

# **Laws of Florida**

## **Chapter 99-486**

### **House Bill No. 1695**

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An act relating to Orange County; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the Orange County Library District, an independent special tax district in Orange County; codifying and reenacting chapter 80-555, Laws of Florida, as amended by chapters 81-450 and 91-372, Laws of Florida; providing legislative findings and intent; ratifying and confirming the creation and establishment of the Orange County Library District; clarifying powers regarding debt secured by non-ad valorem revenues; ratifying the appointments and terms of existing members of the Orange County Library Board of Trustees; deleting obsolete provisions; repealing chapter 80-555, Laws of Florida, and chapters 81-450 and 91-372, Laws of Florida; providing an effective date.

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

Section 1. Pursuant to chapter 97-255, Laws of Florida, this act constitutes the codification of all special acts relating to the Orange County Library 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. Chapter 80-555, Laws of Florida, chapter 81-450, Laws of Florida, and chapter 91-372, Laws of Florida, relating to the Orange County Library District, are codified, reenacted, amended, and repealed as herein provided.

Section 3. Short Title.--This act shall be known and may be cited as the "Orange County Library District Act."

Section 4. Legislative findings and intent.--

(1) FINDINGS.--The Legislature finds that the Orange County Library District, an independent special district created by chapter 80-555, Laws of Florida, to provide library services and facilities in all of Orange County except the cities of Winter Park and Maitland, has provided high quality library service to district residents and taxpayers throughout its existence. Authorized to levy ad valorem taxes for operating expenses and debt service, the library district has consistently levied taxes substantially below its statutory maximum, and has used the tax revenue efficiently and effectively. Both the Orange County Library District Act and the ad valorem tax authority were expressly approved by the voters of the district by referendum on September 9, 1980, as required by s. 9(b), Article VII of the State Constitution, and the trust and confidence given by the electors to the district has been rewarded with quality library facilities and services.

(2) INTENT.--This act constitutes the reenactment and codification of all special acts relating to the district pursuant to s. 189.429, Florida Statutes. This law is intended to provide a single, comprehensive special act charter for the district that ratifies and continues all powers and authority, including its taxing authority, granted to the district by its several previous legislative enactments and that grants such additional authority and imposes such additional requirements and limitations as may be provided by this act.

Section 5. Orange County Library District: establishment; boundaries; governing board.--

(1) ESTABLISHMENT.--The creation of the Orange County Library District pursuant to chapter 80-555, Laws of Florida, for the purpose of providing library services and facilities within the district is hereby ratified.

(2) BOUNDARIES.--The Orange County Library District is composed of all areas of Orange County, Florida, except the incorporated areas of the Cities of Winter Park and Maitland, as the boundaries of those municipalities may from time to time exist.

(3) GOVERNING BOARD.--The Governing Board of the Orange County Library District is composed of the Board of County Commissioners of Orange County, Florida, and one member appointed by the City Council of the City of Orlando, Florida. Such city council appointees shall be appointed for a term of 2 years, shall not serve more than three consecutive terms, and may be removed from the governing board for cause by the city council.

Section 6. Governing board powers.--The governing board shall have the power to:

(1) Levy annually an ad valorem tax upon taxable property within the district in the same manner as other county and municipal ad valorem taxes are levied, provided that:

(a) The millage allocated to annual operating and maintenance expenses of the district shall not exceed one (1) mill; and

(b) The millage allocated to debt service shall not exceed an amount necessary to pay principal of and interest on bonds issued under subsection (4).

(2) Purchase, lease, construct, or otherwise acquire capital projects related to the library services and facilities of the district and to convey such capital projects to the Orange County Library Board of Trustees in trust for the benefit of the residents in the district.

(3) Appropriate and expend revenue of the district, subject to the limitations of this act.

(4) Issue bonds, notes, any other certificates of indebtedness, or any form of tax or bond anticipation notes or certificates payable from all or any portion of the ad valorem tax revenues of the district, but only when the proceeds of such bonds, notes, certificates of indebtedness, or tax anticipation notes or certificates are used to finance or refinance capital projects related to library services or facilities of the district, and only when such indebtedness is approved at referendum pursuant to law. Bonds issued hereunder shall be payable from taxes to be levied on

all taxable property in the district without limitation as to rate or amount. However, the aggregate amount of bonds issued and outstanding hereunder at any time shall not require in any year for the payment of principal and interest falling due an amount greater than one (1) mill on the assessed valuation of all taxable property in the district at the time of the issuance of such bonds. In issuing such bonds or other forms of indebtedness, the governing board may pledge the full faith and credit of the district for service of the debt to be incurred.

