

House Bill No. 1555

An act relating to the West Palm Beach Downtown Development Authority, Palm Beach County; codifying the district's charter, chapters 67-2170, 77-664, 83-534, 84-540, 90-460, and 93-381, Laws of Florida; providing legislative intent; amending, codifying, and reenacting all special acts relating to the West Palm Beach Downtown Development Authority as a single act; repealing all prior special acts related to the authority; 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 West Palm Beach Downtown Development Authority, an independent special district. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the West Palm Beach Downtown Development Authority including all current legislative authority granted to the West Palm Beach Downtown Development Authority by its several legislative enactments and any additional authority granted by this act. It is further the intent of this act to preserve all authority of the West Palm Beach Downtown Development Authority.

Section 2. Chapters 67-2170, 77-664, 83-534, 84-540, 90-460, and 93-381, Laws of Florida, are amended, codified, reenacted, and repealed as herein provided.

Section 3. The charter for the West Palm Beach Downtown Development Authority is re-created and reenacted to read:

Section 1. Short title.—This Act shall be known and may be cited as the “West Palm Beach Downtown Development Authority Act.”

Section 2. Definitions and rules of construction.—Unless qualified in the text the following definitions and rules of construction shall apply hereto:

(a) “Authority” means the West Palm Beach Downtown Development Authority, hereby created, and any successor to its functions, authority, rights, and obligations.

(b) “City” and “West Palm Beach” mean the City of West Palm Beach, Florida.

(c) “City Commission” means the West Palm Beach City Commission and any succeeding governing body of the City.

(d) “Downtown” and “Downtown area” mean the area herein described and to which this Act primarily relates, including the central business district and its environs.

(e) “Herein,” “hereby,” “hereof,” and similar compounds refer to the entire act.

(f) “Including” shall be construed as merely introducing illustrative examples and not as limiting in any way the generality of the inclusive term.

(g) “Majority” without qualification means a majority of a quorum.

(h) “State” means the State of Florida.

(i) “Mayor” means the Mayor of the City of West Palm Beach.

Section 3. Downtown area description.—The Downtown area includes all lands lying within boundaries described as:

A parcel of land lying within the limits of the City of West Palm Beach, Florida, being more particularly described as follows:

BEGINNING at a point formed by the intersection of the centerline of the Intracoastal Waterway channel in Lake Worth and the Easterly extension of the centerline of Okeechobee Boulevard; thence from said POINT OF BEGINNING Westerly along said centerline of Okeechobee Boulevard to its intersection with the centerline of South Dixie Highway, as shown on PHILLIPS POINT ADDITION OF WEST PALM BEACH, as recorded in Plat Book 1, Page 52, Public Records of Palm Beach County, Florida; thence Northerly along the centerline of South Dixie Highway to its intersection with the centerline of Hibiscus Street, as shown on POTTER ADDITION to West Palm Beach, as recorded in Plat Book 2, Page 42, Public Records of Palm Beach County, Florida; thence Westerly along the centerline of Hibiscus Street to its intersection with the main line track of the Florida East Coast Railroad; thence Northerly along the centerline of the main line track of the Florida East Coast Railroad to its intersection with a 14 foot alley, lying North of and adjacent to Block 62, Plat of MODEL LAND COMPANY ADDITION, as recorded in Plat Book 1, Page 106, Public Records of Palm Beach County, Florida; thence Westerly along said centerline of the 14 foot alley, to its intersection with the centerline of Georgia Avenue, as shown on HIGHLAND PARK LAND COMPANY ADDITION, as same as recorded in Plat Book 1, Page 122, Public Records of Palm Beach County, Florida; thence Southerly along the centerline of Georgia Avenue to its intersection with the centerline of Iris Street; thence Westerly along the centerline of Iris Street, to a point 62.00 feet West of the West line of Lot 9, Block 75, said HIGHLAND PARK LAND COMPANY ADDITION; thence Southerly along the line parallel to and 62.00 feet West of as measured at right angles to the West line of said Lot 9, Block 75, to its intersection with the centerline of an existing paved road, lying East of the location of the existing Connie Mack Ballfield, said existing paved road being the Northerly extension of Lake Avenue; thence Southerly along the centerline of said Lake Avenue, to its intersection with the centerline of Jasmine Street, as same as shown on said HIGHLAND PARK LAND COMPANY ADDITION; thence Southerly along the centerline of said Lake Avenue to its intersection with the centerline of Okeechobee Boulevard, said centerline also being the South line of Section 21, Township 43 South, Range 43 East, Palm Beach County, Florida; thence Westerly along said centerline of Okeechobee Boulevard to its intersection with the centerline of the Seaboard Coast Line Railroad main line track;

