

House Bill No. 1787

An act relating to the St. Augustine Port, Waterway and Beach District; codifying the district's charter; providing for the levy of ad valorem taxes in a manner consistent with general law; eliminating provisions for special taxes for paying judgments and debts of the district; eliminating provisions in conflict with general law pertaining to the budget and taxes; replacing provisions on borrowing of money and issuance of bonds with the power to borrow money and issue bonds as a port district pursuant to chapter 315, Florida Statutes; providing for the exercise by the district of all powers allowed to a port district pursuant to chapter 315, Florida Statutes; eliminating a provision relating to bridges; recognizing the right of other governmental authorities to regulate the waters within the district as allowed by general or special law; providing for investment of district funds; replacing provisions relating to commissioners and employees doing business with the district with the Code of Ethics for Public Officers and Employees as provided in chapter 112, Florida Statutes; eliminating provisions in conflict with general law relating to the interest rate on judgments and judicial procedure in cases involving the district; eliminating conditions precedent to lawsuits and statute of limitations; eliminating the requirement that voters be freeholders; allowing members of the commission to hold the offices of secretary and treasurer and eliminating requirement of a bond for said offices; repealing chapter 17660, Laws of Florida, 1935, chapter 18879, Laws of Florida, 1937, chapter 70-922, Laws of Florida, and chapter 93-368, Laws of Florida; providing an effective date.

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

Section 1. Pursuant to chapter 98-320, Laws of Florida, this act constitutes the codification of all special acts relating to the St. Augustine Port, Waterway and Beach District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act. It is further the intent of this act to preserve all district authority, including the authority to annually assess and levy a tax against the taxable property in the district. The St. Augustine Port, Waterway and Beach District is declared to be an independent special district.

Section 2. Chapter 18879, Laws of Florida, 1937, as amended, relating to the St. Augustine Port, Waterway and Beach District is codified, reenacted, amended, and repealed as herein provided.

Section 3. The St. Augustine Port, Waterway and Beach District is recreated and reenacted to read:

Section 1. District formation ratified, restated, and approved.—The St. Augustine Port, Waterway and Beach District established pursuant to chap-

ter 18879, Laws of Florida, 1937, approved by referendum on May 3, 1938, is ratified, confirmed, and approved.

Section 2. District boundaries.—The St. Augustine Port, Waterway and Beach District shall comprise and include all the territory contained within the following described boundaries, to wit:

Commencing at the Atlantic Ocean on the township line between townships five (5) and six (6), South, Range Thirty (30), East, in St. Johns County, Florida; thence running west along said township line to the northwest corner of township six (6), South, Range twenty-nine (29) East; thence running south along the range line between Ranges twenty-eight (28) and twenty-nine (29) to the southwest corner of Section thirty (30), township seven (7) South, Range twenty-nine (29) East; thence run easterly along the south line of said section thirty (30), township seven (7), South, Range twenty-nine (29) to the southeast corner of said section thirty (30); thence run south along the west line of Section thirty-two (32), township seven (7), South Range twenty-nine (29) East to the southwest corner of said Section thirty-two, township seven (7), South, Range twenty-nine (29) East; thence run east along the township line between townships seven (7) and eight (8) to the channel of the Matanzas River; thence southerly following the channel of the said Matanzas River and continuing in the channel of the intracoastal waterway canal to the south boundary of St. Johns County; thence East along said south boundary line of St. Johns County to the Atlantic Ocean; thence running northerly along the Atlantic Ocean to the point of beginning.

Section 3. Governing board.—The governing authority of the district shall be known as the St. Augustine Port, Waterway and Beach Commission. Said commission shall constitute a body politic and a body corporate, shall have perpetual existence, may adopt and use a common seal and alter the same, may contract and be contracted with, may sue in its corporate name and be sued in its corporate name, may sue and be sued in all the courts of the state and the courts of the United States having jurisdiction over it.