(5) Issue revenue bonds or notes payable from the proceeds of any fees, charges, fines, rentals, grants, or other sources of revenue (except ad valorem taxes) which may be or become available to the district; to pledge such revenues to the payment of such revenue bonds or notes; to make all customary or necessary covenants for the security of such revenue bonds or notes (including covenants to assure the adequacy of such revenues and the proper collection, holding, and disposition thereof); to agree to pay some or all expenses of maintenance and operation from sources other than pledged revenues (and not to diminish the rate of taxation available therefor); to capitalize interest and reserves in such amounts as the governing board may deem necessary; to pay all costs of issuance of such bonds or notes, including fiscal, legal, bond insurance, and printing expenses from bond or note proceeds or other sources; and to apply the proceeds of said revenue bonds or notes to the payment of the cost of any or all facilities or property (real or personal, including books) which said district is empowered to acquire, including all architectural, legal, engineering, and other professional costs in connection therewith, or to the refunding of previously issued revenue bonds or notes.

(6) Issue such bonds, revenue bonds or notes, tax or bond anticipation notes, or other forms of indebtedness at such interest rate or rates as the governing board may determine.

(7) Appoint members to the Orange County Library Board of Trustees as provided in section 8.

(8) Budget, appropriate, and pay revenues of the district to the board of trustees for operation and maintenance of library services and facilities, and, when conveyed to the board of trustees, such revenues shall be deemed revenues of the board of trustees to be expended by the trustees at their discretion pursuant to the powers granted under this act and subject to limitations contained in this act.

(9) Exercise powers of eminent domain over private property pursuant to law, but only where such property will be used for a public purpose related to library services and facilities. This power of eminent domain shall not extend to property owned by any municipality.

Section 7. Use of tax revenues; supplemental appropriations and services in kind.--Ad valorem tax revenue of the district may be used only for the operation and maintenance expenses of district library services and facilities, for capital expenditures related to district library services and facilities, or for servicing debt incurred in financing or refinancing capital projects as authorized by this act. Notwithstanding any other provision of this act, any county or city may appropriate, and the board of trustees may accept and expend, funds for library facilities, services, programs, and operations which are supplemental to ad valorem tax revenues otherwise collected pursuant to this act. Further, any county or city may provide to the board of trustees

services and in-kind contributions of any nature whatsoever in support of library facilities, services, programs, and operations.

Section 8. Orange County Library Board of Trustees: establishment and purpose; appointment of members, terms, removal, and vacancies; compensation; quorum, rules of procedure, and seal.--

(1) ESTABLISHMENT AND PURPOSE.--There is hereby established the Orange County Library Board of Trustees, a public body corporate and politic. The board of trustees shall be deemed a public instrumentality, and the exercise by the trustees of the powers conferred by this act shall be deemed the performance of an essential public function.

(2) APPOINTMENT OF MEMBERS, TERMS, REMOVAL, AND VACANCIES.--The Orange County Board of Trustees shall consist of five members appointed by the governing board, two of whom shall be nominated by the City of Orlando. A nominee of the City of Orlando shall be appointed by the governing board to the board of trustees unless rejected for good cause shown.

(a) All members shall serve terms of four years, except that each member shall continue to serve beyond his or her term until a successor is appointed, and the term of the successor shall be reduced by the amount of the holdover. No member shall serve more than two full terms consecutively or more than ten consecutive years. No person employed either by Orange County or by the City of Orlando shall serve on the board of trustees during the time of such employment. Further, no elected official of any county or municipality may serve on the board of trustees during the term of elected office. The appointment of all members serving as of the effective date of this act, and the terms for which they were appointed, are hereby ratified and validated.

(b) Any trustee may be removed by majority vote of the governing board for good cause affecting his or her ability to perform the duties as a member, or for misfeasance, malfeasance, or nonfeasance in office, but only after a hearing at which such trustee is given the right to present evidence in his or her own behalf and only upon a finding by majority vote of the governing board that good cause for removal affecting the member's ability to perform the duties as a member exists, or a finding that the trustee was guilty of misfeasance, malfeasance, or nonfeasance in office.

(c) Upon the occurrence of a vacancy on the board of trustees, the governing board shall appoint a new member to serve during the unexpired portion of the term no later than ninety days after occurrence or discovery of the vacancy.

(3) COMPENSATION.--Trustees shall serve without compensation, except that they may be reimbursed for reasonable travel and per diem expenses incurred in the course of their duties and responsibilities as trustees or on behalf of the governing board or otherwise in engaging in the business of the district. Any such reimbursement for travel or per diem expenses shall be in amounts pursuant to general law.

(4) QUORUM, RULES OF PROCEDURE, AND SEAL.--A quorum shall consist of three members of the board of trustees, and official action shall be taken only upon majority of the trustees present and voting. The board of trustees shall adopt bylaws for election of officers and orderly proceedings and shall adopt a common seal for the certification of its actions.

Section 9. Powers of the Orange County Library Board of Trustees.--The Orange County Library Board of Trustees shall have the following powers:

(1) To manage, administer, operate, supervise, oversee, and maintain all library facilities and services, programs, and functions for the benefit of the residents of the Orange County Library District.

(2) To purchase, lease, or otherwise acquire real and personal property, and generally to take all other actions regarding such property as may be necessary in the prudent management, operation, and maintenance of district library services and facilities. However, all property, real or personal, acquired by the board of trustees from whatever source or by whatever means shall be deemed to be held in trust for the benefit of the residents of this district for library purposes. If the powers of the board of trustees under this act are ever rescinded or dissolved for whatever reason, all rights, title, and interest of the trustees in all property then owned by the trustees shall revert automatically to the governing board or its successor to be held in trust for the benefit of the residents of the district for library purposes.

(3) To lease, grant, sell, or otherwise convey real property upon approval of the governing board.

(4) To dispose of personal property as necessary in the prudent management, operation, and maintenance of library services and facilities.

(5) To employ personnel and to take all other actions consistent with generally accepted employment practices.

(6) To retain attorneys, accountants, architects, engineers, and other consultants and professionals.

(7) To accept gifts of money or property for the beneficial use of the residents of the district and to act as trustee with full legal capacity to administer any money or property conveyed to the district in trust by any party, private or public, whether by will, deed, or other instrument, or by any court of competent jurisdiction.

(8) To contract with any county, city, or other public body for the provision of library services within or outside of the district, provided that library services outside the district shall not be subsidized by the ad valorem revenues of the district.

(9) To apply for and accept any grant of money or property from any governmental body or private organization and to enter into contracts incidental thereto.

(10) To serve as agent for and to enter into contracts on behalf of the governing board, but only to the extent expressly approved by the governing board.

(11) To adopt and implement rules, regulations, policies, and procedures for the management, operation, and maintenance of library services and facilities in the district, and to set fees, fines, and other charges in connection with such operation and services.

(12) To contract, to receive and expend money, to sue and be sued, and generally to perform all other acts necessary or incidental to the express powers and duties granted or imposed by this act or by any instrument of trust.

Section 10. Duties of the Orange County Library Board of Trustees.--

(1) Each member of the board of trustees, before entering upon his or her duties, shall take and subscribe the oath or affirmation required by the Constitution of the State of Florida. A record of each oath shall be filed with the Department of State and with the Orange County Comptroller.

(2) The board of trustees shall comply with the budget and audit requirements of ss. 189.418(4) and 218.34, Florida Statutes, and any successor or other applicable general laws.

(3) The board of trustees shall perform fully all duties prescribed by any trust instruments which may from time to time convey property to the trustees from the governing board or from other public or private persons or entities, but only to the extent that such trust instruments are not inconsistent with this act.

(4) The board of trustees shall be bound by all covenants securing any revenue bonds or notes issued from time to time by the governing board.

Section 11. Entitlement of district residents to library services; enforcement; limitation of trustee liability.--

(1) ENTITLEMENT OF DISTRICT RESIDENTS TO LIBRARY SERVICES.--For so long as the governing board levies an ad valorem tax pursuant to this act for the operation and maintenance of library services and facilities, all residents of the district shall be entitled to use of the general library services and facilities without charge. However, nothing in this subsection prohibits the board of trustees from imposing fines for delinquent library materials or charges for library services and facilities which are specialized and of a type not typically used by the general public. Further, such entitlement shall cease and shall not apply if and when ad valorem tax revenues are used solely for servicing debt incurred in the acquisition or refinancing of capital projects.

(2) ENFORCEMENT.--Except as otherwise provided by the trust instrument, the provisions and requirements of any trust for which the board of trustees acts as trustee may be enforced only by the governing board.

(3) LIMITATION ON TRUSTEE LIABILITY.--Absent personal negligence, no member of the Orange County Library Board of Trustees shall incur any personal liability for the tortious acts or violations of fiduciary duty of any employee of the board of trustees.

Section 12. Severability.--If any portion of this act is held invalid or unconstitutional by any court of law, all remaining portions of the act shall remain in full force and effect if, and only if, the intent of the Legislature can continue to be effected.

Section 13. Chapter 80-555, Laws of Florida, chapter 81-450, Laws of Florida, and chapter 91-372, Laws of Florida, are repealed.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor June 4, 1999.

Filed in Office Secretary of State June 4, 1999.