thence Northerly along the centerline of said Seaboard Coast Line Railroad to its intersection with the Easterly extension of the South line of a commercial Tract "A", as shown on CLEARWATER PARK, as recorded in Plat Book 33, Pages 120 and 121, Public Records of Palm Beach County, Florida; thence from said point of intersection, Southwesterly to a point formed by the intersection of the centerline of the existing Australian Avenue and the centerline of Okeechobee Boulevard; thence from said point of intersection, continue Northerly and Northwesterly along the centerline of Australian Avenue, as shown on the Plats of said CLEARWATER PARK and CLEARLAKE PARK, as same as recorded in Plat Book 30, Pages 149 and 150, to its intersection with the centerline of First Street, as shown on said Plat of CLEARLAKE PARK; thence easterly along the centerline of said First Street, to its intersection with the centerline of the Seaboard Coast Line Railroad main line track; thence Northerly along the centerline of said Seaboard Coast Line Railroad main line track to its intersection with the centerline of the Florida East Coast spur track, as shown on the PLAT OF THE ORIGINAL TOWN SITE OF WEST PALM BEACH, recorded in Plat Book 1, Page 2, Public Records of Palm Beach County, Florida; thence Easterly along the centerline of said Florida East Coast Railroad spur track, to its intersection with the centerline of Rosemary Avenue; thence Northerly along the centerline of Rosemary Avenue, to its intersection with the centerline of Third Street; thence Easterly along the centerline of Third Street to its intersection with the centerline of the Florida East Coast main line track; thence Northerly along the centerline of the Florida East Coast Railroad main line track, to its intersection with the centerline of Seventh Street; thence Easterly along the centerline of Seventh Street to its intersection with the centerline of North Railroad Avenue, as shown on BRELSFORD PARK, recorded in Plat Book 8, Page 21, Public Records of Palm Beach County, Florida; thence Northerly along the centerline of North Railroad Avenue to a point formed by the Westerly extension of the centerline of an alley, lying in Block 4, of said PLAT OF BRELSFORD PARK; thence Easterly along the centerline of said alley through Block 4, to a point formed by the intersection of the centerline of the North/South alley running through said Block 4 of said Plat of BRELSFORD PARK; thence Northerly along the centerline of said alleyway, to its intersection with the centerline of Eighth Street; thence Easterly along the centerline of Eighth Street, to its intersection with the centerline of North Flagler Drive; thence Northerly along the centerline of North Flagler Drive, to its intersection with the Easterly extension of the North line of Lot 21, Block 8, revised Plat of GROVER CARLBERG ADDITION, as recorded in Plat Book 9, Page 16, Public Records of Palm Beach County, Florida; thence Easterly along the line being the Easterly extension of the North line of said Lot 21, to its intersection with the centerline of the Intracoastal Waterway channel in Lake Worth; thence Southerly along the centerline of the Intracoastal Waterway channel to the POINT OF BEGINNING.

The annual tax levy made by section 8 shall hereafter apply to and extend to the entire area hereinabove described.

Section 4. Creation of the Authority, composition, and provisions relating to members.—There is hereby created a board composed of seven members to be known officially as the “West Palm Beach Downtown Development Authority.” It is hereby constituted a body corporate and an agency of the City; and performance by the Authority of its duties and exercise of its powers are hereby designated municipal functions and shall be so construed.

(a) The Mayor shall appoint the members of the Authority subject to the ratification of the City Commission by vote of three-fifths of its entire voting membership. By vote of four-fifths of its entire membership, after notice specifying the charges and a hearing held not earlier than 10 days after personal delivery of notice or mailing thereof by registered or certified mail addressed to the member at his or her latest known residence, the City Commission may remove a member of the Authority for good cause, including willful neglect of duty, incompetence or unfitness to perform his or her duty, or conviction of an offense involving moral turpitude. A member so removed shall be entitled to review by the circuit court of the action taken.

(b) Of the initial members, one shall be appointed for a term expiring July 1, 1968, two for terms expiring July 1, 1969, two for terms expiring July 1, 1970, and two for terms expiring July 1, 1993; and thereafter each member shall be appointed for a term of 3 years beginning July 1.

(c) To qualify for appointment to the Authority, and to remain qualified for service on it, a prospective member or a member already appointed shall reside in or have his or her principal place of business in the City, shall not be serving as a City officer or employee, and shall be an owner of realty within the Downtown area, a lessee thereof required by the lease to pay taxes thereon, or a director, officer, or managing agent of an owner or of a lessee thereof so required to pay taxes thereon. The membership of the Authority shall be reasonably representative of property owner, residential, retail, professional, and financial interests in the District.

