of any bonds and may levy up to 2.25 mills including debt service of any bonds.

- (7) Provides language maintaining that the Board is authorized to hire, appoint, and discharge agents of the District which include servants, attorneys, accountants, administrators, and other non medical employees.
- (8) States that the Board is to designate a depository for the funds of the Board and to establish a method for the funds to be withdrawn.
- (9) Maintains that the Board is to establish a fiscal year for the District.
- (10) States that the Board has the authority to issue bonds to the Hospital District to finance any facilities that the District is authorized to purchase. This section also provides new language pertaining to the limits of bond payment and describes current law regarding the process of bonds.
- (11) (a) Maintains that the Board may provide, by resolution, the issuance of Revenue Certificates for the purpose of paying debts associated with the facilities of the Hospital District. This section also describes the process and regulations of Revenue Certificates as pertinent to the District.
- (b) Maintains that the Certificates may be issued under the provisions of this act without permission being sought from the State or County.
- (c) States that the proceeds must be used solely for the payment of the cost of the Hospital facilities.
- (d) This section provides current language stating that the Revenue Certificates issued under the act may be payable from the revenue derived from the operation of any Hospital facility.
- (e) States that the Board may not convey or mortgage any Hospital facility as security for payment of the Revenue Certificates.
- (f) States that the Board may secure issuance of Revenue Certificates with a Trust Agreement. This section provides detail to Trust Agreements relevant to Revenue Certificates.
- (g) States that the resolution of the Trust Agreement may contain limitations as the District deems proper.
- (h) Maintains that the Board is authorized to provide by resolution for the issuance of Refunding Revenue Certificates. This section also provides current stipulations for Refunding Revenue Certificates.
- (12) States that the Board may provide a retirement program for the Hospital's District's employees and to regulate and establish the retirement program pursuant to chapter 122, F.S.
- (B) Provides new language relating to the Board's powers in the case that the Board no longer has responsibility of operation and management as a result of leasing the facilities to a non-profit organization. This section also states that the Board will not have the powers authorized in the previous section (section 4 A), but will have the following abilities as described in this section.
- (1) Provides the Board with the ability to acquire real or personal property and to improve or maintain said property for purposes of the District.

- (2) Provides the Board with the ability to contract with individuals, partnerships, limited liability companies and others for the purposes of the District.
- (3) States that the Board is to determine the amount of money that is in addition to anticipated income to be paid by patients who are treated in the Hospital, which will be required during the ensuing fiscal year to pay all obligations to be incurred by the Hospital. This section also maintains that the Board may levy taxes up to 1 mill for expenses other than debt service of any bonds and may levy up to 2.25 mills including debt service of any bonds.
- (4) States that the Board is to designate a depository for the funds of the Board and to establish a method for the funds to be withdrawn.
- (5) Authorizes the Board to establish a fiscal year for the District.
- (6) States that the Board has the authority to issue bonds to the Hospital District to finance any facilities that the District is authorized to purchase. This section also provides new language pertaining to the limits of bond payment and describes current law regarding the process of bonds pertaining to the District.
- (7) (a) Maintains that the Board may provide, by resolution, the issuance of Revenue Certificates for the purpose of paying debts associated with the facilities of the Hospital District. This section also describes the process and regulations of Revenue Certificates as pertinent to the District.
- (b) Provides that the Certificates may be issued under the provisions of this act without permission being sought from the State or County.
- (c) States that the proceeds of the Certificates must be used solely for the payment of the cost of the Hospital facilities.
- (d) This section provides language stating that the Revenue Certificates issued under the act may be payable from the revenue derived from the operation of any Hospital facility.
- (e) Establishes that the Board may not convey or mortgage any Hospital facility as security for payment of the Revenue Certificates.
- (f) Provides that the Board may secure issuance of Revenue Certificates with a Trust Agreement. This section provides detail to Trust Agreements relevant to Revenue Certificates.
- (g) Provides that the resolution of the Trust Agreement may contain limitations as the District deems proper.
- (h) Provides that the Board is authorized to provide by resolution for the issuance of Refunding Revenue Certificates. This section also provides current stipulations for Refunding Revenue Certificates.

Section 5: Maintains that the governing body of the District shall consist of 12 members, each of whom shall be a qualified elector residing in the District.

Section 6: States that each member will serve for a term of 4 years or until his or her successor has been appointed or qualified. The Board members shall not receive compensation.

Section 7: States that the Governor of Florida shall appoint the successors to the Board upon expiration of the term of office of a member.

Section 8: States that the Board is to elect from its membership a chair, vice chair, secretary, and treasurer each of whom shall serve for a term of one year or until his or her successor is elected.

