

House Bill No. 823

An act relating to the Lakeland Downtown Development Authority; codifying, amending, repealing, and reenacting special acts relating to the Lakeland Downtown Development Authority, an independent special district; providing definitions; providing a statement of policy; providing a method of defining the downtown area; creating a board to be known as the Lakeland Downtown Development Authority; providing for composition of the board; providing for appointment, term of office, compensation, bonding, and liability of the members of the board; providing for filling vacancies in office; providing for bylaws and internal governance of the board; prescribing the functions and powers of the board; providing for Polk County to levy an ad valorem tax of not more than 2 mills; providing for records and fiscal management; providing for issuing revenue certificates; providing for succession by the city if the board ceases to exist or operate; providing for referenda; prescribing the scope of this act; providing for liberal construction; repealing chapters 77-588 and 78-549, Laws of Florida; 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 Lakeland Downtown Development Authority District, also known as the Lakeland Downtown Development Authority. 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.

Section 2. Chapters 77-588 and 78-549, Laws of Florida, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Lakeland Downtown Development Authority District is reenacted, and the charter for the district is re-created and reenacted to read:

Section 1. Short title.—This act shall be known and may be cited as the “Lakeland 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:

(1) “Board” means the Lakeland Downtown Development Authority Board and any successor to its functions, authority, rights, and obligations.

(2) “City” and “Lakeland” mean the City of Lakeland.

(3) “City commission” means the Lakeland City Commission and any succeeding governing body of the city.

(4) “Downtown” and “downtown area” mean the area established by the city commission as set forth herein and to which this act primarily relates, including the central business district and its environs.

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

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

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

(8) “Mayor” means the Mayor of the City of Lakeland.

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

(10) “Freeholder” for the purposes of this act means any owner of real property in the downtown area not wholly exempt from ad valorem taxation, including those claiming homestead, whether individual, corporation, trust, estate, partnership, or other artificial legal entity.

(11) “Elector” shall be as defined in Section 2 of Article VI of the State Constitution, 1968.

Section 3. Statement of policy.—It is the policy of the state to make it possible for the City of Lakeland to revitalize and preserve property value and prevent deterioration in the central business district by a system of self help to correct the blight of such deterioration as has developed there. It is a purpose of this act to provide the means whereby property owners within said district benefiting directly from the result of such a program shall bear the substantial cost thereof, and thereby local problems may be solved on a local level.

Section 4. Downtown area description.—

(1) The boundaries of the Lakeland Downtown Development Authority District are:

Commencing at a point at the intersection of Iowa Av. and Magnolia St., proceed south and easterly along the western right-of-way of the proposed In-Town Bypass (SR 600), Project No. 16000-3502, to the intersection with the CSX railroad tracks; thence proceed northeasterly along the CSX railroad tracks to the intersection with the proposed In-Town Bypass; thence southeasterly along the proposed In-Town Bypass to Lake Av.; thence southerly along Lake Av. to E. Orange St.; thence westerly along E. Orange St. to S. Iowa Ave.; thence southerly along S. Iowa Ave. to Lake Morton Dr.; thence westerly along Lake Morton Dr. to Louise Place; thence westerly along Louise Place to S. Florida Ave.; thence northerly along S. Florida Ave. to W. Walnut St.; thence westerly along W. Walnut St. to S. Missouri Ave.; thence southerly along the western right-of-way line of S. Missouri Ave. to the centerline of W. Hickory St.; thence westerly along the centerline of W. Hickory St. approximately 135' from the western right-of-way line of S. Missouri Ave. to the centerline of the closed north-south alley way; thence southerly

along the centerline of said closed alley way to the north right-of-way line of W. Palmetto St.; thence westerly approximately 830.68' along W. Palmetto St. to the northwestern corner of the intersection of W. Palmetto St. and Lakeside Ave.; thence northerly approximately 199.98; thence westerly approximately 219.26' to the southeasterly right-of-way line of Sikes Blvd.; thence southeasterly along Sikes Blvd. to the extended north-south alignment of the western boundary of The Lakeland Center south parking lot; thence northerly along said alignment to W. Lime St.; thence westerly along W. Lime St. to Lake Beulah Dr.; thence northerly along Lake Beulah Dr. to W. Lemon St.; thence easterly along W. Lemon St. to Dakota Ave.; thence northerly along Dakota Ave. and Dakota Ave. extended to Lake Wire Dr.; thence easterly along the south and east side of Lake Wire to New York Av.; thence northerly along New York Av. to Magnolia St.; thence easterly along Magnolia St. to the point of beginning.

