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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2011	.	
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The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 189.4042, Florida Statutes, is amended to read:

189.4042 Merger and dissolution procedures.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Component independent special district” means an independent special district that proposes to be merged into a merged independent district, or an independent special district as it existed before its merger into the merged independent



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13 district of which it is now a part.

14 (b) "Elector-initiated merger plan" means the merger plan
15 of two or more independent special districts, a majority of
16 whose qualified electors have elected to merge, which outlines
17 the terms and agreements for the official merger of the
18 districts, and is finalized and approved by the governing bodies
19 of the districts pursuant to this section.

20 (c) "Governing body" means the governing body of the
21 independent special district in which the general legislative,
22 governmental, or public powers of the district are vested and by
23 authority of which the official business of the district is
24 conducted.

25 (d) "Initiative" means the filing of a petition containing
26 a proposal for a referendum to be placed on the ballot for
27 election.

28 (e) "Joint merger plan" means the merger plan that is
29 adopted by resolution of the governing bodies of two or more
30 independent special districts, that outlines the terms and
31 agreements for the official merger of the districts, and that is
32 finalized and approved by the governing bodies pursuant to this
33 section.

34 (f) "Merged independent district" means a single
35 independent special district that results from a successful
36 merger of two or more independent special districts pursuant to
37 this section.

38 (g) "Merger" means the combination of two or more
39 contiguous independent special districts that combine to become
40 a newly created merged independent district that assumes
41 jurisdiction over all of the component independent special



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42 districts.

43 (h) "Merger plan" means a written document that contains
44 the terms, agreements, and information regarding the merger of
45 two or more independent special districts.

46 (i) "Proposed elector-initiated merger plan" means a
47 written document that contains the terms and information
48 regarding the merger of two or more independent special
49 districts and that accompanies the petition initiated by the
50 qualified electors of the districts, but that is not yet
51 finalized and approved by the governing bodies of each component
52 independent special district pursuant to this section.

53 (j) "Proposed joint merger plan" means a written document
54 that contains the terms and information regarding the merger of
55 two or more independent special districts and that has been
56 prepared pursuant to a resolution of the governing bodies of the
57 districts, but that is not yet finalized and approved by the
58 governing bodies of each component independent special district
59 pursuant to this section.

60 (k) "Qualified elector" means an individual at least 18
61 years of age who is a citizen of the United States, a permanent
62 resident of this state, and a resident of the district who
63 registers with the supervisor of elections of a county within
64 which the district lands are located when the registration books
65 are open.

66 (2) MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL DISTRICT.-

67 (a) The merger or dissolution of a dependent special
68 district ~~districts~~ may be effectuated by an ordinance of the
69 general-purpose local governmental entity wherein the
70 geographical area of the district or districts is located.



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71 However, a county may not dissolve a special district that is
72 dependent to a municipality or vice versa, or a dependent
73 district created by special act.

74 (b) The merger or dissolution of a dependent district
75 created and operating pursuant to a special act may be
76 effectuated only by further act of the Legislature unless
77 otherwise provided by general law.

78 (c) Dependent special districts that meet any criteria for
79 being declared inactive, or that have already been declared
80 inactive, pursuant to s. 189.4044 may be dissolved or merged by
81 special act without a referendum.

82 (d) ~~(b)~~ A copy of any ordinance and of any changes to a
83 charter affecting the status or boundaries of one or more
84 special districts shall be filed with the Special District
85 Information Program within 30 days after ~~of~~ such activity.

86 (3) ~~(2)~~ DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.-

87 (a) Voluntary Dissolution.-The voluntary merger or
88 dissolution of an independent special district ~~or a dependent~~
89 district created and operating pursuant to a special act may
90 ~~only~~ be effectuated only by the Legislature unless otherwise
91 provided by general law.

92 (b) Involuntary Dissolution.-If a local general-purpose
93 government seeks to dissolve an active independent special
94 district created and operating pursuant to a special act whose
95 board objects by resolution to the dissolution, the dissolution
96 of the active independent special district is not effective
97 until a special act of the Legislature is approved by a majority
98 of the resident electors of the district or landowners voting in
99 the same manner by which the independent special district's



100 governing board is elected. This paragraph also applies if an
101 independent special district's governing board elects to
102 dissolve the district by less than a supermajority vote of the
103 board.

104 (c) The political subdivisions proposing the involuntary
105 dissolution of an active independent special district shall be
106 responsible for payment of any expenses associated with the
107 referendum required under paragraph (b).

