

By the Committee on Comprehensive Planning

316-2027-04

1                                   A bill to be entitled  
 2           An act relating to community development  
 3           districts; amending s. 190.012, F.S.; providing  
 4           for the enforcement of deed restrictions in  
 5           certain circumstances; amending s. 190.046,  
 6           F.S.; providing for additional dissolution  
 7           procedures; amending s. 190.006, F.S.;  
 8           specifying procedures for selecting a chair at  
 9           the initial landowners' meeting; specifying  
 10          requirements for proxy voting; requiring notice  
 11          of landowners' elections; specifying the terms  
 12          of certain supervisors; providing for  
 13          nonpartisan elections; specifying the time that  
 14          resident supervisors assume office; authorizing  
 15          the supervisor of elections to designate seat  
 16          numbers for resident supervisors of the board;  
 17          providing procedures for filing qualifying  
 18          papers; allowing candidates the option of  
 19          paying a filing fee to qualify for the  
 20          election; specifying payment requirements;  
 21          specifying the number of petition signatures  
 22          required to qualify for the election; requiring  
 23          the county canvassing board to certify the  
 24          results of resident elections; providing an  
 25          effective date.

26  
 27 Be It Enacted by the Legislature of the State of Florida:

28  
 29           Section 1. Subsection (4) is added to section 190.012,  
 30 Florida Statutes, to read:

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1           190.012 Special powers; public improvements and  
2 community facilities.--The district shall have, and the board  
3 may exercise, subject to the regulatory jurisdiction and  
4 permitting authority of all applicable governmental bodies,  
5 agencies, and special districts having authority with respect  
6 to any area included therein, any or all of the following  
7 special powers relating to public improvements and community  
8 facilities authorized by this act:

9           (4)(a) To adopt rules necessary for the district to  
10 enforce certain deed restrictions pertaining to the use and  
11 operation of real property within the district. For the  
12 purpose of this subsection, "deed restrictions" are those  
13 covenants, conditions, and restrictions contained in any  
14 applicable declarations of covenants and restrictions that  
15 govern the use and operation of real property within the  
16 district and, for which covenants, conditions, and  
17 restrictions, there is no homeowners' association having  
18 enforcement powers. The district may adopt by rule all or  
19 certain portions of the deed restrictions that:

20           1. Relate to limitations or prohibitions that apply  
21 only to external structures and are deemed by the district to  
22 be generally beneficial for the district's landowners and for  
23 which enforcement by the district is appropriate, as  
24 determined by the district's board of supervisors; or

25           2. Are consistent with the requirements of a  
26 development order or regulatory agency permit.

27           (b) The board may vote to adopt such rules only when  
28 all of the following conditions exist:

29           1. The district's geographic area contains no  
30 homeowners' associations as defined in s. 720.301(7);

31

1           2. The district was in existence on the effective date  
2 of this subsection, or is located within a development that  
3 consists of multiple developments of regional impact and a  
4 Florida Quality Development;

5           3. The majority of the board has been elected by  
6 qualified electors pursuant to the provisions of s. 190.006;  
7 and

8           4. The declarant in any applicable declarations of  
9 covenants and restrictions has provided the board with a  
10 written agreement that such rules may be adopted.

11           (c) Within 60 days after such rules taking effect, the  
12 district shall record a notice of rule adoption stating  
13 generally what rules were adopted and where a copy of the  
14 rules may be obtained. Districts may impose fines for  
15 violations of such rules and enforce such rules and fines in  
16 circuit court through injunctive relief.

17           Section 2. Section 190.046, Florida Statutes, is  
18 amended to read:

19           190.046 Termination, contraction, or expansion of  
20 district.--

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

24           (a) The petition shall contain the same information  
25 required by s. 190.005(1)(a)1. and 8. In addition, if the  
26 petitioner seeks to expand the district, the petition shall  
27 describe the proposed timetable for construction of any  
28 district services to the area, the estimated cost of  
29 constructing the proposed services, and the designation of the  
30 future general distribution, location, and extent of public  
31 and private uses of land proposed for the area by the future

1 land use plan element of the adopted local government local  
2 comprehensive plan. If the petitioner seeks to contract the  
3 district, the petition shall describe what services and  
4 facilities are currently provided by the district to the area  
5 being removed, and the designation of the future general  
6 distribution, location, and extent of public and private uses  
7 of land proposed for the area by the future land element of  
8 the adopted local government comprehensive plan.

9 (b) For those districts initially established by  
10 county ordinance, the petition for ordinance amendment shall  
11 be filed with the county commission. If the land to be  
12 included or excluded is, in whole or in part, within the  
13 boundaries of a municipality, then the county commission shall  
14 not amend the ordinance without municipal approval. A public  
15 hearing shall be held in the same manner and with the same  
16 public notice as other ordinance amendments. The county  
17 commission shall consider the record of the public hearing and  
18 the factors set forth in s. 190.005(1)(e) in making its  
19 determination to grant or deny the petition for ordinance  
20 amendment.

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

28 (d)1. For those districts initially established by  
29 administrative rule pursuant to s. 190.005(1), the petition  
30 shall be filed with the Florida Land and Water Adjudicatory  
31 Commission.

1           2. Prior to filing the petition, the petitioner shall  
2 pay a filing fee of \$1,500 to the county and to each  
3 municipality the boundaries of which are contiguous with or  
4 contain all or a portion of the land within the district or  
5 the proposed amendment, and submit a copy of the petition to  
6 the county and to each such municipality. In addition, if the  
7 district is not the petitioner, the petitioner shall file the  
8 petition with the district board of supervisors.

9           3. The county and each municipality shall have the  
10 option of holding a public hearing as provided by s.  
11 190.005(1)(c). However, such public hearing shall be limited  
12 to consideration of the contents of the petition and whether  
13 the petition for amendment should be supported by the county  
14 or municipality.

15           4. The district board of supervisors shall, in lieu of  
16 a hearing officer, hold the local public hearing provided for  
17 by s. 190.005(1)(d). This local public hearing shall be  
18 noticed in the same manner as provided in s. 190.005(1)(d).  
19 Within 45 days of the conclusion of the hearing, the district  
20 board of supervisors shall transmit to the Florida Land and  
21 Water Adjudicatory Commission the full record of the local  
22 hearing, the transcript of the hearing, any resolutions  
23 adopted by the local general-purpose governments, and its  
24 recommendation whether to grant the petition for amendment.  
25 The commission shall then proceed in accordance with s.  
26 190.005(1)(e).

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

29           (e) In all cases, written consent of all the  
30 landowners whose land is to be added to or deleted from the  
31 district shall be required. The filing of the petition for

1 expansion or contraction by the district board of supervisors  
2 shall constitute consent of the landowners within the district  
3 other than of landowners whose land is proposed to be added to  
4 or removed from the district.

5 (f)1. During the existence of a district initially  
6 established by administrative rule, petitions to amend the  
7 boundaries of the district pursuant to paragraphs (a)-(e)  
8 shall be limited to a cumulative total of no more than 10  
9 percent of the land in the initial district, and in no event  
10 shall all such petitions to amend the boundaries ever  
11 encompass more than a total of 250 acres.

12 2. For districts initially established by county or  
13 municipal ordinance, the limitation provided by this paragraph  
14 shall be a cumulative total of no more than 50 percent of the  
15 land in the initial district, and in no event shall all such  
16 petitions to amend the boundaries ever encompass more than a  
17 total of 500 acres.

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

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

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

26 (a) The district is merged with another district as  
27 provided in subsection (3);

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

1           (c) The district is dissolved as provided in  
2 subsection (7), or subsection (8), or subsection (9).

3           (3) The district may merge with other community  
4 development districts upon filing a petition for establishment  
5 of a community development district pursuant to s. 190.005 or  
6 may merge with any other special districts upon filing a  
7 petition for establishment of a community development district  
8 pursuant to s. 190.005. The government formed by a merger  
9 involving a community development district pursuant to this  
10 section shall assume all indebtedness of, and receive title  
11 to, all property owned by the preexisting special districts.  
12 Prior to filing said petition, the districts desiring to merge  
13 shall enter into a merger agreement and shall provide for the  
14 proper allocation of the indebtedness so assumed and the  
15 manner in which said debt shall be retired. The approval of  
16 the merger agreement by the board of supervisors elected by  
17 the electors of the district shall constitute consent of the  
18 landowners within the district.

19           (4) The local general-purpose government within the  
20 geographical boundaries of which the district lies may adopt a  
21 nonemergency ordinance providing for a plan for the transfer  
22 of a specific community development service from a district to  
23 the local general-purpose government. The plan must provide  
24 for the assumption and guarantee of the district debt that is  
25 related to the service by the local general-purpose government  
26 and must demonstrate the ability of the local general-purpose  
27 government to provide such service:

28           (a) As efficiently as the district.

29           (b) At a level of quality equal to or higher than the  
30 level of quality actually delivered by the district to the  
31 users of the service.

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

3 (5) No later than 30 days following the adoption of a  
4 transfer plan ordinance, the board of supervisors may file, in  
5 the circuit court for the county in which the local  
6 general-purpose government that adopted the ordinance is  
7 located, a petition seeking review by certiorari of the  
8 factual and legal basis for the adoption of the transfer plan  
9 ordinance.