Section 9: States that seven members of the Board shall constitute a quorum and that action may only be taken upon an affirmative vote by a majority of the members.

Section 10: States that the Board is to hold regular scheduled meetings to be determined by the Board. The President of the Board shall have the ability to call special meetings or in his or her absence the Vice President of the Board.

Section 11: States that the Board is to keep accurate minutes of its meeting and proceedings and this shall be open to the public.

Section 12: States that all meetings shall be open to the public.

Section 13: States that the Hospital shall be for the public good and welfare thereof.

Section 14: States that the contents of this act shall be liberally construed for the purposes of the act.

Section 15: Provides for severability.

Section 16: In accordance with section 189.404(3), F.S., the following shall constitute the minimum charter requirements for the District:

- (1) States that the District exists for purposes set forth in this act and may be amended from time to time.
- (2) States that all powers and functions of this act shall be pursuant to this act and chapters 189 and 197, F.S., as they may be amended time to time.
- (3) States that the District was created by chapter 59-1121, Laws of Florida, as amended.
- (4) States that the District's charter may only be amended by special act of the Legislature.
- (5) In accordance with chapter 189, F.S., the District is governed by a 12 member Board.
- (6) The compensation of the Board shall be as provided in this act.
- (7) Administrative duties of the Board shall be as set forth in this act and chapter 189, F.S., as amended from time to time.
- (8) Requirements for financial disclosure, meeting notices and public record maintenance shall be as set forth in chapters 112, 119, 189, and 286, F.S.
- (9) Procedures and requirements of bonds and notes shall be as set forth in this act and applicable to general laws as amended from time to time.
- (10) Procedures for conducting any elections or referenda shall be pursuant to this act and chapter 189, F.S. as amended from time to time.
- (11) The District may be financed by any method established in this act and are applicable to general laws as amended from time to time.

(12) The District does not collect non-ad valorem assessments or fees as set forth in chapter 197, F.S.

(13) The District's planning requirements shall be as set forth in chapter 189, F.S. as amended from time to time.

(14) The District's boundary limits are set forth in this act.

(15) This section shall not limit or restrict any section of this act.

Section 4: If any section of this act has been held invalid, the invalidity shall not effect other provisions of this act.

Section 5: In the event of a conflict between this act and any other act, this act shall control to the extent of any such conflict.

Section 6: This act shall be construed as a remedial act and shall be liberally construed for the purposes of this act.

Section 7: Chapters 11-1121, 61-1903, 65-1920, 69-861, 75-332, 81-345, 86-426, Laws of Florida, are repealed.

Section 8: This act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2003

WHERE? *Florida Today*, Brevard County.

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

There do not appear to be any technical drafting issues.

Other Comments

Department of Community Affairs

A representative¹ of the Department of Community Affairs stated that the amendments appear to set a precedent that would allow for special districts to usurp the comprehensive planning authority granted to local governments. The result would be county and municipal comprehensive plans that do not truly enable elected officials and citizens to properly plan and manage growth in their respective communities.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

The Sponsor intends to offer two substantive amendments to this bill. A majority of the Brevard County delegation approved both amendments.

Amendment No. 1

According to the proponents², the amendment clarifies and extends existing language in the Hospital District's charter that holds that construction of the Hospital and related facilities on its existing site is necessary for the preservation of public health. The amendment also affirms that operation, construction and maintenance of hospital facilities on any lands the Hospital obtains from the Board of Trustees of the Internal Improvement Trust Fund (Trustees) in exchange for contiguous submerged lands owned by the Hospital is in the public interest. The Trustees would still need to approve any exchange of lands.

The amendment also deems that activities permitted pursuant to ch. 373, F.S., are necessary to enhance the public health of the area served by the Hospital.

Amendment No. 1 - Background

The Board of Trustees of the Internal Improvement Trust Fund (Trustees), as an agency of Florida Government, was created in 1855. The title to all sovereignty tidal and submerged bottom lands, except submerged lands previously conveyed by deed or statute to private interests, is vested in the Board of Trustees of the Internal Improvement Trust Fund.³ The sovereignty tidal and submerged bottom lands which are presently vested in Board of Trustees include all islands, sandbars, shallow banks, and small islands made as a result of the dredging by the United States of any channel and similar or other islands, sandbars, and shallow banks located in the navigable waters of the state, including all coastal and intracoastal waters, and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams.

The Board of Trustees of the Internal Improvement Trust Fund may sell islands and submerged lands if determined by the Board to be in the public interest, upon such prices, terms, and conditions as the Board sees fit.⁴ An application to purchase such islands and lands must be filed with the Board, in compliance with the form required by it, to show clearly what is intended to be accomplished in any proposed development and the manner in which the development will be accomplished.⁵ Prior to any such sale, the Board must determine to what extent the sale of such islands and lands and their ownership by private persons or their conveyance to political subdivisions or public agencies would interfere with the conservation of fish, marine and other wildlife, or other natural resources.⁶ In addition, the Board may not sell or convey an interest in the islands or lands to

¹ Sonny Timmerman, Director, Division of Community Planning, Department of Community Affairs, 3/31/03.

