

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1593 Ocean Highway and Port Authority, Nassau County

SPONSOR(S): Byrd

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee		Darden	Miller
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Ocean Highway and Port Authority (Authority) is an independent special district in Nassau County responsible for managing operations at the Port of Fernandina. The Authority has a contract with Worldwide Terminals Fernandina, LLC, to provide marketing, terminal handling, business administration, and stevedoring services at the port. The port processed 366,849 tons of cargo in 2021.

The bill provides that if Authority-owned property becomes subject to ad valorem taxation resulting from its use by a corporation or other private entity for a private purpose, the responsibility for paying the ad valorem tax resulting from the private use remains with the entity and may not be shifted to the Authority.

The bill clarifies the Authority's exemption from the need to obtain licenses, permits, and other authorizations from counties, municipalities, or political subdivisions of the state only applies to development or improvement of Authority facilities. The bill requires all facilities developed by the Authority to comply with the:

- Florida Building Code;
- Florida Fire Protection Code;
- Flood plain management ordinances of the jurisdiction in which the development is occurring;
- Terms of applicable state or federal grants; and
- City of Fernandina Beach's Historic District requirements as stated in the city's land development code, if the development is of an Authority-owned property located in area designated as the City of Fernandina Beach's Downtown Historic District as of 2021.

The bill prohibits the further expansion of the Port of Fernandina and other Authority-owned facilities in the City of Fernandina Beach's Downtown Historic District and states that development may not be permitted unless it conforms to the comprehensive plan of each local government that has jurisdiction over the property.

According to the economic impact statement, the bill is not projected to affect the Authority's revenues or expenses.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Ocean Highway and Port Authority

The Ocean Highway and Port Authority (Authority) is an independent special district created by special act of the Florida Legislature in 1941.¹ The Authority is responsible for the operation of the Port of Fernandina in Nassau County. The Authority's charter, including the initial 1941 charter and all subsequent special laws concerning the district, were codified in 2005.² The Authority has a contract with Worldwide Terminals Fernandina, LLC, to provide marketing, terminal handling, business administration, and stevedoring services at the port.³ The port processed 366,849 tons of cargo in 2021.⁴

The Authority is governed by a five-member Board of Port Commissioners,⁵ who are elected in partisan elections to four-year terms from single-member districts which correspond to districts for the Nassau County Board of County Commissioners. Each commissioner must be a resident of the district he or she represents.

To operate the port effectively, the Authority is authorized, in part, to:

- Purchase, construct, and maintain port facilities, including docks, warehouses, shipyards, and railways;⁶
- Improve and develop Fernandina Harbor and other waterways in Nassau County;⁷
- Fix rates for use of port facilities;⁸
- Construct and maintain infrastructure necessary to operate the port;⁹ and
- Issue bonds.¹⁰

The Authority has total annual revenues of approximately \$680,000 derived from annuals fees, port security revenue, and rental income.¹¹

The Authority is not required to obtain certificates of convenience or necessity, franchises, licenses, permits, or other authorizations from county and municipal governments to exercise any of the powers granted by its charter.¹²

The charter provides that all income and revenues of the Authority are exempt from state and local taxes.¹³ This exemption also applies to bonds, certificates, and other obligations issued by the Authority.

¹ Ch. 41-21418, Laws of Fla.

² Ch. 2005-293, Laws of Fla.

³ Ocean and Highway Port Auth., *SeaPort of Fernandina*, <http://www.portoffernandina.org/port-operator> (last visited Jan. 27, 2022).

⁴ Ocean and Highway Port Auth., *Annual Tonnage Report*,

https://www.portoffernandina.org/_files/ugd/e5fb15_5b5f71ebe6a744c892043d57d71d76ce.pdf (last visited Jan. 27, 2022).

⁵ Ch. 2005-293, s. 3(3), Laws of Fla.

⁶ Ch. 2005-293, s. 3(7)(2), Laws of Fla.

⁷ Ch. 2005-293, s. 3(7)(3), Laws of Fla.

⁸ Ch. 2005-293, s. 3(7)(4), Laws of Fla.

⁹ Ch. 2005-293, s. 3(7)(6), Laws of Fla.

¹⁰ Ch. 2005-293, s. 3(7)(9), Laws of Fla.

¹¹ Ocean and Highway Port Authority, *2019-2020 Budget*, <http://www.portoffernandina.org/annual-budget> (last visited Jan. 27, 2022).

¹² Ch. 2005-293, s. 3(12), Laws of Fla.

¹³ Ch. 2005-293, s. 3(10), Laws of Fla.

Governmental Property Tax Exemption

Property owned by special districts is exempt from ad valorem taxation as long it is being used for a governmental, municipal, or public purpose, except as otherwise provided by law.¹⁴ If a special district leases its property to a non-governmental lessee, the property is no longer exempt from ad valorem taxation except where the lessee uses the property for literary, scientific, religious, or charitable purposes.¹⁵ The ad valorem tax due is assessed directly against the lessee and nonpayment does not create a lien against the property.¹⁶

Effect of Proposed Changes

The bill provides that if Authority-owned property becomes subject to ad valorem taxation due to its use by a corporation or other private entity for a private purpose, that private entity is responsible for paying the ad valorem taxes due and may not shift this burden to the Authority.

The bill clarifies the Authority's exemption from the need to obtain licenses, permits, and other authorizations from counties, municipalities, or political subdivisions of the state only applies to development or improvement of Authority facilities. The bill requires all facilities developed by the Authority to comply with the:

- Florida Building Code;
- Florida Fire Protection Code;
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B. SECTION DIRECTORY:

Section 1: Amends ch. 2005-293, Laws of Florida, to clarify the application of a tax exemption and the effect of local regulations on the Ocean Highway and Port Authority.

Section 2: Provides that the act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 10, 2021

WHERE? The *News-Leader*, a weekly newspaper of general circulation in Nassau County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

¹⁴ S. 196.199(1)(c), F.S.

¹⁵ S. 196.199(2), F.S.

¹⁶ See s. 196.199(8)(a), F.S. See also *Hillsborough Cnty Aviation Auth. v. Walden*, 201 So. 2d 193, 195 (Fla. 1968) and *Walden v. Hillsborough Cnty Aviation Auth.*, 375 So. 2d 283, 285 (Fla. 1979).

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES