

CHAPTER 2003-373

House Bill No. 1449

An act relating to Indian River and Brevard Counties; codifying, amending, and reenacting special acts relating to the Sebastian Inlet Tax District, an independent special district; providing for a governing body; providing powers and duties; providing for construction and maintenance of an inlet between the Indian River and the Atlantic Ocean; authorizing the levy of taxes; providing severability; repealing chapters 7976 (1919), 8901 (1921), 12259 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-329, 78-470, 82-307, and 88-535, 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 Sebastian Inlet Tax District, also known as the Sebastian Inlet District. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act.

Section 2. Chapters 7976 (1919), 8901 (1921), 12259 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-329, 78-470, 82-307, and 88-535, Laws of Florida, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The Sebastian Inlet Tax District is reenacted, and the charter for the district is re-created and reenacted to read:

Section 1. A special taxing district is hereby created to be known as the Sebastian Inlet Tax District, an independent special district, to consist so much of Brevard and Indian River Counties, Florida as is described and embraced in the following boundaries, to-wit:

All of the Third Commissioner's District of Brevard County and that part of the Fourth Commissioner's District of Brevard County, Florida, bounded on the north by the township line between Township Twenty-five (25), and Township Twenty-six (26) and all of that part of Indian River County, Florida, which comprised and made up the First Commissioner's District of Saint Lucie County, Florida, as located and established upon the passage of Chapter 7976, Laws of Florida, Special Acts of 1919 aforesaid.

Section 2. A governing body of said Sebastian Inlet Tax District, to be known and designated as the "Board of Commissioners of Sebastian Inlet Tax District," shall be composed of five members, who shall have been and shall be elected as provided by law. Said governing body shall have all the powers of a body corporate, including the power to sue and be sued as a corporation in said name in any court; to contract; to adopt and use a common seal and alter the same at pleasure; to purchase or otherwise

acquire, own, hold, lease, sell, mortgage, and convey or otherwise dispose of such real estate and personal property as said Board may deem proper to carry out the purposes of this act; to appoint during its pleasure a Chief Engineer, a Consulting Engineer, and such agents and employees as said Board may require or deem advisable; and to borrow money and to issue negotiable promissory notes or bonds therefor to enable it to carry out the provisions of this act.

Section 3. (a) Members of the Board shall be elected at the general election held in November of each even-numbered year. The terms of office of such Board members shall be for 4 years and until their successors are duly elected and qualified. Each member shall be a qualified elector and resident within the District; however, three members, or a majority, of the Board shall reside in the county within the District's boundaries with the larger population. Two members shall reside in the other county. All candidates for office shall stand for election in all precincts of the District.

1. The terms of the Board members shall be staggered, with three Board members standing for election in one general election for a 4-year term, and two Board members shall be elected 2 years later at the general election for a 4-year term.

2. Newly elected Board members shall take office at the next regularly scheduled meeting of the Board, or, if that meeting is not planned within 30 days after the election, then a special meeting shall be called for the purpose of seating the new members of the Board and providing them with an orientation.

(b) Board members shall be elected on a nonpartisan basis by a majority of the qualified electors of the District voting at the election to be held in both Indian River and Brevard Counties as follows:

1. Any candidate for membership on the Board shall qualify as provided by law. The ballots shall be in the form for general elections as provided by law.

2. The election officials of each voting district or precinct within the Sebastian Inlet Tax District shall conduct the election of the members of the Board of Commissioners of the District at the time of conducting such general election. Each voter who is qualified to vote in each such general election in the respective election districts or precincts situated within the boundaries of the Sebastian Inlet Tax District and who resides within the boundaries of such District shall be entitled to cast a ballot for the election of members of the Board of Commissioners of said Sebastian Inlet Tax District.

3. Upon the closing of the polls in each election district or precinct, the officials conducting such elections shall tally the votes cast for members of the Board of Commissioners of the Sebastian Inlet Tax District. The vote shall be canvassed in the manner provided by general law.

(c) Before he or she assumes office, each Board member shall be required to give to the Sebastian Inlet Tax District a good and sufficient surety bond

in the sum of \$2,000 conditioned for the faithful performance of the duties of his or her office and said bond to be approved by and filed with the Clerk of the Circuit Court of Brevard County. Said bond shall be recorded in the minutes of said Board of Commissioners of said Sebastian Inlet Tax District. The failure of any person so elected as a member of the Board of Commissioners of the Sebastian Inlet Tax District to give such bond within 30 days after his or her election as such shall create a vacancy as to such Board member. In such event or in the event of any vacancy on said Board of Commissioners of the Sebastian Inlet Tax District, whether by resignation, death, removal from the District, or otherwise, within 30 days after the existence of such vacancy, the Governor of the State of Florida shall appoint a Board member as provided by law to fill such vacancy, who shall serve for the remainder of such expired term and who shall give bond as hereinbefore provided.

