

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 629 Daytona Beach Downtown Development Authority  
**SPONSOR(S):** Cusack  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Local Affairs (Sub)</u>	_____	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	_____	_____	_____
3) <u>Finance &amp; Tax</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

The Daytona Beach Downtown Development Authority is an independent special district that was created by chapter 72-520, Laws of Florida, and which has been amended by subsequent special acts.

The Authority is codifying all prior special acts of the district into a single act.

Consistent with legislative practice, the bill changes subsection designations from letters to numbers throughout the charter.

The bill amends the boundaries of the Authority to reflect changes made in the boundaries through the power currently granted by the charter. There is a question about the boundary description as it relates to the correct page reference to the Marina Point Condominiums in the book of public records of Volusia County.

The bill makes minor, stylistic changes to some of the language of the charter.

The bill takes effect upon becoming law.

## 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:

The Daytona Beach Downtown Development Authority (Authority) is an independent special district that was created by chapter 72-520, Laws of Florida, and which has been amended by subsequent special acts.

This bill codifies all prior special acts of the district into a single act, as required by section 189.429, Florida Statutes.

Consistent with legislative practice, the bill changes subsection designations from letters to numbers throughout the charter.

The bill amends the boundaries of the Authority from those provided by chapters 72-520 and 79-446, Laws of Florida. The charter of the Authority currently provides two ways to amend the boundaries of the Authority without action by the Florida Legislature: (1) by resolution of the Authority approved by a referendum after a public hearing and notice via publication in a newspaper and mail (2) by petition from the owners of real property contiguous to the boundaries of the Authority, or consenting resolution if the owner is a governmental entity. Based on Resolution 99-01 of the Authority (referred to as "DDA" in its resolution), it appears this second provision was used to amend the boundaries of the Authority:

...WHEREAS, records of the DDA indicate that proposals were submitted to the Florida Legislature to expand the district to include City-owned property known as the Halifax Harbor within the District; and

WHEREAS, the Act was amended, Ch. 79-446 § 1, Laws of Florida (1979), to provide for inclusion within the District of property wholly owned by a governmental entity upon resolution of the governing body consenting to its inclusion, and resolution of the DDA including the property and redefining its boundaries after publication for four consecutive weeks; and

WHEREAS, since 1979, the DDA appears to have acted with the understanding that the Halifax Harbor area was a part of the District, but the records are unclear as to whether formal action was taken to expressly expand the District boundaries to include the area; and

WHEREAS, records of the DDA indicate that the DDA adopted Resolution 81-2 on October 6, 1981, annexing all of Marina Point into the District pursuant to a request submitted by the property owner;...

Resolution 99-01 of the Authority then amended section 4 of the charter to "specifically provide that all of the City-owned lands east of Beach Street between Fairview Avenue and Marina Point are included within the boundaries" of the Authority. The City of Daytona Beach consented to such inclusion in

Resolution 99-97. The City of Daytona Beach has also incorporated the provisions of the Authority into Subpart E of the Code of Ordinances, including these boundary amendments.

The boundary description in the bill is the same as that currently contained in Subpart E of the Code of Ordinances, but it differs from the resolutions of the Authority and the City with respect to the page reference (“page 1559”) for the legal recording of the Marina Point Condominium in book 2125 of the public records of Volusia County; Subpart E and the bill have it as “page 1669.”

The bill deletes language which became unnecessary after the initial approval of the referendum to create the Authority or by operation of time.

The bill makes minor changes to the language of the charter including:

- moving the order of the words and changes “majority” to be “majority without qualification” as part of the definitions and rules of construction;
- making some minor phrasing changes in the statement of policy and legislative findings (“automobile traffic flow is impeded” to “impeded automobile traffic” and “auto” to “automobile”); and
- changing language related to the terms of Authority members (“each member may be appointed for consecutive terms of three (3) years beginning July 1” to “members shall be appointed to serve terms of 3 years each July 1”);

