

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 10, 1998 Revised: \_\_\_\_\_

Subject: Special Districts

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Nebelsiek</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill makes the following changes to statutes governing special districts:

- ▶ Requires referendum approval to dissolve or merge a county or municipally created independent district with ad valorem taxing powers;
- ▶ Reforms the election qualifying process to require a candidate for a special district seat to pay a filing fee or submit a required number of signatures consistent with existing requirements for other candidates;
- ▶ Modifies the codification requirement to extend the deadline for codification to the year 2004, depending upon the number of special acts governing the district, and eliminates the prohibition against including substantive changes in codifying special acts. The bill also eliminates a requirement that a special district codify its special acts at the time it requests substantive amendments to its enabling legislation; and
- ▶ Authorizes special districts to grant merit pay bonuses to employees.

This bill amends sections 189.4042, 189.405, 189.429, 191.006, and 215.425, of the Florida Statutes, and s. 15, ch. 97-256, Laws of Florida.

**II. Present Situation:**

Special districts are limited-purpose governmental units which provide services and infrastructure, within defined boundaries, financed by taxes, assessments, fees and bond issues. With almost 1000 special districts (almost evenly divided between dependent and independent districts) in existence

in Florida, they are the most numerous form of local government in the state. Special districts collect a significant portion of total local government revenues, including 10 percent of ad valorem taxes and 22 percent of special assessments which contribute to total, annual district revenues exceeding \$4.1 billion. Services range from activities relating to roads, drainage and water systems to fire control, housing and urban development, health facilities, juvenile welfare, libraries, jails, ports and airports, mosquito control, and beach preservation. On a statewide basis, special districts dominate in the provision of flood control, hospitals, conservation management, and water transportation/ports.

Special districts were initially created individually over a span of many decades, either by local ordinances or special acts, with few provisions for uniformity and accountability. During the 1970s, concerns surfaced regarding the lack of special district accountability, including illegal tax levies and misuse of bond proceeds. In response to these concerns, the Special Districts Disclosure Act was enacted in 1979 to establish minimum requirements for creation, elections, accounting, bond issuance, and other aspects of special district operations. In 1987, the Advisory Council on Intergovernmental Relations published a report on special district accountability and recommended a series of legislative actions. These recommendations formed the basis for the Uniform Special District Accountability Act of 1989, which consolidated provisions of law into a single statutory chapter (Chapter 189), established uniform methods for election of district officials and for collection of taxes and assessments, and expanded auditing and reporting requirements. In addition, the act established the Special District Information Program within the Department of Community Affairs to compile a list of Florida's special districts, retain district reports, and provide assistance to special districts across the state.

Chapter 189, F.S., defines a "special district" as a local unit of special purpose, as opposed to general-purpose government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. Section 189.403, F.S., provides the criteria for designating a special district as either dependent or independent. The chapter provides requirements for creation, merger and dissolution of special districts, and requires the Department of Community Affairs to compile and maintain an official list of special districts. The statute contains procedures for electing governing board members of special districts and provides for submitting board meeting notices to the department and other state agencies. This chapter also governs special district financing and provides for independent audits of special district finances in certain circumstances and submission of audit reports to various agencies.

### **Merger and Dissolution Procedures**

Currently, s. 189.4042, F.S., provides that if an independent district was created by a county or municipality, the county or municipality that created it may merge or dissolve the district. Section 189.404(4), F.S., authorizes municipalities and counties to create special districts by ordinance or charter, as applicable.

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### **Candidate Qualification**

Section 189.405, F.S., provides the requirements for governing board elections and candidate qualification. Currently, candidates may pay a \$25 filing fee or submit a petition containing signatures of at least three percent of the district's registered electors. This provision applies to single county and multi-county independent special districts (not including districts conducting elections on a one-acre, one-vote basis). Elections are non-partisan except where a district's charter provides otherwise. Also, no election or party assessment is levied if the election is non-partisan.

Currently, s. 99.092, F.S., provides that candidates qualifying for nomination or election to any office on a partisan basis (does not provide for non-partisan qualifying), except a write-in candidate and a candidate utilizing the petition process, pay a qualifying fee, election assessment and any party assessment levied. These funds are paid to the officer with whom the person qualifies. The filing fee is three percent of the annual salary of the office. The election assessment is one percent of the annual salary of the office sought. The party assessment, if applicable in cases of special districts, is two percent of the annual salary. (Some special district governing board positions are non-compensable positions).

Section 99.095, F.S., provides that a multi-county candidate desiring to qualify by petition for a *partisan* governing board position, must garner signatures of at least three percent of the total number of registered electors *of the district represented by the office* sought who are registered in the party by which the candidate seeks nomination. Also, s. 582.18, F.S., currently provides that candidates for soil and water conservation districts may be nominated by petition of 25 or more qualified electors of the district. This applies to single and multi-county districts.

Individual districts' charters may provide individualized qualifying and may provide for partisan elections.