108 (d) Independent special districts that meet any criteria
109 for being declared inactive, or that have already been declared
110 inactive, pursuant to s. 189.4044 may be dissolved by special
111 act without a referendum.

112 (e) Financial allocations of the assets and indebtedness of
113 a dissolved independent special district shall be pursuant to s.
114 189.4045.

115 (f) If an inactive independent special district was created
116 by a county or municipality through a referendum, the county or
117 municipality that created the district may dissolve the district
118 after publishing notice as described in s. 189.4044. If an
119 independent special district was created by a county or
120 municipality by referendum or any other procedure, the county or
121 municipality that created the district may merge or dissolve the
122 district pursuant to a referendum or any other ~~the same~~
123 procedure by which the independent district was created.
124 However, if the ~~for any~~ independent special district ~~that~~ has ad
125 valorem taxation powers, the same procedure required to grant
126 ~~the~~ such independent district ad valorem taxation powers is
127 ~~shall also be required to dissolve or merge~~ the district.

128 (4) LEGISLATIVE MERGER OF INDEPENDENT SPECIAL DISTRICTS.-



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129 The Legislature may merge independent special districts created
130 and operating pursuant to special act.

131 (5) VOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—Two
132 or more contiguous independent special districts created by
133 special act which have similar functions and elected governing
134 bodies may elect to merge into a single independent district
135 through the act of merging the component independent special
136 districts

137 (a) Initiation.—Merger proceedings may commence by:

138 1. A joint resolution of the governing bodies of each
139 independent special district which endorses a proposed joint
140 merger plan; or

141 2. A qualified elector initiative.

142 (b) Joint merger plan by resolution.—The governing bodies
143 of two or more contiguous independent special districts may, by
144 joint resolution, endorse a proposed joint merger plan to
145 commence proceedings to merge the districts pursuant to this
146 subsection.

147 1. The proposed joint merger plan must specify:

148 a. The name of each component independent special district
149 to be merged;

150 b. The name of the proposed merged independent district;

151 c. The rights, duties, and obligations of the proposed
152 merged independent district;

153 d. The territorial boundaries of the proposed merged
154 independent district;

155 e. The governmental organization of the proposed merged
156 independent district insofar as it concerns elected and
157 appointed officials and public employees, along with a



158 transitional plan and schedule for elections and appointments of
159 officials;

160 f. A fiscal estimate of the potential cost or savings as a
161 result of the merger;

162 g. Each component independent special district's assets,
163 including, but not limited to, real and personal property, and
164 the current value thereof;

165 h. Each component independent special district's
166 liabilities and indebtedness, bonded and otherwise, and the
167 current value thereof;

168 i. Terms for the assumption and disposition of existing
169 assets, liabilities, and indebtedness of each component
170 independent special district jointly, separately, or in defined
171 proportions;

172 j. Terms for the common administration and uniform
173 enforcement of existing laws within the proposed merged
174 independent district;

175 k. The times and places for public hearings on the proposed
176 joint merger plan;

177 l. The times and places for a referendum in each component
178 independent special district on the proposed joint merger plan,
179 along with the referendum language to be presented for approval;
180 and

181 m. The effective date of the proposed merger.

182 2. The resolution endorsing the proposed joint merger plan
183 must be approved by a majority vote of the governing bodies of
184 each component independent special district and adopted at least
185 60 business days before any general or special election on the
186 proposed joint merger plan.



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187 3. Within 5 business days after the governing bodies
188 approve the resolution endorsing the proposed joint merger plan,
189 the governing bodies must:

190 a. Cause a copy of the proposed joint merger plan, along
191 with a descriptive summary of the plan, to be displayed and be
192 readily accessible to the public for inspection in at least
193 three public places within the territorial limits of each
194 component independent special district, unless a component
195 district has fewer than three public places, in which case the
196 plan must be accessible for inspection in all public places
197 within the component independent special district;

198 b. If applicable, cause the proposed joint merger plan,
199 along with a descriptive summary of the plan and a reference to
200 the public places within each component independent special
201 district where a copy of the merger plan may be examined, to be
202 displayed on a website maintained by each district or on a
203 website maintained by the county or municipality in which the
204 districts are located; and

205 c. Arrange for a descriptive summary of the proposed joint
206 merger plan and a reference to the public places within the
207 district where a copy may be examined, to be published in a
208 newspaper of general circulation within the component
209 independent special districts at least once each week for 4
210 successive weeks.

