

By the Committee on Comprehensive Planning

316-838-04

1 A bill to be entitled
 2 An act relating to community development
 3 districts; amending s. 190.046, F.S.; providing
 4 for additional dissolution procedures; amending
 5 s. 190.006, F.S.; specifying procedures for
 6 selecting a chair at the initial landowners'
 7 meeting; specifying requirements for proxy
 8 voting; requiring notice of landowners'
 9 elections; specifying the terms of certain
 10 supervisors; providing for nonpartisan
 11 elections; specifying the time that resident
 12 supervisors assume office; authorizing the
 13 supervisor of elections to designate seat
 14 numbers for resident supervisors of the board;
 15 providing procedures for filing qualifying
 16 papers; allowing candidates the option of
 17 paying a filing fee to qualify for the
 18 election; specifying payment requirements;
 19 specifying the number of petition signatures
 20 required to qualify for the election; requiring
 21 the county canvassing board to certify the
 22 results of resident elections; providing an
 23 effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 190.046, Florida Statutes, is
 28 amended to read:
 29 190.046 Termination, contraction, or expansion of
 30 district.--

31

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

4 (a) The petition shall contain the same information
5 required by s. 190.005(1)(a)1. and 8. In addition, if the
6 petitioner seeks to expand the district, the petition shall
7 describe the proposed timetable for construction of any
8 district services to the area, the estimated cost of
9 constructing the proposed services, and the designation of the
10 future general distribution, location, and extent of public
11 and private uses of land proposed for the area by the future
12 land use plan element of the adopted local government local
13 comprehensive plan. If the petitioner seeks to contract the
14 district, the petition shall describe what services and
15 facilities are currently provided by the district to the area
16 being removed, and the designation of the future general
17 distribution, location, and extent of public and private uses
18 of land proposed for the area by the future land element of
19 the adopted local government comprehensive plan.

20 (b) For those districts initially established by
21 county ordinance, the petition for ordinance amendment shall
22 be filed with the county commission. If the land to be
23 included or excluded is, in whole or in part, within the
24 boundaries of a municipality, then the county commission shall
25 not amend the ordinance without municipal approval. A public
26 hearing shall be held in the same manner and with the same
27 public notice as other ordinance amendments. The county
28 commission shall consider the record of the public hearing and
29 the factors set forth in s. 190.005(1)(e) in making its
30 determination to grant or deny the petition for ordinance
31 amendment.

1 (c) For those districts initially established by
2 municipal ordinance pursuant to s. 190.005(2)(e), the
3 municipality shall assume the duties of the county commission
4 set forth in paragraph (b); however, if any of the land to be
5 included or excluded, in whole or in part, is outside the
6 boundaries of the municipality, then the municipality shall
7 not amend its ordinance without county commission approval.

8 (d)1. For those districts initially established by
9 administrative rule pursuant to s. 190.005(1), the petition
10 shall be filed with the Florida Land and Water Adjudicatory
11 Commission.

12 2. Prior to filing the petition, the petitioner shall
13 pay a filing fee of \$1,500 to the county and to each
14 municipality the boundaries of which are contiguous with or
15 contain all or a portion of the land within the district or
16 the proposed amendment, and submit a copy of the petition to
17 the county and to each such municipality. In addition, if the
18 district is not the petitioner, the petitioner shall file the
19 petition with the district board of supervisors.

20 3. The county and each municipality shall have the
21 option of holding a public hearing as provided by s.
22 190.005(1)(c). However, such public hearing shall be limited
23 to consideration of the contents of the petition and whether
24 the petition for amendment should be supported by the county
25 or municipality.

26 4. The district board of supervisors shall, in lieu of
27 a hearing officer, hold the local public hearing provided for
28 by s. 190.005(1)(d). This local public hearing shall be
29 noticed in the same manner as provided in s. 190.005(1)(d).
30 Within 45 days of the conclusion of the hearing, the district
31 board of supervisors shall transmit to the Florida Land and

1 Water Adjudicatory Commission the full record of the local
2 hearing, the transcript of the hearing, any resolutions
3 adopted by the local general-purpose governments, and its
4 recommendation whether to grant the petition for amendment.
5 The commission shall then proceed in accordance with s.
6 190.005(1)(e).