#### C. SECTION DIRECTORY:

- Section 1: Provides that the bill constitutes the codification of all special acts relating to the Authority and that the bill preserves all powers of the Authority.
- Section 2: Amends, codifies, reenacts, and repeals chapters 72-520, 77-537, 79-446, and 80-493, Laws of Florida.
- Section 3: Recreates and reenacts the charter of the Authority; consistent with legislative practice, changes subsection designations from letters to numbers throughout the charter:
- Section 1: Provides the popular name – the “Daytona Beach Downtown Development Authority Act.”<sup>1</sup>
  - Section 2: Creates definitions and rules of construction for the charter; changes; with changes as to how the words are ordered; amends “majority” to be “majority without qualification.”<sup>2</sup>
  - Section 3: Sets forth the statement of policy and legislative findings; makes some minor phrasing changes - “automobile traffic flow is impeded” to “impeded automobile traffic” and “auto” to “automobile”.<sup>3</sup>
  - Section 4: Provides an amended description of the downtown area and the property to be covered by the Authority; sets forth the process for altering or amending the boundaries of the Authority including requirements for a public hearing, notice via publication in a newspaper and mail, and a referendum; provides a process by

<sup>1</sup> As provided by section 1, chapter 72-520, Laws of Florida.

<sup>2</sup> As provided by section 2, chapter 72-520, Laws of Florida.

<sup>3</sup> As provided by section 2, chapter 72-520, Laws of Florida.

which owners of real property contiguous to the boundaries of the Authority may petition for inclusion.<sup>4</sup>

- Section 5: Establishes the Authority and provides its powers; makes the affairs of the Authority under the direct supervision and control of a board of five members, one of whom is a member of the city commission; provides that the city commission shall appoint members of the authority; changes language related to the terms of Authority members from “each member may be appointed for consecutive terms of three (3) years beginning July 1” to “members shall be appointed to serve terms of 3 years each July 1;” requires residency for members and prospective members of the Authority; provides for vacancies; prohibits compensation of board members except for necessary and reasonable expenses incurred in the performance of duty; permits a bond to be required for members, officers, or employees; and limits personal liability. Former subsection (i), which has been rendered unnecessary by operation of time, has been eliminated.<sup>5</sup>
- Section 6: Permits the board of the Authority to formulate and amend its own rules of procedure; sets quorum requirements; provides for the selection of a chair and vice chair; prescribes monthly meetings that are noticed and open to the public.<sup>6</sup>
- Section 7: Provides the functions the Authority is to perform including: analyzing the economic conditions and changes in the downtown area; formulating programs; recommending actions to the city commission and to downtown business owners and residents; participating in the execution of programs; carrying on projects and undertakings authorized by law and the city commission.<sup>7</sup>
- Section 8: Sets forth the powers of the authority including: the power to enter contracts and agreements sue and be sued, have and use a corporate seal, accept grants and donations of any type, control property and facilities, receive the proceeds of imposed taxes, receive revenues from its properties or facilities, have exclusive control of its funds, cooperate and enter into agreements with any governmental agency or other public body, make and receive from the city or Volusia County, issue and sell revenue certificates, fix and collect rates and charges for facilities and services furnished by it; borrow money on unsecured notes, maintain its offices; employ a director, general counsel, and other personnel to serve at its pleasure for a term of employment not longer than five years; exercise all incidental powers; and exercise the power of eminent domain.<sup>8</sup>
- Section 9: Requires the levy of an ad valorem tax of up to one mill to finance the operation of the Authority.<sup>9</sup>
- Section 10: Provides for the maintenance and expenditure of the funds of the Authority; requires bylaws of the Authority to provide for records of the proceedings and

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<sup>4</sup> As provided by section 4, chapter 72-520, Laws of Florida, and section 1, chapter 79-446, Laws of Florida.

<sup>5</sup> As provided by section 5, chapter 72-520, Laws of Florida; section 2, chapter 79-446, Laws of Florida; and section 1, chapter 80-493, Laws of Florida. Former subsection (i) of the charter provided that “no member of the committee established by the City Commission to draft an enabling act authorizing the establishment of a downtown redevelopment authority, shall be eligible to hold any office, position or employment created by this act until two (2) years after the effective date of this act.

