

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 949 Charlotte County

SPONSOR(S): Roberson

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 2 N	Baker	Rojas
2) State Affairs Committee	14 Y, 1 N	Moore	Camechis

SUMMARY ANALYSIS

The bill changes the election procedures for the Charlotte County Airport Authority (Authority). Specifically, the bill requires the members of the Authority to be elected in the same manner as county officials, including partisan affiliation.

The bill also provides for residency requirements for candidates as well as terms and titles for the members.

The bill repeals the local law that created the Authority's predecessor known as the Charlotte County Development Commission.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Charlotte County Airport Authority

The Charlotte County Airport Authority (Authority) was created by the Florida Legislature in 1998.¹ The Authority is an independent special district pursuant to ch. 189, F.S.² The Authority is a single-county special district whose purpose is to operate, plan, and develop the Authority's airports, facilities, commerce parks, and real estate.³

The Authority is the sole provider of aviation fuel on its property, the sales of which are one of the Authority's revenue sources.⁴ Other sources of revenue are rents from the property and concessions.

Among its other powers, the Authority may borrow funds and issue bonds to further the purposes of the Authority, except no general obligation bonds may be issued without satisfying the State Constitution and all other applicable laws.⁵

In 1991, the Legislature enacted ch. 91-361, L.O.F., which granted the Charlotte County Board of Commissioners the option to abolish the Authority's predecessor, the Charlotte County Development Commission (Predecessor). If the county commissioners chose to abolish the Predecessor, that 1991 chapter law required the county commissioners to assume the obligations of the Predecessor by a certain date. The county commissioners chose to let the option expire, and the Predecessor continued to exist until the Legislature changed its name to the Authority in 1998.

The Authority's election procedure

The Authority is composed of five members, one from each Charlotte County commission district. Section 4 of ch. 98-508, L.O.F., as amended, states members are "elected as prescribed in this section." That same section states "[e]lection of members of the authority shall be prescribed by the general election laws of Florida."⁶

Florida's general law, in s. 189.405(2)(c), F.S., provides that elections for the governing board members of a single-county special district "shall be *nonpartisan*, except when partisan elections are specified by a district's charter."⁷ The chapter laws creating the Authority do not otherwise address whether its elections may be conducted according to partisan affiliation.⁸

Since 1963, at least some, if not all, of the members of the Authority and its Predecessor have been chosen by partisan elections.⁹

¹ ch. 98-508, L.O.F.

² ch. 2011-263, L.O.F., amending ch. 2004-405, L.O.F., amending ch. 98-508, L.O.F.

³ *Id.*

⁴ Charlotte County Airport and Punta Gorda Army Airfield, General Aviation, *available at* <http://www.flypgd.com/about-punta-gorda-airport/> (last visited Mar. 9, 2013).

⁵ ch. 2011-263, L.O.F., amending ch. 2004-405, L.O.F., amending ch. 98-508, L.O.F.

⁶ *Id.*

⁷ Emphasis added.

⁸ *See* ch. 2011-263, L.O.F.; *contra* ch. 63-1207, L.O.F., that stated the Authority's predecessor shall elect members "consistent with the manner of election of other County Officials, and shall be subject to the General Elections laws."

⁹ ch. 63-1207, L.O.F.; *see* "Botched election? Airport authority may need special vote," Wink News, Jun. 19, 2012, *available at* <http://www.winknews.com/Campaign-Central/2012-06-19/Botched-election-Airport-Authority-may-need-special-vote> (last visited Mar. 9, 2013).

As to the question of whether ch. 189, F.S., is the proper “general election law” to apply, statutory interpretation usually applies the more specific provision of law instead of the more general. The Florida election code, codified at chapters 97-107, F.S., is entitled “Electors and Elections.” Chapter 189, F.S. is entitled “Special Districts: General Provisions.” The proper “general election law” to apply is likely the more specific ch. 189, F.S., which addresses the elections of special districts, and specifically the elections of single-county special districts. Further, the 2011 changes to the Authority’s enacting law inserted the phrase “pursuant to section 189” after stating that the Authority is an independent special district.¹⁰

Effect of Proposed Changes

County election procedure required

The bill changes the Authority’s election procedure by revising ch. 98-508, L.O.F., as amended. The bill conforms the law to the customary practice of the Authority. Instead of statutorily-required nonpartisan elections for Authority members, the bill requires those elections to be held “in the same manner as county officials, including partisan affiliation.”

Miscellaneous revisions

The bill gives the additional name of “commissioner” to Authority members.

The bill adds that commissioners will be elected every four years, beginning in 2014 for the commissioners from even-numbered county commission districts, and in 2016 for the commissioners from odd-numbered county commission districts.

The bill inserts a candidate qualification. A person seeking to run for a seat on the Authority must have resided in the district from which he or she seeks election for at least six months immediately before the time of qualifying to run for that seat.

Repeal of initial creation law

The bill repeals ch. 63-1207, L.O.F., the chapter law that created the Predecessor. That law is obsolete since ch. 98-508, L.O.F., created the Authority in its present form. When creating the current Authority via ch. 98-508, L.O.F., the Legislature codified, reenacted, amended, and repealed all the chapter laws that concerned the Authority except for ch. 63-1207, L.O.F. The omission of ch. 63-1207, L.O.F. from the repeal that occurred in 1998 may have been a technical error.

Effective Date

The bill would take effect upon becoming law.

B. SECTION DIRECTORY:

Section 1: Revises ch. 98-508, L.O.F., as amended by chs. 2004-405, L.O.F., and 2011-263, L.O.F., relating to the election procedures of the Charlotte County Airport Authority.

Section 2: Provides an effective date upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

¹⁰ ch. 2011-263, L.O.F., amending ch. 2004-405, L.O.F., amending ch. 98-508, L.O.F.

IF YES, WHEN? January 22, 2013

WHERE? *Charlotte Sun*, a daily newspaper published in Charlotte 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 Comments

The bill's language may cause unintended results. A court may interpret the language "in the same manner as county officials, including partisan affiliation" to necessarily tie the Authority's election procedure to that of Florida's counties. Thus, if the Legislature changed the general law on county elections to require nonpartisan elections, or if a court interpreted general law so as to prevent counties from holding partisan elections, then the bill may prevent the Authority from holding partisan elections.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A