211 4. The governing body of each component independent special
212 district shall set a time and place for one or more public
213 hearings on the proposed joint merger plan. The public hearing
214 shall be held on a weekday at least 7 business days after the
215 day the first advertisement is published on the proposed joint



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216 merger plan. The hearings may be held jointly or separately by
217 the governing bodies of each component district. Any interested
218 person residing in the respective district shall be given a
219 reasonable opportunity to be heard on any aspect of the proposed
220 merger at the public hearing.

221 a. Notice of the public hearing addressing the resolution
222 for the proposed joint merger plan must be published pursuant to
223 the notice requirements under s. 189.417 and must provide a
224 descriptive summary of the proposed joint merger plan and a
225 reference to the public places within the component independent
226 special districts where a copy of the plan may be examined.

227 b. After the final public hearing, the governing bodies of
228 each component independent special district may amend the
229 proposed joint merger plan if the amended version complies with
230 the notice and public hearing requirements provided in this
231 subsection. Thereafter, the governing bodies may approve a final
232 version of the joint merger plan or decline to proceed further
233 with the merger. Approval by the governing bodies of the final
234 version of the joint merger plan must occur within 60 business
235 days after the final hearing.

236 5. After the final public hearing, the governing bodies
237 shall notify the supervisors of elections of the applicable
238 counties in which district lands are located of the adoption of
239 the resolution by each governing body. The supervisors of
240 elections shall schedule separate referendums for each component
241 independent special district. The referendums may be held in
242 each district on the same day, or on different days, but no more
243 than 20 days apart.

244 a. Notice of a referendum on the merger of independent



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245 special districts must be provided pursuant to the notice
246 requirements in s. 100.342. At a minimum, the notice must
247 include:
248 (I) A brief summary of the resolution and joint merger
249 plan;
250 (II) A statement as to where a copy of the resolution and
251 joint merger plan may be examined;
252 (III) The names of the component independent special
253 districts and a description of their territory;
254 (IV) The times and places at which the referendum will be
255 held; and
256 (V) Such other matters as may be necessary to call, provide
257 for, and give notice of the referendum and to provide for the
258 conduct thereof and the canvass of the returns.
259 b. The referendums must be held in accordance with the
260 Florida Election Code and may be held pursuant to ss. 101.6101-
261 101.6107. All costs associated with the referendums shall be
262 borne by the respective component independent special district.
263 c. The ballot question in such referendum placed before the
264 qualified electors of each component independent special
265 district to be merged must be in substantially the following
266 form:
267
268 "Shall (...name of component independent special
269 district...) and (...name of component independent special
270 district or districts...) be merged into (...name of new merged
271 independent district...)?
272 YES
273 NO"



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d. If the component independent special districts have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each component district must be in substantially the following form:

"Shall (...name of component independent special district...) and (...name of component independent special district or districts...) be merged into (...name of new merged independent district...), if the voter-approved maximum millage rate within each independent special district will not increase absent a subsequent referendum?

- YES
- NO"

e. In any referendum held pursuant to this subsection, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or referendums for the component independent special districts.

f. The merger may not take effect unless a majority of the votes cast in each component independent special district are in favor of the merger. If one of the component districts does not obtain a majority vote, the referendum fails, and merger does not take effect.

g. If merger is approved by a majority of the votes cast in each component independent special district, the merged independent district is created. Upon approval, the merged district shall notify the Special District Information Program pursuant to s. 189.418(2) and the local general-purpose



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303 governments in which any part of the component districts is
304 situated pursuant to s. 189.418(7).

305 h. If the referendum fails, the merger process under this
306 paragraph may not be initiated for the same purpose within 2
307 years after the date of the referendum.

308 6. Component independent special districts merged pursuant
309 to a joint merger plan by resolution shall continue to be
310 governed as before the merger until the effective date specified
311 in the adopted joint merger plan.

312 (c) Qualified elector-initiated merger plan.—The qualified
313 electors of two or more contiguous independent special districts
314 may commence a merger proceeding by each filing a petition with
315 the governing bodies of each independent special district
316 proposing to be merged. The petition must contain the signatures
317 of at least 20 percent of the qualified electors of each
318 component independent special district.

