

Committee Substitute for Senate Bill No. 2346

An act relating to port area improvement; creating the “Community Improvement Authority Act”; providing legislative findings and intent; defining terms; providing for the creation of community improvement authorities in eligible counties; providing for the management of authorities; providing for the powers of an authority; authorizing the use of bonds to fund projects; providing for a tax exemption on bonds; providing for limitations on damages; providing for awarding contracts for the construction of projects; providing for dissolution of an authority; providing severability; providing for liberal construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act may be cited as the “Community Improvement Authority Act.”

Section 2. Legislative findings; intent.—

(1) The Legislature finds that certain counties in the state have the need for enhancement of areas surrounding major downtown areas through the improvement of existing facilities and the development of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure. The Legislature also finds that these projects serve a paramount public purpose and that there is a need to provide a comprehensive method and funding sources for providing for the development and operation of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure.

(2) It is declared to be the intent of the Legislature to prescribe a uniform procedure for establishing independent authorities for the purpose of planning, financing, constructing, renovating, developing, operating and maintaining facilities and other attractions, including professional sports facilities and other related amenities and infrastructure within highly populated counties of the state and within counties contiguous therewith.

(3) It is the intent of the Legislature that each authority shall take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, to explore, research, and analyze financing and related alternatives for the construction or development of such projects, and to present findings and recommendations to the appropriate governmental entities with respect to the construction or development of such projects.

(4) Because the independent authorities so created shall be empowered to exercise certain substantial powers and authority in more than one

county, it is declared to be the intent of the Legislature that the Community Improvement Authority Act be construed for all purposes as a general law that relates to more than one county and that the independent authorities so created not be deemed to have jurisdiction lying wholly within any one county within the meaning of any constitutional, statutory, or charter provision.

Section 3. Definitions.—As used in this act, the term:

(1) “Authority” means an authority created under this act.

(2) “Board” or “board of supervisors” means the governing body of an authority.

(3) “Bond” means any general obligation bond, revenue bond, refunding bond, note, or other debt obligation authorized under this act.

(4) “Department” means the Department of Revenue.

(5) “Eligible county” means any county within the state which simultaneously satisfies the following criteria:

(a) At least two professional sports facilities exist in the county, and

(b) The county has a population of not less than 1.5 million according to the most recent annual publication of County Population Estimates of the U.S. Bureau of the Census. Once a governing body has been appointed for an authority in an eligible county, that county is considered an eligible county for all purposes of this act, notwithstanding subsequent reductions in population.

(6) “Professional sports facility” means a ballpark, stadium, arena, coliseum, or similar facility intended for use by a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(7) “Project” means facilities, attractions, and other improvements authorized by this act, including professional sports facilities, related amenities and infrastructure, and systems, facilities, and services determined by an authority to be beneficial to the development, ownership, and operation of any of the foregoing, including the acquisition of land and any interest therein.

(8) “Refunding bonds” means bonds issued to retire or refinance outstanding bonds of an authority and the interest and redemption premium thereon.

(9) “Revenue bonds” means obligations of an authority or other governmental body which are payable from revenues or other funds derived from sources other than ad valorem taxes on real or tangible personal property.

Section 4. Creation of a community improvement authority; charter.—

(1) A community improvement authority is established within each eligible county with all of the powers, authority, duties, and limitations set forth in this act, including the powers set forth in this act to undertake certain activities in counties contiguous with such eligible county. This act constitutes the charter of each such authority, and this act may be amended in the same manner as any other general law of the state. Each authority shall be designated “_____ County Community Improvement Trust,” with the blank space being completed by inserting the name of the eligible county in which the authority is located. Notwithstanding the foregoing, in any eligible county in which an independent port district was abolished with support of the majority of electors of that county voting in a referendum held within 10 years immediately preceding the effective date of this act, an authority shall not be established and no authority shall have jurisdiction or exercise any powers within such county without an approving ordinance adopted by such county’s governing body.