7 5. A rule amending a district boundary shall describe
8 the land to be added or deleted.

9 (e) In all cases, written consent of all the
10 landowners whose land is to be added to or deleted from the
11 district shall be required. The filing of the petition for
12 expansion or contraction by the district board of supervisors
13 shall constitute consent of the landowners within the district
14 other than of landowners whose land is proposed to be added to
15 or removed from the district.

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

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

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

1 (g) Petitions to amend the boundaries of the district
2 which exceed the amount of land specified in paragraph (f)
3 shall be considered petitions to establish a new district and
4 shall follow all of the procedures specified in s. 190.005.

5 (2) The district shall remain in existence unless:

6 (a) The district is merged with another district as
7 provided in subsection (3);

8 (b) All of the specific community development systems,
9 facilities, and services that it is authorized to perform have
10 been transferred to a general-purpose unit of local government
11 in the manner provided in subsections (4), (5), and (6); or

12 (c) The district is dissolved as provided in
13 subsection (7), ~~or~~ subsection (8), or subsection (9).

14 (3) The district may merge with other community
15 development districts upon filing a petition for establishment
16 of a community development district pursuant to s. 190.005 or
17 may merge with any other special districts upon filing a
18 petition for establishment of a community development district
19 pursuant to s. 190.005. The government formed by a merger
20 involving a community development district pursuant to this
21 section shall assume all indebtedness of, and receive title
22 to, all property owned by the preexisting special districts.
23 Prior to filing said petition, the districts desiring to merge
24 shall enter into a merger agreement and shall provide for the
25 proper allocation of the indebtedness so assumed and the
26 manner in which said debt shall be retired. The approval of
27 the merger agreement by the board of supervisors elected by
28 the electors of the district shall constitute consent of the
29 landowners within the district.

30 (4) The local general-purpose government within the
31 geographical boundaries of which the district lies may adopt a

1 nonemergency ordinance providing for a plan for the transfer
2 of a specific community development service from a district to
3 the local general-purpose government. The plan must provide
4 for the assumption and guarantee of the district debt that is
5 related to the service by the local general-purpose government
6 and must demonstrate the ability of the local general-purpose
7 government to provide such service:

8 (a) As efficiently as the district.

9 (b) At a level of quality equal to or higher than the
10 level of quality actually delivered by the district to the
11 users of the service.

12 (c) At a charge equal to or lower than the actual
13 charge by the district to the users of the service.

14 (5) No later than 30 days following the adoption of a
15 transfer plan ordinance, the board of supervisors may file, in
16 the circuit court for the county in which the local
17 general-purpose government that adopted the ordinance is
18 located, a petition seeking review by certiorari of the
19 factual and legal basis for the adoption of the transfer plan
20 ordinance.

21 (6) Upon the transfer of all of the community
22 development services of the district to a general-purpose unit
23 of local government, the district shall be terminated in
24 accordance with a plan of termination which shall be adopted
25 by the board of supervisors and filed with the clerk of the
26 circuit court.

27 (7) If, within 5 years after the effective date of the
28 rule or ordinance establishing ~~creating~~ the district, a
29 landowner has not received a development permit, as defined in
30 chapter 380, on some part or all of the area covered by the
31 district, then the district will be automatically dissolved

1 and a judge of the circuit court shall cause a statement to
2 that effect to be filed in the public records.

3 (8) In the event the district has become inactive
4 pursuant to s. 189.4044, the respective board of county
5 commissioners or city commission shall be informed and it
6 shall take appropriate action.

7 (9) If a district has no outstanding financial
8 obligations and no operating or maintenance responsibilities,
9 upon the petition of the district, the district may be
10 dissolved by a nonemergency ordinance of the general-purpose
11 local governmental entity that established the district or, if
12 the district was established by rule of the Florida Land and
13 Water Adjudicatory Commission, the district may be dissolved
14 by repeal of such rule of the commission.