Section 4. District powers.—The St. Augustine Port, Waterway and Beach Commission, as the governing body of the district, shall have the following powers:

(a) To acquire by grant, purchase, gift, devise, condemnation, exchange, or in any other manner all property real or personal or any estate or interest therein, within or without the district which by resolution the commission shall determine to be necessary for the purposes of the district, with said determination shall be deemed conclusive, except in case of fraud or gross abuse of discretion; to improve, maintain, sell, lease, convey, exchange, or otherwise dispose of the same, or any part thereof, or interest or estate therein, upon such terms and conditions as the commission shall by resolution fix and determine, and said determination shall be deemed conclusive, except in case of fraud or gross abuse of discretion.

(b) To lay out, construct, condemn, purchase, own, acquire, add to, maintain, conduct, operate, build, equip, manage, replace, enlarge, improve, regulate, control, repair, and establish jetties, piers, quays, wharves, docks,

warehouses, storehouses, breakwaters, bulkheads, public landings, slips, seawalls, turning basins, harbors, ports, waterways, channels, moles, dry docks, terminal facilities, canals, cold storage plants, terminal icing plants, refrigerating plants, precooling plants, bunkers, oil tanks, pipe lines, ferries, locks, tidal basins, tramways, cableways, anchorage areas, depots, areas for abandoned or derelict ships, barges or crafts, airways, landing fields, conveyors, modern appliances for economical handling of storage and transportation of freight and the handling of passenger traffic, and all other harbor improvements and facilities which by resolution the commission may determine to be necessary, and in connection with the operation or improvement of the district, to perform all customary services, including the handling, weighing, measuring, regulation, control, inspection, and reconditioning of all commodities and cargoes received or shipped through said harbor.

(c) To improve all navigable and nonnavigable waters situated within the district, to create and improve for harbor purposes any waterways within the district, to regulate and control all such waters and all natural or artificial waterways within the limits of the district, subject to regulatory authority given to other governmental authorities pursuant to general or special law and insofar as the state can grant the same, subordinate, however, to the jurisdiction of the United States of America, to straighten, widen, deepen, and otherwise improve any and all waters, water courses, inlets, bays, lakes, or streams, whether navigable or otherwise, located within the district, to construct inlets and turning basins, and to dredge and deepen any natural or artificial waterway within the district, to apply for and obtain permission from the Federal Government to create, improve, regulate, and control all such waters and natural or artificial waterways within said district, and to construct and maintain such inlets, slips, turning basins, and channels, and to make and give to the Federal Government its bond or bonds upon such terms and conditions as may be required, to enact, adopt, and establish by resolution rules and regulations for the exercise of jurisdiction and control over all of said waters and said port within the district.

(d) To fix absolutely, without the right of appeal, the rates of wharfage, dockage, warehousing, storage, and port and terminal charges and upon all improvements and harbor facilities located within the district and owned by the commission and to fix and determine the rates, tolls, and other charges for the use of harbor improvements and harbor facilities located within the district and owned by the commission insofar as it may be convenient for the commission to do so under the Constitution and laws of Florida, and the Constitution and laws of the United States.

(e) To exercise such police powers as by resolution the commission shall determine to be necessary for the effective and complete control, regulation, and protection of the district, and all harbor improvements and facilities, and for the effective exercise of jurisdiction over said waters and said harbor improvements and facilities.

(f) To employ such legal and clerical aid and assistance and such engineers, agents, and employees as in their judgment may be necessary for the efficient administration of their duties and to fix their compensation and make such rules, regulations, and orders for the administration of their duties as may be deemed necessary.

(g) To designate and create such offices, departments, or divisions, other than those herein specifically provided for, as by resolution the commission may determine necessary and, in said resolution, to provide the duties and powers, term of office, compensation, or salary of such offices, positions, and departments; to employ such other persons as may be necessary and to fix and determine the compensations, term of office, and duties of said employees, provided the terms of office of all appointees and employees shall be at the pleasure of the commission, and shall automatically terminate with the termination of the term of office of the members of the commission so employing or appointing them.

(h) To make rules and regulations consistent with the Constitution and laws of Florida and the Constitution and laws of the United States for the promotion and conduct of navigation, commerce, and industry in the district. Said rules and regulations shall be reasonable and shall operate uniformly as to all similarly situated.

(i) To enter into any contract with the Federal Government, or any agency thereof, which may be necessary in order to procure assistance, appropriations, and aid for the deepening, widening, and extending of channels and turning basins, the building and construction of slips, wharves, breakwaters, jetties, bulkheads, and any and all other harbor improvements and facilities.