### **Codification of Special Districts' Charters**

The 1997 Legislature amended ch. 189, F.S., to provide for codification of special districts' charters (including fire control districts), either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, s. 189.429, F.S., requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation. However, in the 1997 interim, some districts expressed the need to request substantive changes to their charters but because of the number of amendments (special acts) to their charters, they do not have time to codify prior to requesting those changes.

As a result, the Chair of the House Committee on Community Affairs issued a Memorandum on October 3, 1997, explaining the policy of the Committee for charter codifications for the 1998 Legislative Session. The memorandum states, in part:

1. Although two bills are preferable (one to codify and one to accomplish the substantive change), the House Committee on Community Affairs will accept one bill (containing the codification and substantive change).
2. The substantive change, if included in the codifying local bill, *must be advertised* clearly and concisely, i.e., “a substantive change to the charter is being sought affecting membership of the Board,” or whatever change(s) is applicable.
3. If a substantive change is needed to a District’s charter this Session, but codification is too large a task to accomplish at the same time, the Committee will hear bills for any substantive changes that a legislative delegation deems necessary.
4. The Committee will accept voluntary charter codifications from any district for the 1998 Legislative Session. A schedule for submitting the codifying charter is attached and is based on the number of special acts a district currently enjoys. The attached proposed schedule of submissions is based on an extended deadline of 2004, which must be accomplished legislatively. The Committee will have a bill to address this issue during the 1998 Legislative Session. Keep in mind, if they choose to do so, a district may submit its codification earlier than the proposed schedule indicates.

**PROPOSED SCHEDULE OF SUBMISSIONS OF  
SPECIAL DISTRICTS’ CODIFIED CHARTERS**

<b>ENTITY</b>	<b>PROPOSED DEADLINE</b>
Any special district	Voluntary for the 1998 Legislative Session
Special Districts with 2 special acts (45 districts)	1999 Legislative Session
Special Districts with 3 or 4 special acts (63 districts)	2000 Legislative Session
Special Fire Control Districts (47 districts)	2001 Legislative Session
Special Districts with 5, 6 or 7 special acts (53 districts)	2002 Legislative Session
Special Districts with 8, 9, 10, 11 or 12 special acts (56 districts)	2003 Legislative Session
Special Districts with at least 13 special acts (54 districts)	2004 Legislative Session

### **Extra Compensation**

The 1992 Legislature authorized cities and counties to offer extra compensation to outstanding employees, including lump-sum bonuses. The bonuses must not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years. The law already allowed the Department of Management Services (DMS) to offer extra compensation to state employees in the senior management group. Section 15, of ch. 97-256, L.O.F., authorized fire control district boards to offer similar extra compensation programs to outstanding employees with the same restrictions.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 189.4042(2), F.S., to provide that county or municipally-created independent special districts may be merged or dissolved pursuant to the same procedure used to create the district (i.e., ordinance); however, if such independent district has ad valorem taxing authority, the same procedure required to grant the taxing authority (i.e., referendum approval) must be used to merge or dissolve the district. (Art.VII, s. 9 of the State Constitution, requires that special district millage be authorized by a vote of the electors of such special district.)

**Section 2** amends ss.189.405(2)(c) and (3)(b), F.S., to provide that candidates for governing boards of both single and multi-county special districts must qualify by either paying a filing fee or by submitting a petition. The required filing fee is \$25 or three percent of the salary or honorarium paid for the office, whichever is greater. The petition must contain the signatures of at least three percent of the district's registered electors or any lesser amount as directed by either chs. 99 or 582, F.S, or other general or special law governing special districts not covered by ch. 189, F.S. These changes become effective January 1 of the year following the year in which this bill becomes a law.

**Section 3** amends s. 189.429, F.S., altering the date and circumstance of legislative codification of independent special districts' charters. The bill extends the deadline for codification from December 1, 2001 to December 1, 2004; provides that the Legislature may adopt a schedule for the codification process; and deletes language excluding substantive changes from a district's codifying legislation.

The language authorizing the Legislature to adopt a schedule for codification is problematic in that it does not reference the schedule proposed by the House Committee on Community Affairs, nor does it actually adopt any such schedule. As such, it is unclear whether this language is needed.

**Section 4** amends s. 15 of ch. 97-256, L.O.F., altering the date and circumstance of the completion of legislative codification of independent fire control districts' charters. The bill extends the deadline for codification from December 1, 2001 to December 1, 2004 and provides that the Legislature may adopt a schedule for the codification process.

Again, it is unclear whether there is any legal effect of language authorizing the Legislature to adopt a schedule for codification.

**Section 5** amends s. 215.425, F.S., to include special districts along with other entities which are authorized to offer extra compensation programs including lump sum bonus payments to reward outstanding employees, as long as the bonus is not included in the employees' regular base rate of pay and is not carried forward in subsequent years.

**Section 6** amends s.191.006(2), F.S., to delete the prohibition against extra compensation to conform with changes in Section 5 above.

**Section 7** provides for an effective date of upon becoming a law, except for Section 2, above.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

Some special districts will be able to defer the expense of codification of their special acts for an additional three years under the extended deadline.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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