

CHAMBER ACTION

1 The Committee on Procedures recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to community development districts;
7 amending s. 190.006, F.S.; specifying procedures for
8 selecting a chair at the initial landowners' meeting;
9 specifying requirements for proxy voting; requiring notice
10 of landowners' elections; specifying the terms of certain
11 supervisors; providing for certain future elections to be
12 held at the general election in November; requiring a
13 resolution of the board if necessary to conform to the
14 November general election cycle; providing for nonpartisan
15 elections; specifying the time that resident supervisors
16 assume office; authorizing the supervisor of elections to
17 designate seat numbers for resident supervisors of the
18 board; providing procedures for filing qualifying papers;
19 allowing candidates the option of paying a filing fee to
20 qualify for the election; specifying payment requirements;
21 specifying the number of petition signatures required to
22 qualify for the election; requiring the county canvassing
23 board to certify the results of resident elections;

HB 533 CS

2004
CS

24 | amending s. 190.012, F.S.; authorizing districts to adopt
 25 | rules to enforce real property use and operation deed
 26 | restrictions; providing a definition; providing
 27 | requirements and limitations; authorizing districts to
 28 | impose fines and enforce rules and fines through
 29 | injunctive relief; amending s. 190.046, F.S.; providing
 30 | for additional dissolution procedures; providing an
 31 | effective date.

32 |
 33 | Be It Enacted by the Legislature of the State of Florida:
 34 |

35 | Section 1. Subsections (1), (2), and (3) of section
 36 | 190.006, Florida Statutes, are amended to read:

37 | 190.006 Board of supervisors; members and meetings.--

38 | (1) The board of the district shall exercise the powers
 39 | granted to the district pursuant to this act. The board shall
 40 | consist of five members; except as otherwise provided herein,
 41 | each member shall hold office for a term of 2 years or 4 years,
 42 | as provided in this section, and until a successor is chosen and
 43 | qualifies. The members of the board must be residents of the
 44 | state and citizens of the United States.

45 | (2)(a) Within 90 days following the effective date of the
 46 | rule or ordinance establishing the district, there shall be held
 47 | a meeting of the landowners of the district for the purpose of
 48 | electing five supervisors for the district. Notice of the
 49 | landowners' meeting shall be published once a week for 2
 50 | consecutive weeks in a newspaper which is in general circulation
 51 | in the area of the district, the last day of such publication to

HB 533 CS

2004
CS

52 | be not fewer than 14 days or more than 28 days before the date
53 | of the election. The landowners, when assembled at such
54 | meeting, shall organize by electing a chair who shall conduct
55 | the meeting. The chair may be any person present at the meeting.
56 | If the chair is a landowner or proxy holder of a landowner, he
57 | or she may nominate candidates and make and second motions.

58 | (b) At such meeting, each landowner shall be entitled to
59 | cast one vote per acre of land owned by him or her and located
60 | within the district for each person to be elected. A landowner
61 | may vote in person or by proxy in writing. Each proxy must be
62 | signed by one of the legal owners of the property for which the
63 | vote is cast and must contain the typed or printed name of the
64 | individual who signed the proxy; the street address, legal
65 | description of the property, or tax parcel identification
66 | number; and the number of authorized votes. If the proxy
67 | authorizes more than one vote, each property must be listed and
68 | the number of acres of each property must be included. The
69 | signature on a proxy need not be notarized. A fraction of an
70 | acre shall be treated as 1 acre, entitling the landowner to one
71 | vote with respect thereto. The two candidates receiving the
72 | highest number of votes shall be elected for a period of 4
73 | years, and the three candidates receiving the next largest
74 | number of votes shall be elected for a period of 2 years, with
75 | the term of office for each successful candidate commencing upon
76 | election. The members of the first board elected by landowners
77 | shall serve their respective 4-year or 2-year terms; however,
78 | the next election by landowners shall be held on the first
79 | Tuesday in November. Thereafter, there shall be an election of

