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DATE: March 19, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 903

RELATING TO: Jacksonville Airport & Seaport

SPONSOR(S): Representative Davis and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SCG)
 - (2) STATE ADMINISTRATION (SCG)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill provides for the separation of airport and seaport authorities for the City of Jacksonville and establishes these as county authorities.

This bill specifically details procedures relating to governing bodies and appointment of members, powers and duties, bond issuance, employee rights, continued participation in the Florida Retirement System, and transfer of assets and liabilities from the Jacksonville Port Authority to separate airport and seaport authorities.

This bill abolishes the Jacksonville Port Authority.

A significant local fiscal impact is expected.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II. C. "EFFECT OF PROPOSED CHANGES" section.) *However, the Sponsor proposes a strike-everything amendment, to provide technical and numbering corrections, and provides language related to the expenditure of funds for entertainment and travel purposes, in an attempt to remedy conflict with House Rule 5.6(b).*

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Jacksonville Port Authority

The Jacksonville Port Authority (JPA) was created by special act in 1963 (Ch. 63-1447, L.O.F.) to operate as a local, public and independent authority of the City of Jacksonville. The city's aviation assets were transferred to the JPA in 1968, during the time of city/county consolidation. The purpose of the JPA, as envisioned by Ch. 63-1447, L.O.F., as amended, is to own and operate marine terminals and airports in the City of Jacksonville, with territorial limits expanding to all of the former Duval County. Since 1963, the enabling act has been amended thirty-five times, through Chs. 65-1459, 65-1467, 65-1471, 65-1472, 65-1726, 67-1301, 67-1302, 67-1303, 67-1304, 67-1305, 67-1533, 67-1536, 67-1542, 67-2227, 70-663, 70-666, 70-667, 70-674, 70-677, 70-1002, 71-698, 72-532, 73-452, 74-472, 77-546, 79-451, 80-517, 81-371, 83-399, 85-429, 86-401, 86-412, 91-373, 92-338, and 94-422, L.O.F.

Since 1968, Jacksonville's aviation and seaport assets have grown tremendously. The JPA now owns and operates Jacksonville's four airports and three public marine terminals. These seven facilities include Jacksonville International Airport, Craig Airport, Herlong Airport, Cecil Field Airport, the Blount Island Marine Terminal, the Talleyrand Marine Terminal, and the Ed Austin Terminal on Dames Point.

Under current law, the JPA is considered to be a political subdivision of the state, treated as a county and not as a municipality. The JPA has been granted broad powers to fulfill its port-related functions, and has been established as a body politic and corporate. JPA membership consists of seven members. Four of these members are Governor-appointed.

JPA employees participate in the Florida Retirement System, rather than the civil service system of the City of Jacksonville. (Ch. 94-422, L.O.F.)

Authority for the JPA is also included in the city charter. Ch. 92-341, L.O.F., provides for the readoption of the city charter, codification of the charter, and repeal of outdated special acts.

Industrial Development Authority

Part II of Ch. 159 is known as the Florida Industrial Development Financing Act (IDA). The Legislature has determined that the purpose of IDAs is to finance and refinance projects, in

coordination with counties, special districts, and other local governmental bodies, to foster the economic development and prosperity of a county. Publicizing and advertising area economic opportunities to persons, firms, corporations, and agencies is a critical component of an IDA.

Section 159.28, F.S., authorizes IDAs to prescribe rules and regulations, receive gifts, grants and donations, negotiate contracts, acquire and dispose of real and personal property, pledge revenues, issue revenue bonds, construct, furnish, and equip projects, using proceeds of bonds, and to employ consultants, such as engineers, architects and attorneys, to assist with projects.

Section 159.45, F.S., requires a county commission to declare a need for an IDA by resolution. This resolution must designate members of the IDA. While members of the IDA serve uncompensated, they receive reasonable payment for expenses.