(j) To exercise the right of eminent domain and to condemn, appropriate, and acquire any property, both real and personal, and any interest therein which by resolution the commission shall determine to be necessary, and said determination shall be conclusive, except in the case of fraud or gross abuse of discretion. Such condemnation proceedings shall be exercised in the manner provided for in general law and pursuant to the following additional provisions, to wit:

1. In any case where the commission shall not have acquired title to any property, real or personal, which it is using, or, if at any time it shall be found that the title of the commission to property, both real and personal, is defective, the said commission may proceed to acquire, cure, and perfect such title, and to acquire and condemn any outstanding right, title, lien, mortgage, judgment, or interest in and to said property pursuant to the provisions of general law.

2. Upon the filing of a petition in any condemnation proceeding, the commission shall have the right to take immediate possession of said lands, easements, or rights of way to the extent of the interest sought to be acquired whenever the commission shall by resolution determine that immediate possession is necessary, provided, however, this power shall be exercised in the manner provided for in general law.

(k) To execute and deliver all contracts, deeds, leases, franchises, assignments, releases, and all other instruments necessary to carry out the powers herein expressly and impliedly conferred, all of which shall be executed in the name of the commission, and shall be signed by the chair and secretary thereof, and its corporate seal thereto affixed. All checks and vouchers for

the disbursement of funds of the commission shall be executed in the manner prescribed by resolution adopted by the commission.

(l) To advertise Port St. Augustine in such manner as the commission deems advisable, to negotiate and contract with shipping companies, and such other institutions, associations, and companies as the commission may deem necessary for the purpose of advancing and promoting Port St. Augustine.

(m) To pay out of any funds raised or obtained under or pursuant to this act the expenses of holding, conducting, and canvassing and declaring the result of any and all elections required or authorized to be called or held by the commission under this act and of all matters incidental thereto, and the expense of the organization of the commission.

(n) To pay from the funds of the district all expenses incidental to its organization and all other reasonable and necessary expenses in carrying out and accomplishing the purpose of this act.

(o) To exercise any power or perform any act allowed to be performed by a port district as provided in chapter 315, Florida Statutes, or any successor statute, including, but not limited to, borrowing money and issuing bonds.

(p) All of the foregoing powers shall be construed as powers of the commission, and the same shall not be deemed to limit or restrict or to be exclusive. In addition to the enumerated powers hereby conferred upon said commission, it shall have all other powers and can do any and all other things necessary to carry out the objects, purposes, and powers herein specifically conferred and to promote, advance, and maintain the district. However, the commission shall have no power to borrow money except as provided in paragraph (o) of this section.

Section 5. Election of commissioners.—

(a) The governing authority of the district shall be known and designated as the St. Augustine Port, Waterway and Beach Commission, and shall be composed of five members. No person shall be appointed or elected as a member of the commission of the district unless he or she resides within the boundaries of the district and is a registered voter within the boundaries of the district. Members of the commission shall be designated and elected by Groups numbered 1 to 5.

(b) The provisions of this act shall in no manner affect the present term of office of any of the five members of the commission. The terms of the commissioners shall be staggered. Two persons shall be elected to serve 4 years in the general election in 2000. Three persons shall be elected to serve 4 years in the general election in 2002. Thereafter, each commissioner shall be elected to a 4-year term of office. Each commissioner's term of office shall begin on the 10th day following the general election and continue until his or her successor is elected and qualified. Only registered voters residing within the district shall be permitted to vote. Each registered voter may vote for one candidate in each Group. The candidate who receives the highest number of votes in his or her Group shall win the election in said Group.

