

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Kottkamp offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 1410 and 1411, insert:

5 Section 18. Subsection (4) is added to section 190.012,  
6 Florida Statutes, to read:

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

15 (4)(a) To adopt rules necessary for the district to  
16 enforce certain deed restrictions pertaining to the use and

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17 operation of real property within the district. For the purpose  
18 of this subsection, "deed restrictions" are those covenants,  
19 conditions, and restrictions contained in any applicable  
20 declaration of covenants and restrictions that governs the use  
21 and operation of real property within the district and for which  
22 covenants, conditions, and restrictions there is no homeowners'  
23 association or property owners' association having respective  
24 enforcement powers. The district may adopt by rule all or  
25 certain portions of the deed restrictions that:

26 1. Relate to limitations or prohibitions that apply only  
27 to external structures and are deemed by the district to be  
28 generally beneficial for the district's landowners and for which  
29 enforcement by the district is appropriate, as determined by the  
30 district's board of supervisors; or

31 2. Are consistent with the requirements of a development  
32 order or regulatory agency permit.

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

35 1. The district's geographic area contains no homeowners'  
36 associations as defined in s. 720.301(7).

37 2. The district was in existence on the effective date of  
38 this subsection or is located within a development that consists  
39 of multiple developments of regional impact and a Florida  
40 Quality Development.

41 3. The majority of the board has been elected by qualified  
42 electors pursuant to the provisions of s. 190.006.

43 4. The declarant in any applicable declaration of  
44 covenants and restrictions has provided the board with a written

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45 agreement that such rules may be adopted. A memorandum of the  
46 agreement shall be recorded in the public records.

47 (c) Within 60 days after such rules taking effect, the  
48 district shall record a notice of rule adoption stating  
49 generally what rules were adopted and where a copy of the rules  
50 may be obtained. Districts may impose fines for violations of  
51 such rules and enforce such rules and fines in circuit court  
52 through injunctive relief.

53 Section 19. Subsections (2), (7), and (8) of section  
54 190.046, Florida Statutes, are amended, and subsection (9) is  
55 added to said section, to read:

56 190.046 Termination, contraction, or expansion of  
57 district.--

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

59 (a) The district is merged with another district as  
60 provided in subsection (3);

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

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

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

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72 a judge of the circuit court shall cause a statement to that  
73 effect to be filed in the public records.

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

78 (9) If a district has no outstanding financial obligations  
79 and no operating or maintenance responsibilities, upon the  
80 petition of the district, the district may be dissolved by a  
81 nonemergency ordinance of the general-purpose local governmental  
82 entity that established the district or, if the district was  
83 established by rule of the Florida Land and Water Adjudicatory  
84 Commission, the district may be dissolved by repeal of such rule  
85 of the commission.

86 Section 20. Subsections (1), (2), and (3) of section  
87 190.006, Florida Statutes, are amended to read:

88 190.006 Board of supervisors; members and meetings.--

89 (1) The board of the district shall exercise the powers  
90 granted to the district pursuant to this act. The board shall  
91 consist of five members; except as otherwise provided herein,  
92 each member shall hold office for a term of 2 years or 4 years  
93 as provided in this section and until a successor is chosen and  
94 qualifies. The members of the board must be residents of the  
95 state and citizens of the United States.

96 (2)(a) Within 90 days following the effective date of the  
97 rule or ordinance establishing the district, there shall be held  
98 a meeting of the landowners of the district for the purpose of  
99 electing five supervisors for the district. Notice of the

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100 landowners' meeting shall be published once a week for 2  
101 consecutive weeks in a newspaper which is in general circulation  
102 in the area of the district, the last day of such publication to  
103 be not fewer than 14 days or more than 28 days before the date  
104 of the election. The landowners, when assembled at such meeting,  
105 shall organize by electing a chair who shall conduct the  
106 meeting. The chair may be any person present at the meeting. If  
107 the chair is a landowner or proxy holder of a landowner, he or  
108 she may nominate candidates and make and second motions.