Section 159.47, F.S., authorizes IDAs to exist as a body politic and corporate, to adopt an official seal, and to provide, arrange, and make expenditures for transportation, lodging, and meals, in furtherance of promoting the area. Entertainment expenses are limited, both in the type of recipient, and the amount. Expenditures above \$10 for any travel or entertainment expenses require documentation.

Port Facilities Financing

Chapter 315, F.S., is known as the 1959 Port Facilities Financing Law. This chapter defines a unit as any county, port district, port authority, or municipality. Port authority means any port authority created through general or special law. (s. 315.02, F.S.)

Units are empowered with the following: to acquire, construct or lease any port facilities, acquire by purchase, gift, or eminent domain, any real or personal property, accept loans or grants, contract debts, borrow money, issue bonds or other obligations, and to contract with the federal government. (s. 315.03, F.S.)

Units are additionally authorized to publicize, advertise and promote the activities and port facilities, and to otherwise create a favorable climate of opinion regarding the port. However, this section expressly prohibits expenditures for meals, hospitality, amusement, or any other entertainment, in furtherance of this purpose. (s. 315.031, F.S.)

Port Review Task Force

In 1988, Mayor Hazouri commissioned a review of the port structure. By a 6-3 margin, the 1988 commission recommended a split of the authority. That recommendation was never acted upon.

The Port Review Task Force (Task Force), commissioned in 2000, was comprised of appointees by the Mayor, Council President, and Chairman of the Board of the JPA. The Task Force was charged with determining whether the JPA should continue to operate as a bimodal authority or split into two separate entities. The Task Force held six meetings, between May 1, 2000 and July 24, 2000. Among other findings, the Task Force issued the following recommendations: the marine and aviation assets and activities should be managed by two separate independent entities, and all appointments to the governing bodies should be made by the Mayor and approved by the City Council. The Task Force did recognize a true cost savings from the current shared system of administrative and corporate services. This cost savings may diminish, however, with continued growth, as the same centralized structure that saves cost through certain combined services also limits the maximization of assets.

The Task Force consulted with various groups during these deliberations. The firm of PricewaterhouseCoopers (PWC) presented a report on fiscal impact. The Task Force

commissioned three subcommittees to independently examine fiscal impact. The PWC arrived at an increase of about \$2.3 million. The subcommittees estimated fiscal impact at about \$1.3 million.

A third group, Martin and Associates (Martin), analyzed other bimodal authorities for efficiency. Martin examined only those bimodal authorities similar in structure to the JPA. These were: Massachusetts Port Authority, Port of Portland, Port of Oakland, Port of Seattle, San Diego Unified Port District, Toledo-Lucas County Port Authority, Port of Bellingham, Port of Grays Harbor, and Port of Olympia. Martin found no cases where bimodal authorities had been separated. The Martin report, while acknowledging problems with a bimodal system, reflects reluctance toward the notion of splitting a bimodal authority.

C. EFFECT OF PROPOSED CHANGES:

This bill abolishes the JPA, and creates two separate authorities, the Seaport and the Airport.

Under this bill, the JPA firefighters will merge into the City of Jacksonville's Fire and Rescue Department and will become employees of the City of Jacksonville. These firefighters are given the one-time option to continue participation in the FRS, or to participate in the City's Police and Fire Pension Fund (Fund), by November 1, 2001.

Other than minor changes, this bill authorizes no new grants of authority.

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II. C. "EFFECT OF PROPOSED CHANGES" section.)

The Port Facilities Financing Act, Chapter 315, F.S., addresses the promotion and advertising of port facilities.

Section. 315.031(1)(e), F.S., provides

Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.

The Industrial Development Authority Act similarly addresses promotional duties of an authority. While this Act does authorize expenditures on transportation, lodging, meals, etc., it limits expenses as follows:

...entertainment expenses shall be authorized only when meeting with business prospects...potential prospects, purchasers of Florida exports, and foreign governmental dignitaries. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this section shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and entertainment-related expenditures made pursuant to this section shall be shown on the travel expense voucher or attached thereto. (Emphasis added) (Section 159.47 (j), F.S.)

