

By the Committee on Community Affairs and Representative
Gay

1 A bill to be entitled
2 An act relating to special districts; amending
3 s. 189.4031, F.S.; providing that community
4 development districts established pursuant to
5 ch. 190, F.S., shall be deemed in compliance
6 with certain charter requirements; amending s.
7 189.405, F.S.; requiring newly elected or
8 appointed special district board members to
9 complete an educational course conducted by the
10 Florida Association of Special Districts and
11 providing requirements with respect thereto;
12 providing requirements with respect to fees;
13 amending s. 189.412, F.S.; providing that the
14 Special District Information Program may assist
15 with the association's annual conference;
16 amending s. 190.004, F.S.; specifying
17 requirements for the charter of a community
18 development district; amending s. 190.005,
19 F.S.; providing requirements for the petition
20 to reestablish an existing special district as
21 a community development district; revising
22 language with respect to establishment of such
23 districts; amending ss. 190.006 and 190.011,
24 F.S.; revising requirements relating to the
25 date of the election for the board of
26 supervisors of such districts; revising
27 requirements relating to the location of the
28 office of such a district; authorizing the
29 holding of meetings at such office for certain
30 districts; amending s. 190.009, F.S.; revising
31 requirements relating to provision of the

1 disclosure of public financing by such
2 districts to prospective purchasers of real
3 property; amending s. 190.012, F.S.; revising
4 and expanding the powers of such districts;
5 amending s. 190.021, F.S.; specifying the
6 status of special assessments imposed by such
7 districts; specifying that such assessments
8 constitute a lien against the property;
9 providing for collection thereof and tax
10 collectors' compensation; amending s. 190.022,
11 F.S.; revising requirements relating to special
12 assessments for construction, acquisition, or
13 maintenance of district facilities; amending s.
14 190.033, F.S.; revising bid requirements for
15 the purchase of goods and the construction or
16 improvement of public works and for contracts
17 for maintenance services; amending s. 190.046,
18 F.S.; revising requirements relating to consent
19 to a change in the boundaries of such districts
20 and limitations on such boundary changes;
21 amending s. 190.048, F.S.; revising
22 requirements relating to the required
23 disclosure to purchasers of real estate within
24 a district; creating s. 190.0485, F.S.;
25 requiring such districts to record a notice of
26 establishment; providing for application to
27 existing districts; amending s. 190.049, F.S.;
28 providing an exception to the prohibition
29 against special laws or general laws of local
30 application creating an independent special
31 district having two or more of a community

1 development district's special powers
2 enumerated in s. 190.012, F.S.; providing an
3 effective date.

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

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7 Section 1. Subsection (2) of section 189.4031, Florida
8 Statutes, is amended to read:

9 189.4031 Special districts; creation, dissolution, and
10 reporting requirements; charter requirements.--

11 (2) Notwithstanding any general law, special act, or
12 ordinance of a local government to the contrary, any
13 independent special district charter enacted after the
14 effective date of this section shall contain the information
15 required by s. 189.404(3). Recognizing that the exclusive
16 charter for a community development district is the statutory
17 charter contained in ss. 190.006 through 190.041, community
18 development districts established after July 1, 1980, pursuant
19 to the provisions of chapter 190 shall be deemed in compliance
20 with this requirement.

21 Section 2. Subsections (5) and (6) of section 189.405,
22 Florida Statutes, 1998 Supplement, are renumbered as
23 subsections (6) and (7), respectively, and a new subsection
24 (5) is added to said section to read:

25 189.405 Elections; general requirements and
26 procedures.--

27 (5)(a) Beginning August 1, 2000, all newly elected or
28 appointed members of district boards, as identified by the
29 Division of Elections of the Department of State, shall
30 complete, at a minimum, 6 hours of elected officials'
31 education courses within the first calendar year of election