(2) Each authority is a body politic and corporate, a public instrumentality, and an independent special district within the meaning of chapter 189, Florida Statutes, the jurisdiction of which encompasses the applicable eligible county and each county contiguous therewith, except as expressly provided herein.

Section 5. Board of supervisors.—

(1) A board of supervisors shall govern each authority.

(2) The board shall be composed of nine members. Not sooner than 60 days after the authority is established, the Governor shall appoint two members to the board; the county commission of the eligible county shall appoint three members to the board; the mayor of the eligible county shall appoint one member to the board; the city commission with the largest population shall appoint two members to the board; and the mayor of such city shall appoint one member to the board. In the event that within 30 days after the Governor has made two appointments to the board, all 9 members shall not have been appointed, then the members of the board of such authority who shall have been appointed shall select by majority vote among them at the organizational meeting of the board, without regard to the presence of a quorum, the remaining members of the board. Each appointing authority shall appoint members of the board to succeed those whose terms are expiring not less than 60 days before the expiration of such term. All members of the board must have expertise in one or more of the following areas: public finance, private finance, public accounting, commercial law, commercial real estate, real estate development, general contracting, architecture, and administration of professional sports team operations. A member of the board may not, at the time of appointment, hold an elected public office in the state.

(3) The organizational meeting of the board shall be held not less than 30 days and not more than 45 days after the Governor has made two appointments to the board. Appointed members of the board shall hold office for a term of 4 years or until their successors take office, except that the two initial members appointed by the Governor, one of the initial members

appointed by the commission of the eligible county, and one of the initial members appointed by the mayor of the eligible county shall be appointed to terms of 3 years. In the event that initial members are appointed by the board, the board shall designate which, if any, of the initial members appointed by the board shall hold office for a term of three years, such that 4 of the 9 initial members of the board shall be designated to hold office for terms of 3 years. If during a member's term of office a vacancy occurs, the Governor shall fill the vacancy by appointment for the remainder of the term.

(4) The members of the board must be residents of the eligible county in which the authority is located.

(5) Five members of the board shall constitute a quorum, and the affirmative vote of a majority of the members present and voting is necessary to take any official action.

(6) The members of the board shall serve without compensation but are entitled to reimbursement for travel and per diem expenses in accordance with section 112.061, Florida Statutes.

(7) The board shall at the time of organizing, and annually thereafter, elect a chair for a term of 1 year or until a successor is elected or the chair is removed, with or without cause, by the board. The chair shall preside at all meetings of the board. If the chair is absent or disqualified at any meeting, any member of the board may be designated chair pro-tempore for that meeting.

Section 6. Executive director.—The board may appoint and fix the salary of an executive director to carry out the day-to-day activities of the authority and to administer the policies of the board.

Section 7. Chief financial officer and other officers; financial records; fiscal year.—

(1) The board may appoint and fix the salary of a chief financial officer of the authority, who is responsible for the funds and finances of the authority. Funds may be disbursed only at the direction of the board signed by the persons designated by the board. The board may give the chief financial officer additional powers and duties.

(2) The board or the executive director upon authority delegated by the board may appoint or employ other officers or employees of the authority and give them appropriate powers and duties.

(3) The financial records of the authority shall be audited by an independent certified public accountant at least once each year.

(4) The fiscal year of the authority begins October 1 of each year and ends September 30 of the following year.

Section 8. Budgets.—On or before June 30 of each year, the executive director of the authority shall prepare a proposed budget, including an

estimate of all revenues and anticipated expenditures, for the following fiscal year to be submitted to the board for approval or modification. The budget must be adopted before October 1 of each year.

Section 9. Powers and duties.—

(1) Each authority has, and the board may exercise the power to take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, and to explore, research, and analyze financing and related alternatives for the construction or development of such projects.

(2) As appropriate, the authority shall present findings and make recommendations to the applicable governmental entity necessary to secure support or action with respect to such recommendations and to secure sources of financing and other funding alternatives for the construction or development of such projects.