319 1. The petition must comply with, and be circulated in, the
320 following form:

321
322 PETITION FOR INDEPENDENT SPECIAL DISTRICT MERGER

323
324 We, the undersigned electors and legal voters of (...name
325 of independent special district...), qualified to vote at the
326 next general or special election, respectfully petition that
327 there be submitted to the electors and legal voters of (...name
328 of independent special district or districts proposed to be
329 merged...), for their approval or rejection at a referendum held
330 for that purpose, a proposal to merge (...name of component
331 independent special district...) and (...name of component



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332 independent special district or districts...)

333

334 In witness thereof, we have signed our names on the date
335 indicated next to our signatures.

336

337 Date Name (print under signature) Home Address

338

339

340

341 2. The petition must be validated by a signed statement by
342 a witness who is a duly qualified elector of one of the
343 component independent special districts, a notary public, or
344 another person authorized to take acknowledgements.

345 a. A statement that is signed by a witness who is a duly
346 qualified elector of the respective district shall be accepted
347 for all purposes as the equivalent of an affidavit. Such
348 statement must be in substantially the following form:

349

350 "I, (...name of witness...), state that I am a duly
351 qualified voter of (...name of independent special district...).
352 Each of the (...insert number...) persons who have signed this
353 petition sheet has signed his or her name in my presence on the
354 dates indicated above and identified himself or herself to be
355 the same person who signed the sheet. I understand that this
356 statement will be accepted for all purposes as the equivalent of
357 an affidavit, and if it contains a materially false statement,
358 shall subject me to the penalties of perjury."

359

360 Date Signature of Witness



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390 counties within which component independent special district
391 lands are located that 20 percent of the qualified electors have
392 petitioned for merger, the governing bodies of each component
393 district shall meet within 30 business days to prepare and
394 approve by resolution a proposed elector-initiated merger plan.

395 The proposed plan must include:

396 a. The name of each component independent special district
397 to be merged;

398 b. The name of the proposed merged independent district;

399 c. The rights, duties, and obligations of the merged
400 independent district;

401 d. The territorial boundaries of the proposed merged
402 independent district;

403 e. The governmental organization of the proposed merged
404 independent district insofar as it concerns elected and
405 appointed officials and public employees, along with a
406 transitional plan and schedule for elections and appointments of
407 officials;

408 f. A fiscal estimate of the potential cost or savings as a
409 result of the merger;

410 g. Each component independent special district's assets,
411 including, but not limited to, real and personal property, and
412 the current value thereof;

413 h. Each component independent special district's
414 liabilities and indebtedness, bonded and otherwise, and the
415 current value thereof;

416 i. Terms for the assumption and disposition of existing
417 assets, liabilities, and indebtedness of each component
418 independent special district, jointly, separately, or in defined



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419 proportions;

420 j. Terms for the common administration and uniform
421 enforcement of existing laws within the proposed merged
422 independent district;

423 k. The times and places for public hearings on the proposed
424 joint merger plan; and

425 1. The effective date of the proposed merger.

426 4. The resolution endorsing the proposed elector-initiated
427 merger plan must be approved by a majority vote of the governing
428 bodies of each component independent special district and must
429 be adopted at least 60 business days before any general or
430 special election on the proposed elector-initiated plan.

431 5. Within 5 business days after the governing bodies of
432 each component independent special district approve the proposed
433 elector-initiated merger plan, the governing bodies shall:

434 a. Cause a copy of the proposed elector-initiated merger
435 plan, along with a descriptive summary of the plan, to be
436 displayed and be readily accessible to the public for inspection
437 in at least three public places within the territorial limits of
438 each component independent special district, unless a component
439 district has fewer than three public places, in which case the
440 plan must be accessible for inspection in all public places
441 within the component independent special district;

442 b. If applicable, cause the proposed elector-initiated
443 merger plan, along with a descriptive summary of the plan and a
444 reference to the public places within each component independent
445 special district where a copy of the merger plan may be
446 examined, to be displayed on a website maintained by each
447 district or otherwise on a website maintained by the county or



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448 municipality in which the districts are located; and

449 c. Arrange a descriptive summary of the proposed elector-
450 initiated merger plan and a reference to the public places
451 within the district where a copy may be examined, to be
452 published in a newspaper of general circulation within the
453 component independent special districts at least once each week
454 for 4 successive weeks.

455 6. The governing body of each component independent special
456 district shall set the time and place for one or more public
457 hearings on the proposed elector-initiated merger plan. The
458 public hearing shall be held on a weekday at least 7 business
459 days after the day the first advertisement is published on the
460 proposed elector-initiated merger plan. The hearing or hearings
461 may be held jointly or separately by the governing bodies of
462 each component independent special district. Any interested
463 person residing in the respective district shall be given a
464 reasonable opportunity to be heard on any aspect of the proposed
465 merger at the public hearing.