1 or appointment. The department shall assist the Florida
2 Association of Special Districts, or its successor, in
3 conducting the education program at its annual conference.
4 This education program, in conjunction with the annual
5 conference, shall include, but is not limited to, courses on
6 the code of ethics for public officers and employees, public
7 meetings and public records requirements, public finance, and
8 parliamentary procedure. Course content may be offered by
9 means of the following: videotapes, live seminars, workshops,
10 conferences, teleconferences, computer-based training,
11 multimedia presentations, or other available instructional
12 methods. Members unable to attend the conference may fulfill
13 this requirement by viewing a videotape of the course or
14 accessing the course through some other medium. Content of the
15 course and the media employed shall be decided by the Florida
16 Association of Special Districts, or its successor. It shall
17 be the responsibility of each member to demonstrate compliance
18 with this education requirement by filing with the district
19 clerk or secretary a course completion statement, signed by
20 the course provider, within 30 days of completing the
21 education program. Any member who fails to show compliance
22 within the first calendar year of election or appointment
23 shall not be entitled to vote on district matters until the
24 requirement is satisfied.

25 (b)1. Fees, if any, paid by participants at the annual
26 conference shall include any costs associated with the
27 education program.

28 2. An individual district board, at its discretion,
29 may bear the costs associated with educating its members.
30 Board members of districts which have qualified for a zero
31 annual fee for the most recent invoicing period pursuant to s.

1 189.427 shall not be required to pay a fee for the education
2 program.

3 (c) This subsection does not apply to special district
4 governing board members who are also elected governing board
5 members of local general-purpose governments, members of the
6 judiciary, or nonvoting appointees.

7 Section 3. Subsection (7) of section 189.412, Florida
8 Statutes, is amended to read:

9 189.412 Special District Information Program; duties
10 and responsibilities.--The Special District Information
11 Program of the Department of Community Affairs is created and
12 has the following special duties:

13 (7) The provision of assistance related to and
14 appropriate in the performance of requirements specified in
15 this chapter, including assisting with an annual conference
16 sponsored by the Florida Association of Special Districts or
17 its successor.

18 Section 4. Subsection (3) of section 190.004, Florida
19 Statutes, is amended, and subsection (4) is added to said
20 section, to read:

21 190.004 Preemption; sole authority.--

22 (3) The establishment ~~creation~~ of an independent
23 community development district as provided in this act is not
24 a development order within the meaning of chapter 380. All
25 governmental planning, environmental, and land development
26 laws, regulations, and ordinances apply to all development of
27 the land within a community development district. Community
28 development districts do not have the power of a local
29 government to adopt a comprehensive plan, building code, or
30 land development code, as those terms are defined in the Local
31 Government Comprehensive Planning and Land Development

1 Regulation Act. A district shall take no action which is
2 inconsistent with applicable comprehensive plans, ordinances,
3 or regulations of the applicable local general-purpose
4 government.

5 (4) The exclusive charter for a community development
6 district shall be the uniform community development district
7 charter as set forth in ss. 190.006 through 190.041, including
8 the special powers provided by s. 190.012.

9 Section 5. Paragraph (e) of subsection (1) and
10 subsection (3) of section 190.005, Florida Statutes, 1998
11 Supplement, are amended to read:

12 190.005 Establishment of district.--

13 (1) The exclusive and uniform method for the
14 establishment of a community development district with a size
15 of 1,000 acres or more shall be pursuant to a rule, adopted
16 under chapter 120 by the Florida Land and Water Adjudicatory
17 Commission, granting a petition for the establishment of a
18 community development district.

19 (e) The Florida Land and Water Adjudicatory Commission
20 shall consider the entire record of the local hearing, the
21 transcript of the hearing, resolutions adopted by local
22 general-purpose governments as provided in paragraph (c), and
23 the following factors and make a determination to grant or
24 deny a petition for the establishment of a community
25 development district:

26 1. Whether all statements contained within the
27 petition have been found to be true and correct.

28 2. Whether the establishment ~~creation~~ of the district
29 is inconsistent with any applicable element or portion of the
30 state comprehensive plan or of the effective local government
31 comprehensive plan.