(d) Vacancy in office, which shall be filled within 10 days after its occurrence for the remainder of the unexpired term, shall occur whenever a member is removed from office, becomes disqualified or otherwise unable to serve, resigns, or disappears without explanation for a period of 6 months. The Mayor shall fill any vacancy in office for the unexpired term, in accordance with subsection (a).

(e) Each member of the Authority shall serve without compensation for services rendered as a member but shall be reimbursed by the Authority for necessary and reasonable expenses actually incurred in the performance of duty. The Authority need not but may require that all its members or any or all of its officers or employees be required to post bond for faithful performance of duty, and the Authority shall pay bonding costs. No member of the Authority shall be personally liable for any action taken in attempting in good faith to perform his or her duty, or for a decision not to act, except in instances of fraud or willful neglect of duty.

Section 5. Authority bylaws and internal governance.—The Authority shall formulate and may amend its own rules of procedure and written bylaws not inconsistent herewith. A majority of its entire membership shall

constitute a quorum for the transaction of business, but fewer than a quorum may adjourn from time to time and may compel the attendance of absent members. Except as otherwise provided herein or in the Authority bylaws or rules of procedure, all action shall be taken by vote of a majority of those present and voting, and each member present shall vote on each matter unless barred from voting as herein provided. The Authority shall select one of its members as Chair and another as Vice Chair and shall prescribe their duties, powers, and terms of serving. It shall hold regular meetings at least once a month and shall provide in its bylaws for holding special meetings. All meetings shall be open to the public.

The bylaws may provide for the Mayor of the City, or his or her representative, to attend meetings of the Board as an ex officio member, but he or she shall not have any vote or power over the Board except that he or she shall be entitled to speak on any issue or question before the Board.

Section 6. Functions of the Authority.—The Authority shall perform the following functions:

(a) Prepare an analysis of the economic conditions and changes occurring in the Downtown area, including the effect thereon of such factors as metropolitan growth, traffic congestion, lack of adequate parking and other access facilities, and structural obsolescence and deterioration.

(b) Formulate long-range plans for improving the attractiveness and accessibility to the public of Downtown facilities, promoting efficient use thereof, remedying the deterioration of Downtown property values, and developing the Downtown area.

(c) Recommend to the Mayor and to Downtown businesspersons and residents the actions deemed most suitable for implementing the Downtown development plans, including removal, razing, repair, renovation, reconstruction, remodeling, and improvement of existing structures, addition of new structures and facilities, relocation of any of those existing, and changes in patterns of and facilities for getting thereto and therefrom.

(d) Participate actively in the implementation and execution of Downtown development plans, including establishment, acquisition, construction, ownership, financing, leasing, licensing, operation, and management of public facilities deemed feasible and beneficial in effecting implementation, but this paragraph shall not give the Authority any power or control over any City property unless and until assigned to it by the City Commission under the provisions of paragraph (e) of this section.

(e) Carry on all projects and undertakings authorized by law and within the limits of the powers granted to it by law, such additional public projects and undertakings related to the Downtown area as the Mayor may assign to it with its consent.

Section 7. Powers of the Authority.—In the performance of the functions vested in or assigned to the Authority, it is hereby granted the following powers:

(a) To enter into contracts and agreements, and to sue and be sued as a body corporate.

(b) To have and use a corporate seal.

(c) To acquire, own, convey or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type, and to grant or acquire licenses, easements, and options with respect thereto.

(d) To accept grants and donations of any type of property, labor, or other thing of value from any public or private source.

(e) To receive the proceeds of the tax hereby imposed.

(f) To receive the revenues from any property or facility owned, leased, licensed, or operated by it or under its control, subject to the limitations imposed upon it by trusts or other agreements validly entered into by it.

(g) To have exclusive control of all funds legally available to it, subject to limitations imposed upon it by law or by any agreement validly entered into by it.

(h) To cooperate and enter into agreements with any governmental agency or other public body.

(i) To make or receive from the City or Palm Beach County conveyances, leasehold interests, grants, contributions, loans, and other rights and privileges.

(j) To request by resolution that the City exercise its municipal power of eminent domain in specific instances for the use and benefit of the Authority and, if the City complies with the request and the property involved is acquired, the Authority shall take over and assume control of such property on terms mutually agreed upon between the City and the Authority, but the Authority shall not thereafter be authorized to sell, lease, or otherwise dispose of such property so acquired without the formal consent of the City Commission.