466 a. Notice of the public hearing on the proposed elector-
467 initiated merger plan must be published pursuant to the notice
468 requirements provided in s. 189.417 and must provide a
469 descriptive summary of the elector-initiated merger plan and a
470 reference to the places within the component independent special
471 districts where a copy of the plan may be examined.

472 b. After the final public hearing, the governing bodies of
473 each component independent special district may amend the
474 proposed elector-initiated merger plan if the amended version
475 complies with the notice and public hearing requirements
476 provided in this subsection. The governing bodies must approve a



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477 final version of the merger plan within 60 business days after
478 the final hearing.

479 7. After the final public hearing, the governing bodies
480 shall notify the supervisors of elections of the applicable
481 counties in which district lands are located of the adoption of
482 the resolution by each component independent special district.
483 The supervisors of elections shall schedule a date for the
484 separate referendums for each district. The referendums may be
485 held in each district on the same day, or on different days, but
486 no more than 20 days apart.

487 a. Notice of a referendum on the merger of the component
488 independent special districts must be provided pursuant to the
489 notice requirements in s. 100.342. At a minimum, the notice must
490 include:

491 (I) A brief summary of the resolution and elector-initiated
492 merger plan;

493 (II) A statement as to where a copy of the resolution and
494 petition for merger may be examined;

495 (III) The names of the component independent special
496 districts to be merged and a description of their territory;

497 (IV) The times and places at which the referendum will be
498 held; and

499 (V) Such other matters as may be necessary to call, provide
500 for, and give notice of the referendum and to provide for the
501 conduct thereof and the canvass of the returns.

502 b. The referendums must be held in accordance to the
503 Florida Election Code and may be held pursuant to ss. 101.6101-
504 101.6107. All costs associated with the referendums shall be
505 borne by the respective component independent special district.



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506 c. The ballot question in such referendum placed before the
507 qualified electors of each component independent special
508 district must be in substantially the following form:

509
510 "Shall (...name of component independent special
511 district...) and (...name of component independent special
512 district or districts...) be merged into (...name of new merged
513 independent district...)?

514 YES
515 NO"

516
517 d. If the component independent special districts proposing
518 to merge have disparate millage rates, the ballot question in
519 such referendum placed before the qualified electors of each
520 component special district must be in substantially the
521 following form:

522
523 "Shall (...name of component independent special
524 district...) and (...name of component independent special
525 district or districts...) be merged into (...name of new merged
526 independent district...), if the voter-approved maximum millage
527 rate within each independent special district will not increase
528 absent a subsequent referendum?

529
530 YES
531 NO"

532
533 e. In any referendum held pursuant to this subsection, the
534 ballots shall be counted, returns made and canvassed, and



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535 results certified in the same manner as other elections or
536 referendums for the component independent special districts.

537 f. The merger may not take effect unless a majority of the
538 votes cast in each component independent special district are in
539 favor of the merger. If one of the component independent special
540 districts does not obtain a majority vote, the referendum fails,
541 and merger does not take effect.

542 g. If merger is approved by a majority of the votes cast in
543 each component independent special district, the merged district
544 shall notify the Special District Information Program pursuant
545 to s. 189.418(2) and the local general-purpose governments in
546 which any part of the component independent special districts is
547 situated pursuant to s. 189.418(7).

548 h. If the referendum fails, the merger process specified by
549 this paragraph may not be initiated for the same purpose within
550 2 years after the date of the referendum.

551 8. Component independent special districts merged pursuant
552 to an elector-initiated merger plan shall continue to be
553 governed as before the merger until the effective date specified
554 in the adopted elector-initiated merger plan.

555 (d) Effective date.—The effective date of the merger shall
556 be as provided in the joint merger plan or elector-initiated
557 merger plan, as appropriate, and is not contingent upon the
558 future act of the Legislature.

559 1. However, as soon as practicable, the merged independent
560 district shall, at its own expense, submit a unified charter for
561 the merged district to the Legislature for approval. The unified
562 charter must make the powers of the district consistent within
563 the merged independent district and repeal the special acts of



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564 the districts which existed before the merger.