1 3. Whether the area of land within the proposed
2 district is of sufficient size, is sufficiently compact, and
3 is sufficiently contiguous to be developable as one functional
4 interrelated community.

5 4. Whether the district is the best alternative
6 available for delivering community development services and
7 facilities to the area that will be served by the district.

8 5. Whether the community development services and
9 facilities of the district will be incompatible with the
10 capacity and uses of existing local and regional community
11 development services and facilities.

12 6. Whether the area that will be served by the
13 district is amenable to separate special-district government.

14 (3) The governing body of any existing special
15 district, created to provide one or more of the public
16 improvements and community facilities authorized by this act,
17 may petition, ~~pursuant to this act,~~ for reestablishment of the
18 existing district as a community development district pursuant
19 to this act. The petition shall contain the information
20 specified in subparagraphs (1)(a)1., 3., 4., 5., 6., and 7.
21 and shall not require payment of a fee pursuant to paragraph
22 (1)(b). In such case, the new district so formed shall assume
23 the existing obligations, indebtedness, and guarantees of
24 indebtedness of the district so subsumed, and the existing
25 district shall be terminated.

26 Section 6. Paragraph (b) of subsection (2) and
27 subsection (7) of section 190.006, Florida Statutes, are
28 amended to read:

29 190.006 Board of supervisors; members and meetings.--

30 (2)(a) Within 90 days following the effective date of
31 the rule or ordinance establishing the district, there shall

1 be held a meeting of the landowners of the district for the
2 purpose of electing five supervisors for the district. Notice
3 of the landowners' meeting shall be published once a week for
4 2 consecutive weeks in a newspaper which is in general
5 circulation in the area of the district, the last day of such
6 publication to be not fewer than 14 days or more than 28 days
7 before the date of the election. The landowners, when
8 assembled at such meeting, shall organize by electing a chair
9 who shall conduct the meeting.

10 (b) At such meeting, each landowner shall be entitled
11 to cast one vote per acre of land owned by him or her and
12 located within the district for each person to be elected. A
13 landowner may vote in person or by proxy in writing. A
14 fraction of an acre shall be treated as 1 acre, entitling the
15 landowner to one vote with respect thereto. The two
16 candidates receiving the highest number of votes shall be
17 elected for a period of 4 years, and the three candidates
18 receiving the next largest number of votes shall be elected
19 for a period of 2 years. The members of the first board
20 elected by landowners shall serve their respective 4-year or
21 2-year terms; however, the next election by landowners shall
22 be held on the first Tuesday in November. Thereafter, there
23 shall be an election of supervisors for the district every 2
24 years ~~on the first Tuesday~~ in November on a date established
25 by the board and noticed pursuant to paragraph (a). The two
26 candidates receiving the highest number of votes shall be
27 elected to serve for a 4-year period, and the remaining
28 candidate elected shall serve for a 2-year period.

29 (7) The board shall keep a permanent record book
30 entitled "Record of Proceedings of ...(name of district)...
31 Community Development District," in which shall be recorded

1 minutes of all meetings, resolutions, proceedings,
2 certificates, bonds given by all employees, and any and all
3 corporate acts. The record book shall at reasonable times be
4 opened to inspection in the same manner as state, county, and
5 municipal records pursuant to chapter 119. The record book
6 shall be kept at the office or other regular place of business
7 maintained by the board in the county or municipality in which
8 the district is located or within the boundaries of a
9 development of regional impact or Florida Quality Development,
10 or combination of a development of regional impact and Florida
11 Quality Development, which includes the district.

