

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 745 Special Districts

SPONSOR(S): Nuñez

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 516

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N	Darden	Miller
2) Government Operations Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Special districts are used to provide a variety of local services and generally are funded through the imposition of ad valorem taxes, fees, and charges on the users of those services. There are two types of special districts: independent, which typically are created by special act and operationally are independent of any local general-purpose government, and dependent, which typically are created by local ordinance and are subject to the control of a local general-purpose government.

Special districts are required to maintain a website providing information about their budget and operations to the public. Independent special districts are required to maintain their own website, while dependent special districts have the option of maintaining their own website or having their website hosted on the website of the local general-purpose government to which the district is dependent.

The bill would require each special district to publish a version of its budget online that would allow the public to view the information in a variety of specific graphical and tabular formats and access multiple types of detailed financial information simultaneously. The bill also removes language concerning special districts that do not operate a website, since all special districts are required to operate a website as of October 1, 2015.

The bill may have an indeterminate negative fiscal impact on special districts, to the extent their websites do not currently contain the information and formatting required by the bill.

The effective date of the bill is July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”¹ Special districts are created to provide a wide variety of services, such as mosquito control,² beach facilities,³ children’s services,⁴ fire control and rescue,⁵ or drainage control.⁶

Special districts can be classified as “dependent special districts”⁷ or “independent special districts.”⁸ For a district to be classified as a “dependent special district,” the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;⁹
- All members of its governing body are appointed by the governing body of a single county or a single municipality;¹⁰
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms;¹¹ **or**
- The district’s budget requires approval or can be vetoed by the governing body of a single county or a single municipality.¹²

An “independent special district” is any special district that does not meet the definition of “dependent special district.”¹³ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely with the borders of a single municipality.¹⁴

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts, the state currently has 1,659 special districts.¹⁵ The districts can be further classified as follows:

- 1,649 active districts, 10 inactive districts
- 634 dependent special districts, of which 631 are active and 3 are inactive
- 1,025 independent special districts, of which 1,018 are active and 7 are inactive

Special districts are governed generally by the Uniform Special District Accountability Act (Act).¹⁶ The Act, initially passed in 1989,¹⁷ created ch. 189, F.S., to centralize provisions governing special districts.

¹ Section 189.012(6), F.S.

² Section 388.021(1), F.S. (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2)).

³ *See* s. 189.011, F.S.

⁴ Section 125.901(1), F.S.

⁵ Section 191.002, F.S.

⁶ Section 298.01, F.S.

⁷ Section 189.012(2), F.S.

⁸ Section 189.012(3), F.S.

⁹ Section 189.012(2)(a), F.S.

¹⁰ Section 189.012(2)(b), F.S.

¹¹ Section 189.012(2)(c), F.S.

¹² Section 189.012(2)(d), F.S.

¹³ Section 189.012(3), F.S.

¹⁴ *Id.*

¹⁵ *See* Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Jan. 7, 2016).

Chapter 189 applies to the formation, governance, administration, supervision, merger, and dissolution of special districts, unless otherwise expressly provided in law.¹⁸ The Act also provides an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting.¹⁹

Reporting Requirements and Web-Based Access

As of October 1, 2015, all special districts are required to maintain an official website by the end of the first full fiscal year following their creation.²⁰ Independent special districts are required to maintain their own website, while dependent special districts have the option of maintaining their own website or having their website hosted on the website of the local general-purpose government to which the district is dependent.²¹ The website must contain:²²

- The full legal name of the district;
- The public purpose of the district;
- The name, address, e-mail address, term, and appointing authority (if applicable) for each member of the district's governing body;
- The fiscal year of the district;
- The full text of the district's charter;
- The date the district was established and the establishing entity;
- The statute(s) under which the district operates, if different from the statute which established the district;
- The mailing address, e-mail address, telephone number, and URL of the special district;
- A description of the boundaries of the district;
- A list of the services provided by the district;
- A list of all taxes, fees, assessments, and charges imposed by the district, including the rates for the current fiscal year and the statutory authority for the levy;
- The primary contact information for the district, for purpose of communication from DEO;
- The code of ethics adopted by the district;
- The district's budget and budget amendments; and
- The final, complete audit report for the recently completed fiscal year.

The budget information included on the district's website must meet the reporting requirements of s. 189.016, F.S.²³ That section requires the tentative budget for the district to be published on the district's website at least two days before the budget hearing, held pursuant to s. 200.065, F.S., or other law, to consider the budget.²⁴ Once the final budget is adopted, the district must post a copy to its website within 30 days.²⁵ If the district does not operate its own official website, the district must transmit the tentative or final budget to the local general-purpose government or local governing authority for posting on that entity's website.²⁶ The proposed budget for a dependent special district must be

¹⁶ Section 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

¹⁷ Ch. 89-169, Laws of Fla.