This bill contains a provision, which enables each authority with certain powers, including the authorization of expenditures for meals, hospitality, and entertainment to promote good will towards users, prospective users and the public, of the airport and seaport. Not only are these expenditures authorized, but they are not restricted in any manner.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for the following:

Section 1:

- Creates the Jacksonville Seaport Authority (Seaport) and the Jacksonville Airport Authority (Airport) as two separate political and corporate entities, structured as counties and not municipalities;
- Authorizes the Seaport to operate, manage and control the seaport and related facilities in the county; authorizes the Airport to operate, manage and control all publicly owned airports and related facilities in the county;
- Provides for a review of the port split after four years;
- Specifies that the Seaport will be governed by seven members, with four appointed by the Mayor (subject to City Council confirmation) and three appointed by the Governor (subject to Senate confirmation); provides for up to two consecutive, four year, staggered, at-will terms; provides for vacancies to be filled only until the term's expiration; requires both authorities to elect certain positions; authorizes a four member quorum; special meetings require chair or three-member approval; members serve uncompensated except for reasonable expenses;
- Authorizes each authority to hire and set the salary of a managing director, engineers, CPAs, and consultants; authorizes reliance on the Administration and Finance Department of the City of Jacksonville; requires the authorities to use the legal services of the City of Jacksonville, except when the chief legal officer decides otherwise; requires members present at a meeting to vote, unless there is a conflict of interest; requires compliance with statutory mandates relating to financial disclosure and conflicts of interest.

Section 2: Provides the following definitions:

- Bonds – includes bonds, notes, certificates, and other financial obligations;
- County – the County of Duval;
- City – the consolidated government of the City of Jacksonville;
- Federal Agency – the United States, the U.S. President, and any department of, or corporation, agency, or instrumentality thereof;
- Project – facilities for the construction or maintenance of vehicles, including boats, airplanes and helicopters, and other port, shipping and airport facilities, encompassing all kinds, and cold storage plants, parking areas, railroads, and appliances for the transportation of freight and mail, traffic, toll highways; requires a simple majority vote by the City Council for each authority to use any of its real property for recreational programs and activities;
- Cost – cost of constructing or acquiring improvements, of machinery and equipment, engineering and legal expenses.

Section 3: Provides the following powers:

- To possess corporate powers, such as adoption of a corporate seal, the right to sue and be sued, to exercise eminent domain, to accept grants and gifts, and to enter into contracts,
- To adopt rules and regulations, subject to court review, to construct and improve harbors, navigable waters and canals, to acquire real or personal property, including through eminent domain, to issue revenue bonds,

- To enter into joint agreements with common carriers when it benefits the mission of the authority; to contract, to sell and dispose of property (provided that the property is first offered back to the government entity that conveyed it first);
- To fix, regulate and collect rates and charges for the service and facilities of any project, to fix rates for wharfage, dockage, warehousing, storage, for the use of facilities owned by the authority, to solicit carriers to promote commerce and increase passenger traffic and freight tonnage, and to expend funds in furtherance of this goal;
- To receive grants, to apply to the Treasury Department, to establish a free port or foreign trade zone, to contract with governmental entities, to initiate the drafting of surveys, studies, and maps,
- To grant exclusive or non-exclusive franchises, to operate eating establishments and other businesses in and on any property of the authorities', to contract with utilities, to pledge revenues, to act consistent with the constitutional provisions relating to local government bodies or an Industrial Development Authority, as provided statutorily, to appoint public safety officers.

Section 4: Authorizes each authority to issue general obligation or revenue bonds, approved by resolution, qualifies all bonds as negotiable instruments, exempts the issuance of bonds from any other legal limitations, requires specified notice prior to the public sale of any bonds, to invite sealed bids, requires copy of published notice to be furnished to the Florida Division of Bond Finance, and bond dealers, requires competitive bidding for public sales, authorizes private sale in certain cases, requires a good faith payment by the bidders; requires a referendum prior to the issuance of general obligation bonds, paid for by the issuing authority, authorizes the reissuance of refunding bonds.