15 Section 2. Section 190.006, Florida Statutes, is
16 amended to read:

17 190.006 Board of supervisors; members and meetings.--

18 (1) The board of the district shall exercise the
19 powers granted to the district pursuant to this act. The board
20 shall consist of five members; except as otherwise provided
21 herein, each member shall hold office for a term of 2 years or
22 4 years, as provided in this section,and until a successor is
23 chosen and qualifies. The members of the board must be
24 residents of the state and citizens of the United States.

25 (2)(a) Within 90 days following the effective date of
26 the rule or ordinance establishing the district, there shall
27 be held a meeting of the landowners of the district for the
28 purpose of electing five supervisors for the district. Notice
29 of the landowners' meeting shall be published once a week for
30 2 consecutive weeks in a newspaper which is in general
31 circulation in the area of the district, the last day of such

1 publication to be not fewer than 14 days or more than 28 days
2 before the date of the election. The landowners, when
3 assembled at such meeting, shall organize by electing a chair
4 who shall conduct the meeting. The chair may be any person
5 present at the meeting. If the chair is a landowner or proxy
6 holder of a landowner, he or she may nominate candidates and
7 make and second motions.

8 (b) At such meeting, each landowner shall be entitled
9 to cast one vote per acre of land owned by him or her and
10 located within the district for each person to be elected. A
11 landowner may vote in person or by proxy in writing. Each
12 proxy must be signed by one of the legal owners of the
13 property for which the vote is cast and must contain the typed
14 or printed name of the individual who signed the proxy; the
15 street address, legal description of the property, or tax
16 parcel identification number; and the number of authorized
17 votes. If the proxy authorizes more than one vote, each
18 property must be listed and the number of acres of each
19 property must be included. The signature on a proxy need not
20 be notarized.A fraction of an acre shall be treated as 1
21 acre, entitling the landowner to one vote with respect
22 thereto. The two candidates receiving the highest number of
23 votes shall be elected for a period of 4 years, and the three
24 candidates receiving the next largest number of votes shall be
25 elected for a period of 2 years, with the term of office for
26 each successful candidate commencing upon election. The
27 members of the first board elected by landowners shall serve
28 their respective 4-year or 2-year terms; however, the next
29 election by landowners shall be held on the first Tuesday in
30 November. Thereafter, there shall be an election of
31 supervisors for the district every 2 years in November on a

1 date established by the board and noticed pursuant to
2 paragraph (a). The second and subsequent landowners' election
3 shall be announced at a public meeting of the board at least
4 90 days prior to the date of the landowners' meeting and shall
5 also be noticed pursuant to paragraph (a). Instructions on how
6 all landowners may participate in the election, along with
7 sample proxies, shall be provided during the board meeting
8 that announces the landowners' meeting.The two candidates
9 receiving the highest number of votes shall be elected to
10 serve for a 4-year period, and the remaining candidate elected
11 shall serve for a 2-year period.

12 (3)(a)1. If the board proposes to exercise the ad
13 valorem taxing power authorized by s. 190.021, the district
14 board shall call an election at which the members of the board
15 of supervisors will be elected. Such election shall be held
16 in conjunction with a primary or general election unless the
17 district bears the cost of a special election. Each member
18 shall be elected by the qualified electors of the district for
19 a term of 4 years, except that, at the first such election,
20 three members shall be elected for a period of 4 years and two
21 members shall be elected for a period of 2 years. All elected
22 board members must be qualified electors of the district.

23 2.a. Regardless of whether a district has proposed to
24 levy ad valorem taxes, commencing 6 years after the initial
25 appointment of members or, for a district exceeding 5,000
26 acres in area, 10 years after the initial appointment of
27 members, the position of each member whose term has expired
28 shall be filled by a qualified elector of the district,
29 elected by the qualified electors of the district. However,
30 for those districts established after June 21, 1991, and for
31 those existing districts established after December 31, 1983,

1 which have less than 50 qualified electors on June 21, 1991,
2 sub-subparagraphs b. and c. shall apply.

3 ~~b. For those districts to which this sub-subparagraph~~
4 ~~applies~~ If, in the 6th year after the initial appointment of
5 members, or 10 years after such initial appointment for
6 districts exceeding 5,000 acres in area, there are not at
7 least 250 qualified electors in the district, or for a
8 district exceeding 5,000 acres, there are not at least 500
9 qualified electors, members of the board shall continue to be
10 elected by landowners.