¹⁸ Ch. 189, F.S. *passim*; *but see* s. 190.004 (Ch. 190, F.S. as "sole authorization" for creation of community development districts).

¹⁹ Section 189.06, F.S.

²⁰ Section 189.069(1), F.S. As of January 13, 2016, 166 of 1,018 (16%) active independent special districts do not have a website, while 288 of 630 (46%) active dependent special districts do not have a website. *See* Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Jan. 13, 2016).

²¹ Section 189.069(1)(a)-(b), F.S.

²² Section 189.069(2)(a)1.-12., F.S. HB 479 (2016) would add a list of regularly scheduled public meetings of the district, the public facilities report, link to the Department of Financial Services website, and the agenda and meeting materials (published at least seven days before the meeting or workshop and available for at least one year afterwards) of the district to these requirements.

²³ Section 189.069(2)(a)11., F.S.

²⁴ Section 189.016(4), F.S. HB 479 (2016) would require the district's tentative budget to remain on its website for at least 45 days.

²⁵ *Id.* HB 479 (2016) would require the district's final adopted budget to remain on its website for at least two years.

²⁶ *Id.*

contained in the general budget of the local governing authority to which it is dependent, but the local governing authority may present the district's budget separately as well.²⁷

The governing body of a district may amend the budget for a fiscal year at any time during that fiscal year or within 60 days of its close.²⁸ The board may make amendments by:

- A motion to increase or decrease appropriations for expenditures within a fund, if the total appropriations of the fund do not increase;²⁹
- Establishing procedures authorizing the designated budget officer to make certain amendments, if the total appropriations of the fund do not increase;³⁰
- Passing a resolution to make an amendment for any other reason.³¹

If the governing body of the district makes an amendment by resolution, the amendment must be posted on the district's official website within five days after adoption.³² An adopted amendment, like the tentative and final budget, must be posted to the website of the local general-purpose government or local governing authority if the district does not maintain a website.³³

Special District Financial Records

All financial records, including checking account and ledger information, made or received in the transaction of official business are public records.³⁴ A special district must permit these records to be inspected and copied by any person at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the public records.³⁵ The district is not required to reformat records in a particular manner requested by the viewer.³⁶

Special districts are required to comply with the financial reporting requirements of ss. 218.32 (annual financial reports) and 218.39 (annual financial audit reports), F.S.³⁷

Each special district with revenues or a total of expenditures or expenses in excess of \$100,000, as reported on their financial statements, is required to have an annual audit conducted by an independent certified public accountant.³⁸ A dependent special district may meet this requirement by being included in the audit of the local government entity upon which it is dependent.³⁹ The auditor shall review the financial accounts and records of the district, reports on compliance and internal control, management letters, and financial statements, as required by rules adopted by the Auditor General.⁴⁰ The auditor must present these findings to the chair of the district's governing board and submit a copy of the report to the Auditor General.⁴¹ The audit report is a public record once the report is submitted by the auditor to the district.⁴²

²⁷ Section 189.016(5), F.S.

²⁸ Section 189.016(6), F.S.

²⁹ Section 189.016(6)(a), F.S.

³⁰ Section 189.016(6)(b), F.S.

³¹ Section 189.016(6)(c), F.S.

³² Section 189.016(7), F.S. HB 479 (2016) would require the amendment to remain on the district's website for at least two years.

³³ *Id.*

³⁴ Section 119.011(12), F.S. Special districts are included in the definition of "agency" for the purposes of the public records law. S. 119.011(2), F.S.

³⁵ Section 119.07, F.S.

³⁶ *See Seigle v. Berry*, 422 So. 2d 63, 65 (Fla. 4th DCA 1982) ("plaintiff ... may not require [the agency] to reorder [records]. Nothing in the statute, case law, or public policy imposes such a burden[.]")

³⁷ Section 189.016(9), F.S.

³⁸ Section 218.39(1), F.S. An entity is exempt from this requirement if it is informed by the first day of the fiscal year that the Auditor General will be conducting an audit of the entity for that fiscal year.

³⁹ Section 218.39(3)(a), F.S.

⁴⁰ Section 218.39(2), F.S. The rules of the Auditor General are Rules 10.550, 10.650, 10.700, 10.800, and 10.850, F.A.C. *See* Rule 61H1-20.0093, F.A.C.

⁴¹ Sections 218.39(5), (7), F.S.

⁴² *See* s. 119.0713(3), F.S.

