

House Bill No. 829

An act relating to the Manatee County Port Authority; codifying, reenacting, amending, and repealing special acts related to the Port Authority; providing a charter; providing for formation as a dependent special district; providing for the operation of the port authority; providing for powers, functions, and duties; providing for construction and effect; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Manatee County Port Authority. It is the intent of the Legislature 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 as herein provided, and any additional authority granted by this act and chapters 189 and 315, Florida Statutes, as the same may be amended from time to time. It is further the intent of this act to preserve all district authority.

Section 2. Chapters 67-1681, 69-1277, 69-1279, 74-532, and 75-428, Laws of Florida, relating to the Manatee County Port Authority, are codified, reenacted, amended, and repealed as provided herein.

Section 3. The Manatee County Port Authority is re-created and reenacted to read:

Section 1. District formation ratified, restated, and approved.—The Manatee County Port Authority (Port Authority) as initially established pursuant to chapter 67-1681, Laws of Florida, and thereafter amended as provided by special acts of the Legislature, is ratified, confirmed, and approved.

Section 2. Establishment.—The Port Authority, a dependent special district, is established for all purposes set forth in this act and chapters 189 and 315, Florida Statutes, as the same may be amended from time to time. This charter may be amended only by special act of the Legislature.

Section 3. Popular name.—This charter shall be known and may be cited as the Manatee County Port Authority Act.

Section 4. Definitions.—As used in this charter, the following words and terms shall have the following meanings:

(1) “Port Authority” shall mean the Board of County Commissioners of Manatee County, Florida, acting as a Manatee County Port Authority. When conducting business as a Port Authority, the board of county commissioners shall use the name of Manatee County Port Authority.

(2) “Port facilities” shall mean and shall include harbor, shipping, and port facilities and improvements of every kind, nature, and description.

including, but not limited to, channels, turning basins, jetties, breakwaters, public landings, wharves, docks, markets, parks, recreational facilities, structures, buildings, piers, storage facilities, public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, railroads, causeways, port-related aviation facilities such as helipads, and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more of any combination thereof and any extension, addition, betterment, or improvement of any thereof.

(3) “Cost” as applied to any port facilities shall mean and shall include the cost of acquisition or construction, the cost of all labor, materials, machinery, and equipment, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, all other expenses necessary or incident to determining the feasibility or practicability of such construction, the cost of acquiring or improving, enlarging, and extending existing port facilities and preparing the same for sale or lease to provide funds for financing port facilities under the provisions of this charter, if in the determination of the governing body, such acquisition, such improvement, enlargement, and extension, or such preparation for sale or lease are necessary to such financing, administrative expenses, and such other expenses as may be necessary or incident to any financing herein authorized. Any obligation or expense heretofore or hereafter incurred by Manatee County and/or the Manatee County Port Authority in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to Manatee County and/or the Manatee County Port Authority out of the proceeds of port facilities bonds issued under the provisions of this charter.

Section 5. Public purpose declared.—It is hereby determined and declared that each and all of the powers conferred by this charter and the exercise thereof are proper public and county purposes.

Section 6. Grant of powers.—The Port Authority, in addition to any and all powers granted to it by section 315.03, Florida Statutes, other laws, general, local or special, is hereby authorized and empowered:

(1) To acquire by purchase, grant, gift, or lease, or by the exercise of the right of eminent domain, and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, for or in connection with any port facilities, whether or not subject to mortgage, liens, charges, or other encumbrances.

(2) To construct within Manatee County any bridge, tunnel, road, or railroad lines, or any combination thereof, to, from, or between any port facilities.

(3) To sell at public or private sale or lease for public or private purposes all or any portion of any port facilities now or hereafter owned, including any such facilities as extended, enlarged, or improved, and all or any portion of any property improved, created, extended, or enlarged under the authority

of this law, on such terms and subject to such conditions as the Port Authority shall determine to be in the best interests of the Port Authority.

(4) To accept loans or grants of money or materials or property at any time from the United States or the State of Florida or any agency, instrumentality, or subdivision thereof, upon such terms and conditions as the United States, the State of Florida, or such agency, instrumentality, or subdivision may impose.

(5) To operate and maintain, and to fix and collect rates, rentals, fees, and other charges for any of the services and facilities now or hereafter acquired, owned, or constructed by the Port Authority.

(6) To lease or rent or contract with others for the operation of all or any part of any port facilities now or hereafter acquired, owned, or constructed by the Port Authority, on such terms and for such period or periods and subject to such conditions as the Port Authority shall determine to be in the best interests of the Port Authority.

(7) To contract debts for the acquisition or construction of any port facilities or for any other purposes of this law, to borrow money, to make advances, and to issue bonds or other obligations to finance all or any part of such acquisition or construction or in the carrying out of any other purposes of this charter.