10 (6) Upon the transfer of all of the community  
11 development services of the district to a general-purpose unit  
12 of local government, the district shall be terminated in  
13 accordance with a plan of termination which shall be adopted  
14 by the board of supervisors and filed with the clerk of the  
15 circuit court.

16 (7) If, within 5 years after the effective date of the  
17 rule or ordinance establishing ~~creating~~ the district, a  
18 landowner has not received a development permit, as defined in  
19 chapter 380, on some part or all of the area covered by the  
20 district, then the district will be automatically dissolved  
21 and a judge of the circuit court shall cause a statement to  
22 that effect to be filed in the public records.

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

27 (9) If a district has no outstanding financial  
28 obligations and no operating or maintenance responsibilities,  
29 upon the petition of the district, the district may be  
30 dissolved by a nonemergency ordinance of the general-purpose  
31 local governmental entity that established the district or, if



1 the district was established by rule of the Florida Land and  
2 Water Adjudicatory Commission, the district may be dissolved  
3 by repeal of such rule of the commission.

4 Section 3. Section 190.006, Florida Statutes, is  
5 amended to read:

6 190.006 Board of supervisors; members and meetings.--

7 (1) The board of the district shall exercise the  
8 powers granted to the district pursuant to this act. The board  
9 shall consist of five members; except as otherwise provided  
10 herein, each member shall hold office for a term of 2 years or  
11 4 years, as provided in this section,and until a successor is  
12 chosen and qualifies. The members of the board must be  
13 residents of the state and citizens of the United States.

14 (2)(a) Within 90 days following the effective date of  
15 the rule or ordinance establishing the district, there shall  
16 be held a meeting of the landowners of the district for the  
17 purpose of electing five supervisors for the district. Notice  
18 of the landowners' meeting shall be published once a week for  
19 2 consecutive weeks in a newspaper which is in general  
20 circulation in the area of the district, the last day of such  
21 publication to be not fewer than 14 days or more than 28 days  
22 before the date of the election. The landowners, when  
23 assembled at such meeting, shall organize by electing a chair  
24 who shall conduct the meeting. The chair may be any person  
25 present at the meeting. If the chair is a landowner or proxy  
26 holder of a landowner, he or she may nominate candidates and  
27 make and second motions.

28 (b) At such meeting, each landowner shall be entitled  
29 to cast one vote per acre of land owned by him or her and  
30 located within the district for each person to be elected. A  
31 landowner may vote in person or by proxy in writing. Each

1 proxy must be signed by one of the legal owners of the  
2 property for which the vote is cast and must contain the typed  
3 or printed name of the individual who signed the proxy; the  
4 street address, legal description of the property, or tax  
5 parcel identification number; and the number of authorized  
6 votes. If the proxy authorizes more than one vote, each  
7 property must be listed and the number of acres of each  
8 property must be included. The signature on a proxy need not  
9 be notarized.A fraction of an acre shall be treated as 1  
10 acre, entitling the landowner to one vote with respect  
11 thereto. The two candidates receiving the highest number of  
12 votes shall be elected for a period of 4 years, and the three  
13 candidates receiving the next largest number of votes shall be  
14 elected for a period of 2 years, with the term of office for  
15 each successful candidate commencing upon election. The  
16 members of the first board elected by landowners shall serve  
17 their respective 4-year or 2-year terms; however, the next  
18 election by landowners shall be held on the first Tuesday in  
19 November. Thereafter, there shall be an election of  
20 supervisors for the district every 2 years in November on a  
21 date established by the board and noticed pursuant to  
22 paragraph (a). The second and subsequent landowners' election  
23 shall be announced at a public meeting of the board at least  
24 90 days prior to the date of the landowners' meeting and shall  
25 also be noticed pursuant to paragraph (a). Instructions on how  
26 all landowners may participate in the election, along with  
27 sample proxies, shall be provided during the board meeting  
28 that announces the landowners' meeting.The two candidates  
29 receiving the highest number of votes shall be elected to  
30 serve for a 4-year period, and the remaining candidate elected  
31 shall serve for a 2-year period.

1           (3)(a)1. If the board proposes to exercise the ad  
2 valorem taxing power authorized by s. 190.021, the district  
3 board shall call an election at which the members of the board  
4 of supervisors will be elected. Such election shall be held  
5 in conjunction with a primary or general election unless the  
6 district bears the cost of a special election. Each member  
7 shall be elected by the qualified electors of the district for  
8 a term of 4 years, except that, at the first such election,  
9 three members shall be elected for a period of 4 years and two  
10 members shall be elected for a period of 2 years. All elected  
11 board members must be qualified electors of the district.