Each special district is required to file an annual financial report with the Department of Financial Services.⁴³ If the special district audit for the fiscal year was conducted by an independent certified public account, the district must submit an annual financial report and the audit report within 45 days of the completion of the audit report, but no later than nine months after the end of the fiscal year.⁴⁴ If the special district audit for the fiscal year was conducted by the Auditor General or the district is not required to conduct an independent audit, the district must submit an annual financial report no later than nine after the end of the fiscal year.⁴⁵ The report must include balance sheet information used by the Auditor General.⁴⁶ The Department of Financial Services is required to notify the Legislative Auditing Committee and DEO's Special District Accountability Program if the district fails to complete an annual financial report in the required period.⁴⁷ A link to the annual financial report must be included on the special district's website.⁴⁸

Effect of Proposed Changes

The bill would require each special district to publish budget information on its website in a format which allows the public to:

- View multiple years of budget, general ledger, and checking account data;
- Review year-over-year spending trends, examine individual accounting entries, and filter data according to categories in the special district's chart of accounts, including, but not limited to, fund, department, division, program, or activity;
- Download financial data and graphs;
- View data in different graphical formats, including, but not limited to, stacked line, trend line, bar graph, and pie chart;
- View data in tabular⁴⁹ formats;
- View information for multiple special district departments, divisions, funds, or financial categories simultaneously; and
- View and compare revenue and expense trends simultaneously on the same graph for any level of financial data.

No similar requirement exists for county or municipal governments.⁵⁰

Most special districts would need to revise their websites significantly to conform to the provisions of the bill. Counties or municipalities that provide websites for their dependent districts would incur the costs of compliance. For example, officials from St. Lucie, Gulf, and Sarasota Counties stated that the average cost for upgrading and maintaining a website in compliance with the bill's requirements would exceed \$20,000 per year.⁵¹ An official from Orange County estimated the cost of compliance at \$62,400 for the first year and \$7,300 for each subsequent year.⁵²

Special districts may find it more affordable to meet the requirements of the bill by hiring an outside vendor who specializes in presenting financial information in the precise manner required by the bill. For example, the City of Miami signed a sole source contract in September 2015 with a firm providing financial data visualization solutions to state and local governments.⁵³

⁴³ Section 218.32(1)(a), F.S.

⁴⁴ Section 218.32(1)(d), F.S.

⁴⁵ Section 218.32(1)(e), F.S.

⁴⁶ *Id.*

⁴⁷ Section 218.32(1)(f), F.S.

⁴⁸ Section 218.32(1)(g), F.S.

⁴⁹ According to the Oxford English Dictionary, "tabular" means presenting data in columns or tables. A spreadsheet would be an example of a tabular format.

⁵⁰ *See* s. 129.03, F.S. (preparation and adoption of county budget) and s. 166.241, F.S. (municipal budgets, establishing a procedure identical to the one for special districts under current law).

⁵¹ Email from Laura Youmans, Fla. Assoc. of Counties, RE: HB 745 – Special District Financial Reporting, regarding county reporting of financial information for special districts (Jan. 7, 2016). Copy retained by Local Government Affairs Subcommittee staff.

⁵² *Id.*

⁵³ City of Miami Res. R-15-0406, File ID # 15-01090.

The bill would also remove language requiring a district to transmit budget information to the local general-purpose government or local governing authority if the district does not operate its own website. This language appears to be unnecessary, since all special districts are required to maintain a website as of October 1, 2015.

B. SECTION DIRECTORY:

Section 1: Amends s. 189.016, F.S., to require each special districts to publish budget information on its official website in a variety of formats and to remove obsolete language concerning districts without a website.

Section 2: Providing an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on special districts, to the extent their websites do not currently contain the information and formatting required by the bill. The bill will require special districts declared inactive by DEO to incur the costs of maintaining a website and posting the requisite information even though such districts cannot collect taxes, fees, or assessments.⁵⁴

Counties and municipalities that provide the websites through which their dependent special districts report may incur an indeterminate negative fiscal impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would provide a positive, direct impact on the private sector to the extent special districts utilize outside vendors to comply with the bill's requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not directly require counties or municipalities to spend funds or take any action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have

⁵⁴ Section 189.062(5), F.S.
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to raise revenue in the aggregate nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 31-33 of the bill require each special district to “publish an online version of its budget information on its official website.” If a district chose an outside vendor to format its financial data to conform with the requirements of the bill, it is unclear if a hyperlink to the website of the vendor from the special district’s website would be sufficient to meet the requirement to publish on the district’s official website.

Lines 34-35 of the bill require each district to publish “multiple years of budget, general ledger, and checking account data.” While budgets are written and published on an annual basis, ledger and checking account data are continuous activities. The bill is unclear if the data provided by the district must be provided in a real-time or may subject to a delay to meet other requirements (like protecting the confidentiality of third-party financial information⁵⁵).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵⁵ See s. 119.071(5)(b), F.S. (exempting bank account, debit, charge, and credit card numbers held by public entities from public records requirements).