(a) The city commission shall set a date for a public hearing for the adoption of an ordinance describing the downtown area. Upon the adoption of a resolution, the city commission shall cause a notice of the public hearing to be published in a newspaper of general circulation published in the city, which notice shall be published two times, not less than 30 nor more than 60 days from the date of the hearing. The notice shall set forth the date, time, and place of the hearing and shall describe the proposed boundaries of the downtown area. Additionally, the board shall cause to be mailed to each owner of real property within the proposed area not wholly exempt from taxes, according to the tax collector's records existing in Polk County, a copy of the notice as published in the paper, not less than 15 days prior to the hearing. Any citizen, taxpayer, or property owner shall have the right to be heard in favor of, or in opposition to, the proposed boundaries of the downtown district.

(b) After the public hearing, the city commission shall, in the manner authorized by law, adopt an ordinance defining the downtown area. The city commission shall not incorporate land into the district not included in the description contained in the notice of the public hearing, but it may eliminate any lands from the area, as published, in the final determination of the boundaries. Such eliminated lands shall be free from any additional tax imposed herein. From and after the effective date of the ordinance, it shall have existence as herein provided.

(2) The city commission may from time to time, by the procedure herein provided, alter or amend the boundaries of the downtown area by the inclusion of additional territory or the exclusion of lands from the limits of the district.

Section 5. Creation of the board; composition and provisions relating to members.—There is hereby created a board composed of seven members to be known officially as the “Lakeland Downtown Development Authority.” The board is hereby constituted a body corporate and an agency of the city. Performance by the board of its duties and exercise of its powers are hereby designated municipal functions and shall be so construed.

(1) Six noncommissioner members of the board shall be elected for 3-year terms, with two members being elected in an authority election each year, at a date specified in the bylaws, by:

(a) The electors residing within the downtown area and registered within a precinct which lies within the downtown area.

(b) The designated voting representatives of any corporation or other artificial legal entity owning property within the taxing district.

(c) Any freeholder owning property within the district. Corporations or other artificial legal entities desiring to designate a voting representative with the board shall do so in the form and manner specified in the bylaws.

In any election, each qualified voter shall have the right to write in any additional person on the ballot for each office. Any ballot received more than 2 weeks later than the date mailed by the authority shall be null and void. Similarly, any ballot containing fewer than 2 votes shall be null and void. Nominations for board members shall be made by filing with the city clerk a petition on a form to be prescribed by the clerk, bearing the signatures of at least 10 electors or freeholders entitled to vote in the election.

(2) Two noncommissioner board members shall be elected at each annual election. Each qualified voter shall vote for two of those nominated for office. The two nominees receiving the greatest number of votes shall be elected as noncommissioner board members and shall serve for 3-year terms. In addition, the mayor, or a commissioner serving on the City Commission of Lakeland and designated by the mayor, shall serve in the position of commissioner board member on the Lakeland Downtown Development Authority.

(3) The City Manager of the City of Lakeland shall serve as an ex officio member of the board.

(4) To qualify for service on this board and to remain qualified for service on it, all board members, except for commissioner members, shall have their principal places of business or employment in the downtown area or shall hold property in the downtown area.

(5) In the event of any vacancies in office, the board shall appoint someone to serve temporarily until the next scheduled election, at which time there shall be nominations, as provided herein, for the remainder of the unexpired term.

(6) Each member of the board shall serve without compensation for services rendered as a member but may be reimbursed by the board for necessary and reasonable expenses actually incurred in the performance of duty. The board 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. The board shall require such bond of all persons authorized to sign on accounts of the board, and the board shall pay bonding costs. No member of the board 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 6. Board bylaws and internal governance.—

(1) The board shall formulate and may amend its own rules of procedure and written bylaws, not inconsistent herewith, but such rules of procedure and written bylaws and amendments thereto shall become effective only after the approval of a majority of the voting members of the board.

(2) Four voting members of the board shall constitute a quorum for the transaction of business, but fewer than a quorum may adjourn from time to time. All action shall be taken by vote of at least a majority present and voting. Each year the board shall select one of its members as chair and another as vice chair. It shall hold regular meetings at least once a month at a regular meeting place to facilitate the attendance of interested parties and shall provide in its bylaws for holding special meetings. All owners of property in the downtown area not wholly exempt from taxes shall be notified by mail of the time and place of all special meetings, and any person shall have the right to attend and voice opinions at such meetings.

Section 7. Functions of the board.—The board shall perform the following functions:

(1) The board shall not provide city governmental services, but shall act as a catalyst to see that such services are properly planned for within the downtown area and are provided in a proper and full manner within that area.

