

By Senator Rossin

35-1586A-99

1 A bill to be entitled
2 An act relating to special districts; amending
3 s. 190.004, F.S.; providing that ss.
4 190.006-190.041, F.S., constitute the exclusive
5 charter for such districts; amending s.
6 190.005, F.S.; prescribing requirements for
7 reestablishment of existing special districts
8 as community development districts; amending s.
9 190.006, F.S.; prescribing location where
10 records of community development districts may
11 be kept; amending s. 190.009, F.S.; revising
12 requirements relating to disclosure of public
13 financing; amending s. 190.011, F.S.; revising
14 requirements for location of district office;
15 amending s. 190.012, F.S.; prescribing
16 additional powers of districts; amending s.
17 190.021, F.S.; providing that certain
18 assessments are non-ad valorem assessments;
19 providing for the collection of such
20 assessments; providing that such assessments
21 constitute liens on the property against which
22 assessed; amending s. 190.022, F.S.; revising
23 procedures for assessment and collection of
24 special assessments; amending s. 190.033, F.S.;
25 revising procedures for bidding for district
26 projects; amending s. 190.046, F.S.; revising
27 procedures and guidelines for expansion or
28 contraction of district boundaries; amending s.
29 190.048, F.S.; revising requirements for notice
30 upon sale of property within a district;
31 creating s. 190.0485, F.S.; requiring a

1 district to record notice of its establishment;
2 requiring certain preexisting districts to
3 record such notice; amending s. 190.049, F.S.;
4 revising the prohibition against special acts
5 and general acts of local application that
6 create certain special districts; amending s.
7 189.4031, F.S.; providing that community
8 development districts are in conformity with
9 certain requirements applicable to independent
10 special districts; amending s. 189.405, F.S.;
11 requiring education courses for certain public
12 officials; providing an effective date and a
13 contingent effective date.

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

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17 Section 1. Section 190.004, Florida Statutes, is
18 amended to read:

19 190.004 Preemption; sole authority; statutory
20 charter.--

21 (1) This act constitutes the sole authorization for
22 the future establishment of independent community development
23 districts which have any of the specialized functions and
24 powers provided by this act.

25 (2) This act does not affect any community development
26 district or other special district existing on June 29, 1984;
27 and existing community development districts will continue to
28 be subject to the provisions of chapter 80-407, Laws of
29 Florida.

30 (3) The creation of an independent community
31 development district as provided in this act is not a

1 development order within the meaning of chapter 380. All
2 governmental planning, environmental, and land development
3 laws, regulations, and ordinances apply to all development of
4 the land within a community development district. Community
5 development districts do not have the power of a local
6 government to adopt a comprehensive plan, building code, or
7 land development code, as those terms are defined in the Local
8 Government Comprehensive Planning and Land Development
9 Regulation Act. A district shall take no action which is
10 inconsistent with applicable comprehensive plans, ordinances,
11 or regulations of the applicable local general-purpose
12 government.

13 (4) The exclusive charter for a community development
14 district shall be the uniform community development district
15 charter set forth in ss. 190.006-190.041.

16 Section 2. Subsection (3) of section 190.005, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 190.005 Establishment of district.--

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

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1 Section 3. Subsection (7) of section 190.006, Florida
2 Statutes, is amended to read:

3 190.006 Board of supervisors; members and meetings.--

4 (7) The board shall keep a permanent record book
5 entitled "Record of Proceedings of ...(name of district)...
6 Community Development District," in which shall be recorded
7 minutes of all meetings, resolutions, proceedings,
8 certificates, bonds given by all employees, and any and all
9 corporate acts. The record book shall at reasonable times be
10 opened to inspection in the same manner as state, county, and
11 municipal records pursuant to chapter 119. The record book
12 shall be kept at the office or other regular place of business
13 maintained by the board in the county or municipality in which
14 the district is located or within the boundaries of a
15 development of regional impact or Florida Quality Development
16 that includes the district.

17 Section 4. Subsection (1) of section 190.009, Florida
18 Statutes, is amended to read:

19 190.009 Disclosure of public financing.--

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

1 such information relating to the public financing and
2 maintenance of improvements in the public offering statement.