565 2. Within 30 business days after the effective date of the
566 merger, the merged independent district's governing board, as
567 indicated in this subsection, shall hold an organizational
568 meeting to implement the provisions of the joint merger plan or
569 elector-initiated merger plan, as appropriate.

570 (e) Restrictions during transition period.—Until the
571 Legislature formally approves the unified charter pursuant to a
572 special act, each component independent special district is
573 considered a subunit of the merged independent district subject
574 to the following restrictions:

575 1. During the transition period, the merged independent
576 district is limited in its powers and financing capabilities
577 within each subunit to those powers that existed within the
578 boundaries of each subunit which were previously granted to the
579 component independent special district in its existing charter
580 before the merger. The merged independent district may not,
581 solely by reason of the merger, increase its powers or financing
582 capability.

583 2. During the transition period, the merged independent
584 district shall exercise only the legislative authority to levy
585 and collect revenues within the boundaries of each subunit which
586 was previously granted to the component independent special
587 district by its existing charter before the merger, including
588 the authority to levy ad valorem taxes, non-ad valorem
589 assessments, impact fees, and charges.

590 a. The merged independent district may not, solely by
591 reason of the merger, increase ad valorem taxes on property
592 within the original limits of a subunit beyond the maximum ad



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593 valorem rate approved by the electors of the component
594 independent special district. For purposes of s. 2, Art. VII of
595 the State Constitution, each subunit may be considered a
596 separate taxing unit. The merged independent district may levy
597 an ad valorem millage rate within a subunit, if applicable, only
598 up to the millage rate that was previously approved by the
599 electors of the component independent special district unless an
600 increase in the millage rate is approved pursuant to state law.

601 b. The merged independent district may not, solely by
602 reason of the merger, charge non-ad valorem assessments, impact
603 fees, or other new fees within a subunit which were not
604 otherwise previously authorized to be charged.

605 3. During the transition period, each component independent
606 special district of the merged independent district must
607 continue to file all information and reports required under this
608 chapter as subunits until the Legislature formally approves the
609 unified charter pursuant to a special act.

610 4. The intent of this section is to preserve and transfer
611 all authority to the merged independent district which exists
612 within each subunit and was previously granted by the
613 Legislature and, if applicable, by referendum.

614 (f) Effect of merger, generally.—On and after the effective
615 date of the merger, the merged independent district shall be
616 treated and considered for all purposes as one entity under the
617 name and on the terms and conditions set for in the joint merger
618 plan or elector-initiated merger plan, as appropriate.

619 1. All rights, privileges, and franchises of each component
620 independent special district and all assets, real and personal
621 property, books, records, papers, seals and equipment, as well



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622 as other things in action, belonging to each component
623 independent special district before merger, shall be deemed as
624 transferred to and vested in the merged independent district
625 without further act or deed.

626 2. All property, rights-of-way, and other interests are as
627 effectually the property of the merged independent district as
628 they were of the component independent special district before
629 the merger. The title to real estate, by deed or otherwise,
630 under the laws of this state vested in any component independent
631 special district before the merger, may not be deemed to revert
632 or be in any way impaired by reason of the merger.

633 3. The merged independent district is in all respects
634 subject to all obligations and liabilities imposed and possess
635 all the rights, powers, and privileges vested by law in other
636 similar entities.

637 4. Upon the effective date of the merger, the joint merger
638 plan or elector-initiated merger plan, as appropriate, is
639 subordinate in all respects to the contract rights of all
640 holders of any securities or obligations of the component
641 independent special districts outstanding at the effective date
642 of the merger.

643 5. The new registration of electors is not necessary as a
644 result of the merger, but all elector registrations of the
645 component independent special districts shall be transferred to
646 the proper registration books of the merged independent
647 district, and new registrations shall be made as provided by law
648 as if no merger had taken place.

649 (g) Governing board of merged independent district.-

650 1. From the effective date of the merger until the next



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651 general election, the governing board of the merged independent
652 district shall be comprised of the governing board members of
653 each component independent special district, with such members
654 serving until the governing board members elected at the next
655 general election take office.

656 2. Beginning with the next general election following the
657 effective date of merger, the governing board of the merged
658 independent district shall be comprised of five members. The
659 office of each governing board member shall be designated by
660 seat, which shall be distinguished from other board member seats
661 by an assigned numeral: 1, 2, 3, 4, or 5. The governing board
662 members that are elected in this initial election following the
663 merger shall serve unequal terms of 2 and 4 years in order to
664 create staggered membership of the governing board, with:

665 a. Board member seats 1, 3, and 5 being designated for 4-
666 year terms; and

667 b. Board member seats 2 and 4 being designated for 2-year
668 terms.