12 Section 7. Subsection (1) of section 190.009, Florida
13 Statutes, is amended to read:

14 190.009 Disclosure of public financing.--

15 (1) The district shall take affirmative steps to
16 provide for the full disclosure of information relating to the
17 public financing and maintenance of improvements to real
18 property undertaken by the district. Such information shall be
19 made available to all existing residents, and to all
20 prospective residents, of the district. The district shall
21 furnish each developer of a residential development within the
22 district with sufficient copies of that information to provide
23 each prospective initial purchaser of property in that
24 development with a copy, and any developer of a residential
25 development within the district, when required by law to
26 provide a public offering statement, shall include a copy of
27 such information relating to the public financing and
28 maintenance of improvements in the public offering statement.

29 Section 8. Subsection (6) of section 190.011, Florida
30 Statutes, is amended to read:

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1 190.011 General powers.--The district shall have, and
2 the board may exercise, the following powers:

3 (6) To maintain an office at such place or places as
4 it may designate within a county in which the district is
5 located or within the boundaries of a development of regional
6 impact or a Florida Quality Development, or a combination of a
7 development of regional impact and a Florida Quality
8 Development, which includes the district, which office must be
9 reasonably accessible to the landowners. Meetings pursuant to
10 s. 189.417(3) of a district within the boundaries of a
11 development of regional impact or Florida Quality Development,
12 or a combination of a development of regional impact and a
13 Florida Quality Development, may be held at such office.

14 Section 9. Subsection (1) of section 190.012, Florida
15 Statutes, is amended to read:

16 190.012 Special powers; public improvements and
17 community facilities.--The district shall have, and the board
18 may exercise, subject to the regulatory jurisdiction and
19 permitting authority of all applicable governmental bodies,
20 agencies, and special districts having authority with respect
21 to any area included therein, any or all of the following
22 special powers relating to public improvements and community
23 facilities authorized by this act:

24 (1) To finance, fund, plan, establish, acquire,
25 construct or reconstruct, enlarge or extend, equip, operate,
26 and maintain systems, ~~and~~ facilities, and basic
27 infrastructures for the following ~~basic infrastructures~~:

28 (a) Water management and control for the lands within
29 the district and to connect some or any of such facilities
30 with roads and bridges.

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1 (b) Water supply, sewer, and wastewater management,
2 reclamation, and reuse or any combination thereof, and to
3 construct and operate connecting intercepting or outlet sewers
4 and sewer mains and pipes and water mains, conduits, or
5 pipelines in, along, and under any street, alley, highway, or
6 other public place or ways, and to dispose of any effluent,
7 residue, or other byproducts of such system or sewer system.

8 (c) Bridges or culverts that may be needed across any
9 drain, ditch, canal, floodway, holding basin, excavation,
10 public highway, tract, grade, fill, or cut and roadways over
11 levees and embankments, and to construct any and all of such
12 works and improvements across, through, or over any public
13 right-of-way, highway, grade, fill, or cut.

14 (d)1. District roads equal to or exceeding the
15 specifications of the county in which such district roads are
16 located, and street lights.

17 2. Buses, trolleys, transit shelters, ridesharing
18 facilities and services, parking improvements, and related
19 signage.

20 (e) Conservation areas, mitigation areas, and wildlife
21 habitat, including the maintenance of any plant or animal
22 species, and any related interest in real or personal
23 property.

24 (f)~~(e)~~ Any other project within or without the
25 boundaries of a district when a local government issued a
26 development order pursuant to s. 380.06 or s. 380.061
27 approving or expressly requiring the construction or funding
28 of the project by the district, or when the project is the
29 subject of an agreement between the district and a
30 governmental entity and is consistent with the local
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1 government comprehensive plan of the local government within
2 which the project is to be located.

3 Section 10. Subsections (8) and (9) are added to
4 section 190.021, Florida Statutes, to read:

5 190.021 Taxes; non-ad valorem assessments.--

6 (8) STATUS OF ASSESSMENTS.--Benefit special
7 assessments, maintenance special assessments, and special
8 assessments are non-ad valorem assessments as defined by s.
9 197.3632.