3 Section 5. Subsection (6) of section 190.011, Florida
4 Statutes, is amended to read:

5 190.011 General powers.--The district shall have, and
6 the board may exercise, the following powers:

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

13 Section 6. Subsection (1) of section 190.012, Florida
14 Statutes, is amended to read:

15 190.012 Special powers; public improvements and
16 community facilities.--The district shall have, and the board
17 may exercise, subject to the regulatory jurisdiction and
18 permitting authority of all applicable governmental bodies,
19 agencies, and special districts having authority with respect
20 to any area included therein, any or all of the following
21 special powers relating to public improvements and community
22 facilities authorized by this act:

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

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

30 (b) Water supply, sewer, and wastewater management,
31 reclamation, and reuse or any combination thereof, and to

1 construct and operate connecting intercepting or outlet sewers
2 and sewer mains and pipes and water mains, conduits, or
3 pipelines in, along, and under any street, alley, highway, or
4 other public place or ways, and to dispose of any effluent,
5 residue, or other byproducts of such system or sewer system.

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

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

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

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

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

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1 Section 7. Subsections (8) and (9) are added to
2 section 190.021, Florida Statutes, to read:

3 190.021 Taxes; non-ad valorem assessments.--

4 (8) NON-AD VALOREM ASSESSMENTS.--Benefit special
5 assessments, maintenance special assessments, and special
6 assessments are non-ad valorem assessments as defined in s.
7 197.3632.

8 (9) ASSESSMENTS AS LIENS.--Benefit special assessments
9 and maintenance special assessments authorized by this section
10 and special assessments authorized in s. 190.022 shall
11 constitute a lien on the property against which assessed from
12 the date of imposition thereof until paid, coequal with the
13 lien of state, county, municipal, and school district taxes.
14 These non-ad valorem assessments may be collected, at the
15 district's discretion, by the tax collector pursuant to s.
16 197.363, s. 197.3631, or s. 197.3632 or in accordance with
17 other collection measures provided by law. Compensation to the
18 tax collector for the necessary administrative costs and costs
19 of collection of the district's non-ad valorem assessments
20 shall be calculated pursuant to s. 192.091(2)(b)2. if
21 collected by the tax collector under any collection measure
22 provided by law.

23 Section 8. Section 190.022, Florida Statutes, is
24 amended to read:

25 190.022 Special assessments.--

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

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

4 Section 9. Subsections (1) and (3) of section 190.033,
5 Florida Statutes, are amended to read:

6 190.033 Bids required.--

7 (1) No contract shall be let by the board for ~~the~~
8 ~~construction of any project authorized by this act, nor shall~~
9 any goods, supplies, or materials to be purchased, when the
10 amount thereof to be paid by the district exceeds the amount
11 provided in s. 287.017(1) and (2) for category four ~~shall~~
12 ~~exceed \$10,000~~, unless notice of bids shall be advertised once
13 in a newspaper in general circulation in the county and in the
14 district. Any board seeking to construct or improve a public
15 building or structure or other public work must comply with
16 the bidding procedures of s. 255.20 and other applicable
17 general law.In each case, the bid of the lowest responsive
18 and responsible bidder shall be accepted unless all bids are
19 rejected because the bids are too high, or the board
20 determines it is in the best interests of the district to
21 reject all bids. The board may require the bidders to furnish
22 bond with a responsible surety to be approved by the board.
23 Nothing in this section shall prevent the board from
24 undertaking and performing the construction, operation, and
25 maintenance of any project or facility authorized by this act
26 by the employment of labor, material, and machinery.

27 (3) Contracts for maintenance services for any
28 district facility or project shall be subject to competitive
29 bidding requirements when the amount thereof to be paid by the
30 district exceeds the amount provided in s. 287.017(1) and (2)
31 for category four ~~two~~. The district shall adopt rules,

1 policy, or procedures establishing competitive bidding
2 procedures for maintenance services. Contracts for other
3 services shall not be subject to competitive bidding unless
4 the district adopts a rule, policy, or procedure applying
5 competitive bidding procedures to such ~~said~~ contracts.

6 Section 10. Paragraphs (e) and (f) of subsection (1)
7 of section 190.046, Florida Statutes, are amended to read:

8 190.046 Termination, contraction, or expansion of
9 district.--

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

13 (e) In all cases, written consent of all the
14 landowners whose land is to be added to or deleted from the
15 district shall be required. The filing of the petition for
16 expansion by the district board of supervisors constitutes
17 consent of the landowners within the community development
18 district.