(2) Assist the city in preparing and maintaining on a current basis 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, parking and other access facilities, and structural obsolescence and deterioration.

(3) Assist the city in formulating and maintaining on a current basis both short-range and 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 in general.

(4) Recommend to the city, for its consideration and approval, the actions deemed most suitable for implementing any downtown development plans, including removal, razing, repair, renovation, reconstruction, remodeling, and improvement of existing structures, addition of new structures and facilities, relocation of those existing, and changes in facilities for getting thereto and therefrom.

(5) Participate actively in the implementation and execution of downtown development plans, including establishment, acquisition, construction, ownership, financing, leasing, licensing, operation, and management of publicly owned or leased facilities deemed feasible and beneficial in effecting implementation for public purposes; however, this subsection shall not give the board any power or control over any city property unless and until assigned to it by the city commission under the provision of subsection (6).

(6) Carry on such additional lawful projects and undertakings related to the downtown area as the city commission may assign to the board with its consent.

Section 8. Powers of the board.—In the performance of the functions vested in or assigned to the board under section 7, the board is granted the following powers:

(1) To enter into contracts and agreements to accomplish the functions set forth in section 7 and to sue and be sued as a body corporate.

(2) To have and use a corporate seal.

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

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

(5) 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.

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

(7) To cooperate and enter into agreements with other governmental agencies or other public bodies, except that nothing in this act shall be construed as authorization to initiate a federally subsidized urban renewal program and any such urban renewal program is hereby specifically prohibited.

(8) To borrow money and to issue and sell revenue certificates as herein-after provided, or in any other manner permitted by law and not inconsistent with the provisions hereof, and to take all steps necessary for efficient preparation and marketing of the certificates at public or private sale at the best price obtainable, including the entry into agreements with corporate trustees, underwriters, and the holders of the certificates, and the employment and payment as a necessary expense of issuance, for the service 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.

(9) To request by resolution that the city exercise its powers of eminent domain to acquire any real property for public purposes. If the property involved is acquired, the board shall take over and assume control of such property on terms mutually agreed upon between the city and the board, but the board shall not hereafter be authorized to sell, lease, or otherwise dispose of such property so acquired without the formal consent of the city commission.

(10) 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 to which it holds title and to grant or acquire licenses, easements, and options with respect thereto.

Section 9. Levy of ad valorem tax.—Polk County, upon request of the board for the purpose of implementing its authority under this act, shall levy an ad valorem tax in addition to all other ad valorem taxes that may be levied annually by the county on all real property within the area described in section 4, except that no such tax shall be levied on property qualifying for homestead exemption, and Polk County shall administer such levy as a special taxing district levy authorized under Section 9 of Article VII of the State Constitution. The rate shall not exceed 2 mills on each dollar of tax base, and the board shall establish its budget for the coming fiscal year and for each fiscal year thereafter prior to the time the Tax Collector of Polk County shall prepare his or her tax bills. After making public the proposed budget, the board shall communicate by written notice to the Tax Assessor of Polk County what millage rate, within the 2-mill limit, shall be in effect for the next year's billing.

Section 10. Board records and fiscal management.—

(1) The funds of the board shall be maintained under a separate account, shall be used for the purposes herein authorized, and shall be distributed only by direction of or with the approval of the board pursuant to requisitions signed by the director or other designated chief fiscal officer of the board and countersigned by at least one other person who shall be a member of the board.

(2) The board 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 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. A copy of the external audit shall be filed with the city clerk within 90 days after the end of each fiscal year.

(3) No member or employee of the board shall participate by vote or otherwise on behalf of the board in any matter in which he or she has a direct financial interest or an indirect financial interest other than 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 11. Issuance of revenue certificates.—Issuance of revenue certificates by the board shall be governed by the following general provisions:

(1) 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 and that do not constitute a lien or encumbrance, legal or equitable, on any real property of the board or on any of its personal property other than the revenues pledged to secure payment of the certificates.

(2) 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 board.

(3) Before issuing any revenue certificate, the board shall, with respect to each issue:

(a) Prepare or procure from a reliable 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.

(b) Determine that the anticipated net proceeds from the 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 issues connected therewith.

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

(d) Specify its determinations in, and include the supporting estimates as part of, the resolution providing for the issue.

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

(5) The board shall from time to time establish such rentals, rates, and charges, or shall by agreement maintain such control thereof, as to meet punctually all payments on the undertaking and its maintenance and repair, including reserves therefor and for depreciation and replacement.

(6) Revenue certificates may be issued for the purpose of funding, refunding, or both.

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

(8) Validation bonds shall be in accordance with chapter 75, Florida Statutes.