² Lewis, Longman & Walker, P.A.

³ *Graham v. Edwards*, 472 So. 2d 803, 10 Fla. L. Weekly 1663 (Fla. Dist. Ct. App. 3d Dist. 1985).

⁴ Section 253.12(2)(a), F.S.

⁵ Section 253.12(3), F.S.

⁶ Section 253.12(2)(a), F.S.

any applicant who does not also have before the Board (1) an application for approval of a fill permit, and (2) a permit or application for a permit to dredge fill material from beneath the navigable waters of the state in the event the applicant intends to secure such fill material.

A representative of the Department of Environmental Protection⁷ (DEP) stated that there were conversations with the Hospital District regarding the exchange of submerged lands. This representative also stated that there no agreement was reached. The DEP representative voiced concerns regarding the exchange since the submerged lands in question are characterized as “shellfish harvesting waters.”

Amendment No. 1 - Current Law

Art. X, s.11, State Constitution, provides:

SECTION 11. Sovereignty lands.--The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Section 253.12(1), F.S. provides:

Except submerged lands heretofore conveyed by deed or statute, the title to all sovereignty tidal and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board of Trustees of the Internal Improvement Trust Fund...

Section 253.12(2)(a), F.S., provides:

The Board of Trustees of the Internal Improvement Trust Fund may sell and convey such islands and submerged lands if determined by the board to be in the public interest, upon such prices, terms, and conditions as it sees fit. However, prior to consummating any such sale, the board shall determine to what extent the sale of such islands or submerged lands and their ownership by private persons or the conveyance of such islands or submerged lands to political subdivisions or public agencies would interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, and would result in destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life, and if so, in what respect and to what extent, and it shall consider any other factors affecting the public interests.

Amendment #2

According to the proponents⁸, this amendment authorizes the Hospital District Board to adopt a comprehensive plan pursuant to the procedures and directives contained in ch.163, F.S., and any necessary regulations to implement the plan.

⁷ Vivian Garfein, Director, Central District Office, Department of Environmental Protection.

⁸ Lewis, Longman & Walker, P.A.

Amendment No. 2 - Background

Adopted by the 1985 Legislature, ch. 163, Part II, F.S., The Local Government Comprehensive Planning and Land Development Regulation Act (Growth Management Act), requires all of Florida's 67 counties and 476 municipalities to adopt local government comprehensive plans that guide future growth and development. Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. A key component of the Act is its "concurrency" provision that requires facilities and services to be available concurrent with the impacts of development.

Comprehensive planning is an opportunity for elected officials and citizens to give forethought to what they want their communities to look like in the future; and to how they want to manage growth to that end.

Special districts, like the Hospital District, do not have local comprehensive planning authority under general law. As the local comprehensive plan serves to create a plan for an entire community, providing comprehensive planning authority to districts located within a single municipality or county, or combinations thereof, appear to negate the legislative intentions, as stated in s. 163.3161(3), F.S., of the Growth Management Act by causing holes to form in particular municipal or county comprehensive plans.

Amendment No. 2 - Current Law

Section 163.3161(3), F.S., provides:

It is the intent of this act that its adoption is necessary so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

Amendment No. 2 – State Constitution

Art. III(a)(21), State Constitution, provides that "[t]here shall be no special law or general law of local application pertaining to...any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote."

Section 189.404(2)(d), F.S., provides:

Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

(d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, s. 189.415, s. 189.417, or s. 189.418.

Section 189.415, F.S., provides:

1) It is declared to be the policy of this state to foster coordination between special districts and local general-purpose governments as those local general-purpose governments develop comprehensive plans under the Local Government Comprehensive Planning and Land Development Regulation Act, pursuant to part II of chapter 163.

(2) Each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public facilities report shall specify the following information:

(a) A description of existing public facilities owned or operated by the special district, and each public facility that is operated by another entity, except a local general-purpose government, through a lease or other agreement with the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 5 years at least 12 months prior to the submission date of the evaluation and appraisal report of the appropriate local government required by s. 163.3191. At least 12 months prior to the date on which each special district's first updated report is due, the department shall notify each independent district on the official list of special districts compiled pursuant to s. 189.4035 of the schedule for submission of the evaluation and appraisal report by each local government within the special district's jurisdiction.

Therefore, Amendment No. 2 appears to violate Art. III, s. 11(a)(21), State Constitution.