Section 5: Starts the fiscal year on October 1, requires submission of each authorities' budget to the city council, and authorizes the city council to amend the budget, either in total or line-by-line, with certain limitations.

Section 6: Preserves rights of bondholders, when bonds are transferred from the City of Jacksonville or the JPA, and preserves the rights, duties, and obligations of the authorities with respect to property transferred by the JPA.

Section 7: Provides the following, in preservation of employees' rights:

- Provides for each separate authority to be a county agency, to preserve the rights of JPA employees to continue participation in the Florida Retirement System (FRS);
- Provides for a direct transfer of those employees working in the marine area, to the Seaport, and for those employees working in aviation, to the Airport, without loss of rights or benefits, including collective bargaining and pension benefits;
- Provides that the JPA firefighters will merge into the City of Jacksonville's Fire and Rescue Department and will become employees of the City of Jacksonville, and will be given the one-time option to continue participation in the FRS, or to participate in the City's Police and Fire Pension Fund (Fund), to be exercised by November 1, 2001, provides that for any firefighter vested in the FRS, who opts to join the Fund, the vested time shall not be included in the Fund;
- Requires the execution of a contract for the Fire and Rescue Department to provide firefighting services to the Airport, effective October 1, 2001.

Section 8: Authorizes the authorities to contract, lease, or convey property with any governmental entities.

Section 9: Requires the authorities to issue quarterly and annual financial reports, and to arrange audits by an independent CPA, to require \$50,000 in surety bonds to the City of Jacksonville, approved by and filed with the clerk of the circuit court.

Section 10: Restricts construction contracts, in the amount of \$12,000 or more, to be awarded through competitive bidding, in certain cases, after due public notice, provides specific language to be included in such contracts; requires competitive bidding in most instances, for the purchase of all supplies, equipment, machinery and materials, that cost \$12,000 or more, exempts certain transferred contracts and contracts involving engineers, architects, attorneys, or other professional services.

Section 11: Requires instruments in writing to be signed by the authority's chair and secretary; requires voucher prior to expenditures being made.

Section 12: Provides for an entire transfer of assets and liabilities, on the effective date of transfer; provides that conveyances take effect October 1, 2001.

Section 13: Provides that the provisions of this act preempt statutory authority relating to port facilities financing, where inconsistent.

Section 14: Declares the intent of this act to be for a county and a public purpose; clarifies that the entities created herein are not exempt from ad valorem taxation.

Section 15: Provides for liberal construction.

Section 16: Provides a severability clause.

Section 17: Provides for the repeal of the following special acts, effective October 1, 2001: chs. 63-1447, 65-1459, 65-1467, 65-1471, 65-1472, 65-1726, 67-1301, 67-1302, 67-1303, 67-1304, 67-1305, 67-1533, 67-1536, 67-1542, 70-663, 70-666, 70-667, 70-674, 70-677, 70-1002, 71-698(5), 72-532, 73-452, 74-472, 77-546, 79-451, 80-517, 81-371, 83-399, 85-429, 86-401, 86-412, 91-373, 92-338, and 94-422, L.O.F.; provides for the dissolution of the JPA.

Section 2. Amends ch. 92-341, L.O.F., to include the Airport and Seaport as independent agencies and delete such reference to the JPA.

Section 3. Substitutes reference to the President/Chief Executive Officer of the Airport and Seaport, individually, for reference to the JPA, as advisors to the commission (relating to the Jacksonville Economic Development Commission);

Section 4. Provides that s. 1 and s. 12 take effect upon becoming a law, and the remainder, takes effect on October 1, 2001.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN?

November 7, 2000

WHERE?