HB 533 CS

2004
CS

80 supervisors for the district every 2 years in November on a date
 81 established by the board and noticed pursuant to paragraph (a).
 82 The second and subsequent landowners' election shall be
 83 announced at a public meeting of the board at least 90 days
 84 prior to the date of the landowners' meeting and shall also be
 85 noticed pursuant to paragraph (a). Instructions on how all
 86 landowners may participate in the election, along with sample
 87 proxies, shall be provided during the board meeting that
 88 announces the landowners' meeting. The two candidates receiving
 89 the highest number of votes shall be elected to serve for a 4-
 90 year period, and the remaining candidate elected shall serve for
 91 a 2-year period.

92 (3)(a)1. If the board proposes to exercise the ad valorem
 93 taxing power authorized by s. 190.021, the district board shall
 94 call an election at which the members of the board of
 95 supervisors will be elected. Such election shall be held in
 96 conjunction with a primary or general election unless the
 97 district bears the cost of a special election. Each member
 98 shall be elected by the qualified electors of the district for a
 99 term of 4 years, except that, at the first such election, three
 100 members shall be elected for a period of 4 years and two members
 101 shall be elected for a period of 2 years. All elected board
 102 members must be qualified electors of the district.

103 2.a. Regardless of whether a district has proposed to levy
 104 ad valorem taxes, commencing 6 years after the initial
 105 appointment of members or, for a district exceeding 5,000 acres
 106 in area, 10 years after the initial appointment of members, the
 107 position of each member whose term has expired shall be filled

108 by a qualified elector of the district, elected by the qualified
 109 electors of the district. However, for those districts
 110 established after June 21, 1991, and for those existing
 111 districts established after December 31, 1983, which have less
 112 than 50 qualified electors on June 21, 1991, sub-subparagraphs
 113 b. and d. ~~e.~~ shall apply.

114 ~~b. For those districts to which this sub-subparagraph~~
 115 ~~applies~~ If, in the 6th year after the initial appointment of
 116 members, or 10 years after such initial appointment for
 117 districts exceeding 5,000 acres in area, there are not at least
 118 250 qualified electors in the district, or for a district
 119 exceeding 5,000 acres, there are not at least 500 qualified
 120 electors, members of the board shall continue to be elected by
 121 landowners.

122 b. After the 6th or 10th year, once a district reaches 250
 123 or 500 qualified electors, respectively, then the positions
 124 ~~position~~ of two board members whose terms are expiring shall be
 125 filled by qualified electors of the district, elected by the
 126 qualified electors of the district for 4-year terms. ~~One of~~
 127 ~~these board members shall serve a 2-year term, and the other a~~
 128 ~~4-year term.~~ The remaining board member whose term is expiring
 129 shall be elected for a 4-year term by the landowners and is not
 130 required to be a qualified elector. Thereafter, as terms expire,
 131 board members shall be qualified electors elected by qualified
 132 electors of the district for a term of 4 years.

133 c. Once a district qualifies to have any of its board
 134 members elected by the qualified electors of the district, the
 135 initial and all subsequent elections by the qualified electors

136 of the district shall be held at the general election in
 137 November. If necessary to implement this requirement, the board
 138 shall adopt a resolution, when the board determines the number
 139 of qualified electors as required by sub-subparagraph d., to
 140 extend or reduce the terms of current board members.

141 ~~d.e.~~ On or before June 1 ~~July 15~~ of each year, the board
 142 shall determine the number of qualified electors in the district
 143 as of the immediately preceding April 15 ~~June 1~~. The board shall
 144 use and rely upon the official records maintained by the
 145 supervisor of elections and property appraiser or tax collector
 146 in each county in making this determination. Such determination
 147 shall be made at a properly noticed meeting of the board and
 148 shall become a part of the official minutes of the district.

149 (b) Elections of board members by qualified electors held
 150 pursuant to this subsection shall be nonpartisan and shall be
 151 conducted in the manner prescribed by law for holding general
 152 elections. Board members shall assume the office on the second
 153 Tuesday following their election.