(3) In the event an appropriate governmental authority, acting upon the recommendations of the authority, has approved a source or sources of funding to finance the construction or development of a project and such source or sources of funding, if consisting of revenues to be derived from a new tax, assessment, surcharge or levy, or from an increase to an existing tax, assessment, surcharge or levy, have been approved by a majority of the qualified electors within the jurisdiction of such governmental authority voting in a duly held referendum, the board may exercise the power to:

(a) Either alone or in cooperation with the eligible county or other governmental body, finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any project located in the eligible county or any county contiguous therewith consisting of one or more facilities and other attractions and related amenities and infrastructure, including: professional sports facilities and recreational, commercial, cultural and educational facilities; civic, multi-purpose meeting facilities; and all forms of media communication, transmission, and production systems and facilities.

1. During the 24-month period following establishment of an authority, the only project an authority may initiate is a professional sports facility and related amenities and infrastructure, which initiation must be evidenced by adoption of a resolution setting forth the authority's commitment to initiate and promptly implement a professional sports facility project;

2. A professional sports facility may not be constructed outside the eligible county that is intended to accommodate regular season games of a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League; and

3. No other project may be constructed outside the eligible county unless the authority and the county in which such facility will be located have entered into an interlocal agreement with respect to such project.

(b) Finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any facilities and infrastructure within the authority's jurisdictional boundaries that are reasonably ancillary, incidental, or supporting of projects, including, but not limited to, roads, bridges, parking, and other transportation facilities.

(4) In addition, the board may exercise the power to:

(a) Provide for the protection of persons using the facilities of the authority by contracting to provide police protection, emergency medical services, and fire protection related to the facilities only with the prior consent of the county or municipality that provides these services at the time of the establishment of the authority.

(b) Sue and be sued in the name of the authority.

(c) Adopt and use a seal and authorize the use of a facsimile thereof.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Employ staff and contract for the services of such independent consultants, professionals, managers, and operators as the board finds necessary and convenient.

(f) Maintain offices as the board finds necessary.

(g) Adopt procedures for the conduct of the authority's affairs, the conduct of its business, and the administration of this act.

(h) Accept gifts; apply for and use grants or loans of money or other property from the United States or any department, agency, or unit of local government thereof, the state or any of its subdivisions or agencies, any other state or any subdivision or agency thereof, or any person for authority purposes and enter into any agreements required in connection therewith; and hold, use, and dispose of money or property for any authority purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(i) Hold, control, and acquire by donation or purchase, and dispose of, any real or personal property, or any estate therein, within or outside the authority's boundaries, for any authority purpose.

(j) Lease as lessor or lessee to or from any person, public or private, any projects of the type that the authority is authorized to undertake and facilities or property of any nature for the use of the authority to carry out any of the purposes authorized by this act.

(k) Borrow money and issue bonds or other evidence of indebtedness as otherwise provided in this act.

(l) Fix, collect, and enforce fees, rates, or other user charges for any service, program, or facility provided by the authority.

(m) Cooperate and contract with other governmental entities and, under an interlocal agreement with such an entity, undertake any project authorized in this act or that the contracting governmental entity is authorized to undertake and that furthers an authority purpose.

(n) Invest moneys received by the authority as is permitted by law or as provided in any resolution adopted by the board.

(o) Procure necessary insurance or self-insure.

(p) Establish such independent entities or affiliated entities, whether in the form of a not-for-profit corporation or other legal entity, for such purposes as the board considers necessary or appropriate to carry out its projects or to administer projects or funds for the benefit of all or any portion of the eligible county or any county contiguous therewith.

(q) Make grants of authority funds to the eligible county or any county contiguous therewith or to any municipality, or any other governmental unit in any such county if the grant furthers any purpose of the authority.

(r) Exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

Section 10. Bonds.—

(1) AUTHORIZATION AND FORM OF BONDS.—

(a) The authority may issue and sell bonds for any purpose for which the authority has the power to expend money, including, without limitation, the power to obtain working capital loans to finance the costs of any project and to refund any bonds or other indebtedness at the time outstanding at or before maturity. Bonds may be sold by public or negotiated sale after advertisement, if any, as the board considers advisable. Bonds may be authorized by resolution of the board.