Section 12. Transfer upon cessation of the board.—Should the board cease to exist or to operate for whatever reason, all property of whatever kind shall forthwith become the property of the city, subject to the outstanding obligations of the board incurred in conformity with all of the foregoing provisions, and the city shall use this property to the maximum extent then practicable for effectuating the purposes hereof and shall succeed to and exercise only such powers of the board as shall be necessary to meet outstanding obligations of the board and effect an orderly cessation of its powers

and functions. However, under no circumstances shall the city directly or indirectly be obligated to pledge or use any of its tax moneys to accomplish these functions.

Section 13. Referendum.—No ad valorem tax shall be levied hereunder unless the question of the right of the board to levy an annual tax pursuant to section 9 has been submitted to the electors who reside within the downtown area and are registered within a precinct which lies within the downtown area and to the freeholders owning property in the downtown area.

(1) For the purposes of any required referendum, the city clerk shall act as election supervisor and do all things necessary to carry out the provisions of this section.

(2) The Clerk of the City of Lakeland shall compile a list of the names and the last known addresses of the property owners of real property not wholly exempt from taxes as determined from the tax assessment rolls of Polk County, and the list so prepared shall constitute the registration list for the purposes of the referendum herein, except as hereinafter provided.

(3) The clerk shall notify each person qualified to vote herein of the general provisions of this act and shall send him or her a certified copy of same, the dates of the upcoming referendum, and the method provided for additional registration should the status of any property owner have changed from that obtained from the county property appraiser. Notification hereunder shall be by United States mail and in addition thereto by publication one time in a newspaper of general circulation.

(4) Any person entitled to vote herein whose name does not appear on such registration list may register with the city clerk at City Hall of the City of Lakeland or by mail in accordance with regulations promulgated by the clerk. The registration lists shall remain open until 30 days after the notification provided in subsection (3).

(5) Within 30 days after the closing of the registration list, the clerk shall have a secret and direct ballot of the persons entitled to vote in such a referendum by providing a certified voting machine or paper ballot at City Hall of the City of Lakeland, between the legal hours of voting in normal elections. The clerk shall place the date of this election in the original notification and, additionally, the day after the registration list is closed, shall mail to all eligible voters additional notification of the time and place of said election. Within 1 day after holding said election, the clerk shall certify the results thereof to the City Commission of Lakeland and to the board. Any person voting who has knowledge that he or she is not a freeholder or elector residing within the district as defined by this act shall be guilty of perjury and shall be prosecuted and, upon conviction, punished in accordance with the provisions of the laws of this state.

(6) For the purposes of this act, one vote shall be allowed for each individual who is a freeholder or elector as defined in section 5(1)(a) and by the State Constitution. Joint and several owners of property shall be allowed to cast one ballot per parcel. Corporations or other artificial legal entities that own property within the district shall designate a voting representative no

less than 1 week prior to any referendum in the manner to be prescribed by the city clerk. Such corporations or artificial legal entities shall vote only through their designated representatives.

(7) Additional referenda called for levying special taxing district taxes after changing the boundaries of the downtown area originally established in accordance with section 4 shall be held in accordance with the referendum provisions of this act.

(8) A repeal referendum may be called by petition of the property owners and electors representing at least 30 percent of the property owners and electors in the downtown area as defined in section 5(1)(a) for the purpose of abolishing the board and repealing this act. Upon the receipt of such a petition for a repeal referendum by the city clerk, a referendum election shall be called by the city clerk and shall be held under the procedures as specified in this section. If the repeal shall fail, there shall be no additional repeal referendum made by petition at any time until 1 year after the certification of the results of the previous repeal referendum by the clerk.

(9) The elections to be held under this act shall be held in accordance with the election laws of the City of Lakeland insofar as possible and the laws of the state.

Section 14. Millage limitations.—This act provides for the establishment of a special taxing district under Section 9 of Article VII of the State Constitution, and the millage limitation is specified in this act as authorized by the State Constitution. It is intended that such tax shall not be construed as a tax for county or municipal purposes as referred to in that section of the State Constitution. However, should this act be judicially construed to be within the 10-mill limitation of the city or the 10-mill limitation of the county, then all provisions of this act shall be null and void and this act shall be of no further effect.

Section 15. Liberal construction.—The provisions of this act, being desirable for the welfare of the city and its inhabitants, shall be liberally construed to effectuate the purposes herein set forth.

Section 4. Chapters 77-588 and 78-549, Laws of Florida, are repealed.

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

Approved by the Governor June 17, 2004.

Filed in Office Secretary of State June 17, 2004.