

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1437 Port of Palm Beach District, Palm Beach County

SPONSOR(S): Economic Affairs Committee; Hager and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 1 N	Walker	Miller
2) Economic Affairs Committee	13 Y, 0 N, As CS	Johnson	Pitts
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Port of Palm Beach District (Port) is an independent special taxing district located in Palm Beach County. The most recent financial statement shows that the Board derives most of its revenues from rents and royalties and service charges. In 2014, the gross revenue of the Port was over \$26 million.

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five elected members. The most recent adjustment in 1999 set the compensation level for Board members to \$9,500.00/year. The bill raises the yearly compensation rate of Board members from \$9,500 to \$16,000, reflecting an approximate 3 percent yearly increase from the rate of compensation set in 1999. Thereafter, the salary may be adjusted annually by up to 3 percent by a majority vote of the Board. However, these salaries shall be funded from the operating revenues of the port district and may not be funded from ad valorem tax revenues.

One of the functions of the Board is to oversee Foreign-Trade Zone operations associated with the Port. In 2008, the federal government created new regulations expanding the locations and modification flexibility of Foreign-Trade Zone site locations. In 2012, the Port approved a resolution to apply for the new Foreign-Trade Zone status created by the regulations in order to expand their site locations into the neighboring Martin and St. Lucie Counties. This application could not be granted because the Port's current charter did not permit the flexibility for expansion needed under the new regulations. Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County. The bill amends the Port's special act to allow the Port to apply for Foreign-Trade Zone site locations outside of Palm Beach County.

The economic impact statement (EIS) for the bill anticipates no increase in revenues or expenses directly to the Port but potential indirect advantages to freight logistics businesses associated with the Port being able to take advantage of the flexibility for expansion of the foreign trade zone under the recent federal regulations.

The bill provides the act is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The Port of Palm Beach District (Port) is an independent special taxing district located in Palm Beach County. The Port was created by special act in 1915¹ and subsequently amended.² The Port is the fourth busiest container port in Florida, the eighteenth busiest in the continental U.S., and is a major shipper of Florida goods such as bulk sugar and produce.³

There are 16 port authorities in Florida⁴ which collectively generate more than 680,000 direct and indirect jobs and contribute \$96 billion in economic value to the state, accounting for approximately 13 percent of Florida's Gross Domestic Product and \$2.4 billion in state and local taxes.⁵ The most recent financial statement shows that the Port derives most of its revenues from rents, royalties, and service charges.⁶ In 2014, the gross revenue of the Port was over \$26 million.⁷ The Port has not assessed ad valorem taxes in approximately 40 years.⁸

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five members elected by districtwide vote to serve four year terms.⁹ The Board was originally compensated at a rate of \$2,400.00/year, which has been adjusted periodically by the Legislature. The most recent adjustment in 1999 set the compensation level for Board members to \$9,500.00/year.¹⁰ The Board members receive the same retirement and insurance benefits as district employees, including: Health, Dental, Vision, Life Insurance, Short Term Disability, AFLAC, Long Term Life, FRS (Retirement Plan).¹¹

The Board governs the operation, maintenance, and management of projects of the Port. These powers and duties include: entering into contracts on behalf of the Port; acquisition of harbor and Port property; construction and repair of Port facilities; establishing trade zones; creating and managing the Port budget; setting rates, tolls, and charges for Port services and use; raising ad valorem taxes as needed; personnel selection and supervision; and providing insurance, pension, and retirement benefits to employees.¹²

Foreign-Trade Zones (FTZs) are the United States' version of secure free-trade zones.¹³ FTZs are subject to U.S. Customs and Border Protection (CBP) supervision but largely overseen by a designated

¹ Ch. 7081, Laws of Fla. (1915).

² Ch. 74-570, Laws of Fla. (1974); ch. 81-459, Laws of Fla. (1981); ch. 99-457, Laws of Fla. (1999).

³ PORT OF PALM BEACH, *General Information*, <http://www.portofpalmbeach.com/121/General-Information> (last visited 01/21/2016).

⁴ FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, *Official List of Special Districts Online*, available at <http://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program> (last accessed Jan. 21, 2016).

⁵ FLORIDA PORTS COUNCIL, *The Florida System of Seaports*, <http://flaports.org/about/the-florida-system-of-seaports/> (last accessed Jan. 21, 2016).

⁶ DEPARTMENT OF FINANCIAL SERVICES, *Local Government General Ad Hoc Report 2010-2015*, available at <http://www.myfloridacfo.com/Division/AA/LocalGovernments/default.htm> (last accessed Jan. 21, 2016).

⁷ Id.

⁸ Id.; PORT OF PALM BEACH, *General Information*, <http://www.portofpalmbeach.com/121/General-Information> (last accessed Jan. 26, 2016).

⁹ Ch. 74-570, Laws of Fla. (1974).