109 (b) At such meeting, each landowner shall be entitled to  
110 cast one vote per acre of land owned by him or her and located  
111 within the district for each person to be elected. A landowner  
112 may vote in person or by proxy in writing. Each proxy must be  
113 signed by one of the legal owners of the property for which the  
114 vote is cast and must contain the typed or printed name of the  
115 individual who signed the proxy; the street address, legal  
116 description of the property, or tax parcel identification  
117 number; and the number of authorized votes. If the proxy  
118 authorizes more than one vote, each property must be listed and  
119 the number of acres of each property must be included. The  
120 signature on a proxy need not be notarized. A fraction of an  
121 acre shall be treated as 1 acre, entitling the landowner to one  
122 vote with respect thereto. The two candidates receiving the  
123 highest number of votes shall be elected for a period of 4  
124 years, and the three candidates receiving the next largest  
125 number of votes shall be elected for a period of 2 years, with  
126 the term of office for each successful candidate commencing upon  
127 election. The members of the first board elected by landowners

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128 shall serve their respective 4-year or 2-year terms; however,  
129 the next election by landowners shall be held on the first  
130 Tuesday in November. Thereafter, there shall be an election of  
131 supervisors for the district every 2 years in November on a date  
132 established by the board and noticed pursuant to paragraph (a).  
133 The second and subsequent landowners' elections shall be  
134 announced at a public meeting of the board at least 90 days  
135 prior to the date of the landowners' meeting and shall also be  
136 noticed pursuant to paragraph (a). Instructions on how all  
137 landowners may participate in the election, along with sample  
138 proxies, shall be provided during the board meeting that  
139 announces the landowners' meeting. The two candidates receiving  
140 the highest number of votes shall be elected to serve for a 4-  
141 year period, and the remaining candidate elected shall serve for  
142 a 2-year period.

143 (3)(a)1. If the board proposes to exercise the ad valorem  
144 taxing power authorized by s. 190.021, the district board shall  
145 call an election at which the members of the board of  
146 supervisors will be elected. Such election shall be held in  
147 conjunction with a primary or general election unless the  
148 district bears the cost of a special election. Each member shall  
149 be elected by the qualified electors of the district for a term  
150 of 4 years, except that, at the first such election, three  
151 members shall be elected for a period of 4 years and two members  
152 shall be elected for a period of 2 years. All elected board  
153 members must be qualified electors of the district.

154 2.a. Regardless of whether a district has proposed to levy  
155 ad valorem taxes, commencing 6 years after the initial

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156 appointment of members or, for a district exceeding 5,000 acres  
157 in area, 10 years after the initial appointment of members, the  
158 position of each member whose term has expired shall be filled  
159 by a qualified elector of the district, elected by the qualified  
160 electors of the district. However, for those districts  
161 established after June 21, 1991, and for those existing  
162 districts established after December 31, 1983, which have less  
163 than 50 qualified electors on June 21, 1991, this sub-  
164 subparagraph and sub-subparagraphs b. and d.e. shall apply.

165 ~~b. For those districts to which this sub-subparagraph~~  
166 ~~applies~~ If, in the 6th year after the initial appointment of  
167 members, or 10 years after such initial appointment for  
168 districts exceeding 5,000 acres in area, there are not at least  
169 250 qualified electors in the district, or for a district  
170 exceeding 5,000 acres, there are not at least 500 qualified  
171 electors, members of the board shall continue to be elected by  
172 landowners.

173 b. After the 6th or 10th year, once a district reaches 250  
174 or 500 qualified electors, respectively, then the positions  
175 ~~position~~ of two board members whose terms are expiring shall be  
176 filled by qualified electors of the district, elected by the  
177 qualified electors of the district for 4-year terms. ~~One of~~  
178 ~~these board members shall serve a 2-year term, and the other a~~  
179 ~~4-year term.~~ The remaining board member whose term is expiring  
180 shall be elected for a 4-year term by the landowners and is not  
181 required to be a qualified elector. Thereafter, as terms expire,  
182 board members shall be qualified electors elected by qualified  
183 electors of the district for terms of 4 years.