(b) Bonds of the authority may reflect and evidence any form of financing structure that may become marketable from time to time, including, but not limited to, taxable or tax-exempt bonds; bonds that bear current interest, whether fixed or variable; bonds issued at an original issue discount or premium; capital appreciation bonds; bonds that are convertible, whether or not at the option of the holder, into a form of bonds differing from that in which they were originally issued; bonds that allow the holder to tender the bonds to the authority or its agent; bonds that are issued with separate call-option rights that may be sold by the authority at the time of issuance of the bonds or thereafter; and bonds of any type issued in connection with interest-rate swaps or other derivative products. Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at the same time.

(c) The board may, by resolution, fix the aggregate maximum amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom may be expended, including, but not limited to, payment of costs of one or more projects; the rates of interest; the denominations of the bonds; whether or not the bonds are to be issued in one or more series; the dates of maturity, which may not exceed 40 years from the respective date of issuance; the medium of payment; the places within or outside the state where payment must be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any other terms, covenants, and conditions thereof and the establishment of revenue or other funds. The authorizing resolution may further provide for the contracts authorized by section 159.825(1)(f) and (g), Florida Statutes, regardless of the tax treatment of the bonds being authorized. The authorizing resolution may further provide for an electronic-book-entry system of registration, or for certificated bonds. The seal of the authority may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on the bonds.

(d) Any issue of bonds may be secured by a trust agreement by and between the authority and corporate trustees, which may be any trust company or bank having the powers of a trust company within or outside the state. Any provisions regarding the details or terms of any bonds that are required or permitted to be set forth in a resolution of the board may be set forth in a trust agreement with the same effect as if the provisions were set forth in a resolution of the board. The resolution authorizing the issuance of the bonds or the trust agreement may pledge any legally available revenues of the authority, including, without limitation, the proceeds of rental payments received by the authority, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board approves, including, without limitation, covenants authorized under subsection (4) and covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys, and may contain provisions for the employment of engineers, accountants and other consultants in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It is lawful for any bank or trust company within or outside the state to act as a depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as are required by the authority. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual rights of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to any officer, board, or depository that it designates for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it establishes. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of a project to which the trust agreement pertains or as part of the cost of the operation of the project.

(e) Bonds may be delivered by the authority as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board determines.

(f) Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary notes or bonds, in a form and with such provisions as the board establishes, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that become mutilated, lost, or destroyed.

(g) All bonds issued on behalf of the authority must state on the face thereof that they are payable, both as to principal and interest, solely from assets of the authority pledged therefor and do not constitute an obligation, either general or special, of the state or of any local government.

(2) NEGOTIABILITY OF BONDS.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, is fully negotiable and constitutes a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(3) BONDS AS LEGAL INVESTMENT OR SECURITY.—

(a) Notwithstanding any other law to the contrary, all bonds issued under this act constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state.

(b) Any bonds issued by the authority are incontestable in the hands of bona fide purchasers or holders for value and are not invalid because of any irregularity or defect in the proceedings for the issue and sale thereof or because of any initiative or referendum taking place after the bonds are issued.

(4) COVENANTS.—Any resolution authorizing the issuance of bonds may contain any covenants the board finds advisable. All the covenants constitute valid and legally binding and enforceable contracts between the authority and the bondholders, regardless of the time of issuance thereof.

(5) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.—This act constitutes full authority for the issuance of bonds and the exercise of the powers of the authority. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the authority, other than those required by this act, are required to perform anything under this act, except that the issuance or sale of bonds under this act must comply with the general-law requirements

applicable to the issuance or sale of bonds by the authority, including, but not limited to, section 189.4085, Florida Statutes.

(6) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE AUTHORITY.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the authority to own, acquire, construct, or reconstruct, improve, maintain, operate, or furnish the projects provided for in this act or hereafter and to fulfill the terms of any agreement made with the holders of the bonds or other obligations and that it will not in any way impair the rights or remedies of the holders.