11 b. After the 6th or 10th year, once a district reaches
12 250 or 500 qualified electors, respectively, then the position
13 of two board members whose terms are expiring shall be filled
14 by qualified electors of the district, elected by the
15 qualified electors of the district. ~~One of these board~~
16 ~~members shall serve a 2-year term, and the other a 4-year~~
17 ~~term.~~ The remaining board member whose term is expiring shall
18 be elected for a 4-year term by the landowners and is not
19 required to be a qualified elector. Thereafter, as terms
20 expire, board members shall be qualified electors elected by
21 qualified electors of the district for a term of 4 years.

22 c. On or before July 15 of each year, the board shall
23 determine the number of qualified electors in the district as
24 of the immediately preceding June 1. The board shall use and
25 rely upon the official records maintained by the supervisor of
26 elections and property appraiser or tax collector in each
27 county in making this determination. Such determination shall
28 be made at a properly noticed meeting of the board and shall
29 become a part of the official minutes of the district.

30 (b) Elections of board members by qualified electors
31 held pursuant to this subsection shall be nonpartisan and

1 shall be conducted in the manner prescribed by law for holding
2 general elections. Board members shall assume the office on
3 the second Tuesday following their election.

4 (c) Candidates seeking election to office by qualified
5 electors under this subsection shall conduct their campaigns
6 in accordance with the provisions of chapter 106 and shall
7 file qualifying papers and qualify for individual seats in
8 accordance with s. 99.061. Candidates shall pay a qualifying
9 fee, which shall consist of a filing fee and an election
10 assessment or, as an alternative, shall file a petition signed
11 by not less than 1 percent of the registered voters of the
12 district, ~~Candidates shall file petitions,~~ and take the oath
13 required in s. 99.021, with the supervisor of elections in the
14 county affected by such candidacy. The amount of the filing
15 fee is 3 percent of \$4,800; however, if the electors have
16 provided for compensation pursuant to subsection (8), the
17 amount of the filing fee is 3 percent of the maximum annual
18 compensation so provided. The amount of the election
19 assessment is 1 percent of \$4,800; however, if the electors
20 have provided for compensation pursuant to subsection (8), the
21 amount of the election assessment is 1 percent of the maximum
22 annual compensation so provided. The filing fee and election
23 assessment shall be distributed as provided in s. 105.031(3).

24 (d) The supervisor of elections shall appoint the
25 inspectors and clerks of elections, prepare and furnish the
26 ballots, designate polling places, and canvass the returns of
27 the election of board members by qualified electors. The
28 county canvassing board of county commissioners shall declare
29 and certify the results of the election.

30 (4) Members of the board shall be known as supervisors
31 and, upon entering into office, shall take and subscribe to

1 the oath of office as prescribed by s. 876.05. They shall
2 hold office for the terms for which they were elected or
3 appointed and until their successors are chosen and qualified.
4 If, during the term of office, a vacancy occurs, the remaining
5 members of the board shall fill the vacancy by an appointment
6 for the remainder of the unexpired term.

7 (5) A majority of the members of the board constitutes
8 a quorum for the purposes of conducting its business and
9 exercising its powers and for all other purposes. Action
10 taken by the district shall be upon a vote of a majority of
11 the members present unless general law or a rule of the
12 district requires a greater number.

13 (6) As soon as practicable after each election or
14 appointment, the board shall organize by electing one of its
15 members as chair and by electing a secretary, who need not be
16 a member of the board, and such other officers as the board
17 may deem necessary.

18 (7) The board shall keep a permanent record book
19 entitled "Record of Proceedings of ...(name of district)...
20 Community Development District," in which shall be recorded
21 minutes of all meetings, resolutions, proceedings,
22 certificates, bonds given by all employees, and any and all
23 corporate acts. The record book shall at reasonable times be
24 opened to inspection in the same manner as state, county, and
25 municipal records pursuant to chapter 119. The record book
26 shall be kept at the office or other regular place of business
27 maintained by the board in the county or municipality in which
28 the district is located or within the boundaries of a
29 development of regional impact or Florida Quality Development,
30 or combination of a development of regional impact and Florida
31 Quality Development, which includes the district.