The Daily Record (Jacksonville)

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill contains a fiscal impact. The Port Review Task Force, in consultation with the aviation and marine vice-presidents, and a study conducted by PricewaterhouseCoopers (at the request of the JPA) estimate the impact to be \$1.1 million and \$2.2 million, respectively.

Operational revenues generated by the operation of the airport and seaport are anticipated to provide the additional funding. The Jacksonville Port Authority generally expects increased air and seaport activity, leading to a corresponding increase in revenues.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

Jacksonville International Airport's (JIA) Fire Review Study Group

This study group, convened to review the proposed transfer of JIA's Fire and Rescue Department to the City of Jacksonville's Fire and Rescue Division, consisted of employees of the Jacksonville Fire and Rescue Division, Administration and Finance Division, City Council Auditors' Office, Office of General Counsel and the Jacksonville International Airport. One of the subcommittees, the Pension, Legal, and Legislative Subcommittee, found the following:

- A one-time transition cost will result, related to attaching the pension time of non-vested employees, transferring to the Police and Fire Pension Fund (Fund.) The group estimated that this cost will actually result in long term savings, as the Florida Retirement System has a significantly higher employer contribution rate.
- Replacement of incompatible equipment will result in a one-time transition cost of about \$85,000.
- The annual cost for providing service based on the current year will be almost identical.
- In the long term, it will cost less on an annual basis for the City to provide fire and rescue services because of the high benefit burden associated with JIA firefighters' participation in the FRS and the fact that current labor contracts call for significant pay increases for JIA firefighters—largely eliminating the pay gap between JIA and city firefighters.
- Employees with fewer than six years of service are not vested in the FRS. They will be given the option to buy back or connect their years of service under the Fund.
- Vested employees can transfer to the Fund but cannot connect time.
- The employer match, currently 8.75%, for employees connecting their pensions for time at JIA, is the only additional cost to the city. Currently there are thirteen JIA Fire and Rescue employees with less than six years of service. Should all of these employees transfer their

pensions and connect time, the initial cost will be less than \$100,000. The group estimates that this cost will be covered in the long-term, as the employer contribution to the Fund is much less than the requirements of FRS.

Positions From Interested Parties

The President of the City Council, the Mayor of the City of Jacksonville, and the Chair of the JPA, all express the following support:

When you consider the history of the airports and seaports in Jacksonville, it is clear that the proposed restructuring reflects the natural evolution and maturation of these community assets. In 1968, the operations at Imeson Airport (now Imeson Industrial Park in North Jacksonville) were moved to the new Jacksonville International Airport (JIA) and placed under the JPA. At that point, the JIA was simply too small to operate on its own. It was also thought that the airport could prosper as a part of an independent authority as opposed to being a division of the county or city government. The decision to place JIA under the JPA was a good decision at that time. Since then, our aviation assets have grown exponentially. With the addition of Cecil Field, a former Navy base, the JPA has four major aviation facilities. Over the same period, our marine facilities have expanded to three major terminals.

Conventional wisdom suggests that there are synergies between these assets since they both transport goods and people. Upon closer review, it is clear that each side has little in common. Airports and seaports serve different customers, are financed differently, and report to different regulatory agencies. Marine and aviation operations are clearly distinct. As such, they need separate business plans, marketing strategies, management, and oversight focused solely on the unique mission of each side.

There was a time when the airport was small and the bimodal structure generated administrative savings. That time has passed. As the aviation side has grown, the savings associated with sharing services have disappeared. At the same time, problems associated with the structure such as the lack of accountability, focus and streamlined decision-making have become greater.

Staff with the Division of Retirement, Department of Management Services has indicated that an analysis exists on this bill, but has not provided it, to date.

V. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

The Sponsor proposes a strike-everything amendment. This strike-everything provides technical and numbering corrections, and provides language related to the expenditure of funds for entertainment and travel purposes, in an attempt to remedy conflict with House Rule 5.6(b).

VI. **SIGNATURES:**

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Cindy M. Brown

Joan Highsmith-Smith