

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: March 30, 1998 Revised: _____

Subject: Community Development 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>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 1948 authorizes any community development district to hold elections for the members of its board of supervisors in conjunction with general election; provides for election of members in groups by the qualified electors of the district; provides that board members must be qualified electors of the district; provides for staggering of terms and transition.

This bill substantially amends section 190.006 of the Florida Statutes.

II. Present Situation:

Chapter 190, F.S., the Uniform Community Development District Act, allows developers to create independent special districts with a broad range of governmental powers as a means of financing various types of infrastructure and delivering "urban community services" for planned developments. The districts (CDDs) are intended to benefit the taxpayers of counties and municipalities in which the districts are located by shifting the burden of paying for infrastructure to those buying land in the districts.

Developers are able to shift costs associated with traditional financing methods, through the ability to exercise a number of governmental powers, such as the issuance of tax-free bonds and the imposition of ad valorem taxes, benefit and maintenance assessments, special assessments, and various types of charges and fees.

Section 190.012, F.S., provides CDDs (subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts) the special power to plan, construct, and maintain systems and facilities for specified infrastructure, including those relating to water management and control; water supply, sewer and waste water management,

reclamation, and reuse; bridges or culverts; roads; and street lights. CDDs are also provided with the special power to plan, construct and maintain systems and facilities relating to parks and other outdoor recreational, cultural, and educational uses; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal.

Persons buying land and homes within CDDs pay these taxes, assessments, fees, etc., in addition to those ad valorem taxes, special assessments, and other charges imposed by the counties, municipalities, school districts, and other districts within which the CDDs are located.

Section 190.009, F.S., requires the CDD to provide a full disclosure of information concerning the public financing and maintenance of improvements to real property. Such information must be made available to all existing residents and prospective residents of the CDD. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation must ensure that the disclosure provisions are complied with.

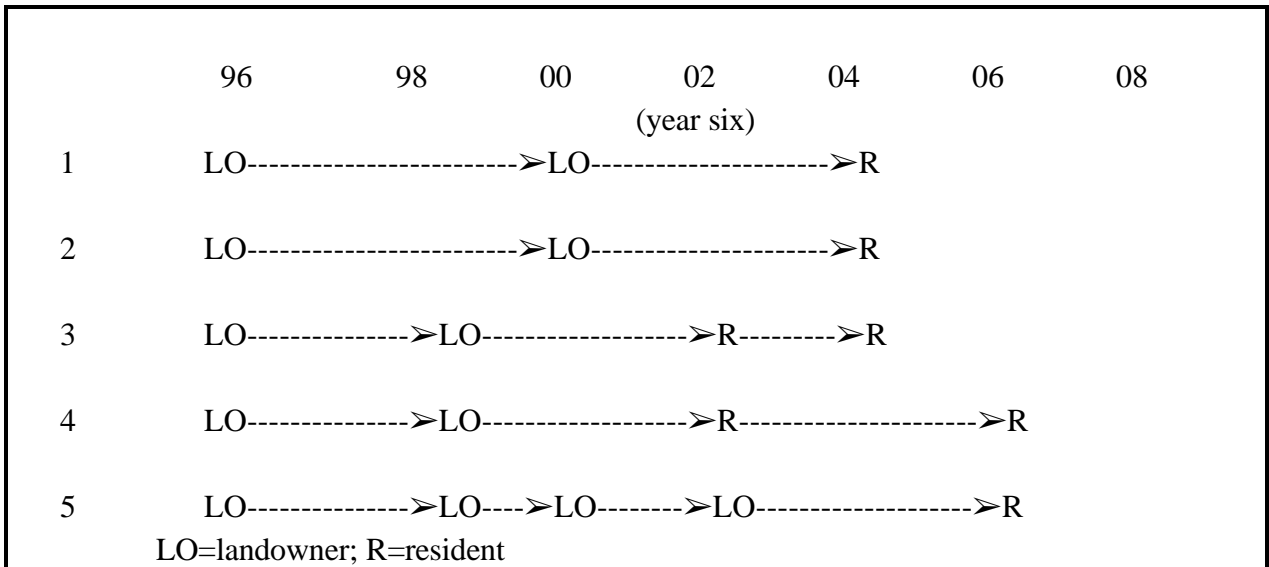
CDDs which do not exceed 1,000 acres may be created by county or municipal ordinance. Those over 1,000 acres must be created by rule of the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission. Contraction or expansion of an existing district is accomplished through the same procedures as required for creation. A CDD must be within one county.