669 3. In general elections thereafter, all governing board
670 members shall serve 4-year terms.

671 (h) Effect on employees.—Except as otherwise provided by
672 law and except for those officials and employees protected by
673 tenure of office, civil service provisions, or a collective
674 bargaining agreement, upon the effective date of merger, all
675 appointive offices and positions existing in all component
676 independent special districts involved in the merger are subject
677 to the terms of the joint merger plan or elector-initiated
678 merger plan, as appropriate. Such plan may provide for instances
679 in which there are duplications of positions, and for other



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680 matters such as varying lengths of employee contracts, varying
681 pay levels or benefits, different civil service regulations in
682 the constituent entities, and differing ranks and position
683 classifications for similar positions. For those employees who
684 are members of a bargaining unit certified by the Public
685 Employees Relations Commission, the requirements of chapter 447
686 apply.

687 (i) Debts, liabilities, and obligations.—

688 1. All valid and lawful debts and liabilities existing
689 against a merged independent district, or which may arise or
690 accrue against the merged independent district, which but for
691 merger would be valid and lawful debts or liabilities against
692 one or more of the component independent special districts, are
693 debts against or liabilities of the merged independent district
694 and accordingly shall be defrayed and answered to by the merged
695 independent district to the same extent, and no further than,
696 the component independent special districts would have been
697 bound if a merger had not taken place.

698 2. The rights of creditors and all liens upon the property
699 of any of the component independent special districts shall be
700 preserved unimpaired. The respective component districts shall
701 be deemed to continue in existence to preserve such rights and
702 liens, and all debts, liabilities, and duties of any of the
703 component districts attach to the merged independent district.

704 3. All bonds, contracts, and obligations of the component
705 independent special districts which exist as legal obligations
706 are obligations of the merged independent district, and all such
707 obligations shall be issued or entered into by and in the name
708 of the merged independent district.



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709 (j) Effect on actions and proceedings.—In any action or
710 proceeding pending on the effective date of merger to which a
711 component independent special district is a party, the merged
712 independent district may be substituted in its place, and the
713 action or proceeding may be prosecuted to judgment as if merger
714 had not taken place. Suits may be brought and maintained against
715 a merged independent district in any state court in the same
716 manner as against any other independent special district.

717 (k) Annexation.—Chapter 171 continues to apply to all
718 annexations by a city within the component independent special
719 districts' boundaries after merger occurs. Any moneys owed to a
720 component district pursuant to s. 171.093, or any interlocal
721 service boundary agreement as a result of annexation predating
722 the merger, shall be paid to the merged independent district
723 after merger.

724 (l) Determination of rights.—If any right, title, interest,
725 or claim arises out of a merger or by reason thereof which is
726 not determinable by reference to the provisions in this
727 subsection, the joint merger plan or elector-initiated merger
728 plan, as appropriate, or otherwise under the laws of this state,
729 the governing body of the merged independent district may
730 provide therefor in a manner conforming to law.

731 (m) Exemption.—This subsection does not apply to
732 independent special districts whose governing bodies are elected
733 by district landowners voting the acreage owned within the
734 district.

735 (n) Preemption.—This subsection preempts any special act to
736 the contrary.

737 (6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—If



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738 a local general-purpose government seeks to merge an active
739 independent special district or districts created and operating
740 pursuant to a special act whose board or boards object by
741 resolution to the merger, the merger of the active independent
742 special district or districts is not effective until the special
743 act of the Legislature is approved at separate referenda of the
744 impacted local governments by a majority of the resident
745 electors or landowners voting in the same manner by which each
746 independent special district's governing board is elected. The
747 special act shall include a plan of merger that addresses
748 transition issues such as the effective date of the merger,
749 governance, administration, powers, pensions, and assumption of
750 all assets and liabilities.

751 (a) The political subdivisions proposing the involuntary
752 merger of an active independent special district shall be
753 responsible for payment of any expenses associated with the
754 referendum required under this subsection.

755 (b) Independent special districts that meet any criteria
756 for being declared inactive, or that have already been declared
757 inactive, pursuant to s.189.4044 may be merged by special act
758 without a referendum.

759 (7)(3) EXEMPTIONS. The provisions of This section does shall not
760 apply to community development districts implemented pursuant to
761 chapter 190 or to water management districts created and
762 operated pursuant to chapter 373.