Section 11. Tax exemption.—The bonds and other obligations issued under this act, their transfer, and the income therefrom, including any profit made on the sale thereof, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise from or are given to secure the repayment of bonds or other obligations issued under this act, are at all times free from taxation by the state or any unit of local government, political subdivision, or other instrumentality of the state. For purposes of excise taxes on documents, the provisions of section 201.24, Florida Statutes, apply. The exemption granted by this section does not apply to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned by corporations.

Section 12. Contracts.—Contracts for the construction of projects and for any other purpose of the authority may be awarded by the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served thereby, the authority may award or cause to be awarded contracts for the construction of any project, including design-build contracts, or any part thereof, or for any other purpose of the authority upon a negotiated basis as determined by the authority. Each contractor doing business with the authority and required to be licensed by the state or local general-purpose governments must maintain the license during the term of the contract with the authority. The authority may prescribe bid security requirements and other procedures in connection with the award of contracts which protect the public interest. Section 287.055, Florida Statutes, does not apply to the selection of professional architectural, engineering, landscape architectural, or land surveying services by the authority or to the procurement of design-build contracts. The authority may, and in the case of a new professional sports franchise must, by written contract engage the services of the operator, lessee, sublessee, or purchaser, or prospective operator, lessee, sublessee or purchaser, of any project in the construction of the project and may, and in the case of a new professional sports franchise must, provide in the contract that the lessee, sublessee, purchaser, or prospective lessee, sublessee or purchaser, may act as an agent of, or an independent contractor for, the authority for the performance of the functions described therein, subject to the conditions and requirements prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the preparation of plans, specifications, financing and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the

construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the authority. Any such contract may, and in the case of a new professional sports franchise must, allow the authority to make advances to or reimburse the lessee, sublessee, or purchaser, or prospective lessee, sublessee, or purchaser for its costs incurred in the performance of those functions, and must set forth the supporting documents required to be submitted to the authority and the reviews, examinations, and audits that are required in connection therewith to assure compliance with the contract.

Section 13. Sale or lease of property.—The authority may sell or lease property of the authority or grant operating agreements for any project of the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served, the authority may sell or lease property of the authority upon a negotiated basis or for no or nominal consideration. Notwithstanding any other law, the authority may sell or lease property of the authority in a transaction in which the authority leases the property back from its purchaser or lessee. To facilitate the development of a project by an authority, any governmental entity or other unit of local government may sell or lease its property to an authority upon a negotiated basis, without competitive bid, and for no or nominal consideration, and an authority may resell or sublease or grant an operating agreement for the property to a professional sports franchise in the same manner.

Section 14. Damages arising out of tort.—Any suit or action brought or maintained against the authority for damages arising out of tort are subject to the limitations provided in section 768.28, Florida Statutes, and any claim must be presented in writing to the board.

Section 15. Dissolution.—

(1) Once an authority has been established its existence is not affected by any subsequent reduction in population in the eligible county. Subject to subsection (2), an authority may be dissolved only by unanimous resolution of the board and approval of the resolution by the Governor or in the manner provided in chapter 189, Florida Statutes; provided, however, that an authority shall be dissolved automatically upon the fifth anniversary of the date it was established in the event that construction has not commenced on any project, including a professional sports facility or other related amenities and infrastructure.

(2) A dissolution may not become effective unless arrangements have been made for the full assumption of all governmental services then being provided by the authority, and for the transfer and allocation of revenue, property, and indebtedness of the authority. If any bonds or other obligations of the authority are outstanding, any act of the Legislature dissolving the authority shall set forth the proposed arrangements under which holders of the outstanding obligations will be immediately paid or will continue

to be paid, which arrangements must be consistent with the terms of the outstanding obligations. Any resolution of the board or legislative act dissolving the authority must specify the effective date of the dissolution. Neither the consent of the eligible county nor the consent of any county contiguous therewith is required to dissolve an authority.

Section 16. Severability.—If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 17. Liberal construction.—This act shall be liberally construed to effectively carry out its purposes.

Section 18. This act shall take effect upon becoming a law.

Approved by the Governor June 21, 2000.

Filed in Office Secretary of State June 21, 2000.