(d) All meetings shall be open to the public. The Board shall conduct all meetings in accordance with chapter 286, Florida Statutes. In addition, notice of the meetings shall be sent to the news media at least 7 days in advance, stating the time, date, location, and purpose of the meeting. A majority of the members may convene in special session when called by a majority of the members or the chair. Actions taken at special meetings shall have the same force and effect as if taken at a regular meeting. Two days' written notice of the time and purpose of a special meeting shall be given to all members and the news media. The minutes of the meeting shall set forth the facts regarding the procedure in calling the meeting and the reason therefor and shall be signed either by the chair or by a majority of the members. Upon due public notice, regular or special meetings of the Board shall be held at any appropriate public place in the District which is readily accessible to the general public; however, at least 50 percent of the number of meetings of the Board held each year shall be held in Indian River County.

(e) All bookkeeping and accounting of the District shall meet the requirements imposed by law for special districts.

(f) All purchasing and bidding shall be in accordance with the procedures used by the Brevard County Board of Commissioners.

Section 4. As soon as practicable after this act becomes a law, the Board holding over or after they have been duly elected or appointed and have qualified, they shall meet and organized by the election, from among their number, of a chair, a vice-chair, a secretary/treasurer. Three members of the Board shall constitute a quorum. The affirmative vote of two members shall be necessary to transact business. The chair and all members of the said Board present shall vote at meetings of the Board as provided by law.

Section 5. The members of the Board shall each receive the sum of \$3,600 per year commencing October 1, 2003. The salary shall be paid in monthly installments as compensation for serving on the Board, but Board members shall not be reimbursed for any travel expenses inside the boundaries of the District. The members of the Board shall be reimbursed for per diem and travel expenses outside the boundaries of the District in accordance with the law.

The members of the Board shall set their own compensation for each fiscal year commencing October 1, 2004, provided the Board shall not increase its members' compensation for any fiscal year by a percentage greater than the percentage the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) increased from the date of the commencement of the fiscal year when the Board members last received an increase in their compensation. In the event the U.S. Department of Labor no longer publishes the Consumer Price Index, the Board must use a similar published standard to set any increase in its compensation.

Section 6. It shall be the duty of said Board of Commissioners of Sebastian Inlet Tax District to construct, improve, widen or deepen, and maintain the inlet between the Indian River and the Atlantic Ocean. With character, manner of construction of said inlet shall be determined by said Board of Commissioners with the approval and recommendation of the Chief Engineer, and said Board is further authorized to do all acts and things proper, necessary, or convenient for the aforesaid purposes. The opening and maintenance of such inlet or waterway connecting the waters of the Atlantic Ocean with the waters of the Indian River within the Sebastian Inlet Tax District are hereby found and declared to be for public purposes and to be necessary for the use of shipping and for transportation and for the extension of commerce of the State of Florida and of said District, and also to be necessary for the maintenance of the health of the inhabitants of the territory embraced in the said District and for the convenience, comfort, and welfare of the said District and the inhabitants thereof. The District is authorized to conduct such programs and projects as it finds necessary or convenient for beach renourishment, erosion control, environmental protection, navigation, boating, recreation, and public safety for the operation and maintenance of the inlet and the waters of the Atlantic Ocean and Indian River Lagoon adjacent thereto.

Section 7. The Board shall elect a Chief Engineer. The depth, width, character, and manner of improvement and construction of said inlet or waterway shall be determined by said Board upon the approval and recommendation of the Chief Engineer of the Board. The Board, in setting the depth of the inlet, shall consider the impact on navigation from the Intra-coastal Waterway to the Atlantic Ocean.

Section 8. The said Board shall have the power and authority to hold, control, and acquire by gift or purchase, for the use of the District, any real or personal property and to condemn any lands or easements needed for the purposes of the District. Said Board is authorized to exercise the right of eminent domain and institute and maintain condemnation proceedings as prescribed by the laws of Florida.

Section 9. The Board of Commissioners of Sebastian Inlet Tax District is hereby authorized and empowered to levy upon all of the real and personal taxable property in said District a special tax not exceeding 1½ mills on the dollar for the year 1977, and for each and every year thereafter, to be used solely for the purpose authorized and prescribed by this act. Said levy shall be made each year, not later than September 30 of each year by resolution of the Board, or a majority thereof, duly entered at large upon its minutes.