10 (9) ASSESSMENTS CONSTITUTE LIENS; COLLECTION.--Benefit
11 special assessments and maintenance special assessments
12 authorized by this section, and special assessments authorized
13 by s. 190.022, shall constitute a lien on the property against
14 which assessed from the date of imposition thereof until paid,
15 co-equal with the lien of state, county, municipal, and school
16 board taxes. These non-ad valorem assessments may be
17 collected, at the district's discretion, by the tax collector
18 pursuant to the provisions of s. 197.363 or s. 197.3632, or in
19 accordance with other collection measures provided by law.
20 Compensation to the tax collector for the necessary
21 administrative costs and costs of collection of the district's
22 non-ad valorem assessments shall be calculated pursuant to s.
23 192.091(2)(b)2. if collected by the tax collector under any
24 collection measure provided by law.

25 Section 11. Section 190.022, Florida Statutes, is
26 amended to read:

27 190.022 Special assessments.--

28 (1) The board may levy special assessments for the
29 construction, reconstruction, acquisition, or maintenance of
30 district facilities authorized under this chapter using the
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1 procedures for levy and collection provided in chapter 170 or
2 chapter 197.

3 (2) Notwithstanding the provisions of s. 170.09,
4 district assessments may be made payable in no more than 30 ~~20~~
5 yearly installments.

6 Section 12. Subsections (1) and (3) of section
7 190.033, Florida Statutes, are amended to read:

8 190.033 Bids required.--

9 (1) No contract shall be let by the board for ~~the~~
10 ~~construction of any project authorized by this act, nor shall~~
11 ~~any goods, supplies, or materials to be purchased,~~when the
12 amount thereof to be paid by the district shall exceed the
13 amount provided in s. 287.017 for category four~~\$10,000,~~
14 unless notice of bids shall be advertised once in a newspaper
15 in general circulation in the county and in the district. Any
16 board seeking to construct or improve a public building,
17 structure, or other public works shall comply with the bidding
18 procedures of s. 255.20 and other applicable general law.In
19 each case, the bid of the lowest responsive and responsible
20 bidder shall be accepted unless all bids are rejected because
21 the bids are too high, or the board determines it is in the
22 best interests of the district to reject all bids. The board
23 may require the bidders to furnish bond with a responsible
24 surety to be approved by the board. Nothing in this section
25 shall prevent the board from undertaking and performing the
26 construction, operation, and maintenance of any project or
27 facility authorized by this act by the employment of labor,
28 material, and machinery.

29 (3) Contracts for maintenance services for any
30 district facility or project shall be subject to competitive
31 bidding requirements when the amount thereof to be paid by the

1 district exceeds the amount provided in s. 287.017~~(1) and (2)~~
2 for category four ~~two~~. The district shall adopt rules,
3 policies, or procedures establishing competitive bidding
4 procedures for maintenance services. Contracts for other
5 services shall not be subject to competitive bidding unless
6 the district adopts a rule, policy, or procedure applying
7 competitive bidding procedures to said contracts.

8 Section 13. Paragraphs (e) and (f) of subsection (1)
9 of section 190.046, Florida Statutes, are amended to read:

10 190.046 Termination, contraction, or expansion of
11 district.--

12 (1) The board may petition to contract or expand the
13 boundaries of a community development district in the
14 following manner:

15 (e) In all cases, written consent of all the
16 landowners whose land is to be added to or deleted from the
17 district shall be required. The filing of the petition for
18 expansion or contraction by the district board of supervisors
19 shall constitute consent of the landowners within the district
20 other than of landowners whose land is proposed to be added to
21 or removed from the district.

22 (f)1. During the existence of a ~~the~~ district initially
23 established by administrative rule, petitions to amend the
24 boundaries of the district pursuant to paragraphs (a)-(e)
25 shall be limited to a cumulative total of no more than 10
26 percent of the land in the initial district, and in no event
27 shall all such petitions to amend the boundaries ever
28 encompass more than a total of 250 acres.