<sup>6</sup> As provided by section 6, chapter 72-520, Laws of Florida.

<sup>7</sup> As provided by section 7, chapter 72-520, Laws of Florida.

<sup>8</sup> As provided by section 8, chapter 72-520, Laws of Florida.

<sup>9</sup> As provided by section 9, chapter 72-520, Laws of Florida.

actions of the Authority, internal supervision and control of its accounts, and annual external audits to be filed with the city clerk.<sup>10</sup>

- Section 11: Governs the issues of revenue certificates by the Authority; limits to obligations that are secured solely by the pledge of revenues produced by the facility or facilities for which the certificates are issued and the sale proceeds used; prohibits the full faith and credit of the city from being pledged or obligation of the city; requires estimates of the total cost of the undertaking and determination of anticipated net proceeds of the sale and the annual revenues; permits engagement of a corporate trustee for the issue; allows establishment of rentals, rates, and charges; provides that revenue certificates may be issued for the purposes of funding, refunding, or both; makes revenue certificates negotiable instruments; requires validation in accordance with existing statute.<sup>11</sup>
- Section 12: Provides for the transfer of property to the city if the Authority should cease to exist, subject to prescribed limitations.<sup>12</sup>
- Section 13: Deletes language which became unnecessary after the initial approval of the referendum to create the district; sets forth the referendum provisions; applies to increasing or decreasing the boundaries of the Authority and a repeal referendum which abolishes the board and repeals the authorizing act.<sup>13</sup>
- Section 14: Permits all persons directly or indirectly affected by the Authority, all owners of real property in the downtown area not wholly exempt from ad valorem taxation, and qualified electors or voters to vote as provided in the charter.<sup>14</sup>
- Section 15: Provides that the Authority is a special taxing district established pursuant to section 9 of Article VII of the Florida Constitution; makes the provisions of the Authority null and void if a court construes its taxing provision to be part of the 10-mill limit of the city or the county.<sup>15</sup>
- Section 16: Allows the Authority to levy and collect special assessments; sets forth the requirements of the special assessment resolution; describes permitted estimated costs; provides for the preparation of a preliminary assessment; requires notice by publication and mail; requires a public hearing; mandates determination of the special assessment; provides for collection; authorizes the issuance of bonds and sets forth requirements for same; permits administration by the city or county.<sup>16</sup>
- Section 4: Provides for liberal construction to effectuate the purposes of the bill.
- Section 5: Repeals chapters 72-520, 77-537, 79-446 and 80-493, Laws of Florida.
- Section 6: Provides that the bill will take effect upon becoming law.

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<sup>10</sup> As provided by section 10, chapter 72-520, Laws of Florida.

<sup>11</sup> As provided by section 11, chapter 72-520, Laws of Florida.

<sup>12</sup> As provided by section 12, chapter 72-520, Laws of Florida.

<sup>13</sup> As provided by section 13, chapter 72-520, Laws of Florida.

<sup>14</sup> As provided by section 14, chapter 72-520, Laws of Florida.

<sup>15</sup> As provided by section 15, chapter 72-520, Laws of Florida.

<sup>16</sup> As provided by section 1, chapter 77-537, Laws of Florida.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? WHERE?

An Affidavit of Proof of Publication states that a Notice of Intent to Seek Legislation was published in The News-Journal on October 8, 2003.

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:

There do not appear to be any constitutional issues with the bill.

B. RULE-MAKING AUTHORITY:

The bill only grants rule-making authority to the Authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An amendment may be necessary to address the correct page reference to the Marina Point Condominiums in the book of public records of Volusia County in the boundary description.<sup>17</sup>

## IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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<sup>17</sup> See e-mail from Suzanne Kuehn, Economic Development Administrator for the City of Daytona Beach (Feb. 12, 2004; 08:58 EST) (including an e-mail from Rick Rice, P.L.S., City Surveyor for the City of Daytona Beach, indicating that the correct page reference for the legal recording of Marina Point Condominium in book 2125 is page 1559).