Certified copies of such resolution executed in the name of the Board by its chair and secretary and under its corporate seal shall be made and delivered to the Board of County Commissioners of Indian River County, to the Board of County Commissioners of Brevard County, and to the Chief Financial Officer of the State of Florida not later than September 30 of each and every year thereafter. It shall be the duty of the Board of County Commissioners of Indian River County and the Board of County Commissioners of Brevard County to order the assessment and collection of taxes levied by the Board of Commissioners of the District within the respective counties in the manner provided by law for regular property taxes in the county. Proceeds of such taxes shall be paid within the time and in the manner prescribed by law to the treasurer of the Board. All such taxes shall be held by the treasurer for the credit of the Board and paid out by him or her as provided herein.

Section 10. Said Board is hereby authorized and empowered, in order to provide for the work prescribed by this act and to pay the expenses incident to all such work or any other expense necessary in carrying out the general purposes of this act, to borrow money, temporarily, from time to time for a period of time not exceeding 2 years at any one time, and to issue its promissory notes therefor upon such terms and at such rates of interest as said Board may deem advisable. Any note so made and issued may be paid out of the proceeds of the bonds authorized to be issued by this act or out of any other revenues or funds of said Board, and said notes shall be a charge upon all of the revenue and property of said Board. In case of an injury by storm or otherwise to any of the works of this District, thereby causing an emergency which must be met at once in order to protect or reconstruct such works, said Board is authorized to borrow money under the terms prescribed above in order to meet such emergency.

Section 11. All work done under the provisions of this act, both in construction and maintenance, shall be carried on under the supervision of a competent Chief Engineer to be employed by said Board, and no money shall be paid out for any such work to any contractor or subcontractor until such work has been inspected and approved by the Board's Chief Engineer.

Section 12. It shall be the duty of the Board of Commissioners of Sebastian Inlet Tax District to use every reasonable means to maintain, protect, and preserve any and all of the works constructed by said Board, and for such purposes the said Board is authorized to use funds derived from taxes assessed and collected for Sebastian Inlet Tax District.

Section 13. Whoever shall willfully damage any ditch, canal, levee, inlet, waterway, jetty, or other work established or constructed under this act or who shall fill in or obstruct the flow of water in any inlet, canal, or waterway, or remove any earth, stone, or other material from the banks of any canal, inlet, waterway, revetment, or ditch without having first obtained permission in writing from said Board to remove such material, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding \$1,000 or imprisoned in the county jail not longer than 6 months, or both such fine and imprisonment, in the discretion of the Court.

Section 14. Any clause or section of this act which for any reason may be declared invalid may be eliminated from this act, and the remaining portion or portions shall be and remain in full force and valid as if such invalid clause or section had not been incorporated therein.

Section 15. The Chief Engineer, any Consulting Engineer, and any agent or employee of the Board of Commissioners or District may be removed at any time by the Board.

Section 16. All work performed and materials furnished for the construction of said inlet and for the maintenance of said inlet shall be let by contract in accordance with the general laws of the State of Florida governing acquisition of professional engineering services, the purchase of commodities, and the construction and maintenance of public works. The Board shall have the right to reject any and all bids. Each contractor shall be required to give a surety bond in form and amount to be approved by the Board, with a responsible surety company thereon as surety. The Board, however, as a public authority, is authorized to exempt any person entering into a contract with the District for the construction of any buildings or public works, or for the repair of any buildings or public works, from the requirements for payment, performance, and surety bonds in the manner and the amounts which are authorized by law for other public authorities to exempt their contractors from bond requirements.

In the event of an emergency, the Board of Commissioners of Sebastian Inlet Tax District is authorized to spend a sum not to exceed \$15,000, utilizing the following procedure:

(a) The Board shall obtain at least three telephone bid offers to perform such work or furnish such property from at least three independent persons or business entities responsible in the subject business endeavor under consideration; and

(b) The Board shall make a record of the offers. After obtaining and recording such offers, the Board, with at least three of five members concurring, shall award the contract to the lowest responsible bidder of those solicited. The Board shall then notify all local news media which commonly cover the area within the District of the type and nature of the emergency and what actions the Board has taken to rectify the emergency.

Section 17. The Board is authorized to vacate any easement or transfer fee simple interest in any real property which it holds to any unit of local, state, or federal government. Prior to such vacation or transfer, the Board shall conduct a public hearing and determine if it is in the public interest to authorize the vacation or transfer. At such hearing, the Board shall consider what effect, if any, the vacation or transfer shall have on public access to the inlet for fishing and recreation purposes and what action best serves the public health, safety, and welfare.

Section 4. Chapters 7976 (1919), 8901 (1921), 12259 (1927), 18138 (1937), 18139 (1937), 22891 (1945), 63-910, 76-329, 78-470, 82-307, and 88-535, Laws of Florida, are repealed.

Section 5. 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.