(8) To contract with the United States or the State of Florida or any agency or instrumentality thereof or with any public body or political subdivision or with any private person, firm, or corporation with reference to any of the powers hereby granted.

(9) To have and to exercise all of the powers, rights, and authority now vested by the Statutes of the State of Florida in the office of the Board of Pilot Commissioners.

(10) To appoint, regulate, control, and prescribe the powers, duties, and compensation of harbor masters.

(11) To appoint and license such number of pilots as the Port Authority shall, in its sole discretion, determine to be necessary to properly conduct the business of the port. Provided that nothing contained herein shall be construed as prohibiting the Port Authority from appointing and licensing pilots who at the time of appointment are also serving any other port on Tampa Bay.

(12) To publicize, advertise, and promote the activities and projects authorized by this act, to make known to users, potential users, and public in general, the advantages, facilities, resources, products, attractions, and attributes of the activities and projects authorized by this charter; to further create a favorable climate of opinion concerning the activities and projects authorized and indicated by this charter; to cooperate, including the grant or expenditure of funds, to and with other agencies, both public and private, in accomplishing the purposes enumerated and indicted by this charter; and in furtherance thereof, to authorize reasonable expenditures by supporting

voucher to be filed for audit for the purposes herein enumerated, including, but not limited to, meals, hospitality, and entertainment of persons in the interest of promoting and engendering good will towards the activities and projects herein authorized.

(13) To perform any of the acts hereby authorized through or by means of its own officers, agents, or employees or by contract.

(14) To do all acts and things and to enter into all contracts and agreements necessary or convenient to carry out the purposes of this law.

Section 7. Contracts for borrowing of money.—Pursuant to chapter 315, Florida Statutes, and this charter, the Port Authority may contract with any person, firm, corporation, or public body or with the United States or any agency or instrumentality thereof for the borrowing of money for paying all or any part of the cost of any one or more port facilities, and any such contract may contain such terms, conditions, or provisions as the Port Authority may determine not in conflict with the provisions of this charter or chapter 315, Florida Statutes. The provisions of section 13 of this charter applicable to bonds shall be applicable also to contracts entered into under the above provisions of this section. Any such contract may be hypothecated by the Port Authority and the Port Authority may borrow money under such terms and conditions as it shall determine in anticipation of the receipt of funds under such contract.

Section 8. Exemption from taxation.—As adequate port facilities are essential for the welfare of the inhabitants and the industrial and commercial development of the area within or served by the Port Authority, and as the exercise of the powers conferred by this charter to effect such purposes constitute the performance of proper public and governmental functions, and as such port facilities constitute public property and are used for public purposes, the Port Authority shall not be required to pay any state, county, municipal, or other taxes or assessments thereof, or upon the income therefrom, and any bonds issued under the provisions of this charter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Section 9. Resolutions authorized.—All action required or authorized to be taken under the provisions of this charter or chapter 315, Florida Statutes, by the Port Authority may be by resolution, which resolution may be adopted at the meeting of the Port Authority at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this charter, no resolution under this charter need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the Port Authority then in office.

Section 10. Liberal construction.—This charter, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to effect the purposes thereof.

Section 11. Chapter cumulative.—This charter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to the

powers conferred by any other law, and shall not be regarded as in derogation of any powers now existing. Bonds may be issued and any other action may be taken hereunder notwithstanding that any other law may provide for the issuance of bonds for like purposes or the taking of like action and without regard to the requirements, restrictions, or procedural provisions contained in any other law.

Section 12. Bonds.—Pursuant to chapter 315, Florida Statutes, and this charter, the Port Authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of paying all or a part of the cost of any one or more port facilities. The bonds of each issue or series shall be dated, shall bear interest, and shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Port Authority, and may be made redeemable before maturity, at the option of the Port Authority, at such price or prices and under such terms and conditions as may be fixed by the Port Authority prior to the issuance of the bonds. The Port Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner or execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bond shall be the proper officers to sign such bond, although at the date of such bond such persons may not have been such officers. Notwithstanding any other provisions of this charter or any recitals in any bonds issued under the provisions of this charter, all such bonds shall be deemed to be negotiable instruments under the laws of Florida. The bonds may be issued in coupon or in registered form, or both, as the Port Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into couponed bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. The issuance of such bonds shall not be subject to any limitation or conditions contained in any other law, and any bonds issued under this charter shall not be considered in computing the amount of indebtedness which Manatee County or the Port Authority may incur under any other law. The Port Authority may sell such bonds in such manner, either at public or private sale and for such price, as it may determine to be for the best interest of the Port Authority. Prior to the delivery of definitive bonds, the Port Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Port Authority may also provide for the replacement of any bonds which have become mutilated or destroyed or lost. Bonds may be issued under the provisions of this charter without obtaining the consent of any commission, board, bureau, or agency of the state, and without any other proceeding or

the happening of any other condition or thing than those proceedings, conditions, or things which are specifically required by this charter.