(c) The County Commissioners of St. Johns County or the supervisor of elections shall cause the names of candidates for the office of commissioner to be printed upon the ballot to be used in the voting precincts within the district, to be voted on in said precincts at the general election to be held in November 2000, and each general election to be held in every even-numbered year thereafter. Every commissioner, before he or she assumes the duties of such office, shall be required to give a bond in the sum of \$5,000, payable to the Governor, which bond shall be conditioned upon the faithful performance of the duties of his or her office and the due, faithful, and proper accounting of all moneys of the district which shall come into his or her hands. The bond so given by the commissioner shall be approved in the same manner as is provided by general law for the approval of bonds of county officers. The failure of any person so appointed or elected as commissioner within 60 days after his or her appointment or election to give bond shall create a vacancy as to such commissioner and such vacancy shall be filled by appointment by the Governor for the unexpired term of a person duly qualified to hold the office, which manner of filling the office shall also apply in the case of resignation, death, or removal from the district of any commissioner or a vacancy in office arising from any other reason. Any and all premiums on official bonds required by this act shall be paid from funds of the district.

Section 6. Compensation of commissioners.—The commissioners under the provisions of this act shall receive as compensation the sum of \$5 per day for each day's service, provided that the total per diem compensation for any 1 year for any one commissioner shall not exceed \$300.

Section 7. Officers; conduct of meetings.—As soon as practicable after said commissioners shall have been elected or appointed and have qualified, they shall meet and organize and shall elect one of their number as chair who shall hold office at the pleasure of the commission. The commissioners shall appoint a secretary and a treasurer who may be a member of said commission. The offices of secretary and treasurer may be held by one person. A majority of the commission shall constitute a quorum. The commission shall have the power to prescribe rules and regulations for the government and conduct of their meetings and business. The commission shall meet at such times and places as may be determined by said commission. All meetings of the commission shall be open to the public. A record of all business transacted by the commission shall be preserved in substantial minute books and safely kept by the secretary.

Section 8. Ad valorem taxation.—The commission shall have the power to levy ad valorem taxes upon all taxable property situated within the district for the purposes authorized and prescribed by this act, subject to the limitations and restrictions herein provided. The commission shall determine annually by resolution the total amount to be raised by taxation upon the taxable property located within the district, and the rate of taxation. The commission shall not during any 1 year levy ad valorem taxes on real and tangible personal property within the district in an amount exceeding 3 mills. No tax shall be levied until a resolution has been approved by the commission according to the procedures provided by general law. The collec-

tion of ad valorem taxes shall be performed by the appropriate officer as prescribed by general law.

Section 9. Conduct of commissioners and employees.—Each commissioner, official, and employee of the district shall comply with the Code of Ethics for Public Officers and Employees as contained in chapter 112, Florida Statutes, or any successor statute.

Section 10. Judgments.—No money judgment or decree rendered against the commission or the district shall be a lien on the property, either real or personal, of the commission or the district. All property, both real and personal, tangible and intangible, owned by the commission and the district shall be exempt from sale under execution, and no writ of execution shall be issued or levied.

Section 11. Exemption from taxation.—All property, real and personal, tangible and intangible, owned and held by the district shall be exempt from all taxation levied and assessed pursuant to the Constitution and laws of the state.

Section 12. Removal by Governor.—In the event any commissioner shall be found guilty of intentional and willful misfeasance, nonfeasance, or malfeasance in office, he or she shall be subject to removal by the Governor in the manner provided by law for the removal of county officers.

Section 13. Records.—The books and records of the district shall at all reasonable hours be open to public inspection. All moneys of the district shall be kept in depositories designated by resolution of the commission, and shall at all times be kept in the manner required by general law. At least once a year the books of account of the district shall be audited, and such audit filed in the office of the district, and at all reasonable hours be open to inspection to any person. The fiscal year of the district shall begin on October 1 of each year and end on September 30 of each year.

Section 14. Investment of funds.—The commission may, by resolution to be adopted from time to time, invest and reinvest any funds in its control or possession in the same investments allowed for counties under general law.

Section 15. Severability.—If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the applicability of said provision to other persons and circumstances shall not be affected thereby.

Section 16. Liberal construction.—This act shall be liberally construed.

Section 4. Chapter 17660, Laws of Florida, 1935, chapter 18879, Laws of Florida, 1937, chapter 70-922, Laws of Florida, and chapter 93-368, Laws of Florida, are hereby repealed 10 days after the effective date of this act, provided the authority to levy and assess an ad valorem tax as provided in this act shall not be repealed.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2000.

Filed in Office Secretary of State June 7, 2000.