(k) To issue and sell revenue certificates as hereinafter provided, or in any other manner permitted by law and not inconsistent with the provisions hereof, and to take all steps deemed by it necessary or expedient for efficient preparation and marketing of the certificates at public or private sale at the best price obtainable, including the entry into binding agreements with corporate trustees, underwriters, and the holders of the certificates, and the employment and payment, as a necessary expense of issuance, for the services of consultants on valuations, costs and feasibility of undertaking, revenues to be anticipated and other financial matters, architecture, engineering, legal matters, accounting matters, and any other fields in which expert advice may be needed to effectuate advantageous issuance and marketing.

(l) To fix, regulate, and collect rates and charges for facilities and services furnished by it or under its control and to pledge the revenue to the payment of revenue certificates issued by it.

(m) To borrow money on its unsecured notes, for a period not exceeding 9 months, in an aggregate amount for all outstanding unsecured notes not exceeding 50 percent of the proceeds received during the immediately prior fiscal year from the tax hereby imposed, and at an annual rate of interest not exceeding the rate being charged at the time of the loan by banks in the City on unsecured short-term loans to local businesses.

(n) To acquire by rental or otherwise and to equip and maintain a principal office for the conduct of its business and such branch offices as it may from time to time deem expedient.

(o) To employ and prescribe the duties, authority, compensation, and reimbursement of expenses of the Director of the Authority, who shall act as its chief executive officer, a general counsel, who shall be an attorney with at least 5 years of experience in active Florida practice and so engaged at the time of appointment, and such other personnel as it may, after consultation with the Director, deem necessary from time to time, provided that its personnel shall not be under civil service regulations, may be employed to serve at its pleasure, shall not in any event be contracted with for a term of employment longer than 5 years, shall not while employed by it serve as City officers or employees, and, with the exception of its Secretary, shall not while employed by it serve as a member of it.

(p) To exercise all powers incidental to the effective and expedient exercise of the foregoing powers to the extent not in conflict herewith or inconsistent herewith.

Section 8. Levy of ad valorem tax.—For the fiscal year of the Authority beginning within the calendar year 1967, and for each fiscal year thereafter, an ad valorem tax in addition to all other ad valorem taxes is hereby levied annually for the purpose of financing the operation of the Authority on all property in the Downtown area that is subject to ad valorem taxation for City operating expenses. The tax base shall be assessed valuation made annually by the property appraiser. The rate shall be 2 mills on each dollar of tax base in 1967 and each year thereafter, provided that, for each year after the first year of levy, the Authority may set a millage rate of less than 2 mills for the ensuing fiscal year. The tax collector shall collect the tax when and in the same manner in which he or she collects the City ad valorem taxes, with the same discounts for early payment, and shall pay the proceeds to the Authority.

Section 9. Authority records and fiscal management.—The fiscal year of the Authority shall coincide with that of the City.

(a) All funds of the Authority shall be received, held, and secured like other public funds by the appropriate fiscal officers of the DDA. The funds of the Authority shall be maintained under a separate account, shall be used for only the purposes herein authorized, and shall be disbursed only by direction of or with the approval of the Authority pursuant to requisitions signed by the Director or other designated chief fiscal officer of the Authority and countersigned in such instances and manner as the Authority bylaws may prescribe. The Authority may pay the City as an operating expense a reasonable amount for the services rendered by the City to it at its request.

(b) The Authority bylaws shall provide for maintenance of minutes and other official records of its proceedings and actions, for preparation and adoption of an annual budget for each ensuing fiscal year, for internal supervision and control of its accounts, which function the appropriate City fiscal officers may perform for it at its request, and for an external audit at least annually by an independent certified public accountant who has no personal interest, direct or indirect, in its fiscal affairs. The bylaws shall specify the means by which each of these functions is to be performed and, as to those functions assigned to Authority personnel, the manner and schedule of performance.

(c) No member or employee of the Authority shall participate by vote or otherwise on behalf of the Authority in any matter in which he or she has a direct financial interest or an indirect financial interest other than that of the benefits to be derived generally from the development of the Downtown area. Participation with knowledge of such interest shall constitute malfeasance and shall result, as regards a member, in automatic forfeiture of office or, as regards an employee, in prompt dismissal.

Section 10. Tax exemption of Authority property.—All income, property, and facilities of the Authority are hereby dedicated to the effectuation of essential municipal purposes, and their use is declared an essential municipal function; and they are granted the same exemptions from taxation as are afforded to income, property, and facilities of the City.