Section 13. Source of payment and security for bonds.—The Port Authority may provide that bonds issued under the provisions of this charter or chapter 315, Florida Statutes, shall be payable from and secured by a pledge of any one or more of the following sources:

(1) Revenues of any one or more port facilities now owned or hereafter acquired or constructed by the Port Authority.

(2) Proceeds of the sale or lease of all or any part of any port facilities now or hereafter owned by the Port Authority as such facilities may be extended, enlarged, or improved, or of any property improved, created, extended, or enlarged or prepared for sale or lease under the authority of this charter.

(3) Any money received by the Port Authority from the United States or any agency or instrumentality thereof in connection with any port facilities or in repayment of any advances made by the Port Authority for all or any part of the cost of any port facilities.

(4) Any funds received or to be received from the State of Florida under authority of chapter 315, Florida Statutes. The Legislature does hereby covenant with the holders of bonds issued pursuant to the provisions of this law that it will not enact any law which will repeal, impair or amend, in any manner, the rights of such holders or the security of the taxes received pursuant to s. 212.20, Florida Statutes, which may be pledged to the payment of the principal or of interest on such bonds and the redemption premium, if any.

The board of county commissioners may provide that such bonds shall be additionally secured by the full faith credit and taxing power of said Manatee County and that the county shall be irrevocably and unconditionally obligated to levy ad valorem taxes upon all taxable property within said county without limit as to rate or amount for the payment of the principal of and interest on said bonds to the full extent that the revenues or other funds pledged for such principal and interest on said bonds by the authority are insufficient therefor. No pledge of the full faith and credit of said county for the payment of the principal of and interest on said bonds shall be made, however, until the same shall have been approved by the qualified electors who are freeholders residing in said county in the manner provided in the constitution and statutes of the State of Florida. The Port Authority may additionally secure any such bonds by a mortgage or other encumbrance, subject to such terms and conditions as it shall provide, upon all or any part of any port facilities now or hereafter owned by the Port Authority, as such facilities may be extended, enlarged, or improved, or of any property of the Port Authority improved, created, extended, or enlarged or prepared for sale or lease under the authority of this charter, and the Port Authority is hereby authorized to sell at public or private sale, or lease any such port facilities or property, subject to such terms and conditions and for such price, payable at one time or from time to time in installments as the Port Authority may provide, and to apply the proceeds of any such sale or lease, after paying all costs in connection therewith, to payment of the cost of any port facilities

financed under the provisions of this law or to the payment of the principal or of the interest or redemption premiums on any bonds issued hereunder or to the payment of any other obligation or obligations herein authorized.

Section 14. Refunding bonds.—Pursuant to chapter 315, Florida Statutes, and this charter, the Port Authority is hereby authorized by resolution to provide for the issuance of refunding bonds of the Port Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this charter or which shall have been issued to provide funds for the payment of the cost of any port facilities under the provision of any other charter, including the payment of any redemption premium thereof and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Port Authority, for the additional purpose of acquiring or constructing additional port facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Port Authority in respect of the same, shall be governed by the provisions of this charter insofar as the same may be applicable.

Section 15. Trust agreement or resolution.—In the discretion of the Port Authority, any bonds issued under the provisions of chapter 315, Florida Statutes, or this charter may be secured by a trust agreement by and between the Port Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Port Authority in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, lease, operating, and insurance of any port facilities in connection with which such bonds shall have been authorized, the custody, safeguarding, or application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of Florida which may act as depository of the proceeds of bonds or of revenue or other funds to furnish such indemnifying bonds or to pledge such securities as may be required by the Port Authority. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee under any such trust agreement, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Port Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution shall be treated as a part of the cost of the operation of the port facilities.

Section 16. Status as legal investments.—Bonds issued under the provisions of chapter 315, Florida Statutes, or this charter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees,

and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or county officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of Manatee County is now or may hereafter be authorized by law.

Section 17. Remedies of bondholders.—Any holder of bonds issued under the provisions of this charter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this charter or by bank trust agreement or resolution to be performed by the Port Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, and other charges.

Section 4. This act shall be construed as remedial and shall be liberally construed to promote the purpose for which it is intended.

Section 5. In the event that any part of this act should be held void for any reason, such holding shall not affect any other part thereof.

Section 6. Chapters 67-1681, 69-1277, 69-1279, 74-532, and 75-428, Laws of Florida, are repealed.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 26, 2003.

Filed in Office Secretary of State June 26, 2003.