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184        c. Once a district qualifies to have any of its board  
185 members elected by the qualified electors of the district, the  
186 initial and all subsequent elections by the qualified electors  
187 of the district shall be held at the general election in  
188 November. When the board determines the number of qualified  
189 electors as required by sub-subparagraph d., the board shall  
190 adopt a resolution if necessary to extend or reduce the terms of  
191 current board members.

192        d.e. On or before ~~June 1~~ ~~July 15~~ of each year, the board  
193 shall determine the number of qualified electors in the district  
194 as of the immediately preceding ~~April 15~~ ~~June 1~~. The board shall  
195 use and rely upon the official records maintained by the  
196 supervisor of elections and property appraiser or tax collector  
197 in each county in making this determination. Such determination  
198 shall be made at a properly noticed meeting of the board and  
199 shall become a part of the official minutes of the district.

200        (b) Elections of board members by qualified electors held  
201 pursuant to this subsection shall be nonpartisan and shall be  
202 conducted in the manner prescribed by law for holding general  
203 elections. Board members shall assume office on the second  
204 Tuesday following their election.

205        (c) Candidates seeking election to office by qualified  
206 electors under this subsection shall conduct their campaigns in  
207 accordance with the provisions of chapter 106 and shall file  
208 qualifying papers and qualify for individual seats in accordance  
209 with s. 99.061. Candidates shall pay a qualifying fee, which  
210 shall consist of a filing fee and an election assessment, or, as  
211 an alternative, shall file a petition signed by not less than 1

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212 percent of the registered voters of the district. ~~Candidates~~  
 213 ~~shall file petitions,~~ and take the oath required in s. 99.021,  
 214 with the supervisor of elections in the county affected by such  
 215 candidacy. The amount of the filing fee is 3 percent of \$4,800;  
 216 however, if the electors have provided for compensation pursuant  
 217 to subsection (8), the amount of the filing fee is 3 percent of  
 218 the maximum annual compensation so provided. The amount of the  
 219 election assessment is 1 percent of \$4,800; however, if the  
 220 electors have provided for compensation pursuant to subsection  
 221 (8), the amount of the election assessment is 1 percent of the  
 222 maximum annual compensation so provided. The filing fee and  
 223 election assessment shall be distributed as provided in s.  
 224 105.031(3).

225 (d) The supervisor of elections shall appoint the  
 226 inspectors and clerks of elections, prepare and furnish the  
 227 ballots, designate polling places, and canvass the returns of  
 228 the election of board members by qualified electors. The county  
 229 canvassing board of county commissioners shall declare and  
 230 certify the results of the election.

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233 ===== T I T L E A M E N D M E N T =====

234 Remove line 71 and insert:  
 235 internal organization of ch. 720, F.S.; amending s. 190.012,  
 236 F.S.; providing for the adoption of rules to enforce certain  
 237 deed restrictions; providing a definition; providing conditions  
 238 for rule adoption; requiring the district to record a notice of  
 239 rule adoption; authorizing the district to impose fines;

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HOUSE AMENDMENT

Bill No. HB 1987

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240 amending s. 190.046, F.S.; providing for additional dissolution  
241 procedures; amending s. 190.006, F.S.; specifying procedures for  
242 selecting a chair at the initial landowners' meeting; specifying  
243 requirements for proxy voting; requiring notice of landowners'  
244 elections; specifying the terms of certain board members;  
245 providing for nonpartisan elections; specifying the time that  
246 board members assume office; providing procedures for filing  
247 qualifying papers; allowing candidates the option of paying a  
248 filing fee to qualify for the election; specifying payment  
249 requirements; specifying the number of petition signatures  
250 required to qualify for the election; requiring the county  
251 canvassing board to certify the results of resident elections;  
252 providing an

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