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

26 2. For districts initially established by county or
27 municipal ordinance, the limitation shall be a cumulative
28 total of no more than 50 percent of land in the initial
29 district, and in no event may all such petitions to amend the
30 boundaries encompass more than 500 acres.

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1 3. Boundary expansions for districts initially
2 established by county or municipal ordinance must follow the
3 procedure set forth in paragraph (b) or paragraph (c).

4 Section 11. Section 190.048, Florida Statutes, is
5 amended to read:

6 190.048 Sale of real estate within a district;
7 required disclosure to purchaser.--Subsequent to the
8 establishment ~~creation~~ of a district under this chapter, each
9 contract for the initial sale of a parcel of real property and
10 each contract for the initial sale of a residential unit ~~real~~
11 ~~estate~~ within the district shall include, immediately prior to
12 the space reserved in the contract for the signature of the
13 purchaser, the following disclosure statement in boldfaced and
14 conspicuous type which is larger than the type in the
15 remaining text of the contract: "THE ...(Name of District)...
16 COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY IMPOSES
17 TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS
18 PROPERTY ~~THROUGH A SPECIAL TAXING DISTRICT.~~ THESE TAXES AND
19 ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE
20 COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE
21 DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE
22 DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO
23 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND
24 ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

25 Section 12. Section 190.0485, Florida Statutes, is
26 created to read:

27 190.0485 Notice of establishment.--Within 30 days
28 after the effective date of a rule or ordinance establishing a
29 community development district under this chapter, the
30 district shall cause to be recorded in the property records of
31 the county in which it is located a "Notice of the

1 Establishment of the Community Development
2 District." The notice must, at a minimum, include the legal
3 description of the district and a copy of the disclosure
4 statement specified in s. 190.048.

5 Section 13. Each community development district in
6 existence on July 1, 1999, shall record a notice of
7 establishment described in section 190.0485, Florida Statutes,
8 as created by this act, within 90 days after that date unless
9 the district has previously recorded a notice that meets the
10 requirements of that section.

11 Section 14. Section 190.049, Florida Statutes, is
12 amended to read:

13 190.049 Special acts prohibited.--Pursuant to s.
14 11(a)(21), Art. III of the State Constitution, there shall be
15 no special law or general law of local application creating an
16 independent special district which has the powers enumerated
17 in two or more of the paragraphs contained in s. 190.012,
18 unless such district is created pursuant to s. 189.404.

19 Section 15. Subsection (2) of section 189.4031,
20 Florida Statutes, is amended to read:

21 189.4031 Special districts; creation, dissolution, and
22 reporting requirements; charter requirements.--

23 (2) Notwithstanding any general law, special act, or
24 ordinance of a local government to the contrary, any
25 independent special district charter enacted after the
26 effective date of this section shall contain the information
27 required by s. 189.404(3). Recognizing that the exclusive
28 charter for a community development district is the statutory
29 charter contained in ss. 190.006-190.041, community
30 development districts established after July 1, 1980, pursuant
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1 to chapter 190 shall be deemed in compliance with the
2 requirement of this subsection.

3 Section 16. Subsection (7) is added to section
4 189.405, Florida Statutes, 1998 Supplement, to read:

5 189.405 Elections; general requirements and
6 procedures.--

7 (7) All newly elected or appointed members of district
8 boards must complete, at a minimum, 6 hours of elected
9 officials education within the first calendar year after
10 election or appointment. An educational course shall be
11 conducted by the department in cooperation with the Florida
12 Association of Special Districts or its successor and must
13 include, but is not limited to, courses on the Public
14 Officials' Code of Ethics, government in the sunshine, public
15 records laws, public finance, and parliamentary procedure.
16 Certification of completion of education requirements shall be
17 filed with the district clerk or secretary. Any member who
18 fails to certify completion within the first calendar year
19 after election or appointment may not vote on district matters
20 until the requirements are satisfied. This subsection does not
21 apply to special district governing board members who are also
22 elected members of the governing body of a local
23 general-purpose government, members of the judiciary, members
24 of the governing board of a water management district under
25 chapter 373, or nonvoting appointees.

26 Section 17. This act shall take effect July 1, 1999,
27 except that the amendment to section 190.049, Florida
28 Statutes, shall not take effect unless this act is enacted by
29 a three-fifths vote of the membership of each house of the
30 Legislature.

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SENATE SUMMARY

Revises various provisions relating to the creation, powers, and duties of community development and other special districts. (See bill for details.)