12           2.a. Regardless of whether a district has proposed to  
13 levy ad valorem taxes, commencing 6 years after the initial  
14 appointment of members or, for a district exceeding 5,000  
15 acres in area, 10 years after the initial appointment of  
16 members, the position of each member whose term has expired  
17 shall be filled by a qualified elector of the district,  
18 elected by the qualified electors of the district. However,  
19 for those districts established after June 21, 1991, and for  
20 those existing districts established after December 31, 1983,  
21 which have less than 50 qualified electors on June 21, 1991,  
22 sub-subparagraphs b. and c. shall apply.

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

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1           b. After the 6th or 10th year, once a district reaches  
2 250 or 500 qualified electors, respectively, then the position  
3 of two board members whose terms are expiring shall be filled  
4 by qualified electors of the district, elected by the  
5 qualified electors of the district for 4-year terms. ~~One of~~  
6 ~~these board members shall serve a 2-year term, and the other a~~  
7 ~~4-year term.~~ The remaining board member whose term is  
8 expiring shall be elected for a 4-year term by the landowners  
9 and is not required to be a qualified elector. Thereafter, as  
10 terms expire, board members shall be qualified electors  
11 elected by qualified electors of the district for a term of 4  
12 years.

13           c. On or before July 15 of each year, the board shall  
14 determine the number of qualified electors in the district as  
15 of the immediately preceding June 1. The board shall use and  
16 rely upon the official records maintained by the supervisor of  
17 elections and property appraiser or tax collector in each  
18 county in making this determination. Such determination shall  
19 be made at a properly noticed meeting of the board and shall  
20 become a part of the official minutes of the district.

21           (b) Elections of board members by qualified electors  
22 held pursuant to this subsection shall be nonpartisan and  
23 shall be conducted in the manner prescribed by law for holding  
24 general elections. Board members shall assume the office on  
25 the second Tuesday following their election.

26           (c) Candidates seeking election to office by qualified  
27 electors under this subsection shall conduct their campaigns  
28 in accordance with the provisions of chapter 106 and shall  
29 file qualifying papers and qualify for individual seats in  
30 accordance with s. 99.061. Candidates shall pay a qualifying  
31 fee, which shall consist of a filing fee and an election

1 assessment or, as an alternative, shall file a petition signed  
2 by not less than 1 percent of the registered voters of the  
3 district,~~Candidates shall file petitions,~~and take the oath  
4 required in s. 99.021, with the supervisor of elections in the  
5 county affected by such candidacy. The amount of the filing  
6 fee is 3 percent of \$4,800; however, if the electors have  
7 provided for compensation pursuant to subsection (8), the  
8 amount of the filing fee is 3 percent of the maximum annual  
9 compensation so provided. The amount of the election  
10 assessment is 1 percent of \$4,800; however, if the electors  
11 have provided for compensation pursuant to subsection (8), the  
12 amount of the election assessment is 1 percent of the maximum  
13 annual compensation so provided. The filing fee and election  
14 assessment shall be distributed as provided in s. 105.031(3).

15 (d) The supervisor of elections shall appoint the  
16 inspectors and clerks of elections, prepare and furnish the  
17 ballots, designate polling places, and canvass the returns of  
18 the election of board members by qualified electors. The  
19 county canvassing board of county commissioners shall declare  
20 and certify the results of the election.

21 (4) Members of the board shall be known as supervisors  
22 and, upon entering into office, shall take and subscribe to  
23 the oath of office as prescribed by s. 876.05. They shall  
24 hold office for the terms for which they were elected or  
25 appointed and until their successors are chosen and qualified.  
26 If, during the term of office, a vacancy occurs, the remaining  
27 members of the board shall fill the vacancy by an appointment  
28 for the remainder of the unexpired term.

29 (5) A majority of the members of the board constitutes  
30 a quorum for the purposes of conducting its business and  
31 exercising its powers and for all other purposes. Action

1 taken by the district shall be upon a vote of a majority of  
2 the members present unless general law or a rule of the  
3 district requires a greater number.

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

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

23 (8) Each supervisor shall be entitled to receive for  
24 his or her services an amount not to exceed \$200 per meeting  
25 of the board of supervisors, not to exceed \$4,800 per year per  
26 supervisor, or an amount established by the electors at  
27 referendum. In addition, each supervisor shall receive travel  
28 and per diem expenses as set forth in s. 112.061.

29 (9) All meetings of the board shall be open to the  
30 public and governed by the provisions of chapter 286.

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1           Section 4. This act shall take effect upon becoming a  
2 law.

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4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   Senate Bill 1392

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7 The CS differs from the bill as filed in that it amends s.  
8 190.012, F.S., to allow certain CDD governing boards to  
9 enforce deed restrictions in specified circumstances.

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