¹⁰ Ch. 99-457, Laws of Fla. (1999).

¹¹ PORT OF PALM BEACH, *Human Resources*, <http://www.portofpalmbeach.com/238/Human-Resources> (last accessed Jan. 26, 2016).

¹² Ch. 74-570, Laws of Fla. (1974).

¹³ U.S. CUSTOMS AND BORDER PROTECTION, *About Foreign-Trade Zones and Contact Info*, <http://www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about> (Jan. 26, 2016).

local board. The authority to establish FTZs was created by Congress in the Foreign-Trade Zones Act of 1934.¹⁴ The Foreign-Trade Zones Act is administered through two sets of regulations,¹⁵ which were revised in 2008¹⁶ to create a new variety of FTZ known as an Alternative Site Framework (ASF). Port entities operating under the revised ASF provisions have a number of operating advantages in terms of increased flexibility and predictability.¹⁷ The ASF allows FTZ sites administered by port authorities to utilize the “minor boundary modification process” in order to extend FTZ benefits to areas outside of existing zones through a shorter streamlined application process. The ASF framework also expands the range of available FTZ sites to include locations within 60 miles of the port of entry.

Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County.¹⁸ In 2012, the Port approved a resolution to apply for ASF status in order to expand their FTZ site locations into the neighboring Martin and St. Lucie counties.¹⁹ In 2013 the Port was informed the application could not advance for the following reasons:

- The Port’s charter limited the ability of the Port to sponsor future sites outside of Palm Beach County.
- The Port’s charter did not allow expansion outside the immediate port district without approval from the affected county or municipal governments.²⁰

EFFECT OF THE BILL

The bill raises the yearly compensation rate of Board members from \$9,500 to \$16,000, reflecting an approximate 3 percent yearly increase from the rate of compensation set in 1999. Thereafter, the salary may be adjusted annually by up to 3 percent by a majority vote of the Board. However, the bill stipulates these salaries shall not be funded from the operating revenues of the port district and may not be funded from ad valorem tax revenues.

The bill also authorizes the Port to apply for FTZ site locations outside of Palm Beach County, within 60 miles of the port of entry pursuant to the new ASF regulations implemented in 2008. The bill removes language requiring approval from local governments before establishing FTZ site locations outside of the district but notes all such FTZs remain subject to local codes, ordinances, and laws.

B. SECTION DIRECTORY:

Section 1. Amends that section of the Port charter pertaining to commissioner compensation, raising the yearly compensation of each Board member from \$9,500 to \$16,000 and allowing subsequent adjustments of up to 3 percent per year by a majority vote of the Board and provides restrictions on where the salaries may be funded from.

Section 2. Amends that section of the Port charter pertaining to Foreign Trade Zones, authorizing sites to be located outside of Palm Beach County but remaining subject to all local ordinances and laws.

Section 3. Provides that the act shall take effect upon becoming law.

¹⁴ Foreign-Trade Zones Act of 1934, 19 U.S.C. 81a-81u.

¹⁵ The FTZ Regulations (15 CFR Part 400) and CBP Regulations (19 CFR Part 146).

¹⁶ 15 CFR Part 400- FTZ Regulations available at <http://enforcement.trade.gov/ftzpage/grantee/reg.html> (last accessed Jan. 26, 2016).

¹⁷ U.S. CUSTOMS AND BORDER PROTECTION, *Foreign-Trade Zones Manual*, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi8s_zF68rKAhVH9h4KHdf7D5IQFggcMAA&url=https%3A%2F%2Fwww.cbp.gov%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2FFTZmanual2011.pdf&usg=AFQjCNGMb22sCiQnmpxhGGTY-fzzVAktDA&bvm=bv.112766941,d.dmo (last accessed Jan. 27, 2016).

¹⁸ Ch. 74-570, Laws of Fla. (1974).

¹⁹ PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, *Executive Brief*, available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi58KDw8crKAhVCWh4KHZ9tCjwQFggcMAA&url=http%3A%2F%2Fwww.pbcgov.com%2FpubInf%2FAgenda%2F20130416%2F5a1.pdf&usg=AFQjCNFa0Yju6uN0kXZ-Q6-_AjABetQRDA (last accessed Jan. 27, 2016).

²⁰ Letter from Andrew McGilvray, Executive Director, The Foreign-Trade Zones Board, U.S. Dept. of Commerce, to Beatrice Greffin, Port of Palm Beach (11/08/2013), a copy of which is retained by staff of the Local Government Affairs Subcommittee.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? Oct. 30, 2015

WHERE? The Palm Beach County Post in Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2016, the Economic Affairs Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided that salaries of the port commissioners shall be paid out of the port district's operating revenues and may not be paid out of ad valorem tax revenues.

The analysis is written to the bill as reported as a committee substitute by the Economic Affairs Committee.