29 2. For districts initially established by county or
30 municipal ordinance, the limitation provided by this paragraph
31 shall be a cumulative total of no more than 50 percent of the

1 land in the initial district, and in no event shall all such
2 petitions to amend the boundaries ever encompass more than a
3 total of 500 acres.

4 3. Boundary expansions for districts initially
5 established by county or municipal ordinance shall follow the
6 procedure set forth in paragraph (b) or paragraph (c).

7 Section 14. Section 190.048, Florida Statutes, is
8 amended to read:

9 190.048 Sale of real estate within a district;
10 required disclosure to purchaser.--Subsequent to the
11 establishment ~~creation~~ of a district under this chapter, each
12 contract for the initial sale of a parcel of real property and
13 each contract for the initial sale of a residential unit
14 ~~estate~~ within the district shall include, immediately prior to
15 the space reserved in the contract for the signature of the
16 purchaser, the following disclosure statement in boldfaced and
17 conspicuous type which is larger than the type in the
18 remaining text of the contract: "THE ...(Name of
19 District)...COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY
20 ~~IMPOSES~~ TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS,
21 ON THIS PROPERTY ~~THROUGH A SPECIAL TAXING DISTRICT~~. THESE
22 TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND
23 MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF
24 THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF
25 THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO
26 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND
27 ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

28 Section 15. Section 190.0485, Florida Statutes, is
29 created to read:

30 190.0485 Notice of establishment.--Within 30 days
31 after the effective date of a rule or ordinance establishing a

1 community development district under this act, the district
2 shall cause to be recorded in the property records in the
3 county in which it is located a "Notice of Establishment of
4 the ____ Community Development District." The notice shall,
5 at a minimum, include the legal description of the district
6 and a copy of the disclosure statement specified in s.
7 190.048.

8 Section 16. Each community development district in
9 existence on the effective date of this act shall record a
10 notice of establishment as specified in s. 190.0485, Florida
11 Statutes, as created by this act, within 90 days after that
12 date, unless the district has previously recorded a notice
13 that meets the requirements set forth in that section.

14 Section 17. (1) Section 190.049, Florida Statutes, is
15 amended to read:

16 190.049 Special acts prohibited.--Pursuant to s.
17 11(a)(21), Art. III of the State Constitution, there shall be
18 no special law or general law of local application creating an
19 independent special district which has the powers enumerated
20 in two or more of the paragraphs contained in s. 190.012,
21 unless such district is created pursuant to the provisions of
22 s. 189.404.

23 (2) This section shall take effect upon this act
24 becoming a law, if passed by a three-fifths vote of the
25 membership of each house.

26 Section 18. This act shall take effect upon becoming a
27 law.

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HOUSE SUMMARY

Requires newly elected or appointed special district board members to complete an educational course conducted by the Florida Association of Special Districts at its annual conference and provides requirements with respect thereto.

Provides that community development districts established pursuant to ch. 190, F.S., shall be deemed in compliance with certain charter requirements and specifies requirements for such districts' charters. Provides requirements for the petition to reestablish an existing special district as a community development district. Revises requirements relating to the date of the election of such a district's board of supervisors. Revises requirements relating to the location of the office of such a district and authorizes certain districts to hold meetings at their office. Revises requirements relating to provision of the disclosure of public financing by such districts to prospective purchasers of real property. Revises and expands district powers. Specifies the status of special assessments imposed by such districts. Specifies that such assessments constitute a lien against the property and provides for collection thereof and for tax collectors' compensation. Revises requirements relating to special assessments for construction, acquisition, or maintenance of district facilities. Revises bid requirements for the purchase of goods and the construction or improvement of public works and for contracts for maintenance services. Revises requirements relating to consent to the change in the boundaries of such districts and limitations on such boundary changes. Revises requirements relating to the required disclosure to purchasers of real estate within a district. Requires such districts to record a notice of establishment and provides for application to existing districts. Provides an exception to the prohibition against special laws or general laws of local application creating an independent special district having two or more of a community development district's special powers enumerated in s. 190.012, F.S.