154 (c) Candidates seeking election to office by qualified
 155 electors under this subsection shall conduct their campaigns in
 156 accordance with the provisions of chapter 106 and shall file
 157 qualifying papers and qualify for individual seats in accordance
 158 with s. 99.061. Candidates shall pay a qualifying fee, which
 159 shall consist of a filing fee and an election assessment, or, as
 160 an alternative, shall file a petition signed by not less than 1
 161 percent of the registered voters of the district ~~file petitions,~~
 162 and take the oath required in s. 99.021, with the supervisor of
 163 elections in the county affected by such candidacy. The amount

164 of the filing fee is 3 percent of \$4,800; however, if the
 165 electors have provided for compensation pursuant to subsection
 166 (8), the amount of the filing fee is 3 percent of the maximum
 167 annual compensation so provided. The amount of the election
 168 assessment is 1 percent of \$4,800; however, if the electors have
 169 provided for compensation pursuant to subsection (8), the amount
 170 of the election assessment is 1 percent of the maximum annual
 171 compensation so provided. The filing fee and election assessment
 172 shall be distributed as provided in s. 105.031(3).

173 (d) The supervisor of elections shall appoint the
 174 inspectors and clerks of elections, prepare and furnish the
 175 ballots, designate polling places, and canvass the returns of
 176 the election of board members by qualified electors. The county
 177 canvassing board of ~~county commissioners~~ shall declare and
 178 certify the results of the election.

179 Section 2. Subsection (4) is added to section 190.012,
 180 Florida Statutes, to read:

181 190.012 Special powers; public improvements and community
 182 facilities.--The district shall have, and the board may
 183 exercise, subject to the regulatory jurisdiction and permitting
 184 authority of all applicable governmental bodies, agencies, and
 185 special districts having authority with respect to any area
 186 included therein, any or all of the following special powers
 187 relating to public improvements and community facilities
 188 authorized by this act:

189 (4)(a) To adopt rules necessary for the district to
 190 enforce certain deed restrictions pertaining to the use and
 191 operation of real property within the district. For the purpose

192 of this subsection, the term "deed restrictions" means those
 193 covenants, conditions, and restrictions contained in any
 194 applicable declarations of covenants and restrictions that
 195 govern the use and operation of real property within the
 196 district and for which covenants, conditions, and restrictions
 197 there is no homeowners' association or property owners'
 198 association having respective enforcement powers. The district
 199 may adopt by rule all or certain portions of the deed
 200 restrictions that:

201 1. Relate to limitations or prohibitions that only apply
 202 external to structures and are deemed by the district to be
 203 generally beneficial for the district's landowners and for which
 204 enforcement by the district is appropriate, as determined by the
 205 district's board of supervisors from time to time; or

206 2. Are consistent with the requirements of development
 207 order conditions or regulatory agency permit conditions.

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

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

212 2. The district was in existence on the effective date of
 213 this subsection or is located within a development that consists
 214 of multiple developments of regional impact and a Florida
 215 Quality Development.

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

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

221 (c) Within 60 days after such rules take effect, the
 222 district shall record a notice of rule adoption stating
 223 generally what rules were adopted and where a copy of the rules
 224 may be obtained. Districts may impose fines for violations of
 225 such rules and to enforce such rules and fines in circuit court
 226 through injunctive relief.

227 Section 3. Paragraphs (b) and (c) of subsection (2) and
 228 subsections (7) and (8) of section 190.046, Florida Statutes,
 229 are amended, and subsection (9) is added to said section, to
 230 read:

231 190.046 Termination, contraction, or expansion of
 232 district.--

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

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

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

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

HB 533 CS

2004
CS

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

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

251 (9) If a district has no outstanding financial obligations
252 and no operating or maintenance responsibilities, upon the
253 petition of the district, the district may be dissolved by a
254 nonemergency ordinance of the general-purpose local governmental
255 entity that established the district or, if the district was
256 established by rule of the Florida Land and Water Adjudicatory
257 Commission, the district may be dissolved by repeal of such rule
258 of the commission.

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