Boards of Supervisors

Pursuant to s. 190.006, F.S., CDDs are governed by five-member boards of supervisors. The initial board is selected by vote of only the district landowners (i.e., the developer), unless the CDD will be levying ad valorem taxes, in which case the supervisors must be elected by the qualified electors (residents) of the district in a “one-person, one-vote” election. In a district which does not levy ad valorem taxes (i.e., developer controlled), the two candidates receiving the highest number of votes each serve a 4-year term, and the three candidates receiving the next highest number of votes each serve a 2-year term. The next election must be held on the first Tuesday in November, with subsequent elections held every 2 years on the first Tuesday in November, at which the two candidates receiving the highest number of votes each serve a 4-year term and the remaining candidate serves a 2-year term. These requirements provide for staggering of board members’ terms.

Section 190.006, F.S., also provides for the transition of the board of supervisors from developer control to residential control and sets forth the cycle for election of those board members. Six years after the initial appointment of board members in a district with less than 5,000 acres, if there are at least 250 qualified electors, two of the vacant board seats are to be filled by qualified electors of the district (residents), one serving a 2-year term and the other a 4-year term. The other vacant seat is to be filled by an elected landowner (developer) for a 4-year term. In a district with more than 5,000 acres, this transition occurs 10 years after the initial appointment of the board and once there are at least 500 qualified electors in the district. Thereafter, as terms expire, board members shall be qualified electors of the district (residents). The following chart depicts

the cycle of board member elections through the transition from developer control to residential control, assuming a district with fewer than 5,000 acres which has at least 250 qualified electors in year six:



The statute does not directly address which of the seats to be filled in elections taking place after transition to residential control are for 4-year terms and which are for 2-year terms, or how to otherwise ensure staggering of terms. Some CDDs have expressed concern as they have qualified electors who would like to choose to run for a 2-year or 4-year term specifically. Some CDDs have also requested authority to hold elections for boards of supervisors' positions in conjunction with the general election. The current requirement that the elections be held every 2 years on the first Tuesday in November does not always coincide with the general election, which is held on the first Tuesday after the first Monday in November every even-numbered year (*see* s. 100.031, F.S.). A CDD which established its first board in an odd-numbered year is always 1 year off from the general election cycle.

III. Effect of Proposed Changes:

Section 1 creates a new subparagraph in s. 190.006(3)(a), F.S., to authorize the board of any community development district to hold elections of its members in conjunction with the general election and to provide for the duration and staggering of board members' terms after transition to residential control. New sub-subparagraph 3.a. provides for the division of the board of supervisors into five groups to be voted on districtwide, with each qualified elector entitled to vote for one candidate from each group. The candidate receiving the highest number of votes in each group is elected as the board member for that group. The bill provides for the duration of board members' terms as follows: At the first election, three members are elected for 4-year terms each and two members are elected for 2-year terms each. At each subsequent election, all members are elected for 4-year terms. The bill provides for staggering of board members' terms by providing for the election of board members for odd-numbered groups (one, three and five) in

each election year which is a multiple of four, and election of members from even-numbered groups (two and four) in each election year which is not a multiple of four. New subparagraph 3.b. authorizes the board to extend or reduce by up to 1 year the term of any sitting board member leading up to the initial transitional election in order to ensure that all five positions are filled at that election for appropriately staggered terms.

Section 2 provides an effective date upon becoming a law.

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:

None.

VI. Technical Deficiencies:

On page 4, lines 8 and 9, the bill states that the “board of supervisors *of that board*” shall be divided into five groups. . . .” It is unclear what the second board is referencing, or whether the phrase “of that board” is needed at all. If needed, the appropriate reference is probably to the “board of supervisors of that *district*.”

VII. Related Issues:

None.

VIII. Amendments:

None.

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