Section 11. Provisions governing issuance of certificates.—Issuance of revenue certificates by the Authority shall be governed by the following general provisions:

(a) Revenue certificates for purposes hereof are limited to obligations that are secured solely by pledge of revenues produced by the facility or facilities for the benefit of which the certificates are issued and the sale proceeds used, that do not constitute a general debt of the Authority, that are not secured directly or indirectly, in whole or in part, by pledge of taxing powers, and that do not constitute a lien or encumbrance, legal or equitable, on any real property of the Authority or on any of its personal property other than the revenues pledged to secure payment of the certificates.

(b) The faith and credit of the City shall not be pledged and the City shall not be obligated directly or indirectly to make any payments on or appropriate any funds for certificates issued by the Authority.

(c) The rate or rates of interest and the sale price of the certificates by the Authority shall be such that the net interest cost to it on the proceeds received from the sale shall not exceed an average annual rate of 6 percent, computed with relation to the absolute maturity of the certificates in accordance with standard tables of bond values and excluding from the computation the amount of any premium to be paid on redemption of the certificates prior to maturity.

(d) Before issuing any revenue certificates, the Authority shall as to each issue:

(1) Prepare or procure from a reputable source detailed estimates of the total cost of the undertaking for which the certificates are contemplated and of the annual revenues to be obtained therefrom and pledged as security for payment of the certificates.

(2) Determine that the anticipated net proceeds from their sale, together with any other funds available and intended for the purposes of the issue, will be sufficient to cover all costs of the undertaking and of preparing and marketing the issue or connected therewith.

(3) Determine that the annual revenues anticipated from the undertaking will be sufficient to pay the estimated annual cost of maintaining, repairing, operating, and replacing to any necessary extent not only the undertaking but also the punctual payment of the principal of and interest on the contemplated certificates.

(4) Shall specify these determinations in and include the supporting estimates as parts of the resolution providing for the issue.

(e) The Authority may, as to any issue of revenue certificates, engage the services of a corporate trustee for the issue and may treat any or all of the costs of carrying out the trust agreement as part of the operating costs of the undertaking for which the certificates are issued.

(f) The Authority shall from time to time establish such rentals, rates, and charges, or shall by legally binding agreement maintain such control thereof, as to meet punctually all payments on the certificates and also the costs of operation of the undertaking and its maintenance and repair, including reserves therefor and for depreciation, replacement, and any necessary extensions.

(g) Revenue certificates may be issued for the purposes of funding, re-funding, or both.

(h) All revenue certificates issued pursuant hereto shall be negotiable instruments for all purposes.

Section 12. Transfer upon cessation of the Authority.—Should the Authority cease to exist or to operate for whatever reason, all its property of whatever kind shall forthwith become the property of the City, subject to the outstanding obligations of the Authority, and the City shall use this property to the maximum extent then practicable for effectuating the purposes hereof and shall succeed to and exercise all powers of the Authority insofar as such exercise is not in conflict with or inconsistent with the provisions of the City charter or other law applicable to the City.

Section 13. Act cumulative; no notice required.—Neither this Act nor anything herein contained shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of this State, but shall be construed as cumulative of such powers. The foregoing sections of this Act shall be deemed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred

by other laws, provided that the issuance of revenue certificates and revenue refunding certificates under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of certificates and bonds, including, particularly, chapters 670-680 of Florida Statutes 2002 (also known as Uniform Commercial Code, Title XXXIX), as same may be amended. No proceedings, notice, or approval shall be required for the organization of the Authority or the issuance of any certificates or any instrument as security therefor, except as provided herein or pursuant hereto, any law to the contrary notwithstanding, provided that nothing herein shall be construed to deprive the State and its governmental subdivisions of their respective police powers over any properties of the Authority.

Section 14. Establishment and Amendment of Charter.—The West Palm Beach Downtown Development Authority was established by special act of the Legislature. The Charter of the West Palm Beach Downtown Development Authority may be amended by special act of the Legislature.

Section 15. Liberal construction and severability.—The provisions of this Act, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to effectuate the purposes herein set forth and are severable. Should any portion hereof be finally held invalid by a court of competent jurisdiction, each other portion shall remain effective to the maximum practicable extent.

Section 4. The provisions of this act, being necessary for the welfare of the City and its inhabitants, shall be liberally construed to effectuate the purposes herein set forth and are severable. Should any portion hereof be finally held invalid by a court of competent jurisdiction, each other portion shall remain effective to the maximum practicable extent.

Section 5. Chapters 67-2170, 77-664, 83-534, 84-540, 90-460, and 93-381, Laws of Florida, are hereby repealed.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2003.

Filed in Office Secretary of State June 10, 2003.