763 Section 2. Section 191.014, Florida Statutes, is amended to
764 read:

765 191.014 District creation and, expansion, ~~and merger.~~-

766 (1) New districts may be created only by the Legislature



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767 under s. 189.404.

768 (2) The boundaries of a district may be modified, extended,
769 or enlarged upon approval or ratification by the Legislature.

770 ~~(3) The merger of a district with all or portions of other~~
771 ~~independent special districts or dependent fire control~~
772 ~~districts is effective only upon ratification by the~~
773 ~~Legislature. A district may not, solely by reason of a merger~~
774 ~~with another governmental entity, increase ad valorem taxes on~~
775 ~~property within the original limits of the district beyond the~~
776 ~~maximum established by the district's enabling legislation,~~
777 ~~unless approved by the electors of the district by referendum.~~

778 Section 3. Paragraph (a) of subsection (1) and subsection
779 (4) of section 189.4044, Florida Statutes, is amended to read:

780 189.4044 Special procedures for inactive districts.—

781 (1) The department shall declare inactive any special
782 district in this state by documenting that:

783 (a) The special district meets one of the following
784 criteria:

785 1. The registered agent of the district, the chair of the
786 governing body of the district, or the governing body of the
787 appropriate local general-purpose government notifies the
788 department in writing that the district has taken no action for
789 2 or more years;

790 2. Following an inquiry from the department, the registered
791 agent of the district, the chair of the governing body of the
792 district, or the governing body of the appropriate local
793 general-purpose government notifies the department in writing
794 that the district has not had a governing board or a sufficient
795 number of governing board members to constitute a quorum for 2



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796 or more years or the registered agent of the district, the chair
797 of the governing body of the district, or the governing body of
798 the appropriate local general-purpose government fails to
799 respond to the department's inquiry within 21 days; or

800 3. The department determines, pursuant to s. 189.421, that
801 the district has failed to file any of the reports listed in s.
802 189.419.

803 4. The governing body of a special district provides
804 documentation to the Department that it has unanimously adopted
805 a resolution declaring the special district inactive. The
806 special district shall be responsible for payment of any
807 expenses associated with its dissolution.

808 (4) The entity that created a special district declared
809 inactive under this section must dissolve the special district
810 by repealing its enabling laws or by other appropriate means.
811 Any special district declared inactive pursuant to paragraph
812 (1)(a)4., may be dissolved without a referendum.

813 Section 4. This act shall take effect July 1, 2011.

814
815 ===== T I T L E A M E N D M E N T =====

816 And the title is amended as follows:

817 Delete everything before the enacting clause
818 and insert:

819 A bill to be entitled
820 An act relating to special districts; amending s.
821 189.4042, F.S.; providing for the merger of contiguous
822 special districts; providing definitions; providing
823 that the merger or dissolution of dependent districts
824 created by special act may be effectuated only by the



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825 Legislature; providing certain exemptions for inactive
826 dependent and independent special districts; requiring
827 involuntary dissolution procedures for independent
828 special districts to include referenda; providing that
829 the Legislature may merge independent special
830 districts created by special act; providing for the
831 voluntary merger of contiguous independent special
832 districts pursuant to a joint resolution of the
833 governing bodies of the districts or upon initiative
834 of the district electors; providing the procedures
835 that must be adhered to, including notice and public
836 hearings; requiring the development and adoption of a
837 merger plan; requiring a referendum; providing for the
838 effective date of the merger; providing that
839 legislative approval of the merger is not required but
840 that the charter of the new district must be submitted
841 for approval; providing restrictions on the merged
842 district until the charter is approved; providing that
843 the ad valorem millage rate in each component
844 independent special district is levied only up to the
845 millage rate previously approved by the electors of
846 the district; providing for the effect of the merger
847 on the property, employees, legal liabilities, and
848 annexations of the component districts; providing for
849 the election of the governing board of the merged
850 district; providing an exemption for independent
851 special districts whose governing bodies are elected
852 by district landowners voting the acreage owned within
853 the district; requiring involuntary merger procedures



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854 for independent special districts to include
855 referenda; amending s. 191.014, F.S.; deleting a
856 provision relating to the merger of independent
857 special districts or dependent fire control districts;
858 amending s. 189.4044, F.S.; revising dissolution
859 procedures for special districts declared inactive by
860 a governing body; providing an effective date.